



WORKERS' COMPENSATION BOARD OF BC

**Policy and Research Division**

**Mailing Address**

PO Box 5350 Stn Terminal  
Vancouver BC V6B 5L5

**Location**

6951 Westminster Highway  
Richmond BC

Telephone 604 276-5160  
Fax 604 279-7599

September 2005

Update 2005 – 3

**TO: HOLDERS OF THE *REHABILITATION SERVICES & CLAIMS MANUAL – VOLUME I***

This update of the *Rehabilitation Services & Claims Manual* contains amendments to the *Manual* implemented since update 2005 – 2.

This amendment includes housekeeping changes to the following:

- Chapter 3, *Compensation for Personal Injury*
- Chapter 6, *Permanent Disability Awards*
- Chapter 10, *Medical Assistance*
- Chapter 12, *Claims Procedures*
- Appendix 4, *Permanent Disability Evaluation Schedule*

A summary of the amendments is attached and the amended pages are included as part of the package and are effective September 1, 2005.

If you have any questions regarding subscription information for updates to the *Rehabilitation Services & Claims Manual*, please call WCB Customer Service at the following:

Local phone: 604-232-9704  
Toll-free: 1-866-319-9704

Local fax: 604-232-9703  
Toll-free fax: 1-888-232-9714

Roberta Ellis  
Vice-President  
Policy and Research Division

Attachments

***Rehabilitation Services & Claims Manual, Volume I***

**SUMMARY OF AMENDMENTS – Update 2005 – 3**

Chapter 3	Pages 1 – 4	Housekeeping amendment to policy item #13.10.
	Pages 45 – 46	Housekeeping amendment to policy item #20.30.
Chapter 6	Pages 59 – 60	Housekeeping amendment to policy item #45.50.
Chapter 10	Pages 13 – 14	Housekeeping amendment to policy item #75.30.
Chapter 12	Pages 3 – 4	Housekeeping amendment to policy item #93.22.
Appendix 4	Pages 7 – 10	Housekeeping amendment to correct reference to ANSI.

## **CHAPTER 3**

### **COMPENSATION FOR PERSONAL INJURY**

#### **#12.00 INTRODUCTION**

The basic provision governing a worker's right to compensation for personal injury is Section 5(1). This provides that where, in an industry within the scope of the Act, personal injury or death arising out of and in the course of employment is caused to a worker, compensation as provided by the Act shall be paid by the Board.

The workers and employers covered were discussed in Chapter 2. This chapter considers primarily what constitutes a personal injury and when an injury or death arises out of and in the course of employment.

Apart from personal injury, the Board is authorized by Section 21(8) to replace or repair workers' artificial appliances, artificial members, eyeglasses, hearing aids, and dentures damaged at work. This section is discussed in #23.00.

#### **#13.00 PERSONAL INJURY**

“Personal injury” is defined as any physiological change arising from some cause, for example, a limitation in movement of the back or restriction in the use of a limb. It is not confined to injuries which are readily and objectively verifiable by their outward signs, e.g. breaks in the skin, swelling, discolouration, deformity, etc. It includes, for example, strains and sprains.

##### **#13.10 Distinction Between an Injury and Disease**

A common difficulty is to distinguish between an injury and a disease. This distinction is one that can be illustrated more easily than defined.

The following are examples of disorders classified as INJURIES:

1. Any wound (including any infection of the wound).
2. Fractures.
3. Any other disorder caused by trauma.
4. Any disorder caused by explosion (including hearing loss caused by explosion).

5. Sprains and strains, whether caused by a specific incident or by activity over time.
6. A damaged cartilage or ligament. It makes no difference whether the disability resulted from one major incident or a series of incidents or activity.
7. A dislocation of the bones at a joint. Again, it makes no difference whether this happened in one incident or in a series of incidents or activity.
8. Burns caused by a single incident of a chemical spilled on the skin.

