

Workers' Compensation:

**Benefits if you were
injured on or before
January 1, 1990**

Note: On January 1, 1998, workers' compensation law changed, including the official name of the Board. The Workers' Compensation Board (WCB) is now the Workplace Safety and Insurance Board. In this booklet we call it "the Board". Also, there are no vocational rehabilitation plans any more. Now there are labour market re-entry assessments and plans.

This booklet is about workers' compensation benefits you might get if you were injured on or before January 1, 1990. Accidents occurring after this time are subject to different rules and receive different benefits.



When can I get workers' compensation benefits?

You can get benefits if:

- you were hurt in an accident at work or disabled by a disease or other health problem that is work-related, and
- your type of employment is covered by workers' compensation.

Many types of employment are covered by workers' compensation. There is another booklet in this series called, *Workers' Compensation: When to make a claim*. It explains how to find out if your employment is covered.



How much will I be paid?

How much you are paid by the Board depends on when you were hurt. If your injury happened before April 1, 1985, you will receive benefits based on 75% of your gross pre-accident earnings. If your injury happened between April 1, 1985 and January 1, 1990 you will receive benefits based on 90% of your net

pre-accident earnings. These pre-accident earnings are subject to minimums and maximums that change every year. The levels of inflation protection vary depending on your circumstances.



What benefits am I entitled to?

There are many things the Board can pay for in relation to an injury. It can pay for lost time from work, health care and treatment costs, travel, and the cost of rehabilitation, among other things.

The benefits discussed in this booklet are:

- 1** Temporary Disability benefits
 - a) Temporary Total Disability benefits, and
 - b) Temporary Partial Disability benefits
 - Full benefits
 - Difference benefits
 - 50% benefits

- 2** Permanent Partial Disability benefits (pension), and

3 Permanent Partial Disability Supplementary benefits

- a) Full Supplement
- b) Small Supplement equivalent to the amount of Old Age Security
- c) if eligible for the Small Supplement, an additional supplement of up to about \$200 per month.

1 Temporary Disability benefits

When you lose time from work because of an injury, you are usually considered to be temporarily disabled. While you are temporarily disabled, 2 types of benefits can be paid. Usually, you will receive temporary *total* disability benefits at first, then later on, you may receive temporary *partial* disability benefits.

a) Temporary Total Disability benefits

Temporary total disability benefits are paid when the Board considers that, because of the injury, you are unable to work at **any** job. They are paid every 2 weeks, and are paid at the full benefit rate based upon your earnings at the time of your injury.

b) Temporary Partial Disability benefits

The Board's expectations are much different if you are considered "temporarily partially disabled". As you recover from your injury and become able to work at

some type of job, the Board expects you to look for work or return to modified work that fits your medical restrictions.

The amount of money you receive might not change when you go from temporary total disability benefits to temporary partial disability benefits.

Sometimes, workers are considered temporarily partially disabled right from the start of a claim.

Temporary partial disability benefits are also paid every 2 weeks. The rate at which they are paid depends on what type they are. There are 3 types of temporary partial disability benefits (you can only get 1 type at a time).

- **Full benefits:** These benefits are paid at the full temporary total disability benefit rate. They are paid only if you are co-operating with a program aimed at getting you back to work, but you are not yet working. An example of co-operation is looking for work that is within your medical restrictions and capabilities, and keeping a record of your search efforts. Another example is being in a medical rehabilitation program (such as daily physiotherapy) that makes you unavailable for work.
- **Difference benefits:** These benefits are paid if you have returned to modified work and are earning less than you were before the injury. The amount of these benefits will be 90% of the difference between your net pre-accident

earnings and the net average amount you earn at your modified work (up to the maximum rate). Of course, if you return to modified work at no wage loss, you will get no temporary benefits (but you might still be entitled to pension benefits — see Section 2 of this booklet).

- **50% benefits:** If the Board thinks you are not co-operating in a program that would help you return to work, the benefits paid will usually be cut to 50% of the temporary total disability benefit rate. However, if you refuse a medically suitable modified job, which would have resulted in no wage loss, the benefits will be reduced to zero. The Board can also look at Canada Pension Plan disability benefits you received for the injury in determining the amount of benefits to be paid.

As soon as you are able to work at some job (within your medical restrictions), you should first contact your employer to see if they have a job that you can do. If your employer does not have suitable work and will not have any in the near future, contact the Board for assistance. In the meantime, you should start to look for suitable work elsewhere. Make sure you keep a record of your efforts. If you are not able to show that you are looking for modified work, you might not get retroactive full benefits if you appeal.

Also, the law says that when there has been a material change in your circumstances, you **must** tell the Board within 10 days. This includes changes in things like your wages and hours worked, or in your medical condition.

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Permanent Partial Disability benefits (pensions)

There will come a time when you recover as much as you are going to from your injury. At that point, you will have either a full recovery, with no lasting effects from your injury, or you will continue to have a problem which will not get better over time. The Board should call you in for an assessment of your permanent partial disability pension.

Pension percentages are determined at the assessment. A Board doctor will examine your injury and set the percentage by referring to a percentage chart. The chart has nothing to do with how much your injury affects your ability to do your particular job. For example, a teacher who loses a hand would get the same percentage as a seamstress who loses her hand.

