



WAGE LOSS BENEFITS FOR CONTRACT (DEEMED) WORKERS

The Workers Compensation Board (WCB) provides coverage and benefits for contract workers in mandatory industries. Individuals who work on a contract basis for one employer may be deemed by the WCB to be a worker of that employer. The employer is responsible for the payment of WCB premiums for all deemed workers. The criteria for determining who qualifies as a deemed worker is found in Policy 35.10.50, *Status of Workers, Independent Contractors and Employers*.

What benefits can I expect from the WCB if I get hurt at work?

A full list of benefits provided by the WCB can be found in the fact sheet Benefits Guide or in the Injured Workers Handbook. To view all WCB fact sheets, please go to our website: www.wcb.mb.ca/wcb-fact-sheets

When are wage loss benefits payable?

To receive wage loss benefits you must **demonstrate an actual loss of earnings due to your injury**.

Full wage loss benefits will only be authorized if you are incapable of performing any and all duties, as supported by medical evidence, and if you have no post-injury earnings.

If you are capable of performing some of your regular duties or modified duties, or if you have post-injury earnings, you will be eligible for partial wage loss benefits. Business income that continues after your injury will be used to reduce your wage loss entitlement.

What information is used to calculate wage loss benefits for deemed workers?

Once your claim is accepted, the initial average earnings rate will be calculated using gross contract earnings information from your employer and the WCB assigned labour percentage for the industry in which you work.

What is a labour percentage?

A deemed worker is paid on a contract basis. Often the contract is for labour, materials and equipment.

The WCB has developed a Labour Percentage Schedule to separate the labour portion of a contract from the price of materials and equipment. This schedule sets out a standard labour percentage for your industry and is a fixed percentage that represents an average for the industry. See the Assessment Schedule for Contract



Labour fact sheet located under Employer Fact Sheets and FAQ on the WCB's website.

Your industry labour percentage is applied to your total gross contract earnings to establish your average earnings rate and to determine the premium amount the deemed employer is responsible to pay for WCB coverage on your behalf.

How are my earnings calculated for wage loss benefits?

To calculate your earnings for wage loss benefit purposes, the WCB must first determine your gross annual wages, which are calculated as a percentage of your gross contract earnings:

$$\text{Gross Contract Earnings} \times \text{Labour Percentage} = \text{Gross Wages}$$

The WCB will deduct company commissions and/or wages paid to other workers from your gross contract earnings before applying the labour percentage.

Let us assume that your gross contract earnings are \$100,000, as reported by your employer and you paid \$5,000 to someone you hired:

Gross contract earnings reported by your employer	\$ 100,000
Less company commissions and wages paid to workers	- <u>5,000</u>
Adjusted gross contract earnings	\$ 95,000
Multiplied by your industry labour percentage	<u>X 25%</u>
Annual earnings for WCB wage loss benefits	= \$23,750

Annual earnings (calculated above) are divided by 52 weeks to arrive at a gross weekly amount.

How are net wage loss benefits calculated?

To determine net earnings the WCB applies probable deductions and tax credits. Calculations are based on standard deductions and tax credits used by Canada Revenue Agency (CRA), with reference to the *Income Tax Act*.

Probable deductions include:

- income tax,
- Canada Pension Plan (CPP),
- Employment Insurance (EI) premiums, and
- other deductions the Board of Directors may establish by regulation.

Tax credits include those claimed for basic personal amounts, spouse or common-law



partner amount, dependent children, childcare expenses and spousal support payments if you report these credits on your income tax return.

NOTE: Probable deductions represent estimated amounts; no payment is actually made on your behalf for income tax, CPP contributions or EI premiums.

This information is important for the calculation of your benefits and must agree with the information you report to CRA.

WCB benefits are non-taxable. To offset the tax benefit created by your reduced taxable income, WCB reduces the benefit rate to more closely reflect your yearly loss of earnings.

In most situations your WCB benefit rate is based on 90% of net earnings. If your net loss of earnings are less than or equal to minimum annual earnings, your benefit rate will be 100% of your net earnings. If 90% of your net loss of earnings is less than what you would receive based on 100% of the net minimum annual earnings, your benefit rate will be based on 100% of your net earnings.

The minimum annual earnings in effect as of October 1, 2022 are \$28,080 and this amount remains the same as of January 1, 2023.

As of January 1, 2023 there is a maximum insurable earnings cap of \$153,380.

What if I do not agree with the labour percentage used?

You can request an average earnings review. Your request for review must include the necessary information to support your request.

When the WCB has sufficient information, your average earnings and labour percentage will be recalculated using the net income formula and compare the results to the original calculation (see above). The formula that provides you with the higher average earnings will be used.

Any increase to your benefit rate resulting from an average earnings review is retroactive to the date of the injury. With some exceptions, any decrease to your benefit rate resulting from an average earnings review is effective at week 13.

What is the net income formula?

The WCB will use your income tax returns and supporting documentation to verify your net business income. Depreciation/capital cost allowance and business use of home expenses will be added back to your net business income to arrive at your adjusted net business income.



What if I earn income after the injury?

The WCB will use the same labour percentage to calculate post-injury income for benefit entitlement purposes as we used to calculate your pre-injury income.

We will review your post-injury business income based on information you provide until we can verify your actual loss of earnings with your financial statements. Your post-injury business income may also be confirmed with CRA.

What happens if I am on benefits for more than 12 weeks?

If you are on benefits for more than 12 weeks, we will verify your average yearly earnings, if not already done. We will ask you to sign a document authorizing the WCB to obtain copies of your income tax returns from CRA for the past one to two years or, in some cases, up to five years. The WCB will verify your gross average yearly contract earnings with information received from CRA.

Benefits will continue based on your verified gross contract average earnings and the information you provide on your post-injury business income and any wages paid to other workers.

Are wage loss benefits subject to revision?

All benefits are subject to revision at any time, and based on the receipt of new post-injury income and/or business operations information.

Who do I contact for more information?

If you have questions regarding the calculation or payment of benefits, please call our Claims Service Centre at (204) 954-4321 or toll-free 1-855-954-4321 and ask to speak to a payment assessor or payment supervisor. You can also write to us via email at wcb@wcb.mb.ca or via regular mail at:

Workers Compensation Board of Manitoba
Compensation Services
Attention: Payment Assessor
333 Broadway, Winnipeg, MB R3C 4W3

This publication is provided for general information. It is not intended to be legal advice, and should not be relied on as such. For more specific information, see *The Workers Compensation Act and Regulations and WCB Policies*. These documents are available on the WCB website at wcb.mb.ca.