The following are examples of disorders classified as DISEASES:

1. A disability caused by the gradual absorption of a chemical through the skin, by inhalation, or otherwise.
2. An infection (except when it is incidental to a compensable injury, when it is treated as part of the injury).
3. Hearing loss caused by exposure to noise over time, or by infection.
4. Osteoarthritis.
5. A disablement resulting from exposure to vibrations over time.
6. Contagious disease.
7. Allergic reactions.

Only diseases which are occupational diseases are compensable. The compensation payable in respect of occupational disease is discussed in Chapter 4.

In one case, a logger claimed in respect of damage to his knee that had been diagnosed as a fraying of the cartilage. He felt that his damage was the result of logging activity over a period of about five years, and did not allege that it resulted from a specific incident. It was concluded that, if it should appear that the fraying of the cartilage was externally caused through physical activity in which the claimant was engaged, and was not caused through degenerative disease, infection, or a disorder of internal origin, there was an injury rather than a disease.

In another case, the Adjudicator asked whether writer's cramp could be recognized as an occupational disease. It was concluded that claims for writer's cramp should be treated as claims for personal injury.

### *#13.12 Disablement from Vibrations*

There are some situations in which a disablement from vibrations would be classified as an “injury”. For example:

1. If the vibrations are of a traumatic nature, causing an instant disablement to a worker, such as an explosion.
2. If, though the vibrations may have occurred over a long period of time, the result was an instant or sudden disablement, possibly because of some sudden breakdown in the worker’s system.

Apart from those cases, a gradual deterioration in a worker’s condition resulting from exposure over time would not be an “injury”, but would be classified as an occupational disease. For example, vibrating hand tools may cause the decalcification of small areas of the bones of the carpus, or damage to the soft tissues of the hand, or osteoarthritis in the elbows, wrists or shoulders, or vascular disturbances.

### **#13.20 Psychological Impairment**

“Personal injury” includes psychological impairment as well as physical injury. A claim for traumatically induced psychological impairment could be accepted even if unaccompanied by any physical impairment. Psychological impairment has not been deemed to be an occupational disease. Conditions of this type however may be accepted if they are a sequela to an accepted personal injury or occupational disease.

### **#14.00 ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT**

Before a worker becomes entitled to compensation for injury under the Act, the injury must arise out of and in the course of employment.

Confusion often occurs between the term “work” and the term “employment”. Whereas the statutory requirement is that the injury arise out of and in the course of employment, it is often urged that a claim should be disallowed because the injury is not work related or did not occur in the course of productive activity. There are, however, activities within the employment relationship which would not normally be considered as work or in any way productive. For example, there is the worker’s drawing of pay. An injury in the course of such

activity is compensable in the same way as an injury in the course of productive work.

Lack of control of a situation by the employer is not a reason for barring a claim otherwise acceptable. Control by an employer is an indicator that a situation is covered under the Act at a particular time, but if that control does not exist there may be other factors which demonstrate an employment connection.

No single criterion can be regarded as conclusive for deciding whether an injury should be classified as one arising out of and in the course of employment. Various indicators can be and are commonly used for guidance. These include:

- (a) whether the injury occurred on the premises of the employer;
- (b) whether it occurred in the process of doing something for the benefit of the employer;
- (c) whether it occurred in the course of action taken in response to instructions from the employer;
- (d) whether it occurred in the course of using equipment or materials supplied by the employer;
- (e) whether it occurred in the course of receiving payment or other consideration from the employer;
- (f) whether the risk to which the employee was exposed was the same as the risk to which the employee is exposed in the normal course of production;
- (g) whether the injury occurred during a time period for which the employee was being paid;
- (h) whether the injury was caused by some activity of the employer or of a fellow employee.

This list is by no means exhaustive. All of these factors can be considered in making a judgment, but no one of them can be used as an exclusive test.