It is important to know that this pension will not be enough to live on. It will only be a percentage of full benefits. There are very few 100% pensions in the compensation system. Out of about 170,000 injured workers with pensions for permanent disabilities, there are only about 1,000 with full 100% pensions.

A pension can be granted for a physical, psychological, or chronic pain problem. And, unless you have been granted a chronic pain pension, you may be able to get more than 1 pension for the same injury. For example, if

a seamstress got her hand caught in a machine, and as a result lost her hand and developed a fear of working with machinery, she should get a pension for the physical injury, and another pension for the fear.

Pensions are paid at the end of every month, for your entire life. However, some pensions can start out as “provisional”. This means the Board may grant you a pension, but then review your entitlement at some time in the future (for example, in 2 years). Once the Board decides that your condition is permanent and stable, then your pension is paid for life.

If the percentage of your pension is small, the Board may ask if you want to take it in a lump sum, rather than receiving a small amount each month. If you take a lump sum payment for your pension, you cannot go back to getting it every month. But, if your condition gets worse and you get an increase in the pension, you can get that on a monthly basis.

If something temporarily makes your condition worse, you can ask the Board to put you back on temporary benefits. But if your condition becomes permanently worse, you can ask the Board for a new pension assessment.

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Permanent Partial Disability Supplementary benefits

If you get a permanent pension, you may be eligible for 1 or more of 3 types of supplements. All 3 supplements are paid once a month, at the end of the month.

a) Full Supplement

The amount of a full supplement depends on how much the pension pays. Your pension and full supplement together will be about the same as temporary total disability benefits.

In order to get a full supplement, 2 things must be true:

- the Board must believe that you have the ability to restore your pre-injury earnings capacity, after taking into account the amount you get in pension, and
- you must be willing to participate in a rehabilitation program aimed at getting you the ability to earn what you did before you got hurt.

This supplement is paid only until you complete the rehabilitation program. At that time, the full supplement stops. You will be left only receiving your pension, unless you qualify for the small supplement.

b) Small Supplement

For you to be paid the small supplement, 1 of these 2 things must be true:

- the Board will not offer you a program of rehabilitation because they think that no amount of vocational rehabilitation will help you return to what you used to earn, or
- even after a rehabilitation program, the Board decides you are still not capable of earning what you made prior to your accident.

The small or “old age” supplement is usually equal to the Old Age Security payment to people over 65 years of age. This is a little over \$400 a month. It may be less if you have a large pension or other income like a CPP disability pension or a job.

The small supplement is recalculated 2 years after it was first granted, and again 5 years after it was first granted. You will have to complete a questionnaire about your other income.

You must report any material change in your circumstances to the Board within 10 days. This includes return to work information, and the receipt of CPP disability benefits.

The small supplement is paid until you turn 65 years of age. If, for some reason, you are not eligible to receive Old Age Security benefits, you should tell the Board, and the small supplement will be continued.

c) Additional Supplement

If you are eligible for the small supplement by being in 1 of the 2 specified categories, you can get an additional supplement, even if your small supplement is zero.

The amount of the additional supplement is usually a little over \$200, but may be less if you have a large pension, other income, or a CPP disability pension.

You should continue to get the additional supplement even after you turn 65 years of age or get the Old Age Security pension.



Where can I get legal help?

- **Community legal clinic:** Clinic lawyers and community legal workers give free legal help to people with low incomes. Some clinics take workers' compensation cases. If there is a community legal clinic in your area, it will be listed under "Legal Aid" in the white or yellow pages of your phone book. You can also visit Legal Aid Ontario's Web site at <www.legalaid.on.ca>.
- **Office of the Worker Adviser (OWA):** The OWA gives free legal help with workers' compensation cases to non-unionized workers. If there is an office in your area, it will be listed in the Government blue pages of your phone book under

the Labour section. If there is no listing in your area, call toll-free **1-800-435-8980**, **416-325-8570** in Toronto, or visit their Web site at www.gov.on.ca/lab/owa.

- **Member of Provincial Parliament (MPP):** Staff at your MPP's office may be able to help you. To find out who your MPP is, call Elections Ontario toll-free at **1-888-668-8683**, or visit their Web site at www.electionsontario.on.ca.
- **Union:** Call your staff representative. If he or she cannot help you, ask for the staff person who knows about workers' compensation law.
- **Injured workers' group:** Your local injured workers' group may be able to help you. To find out if there is a group near you, call the Ontario Network of Injured Workers' Groups (ONIWG) at **905-387-1894**, or visit their Web site at www.oniwg.on.ca.
- **Legal Aid certificate:** This certificate pays all or part of your lawyer's fees. Contact your nearest legal aid office to find out how to apply. The phone number is listed under "Legal Aid" in the white or yellow pages of your phone book. You can also visit Legal Aid Ontario's Web site at www.legalaid.on.ca or call toll-free **1-800-668-8258**.

- **Lawyer Referral Service:** If there is no community legal clinic near you and you want help finding a lawyer who practices workers' compensation law, you can call the Lawyer Referral Service at **1-900-565-4577**. The call costs \$6.00. They should give you the name of a lawyer who will talk with you for free for 30 minutes. For more information you can visit their Web site at <www.lsuc.on.ca>.

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It is not a substitute for getting legal advice for your
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