### **#14.10 Presumption**

Section 5(4) provides that "In cases where the injury is caused by accident, where the accident arose out of the employment, unless the contrary is shown, it must be presumed that it occurred in the course of the employment; and where

case of recreational or exercise activities, if physical fitness is not a job requirement, then coverage is not extended. It is recognized that any recreation or exercise activity which adds to a worker's general health and enjoyment of life may be said to assist them in their work and, therefore, to benefit their employer. However, to cover these activities under the *Workers Compensation Act* for that reason alone would obviously be to expand its horizons far beyond what the Legislature intended.

#### 8. Public Relations

In the case of organized or team sports activities, was there an intention to foster good relations with the public, or a section of the public with which the worker deals? If this applies, then depending on other related factors, coverage may be extended. If this public relations factor is not applicable, coverage is unlikely to be extended. Coverage will never be extended if the sports activity involves a contest with a commercial team or recreational league.

#### 9. On Employer's Premises

Did the activity take place on the employer's premises? This is a positive factor favouring coverage but it must be evaluated in conjunction with other relevant factors. If the activity took place off the employer's premises, and was a sports activity, the guidelines listed previously in the items dealing with working hours apply. Recreational or exercise activities occurring off the employer's premises are only covered where:

- (a) The employer funds or subsidizes the activities.
- (b) The funding or subsidization was in the form of fees paid to a commercial exercise facility such as a gymnasium or health and exercise spa.
- (c) The activities were part of a formal exercise or training program instituted by the employer.
- (d) The actual activity was directly supervised by a representative of the employer having supervisory authority.
- (e) The activity occurred during normal shift hours for which salary was being paid. (This includes paid lunch breaks.)
- (f) The activity was required, encouraged or at least sanctioned by the employer.

- (g) The nature of the job function is such that a high level of physical fitness is desirable.

### **#20.30 Educational or Training Courses**

A distinction must be drawn between things workers must do to become and continue to be qualified to perform a particular job and the things they must do as part of the job. Generally speaking, only the latter activities are covered. A person may, for example, need to spend some time in an educational or training institute to obtain or maintain the qualifications necessary for a particular job, but that person is not normally covered while attending that institution.

Compensation coverage does not extend to injuries occurring in the course of first aid courses being taken off the employer's premises and outside work hours. This is so, even though the worker receives additional pay for a first aid ticket and is reimbursed the course fees by the employer.

Injuries in the course of training programs undertaken under the auspices of the Board following a compensable injury are dealt with in #88.54.

### **#20.40 Provision of Clothing and Equipment Required for Job**

The fact that a worker is required to provide tools for the job does not mean that carrying the tools to work or away from work becomes part of the employment. A worker may have to satisfy many prerequisites before obtaining a job, for example, education, experience, physical condition, clothing, equipment, or travelling to the work site. After the completion of a job, a worker may have to carry out various activities of a consequential nature, for example, cleaning clothes, removing equipment or travelling from the work site. None of these activities are normally covered as part of a worker's employment under the *Workers Compensation Act*. Nor does the mere fact that the employer pays certain expenses associated with these activities result in coverage.

In one case, a claimant was injured while lifting his tools from out of his car at the end of his journey from work. He had received travel time and expenses for that journey. The claim was denied. The fact that the claimant was covered while travelling because of the receipt of travel time and expenses did not mean that he was also covered while removing tools at the end of the journey. The wages were paid for travelling, not for carrying tools. Coverage on the basis of the travelling allowance ended when he parked the car outside his home.

#### *#45.43 Starting a Business*

From a purely financial standpoint, it may be difficult to distinguish between investing in one's own business and other forms of investment. It is, moreover, often difficult for officers of the Board to determine with any degree of certainty whether what the worker wishes to undertake is a sound business venture. Investing in one's own business, however, may be in the worker's best interests where there is a strong element of rehabilitation involved and the worker will be an active participant in operating the business. Any application for a commutation for the purpose of starting a business will be thoroughly investigated with these considerations in mind.

In each case where a business start-up is contemplated for which a commutation has been requested, or as a vocational rehabilitation measure, the Board officers undertaking the assessment of the matter will obtain, with the worker's written consent, an appraisal of the viability of the proposed business from the Business Development Bank of Canada or some similar organization before a final decision on the commutation request, or rehabilitation measure, is made.

#### *#45.44 Education*

Unless the proposed educational program will promote the worker's career, a commutation for this purpose would not normally enhance the worker's income position and consequently would not satisfy the above general guidelines. There may, however, be some therapeutic benefit in allowing pensioners to improve their education when the improvement cannot be provided through normal rehabilitation programs. The requirement for the applicant to have a stable source of income may be waived where the Board is satisfied that the training or educational program will increase the prospects of employment and therefore enhance the income position over the long term. Where the program will not increase the employment prospects, but will have a significant therapeutic benefit, the Board may waive the requirement that the commutation be for a purpose that enhances the worker's income position. In such a case, it will not waive the requirement that the applicant have a stable source of income.

#### *#45.45 Buying a Home*

Commutations for purchasing a home will be allowed under the following conditions:

1. The home is purchased as a personal residence.
2. The worker will obtain clear title to the property subject only to any mortgage.

3. Any mortgage payments are well within the worker's ability to pay from other income.
4. The size, value and upkeep costs of the home are in line with other income.

The discharge or reduction of an existing mortgage will be dealt with under the criteria for paying off debts in policy item #45.41, rather than under the criteria for buying a home. In administering this feature, however, a request for a commutation to discharge or reduce an existing mortgage should primarily be considered in the same general vein as a commutation to purchase a home, with the added insurance that consideration should be given to the safeguards built into the debt payment provisions. The expectation of this approach is that, in general, given similar circumstances, there should be little difference in the result following a decision made under either category.

A commutation for the purpose of extending an existing home may be allowed if the above requirements are satisfied.

A commutation will not normally be allowed for the purpose of purchasing a second home to be used for vacations, or retirement, or to be rented out. The home must be for the purpose of providing the claimant with current accommodation.

### **#45.50 Decision-Making Procedures**

The Board officer in Disability Awards is responsible for investigating an application for a commutation and making a decision on the application. The Board officer may obtain a report from the Board officer in Vocational Rehabilitation Services involved in the claim before making a decision.

Where a commutation application is under consideration, the value of the proposed commutation can be made available so that the claimant may properly evaluate the options open.

If the value of a commutation under Category B in policy item #45.10 exceeds the limit set in Category A, the Board officer must obtain approval of the Vice-President, Compensation Services Division before granting the request. Where an application is received that does not fall within the guidelines and it is thought that there should be some departure, the application must also be referred to the Vice-President for consideration.

An employer is not normally advised of the granting of a commutation. An exception is made where the employer is the Federal Government. It is advised of the amount and type of the commutation.

5. Adjudicators will have the discretion to authorize the payment of wage loss for an absence where no prior approval has been obtained or no doctor's certificate has been produced, but where, however, the special circumstances of the case support the maintenance of wage-loss payments.
6. Adjudicators must approve requests by claimants to be excused treatment during the course of a day. If the interruption of treatment is for medical reasons, the advice of a Rehabilitation Centre Physician or Rehabilitation Centre Nurse should be obtained by the Adjudicator before permission is granted.
7. All claimants returning from an absence due to an illness must be examined by either a Rehabilitation Centre Physician or Rehabilitation Centre Nurse prior to resuming their treatment program.

#### *#75.12 Physiotherapy Given Privately*

The following policy guidelines now apply for all Workers' Compensation Board claimants with the exception of paraplegics and quadriplegics.

1. Physiotherapy prescribed by the attending physician may be continued up to a maximum of **eight weeks** per case.
2. Such physiotherapy treatment shall not exceed one treatment per day.
3. Such physiotherapy shall be rendered by a chartered or registered physiotherapist.
4. The attending physician and the physiotherapist are required to be in communication regarding treatment progress.
5. In cases where the attending physician considers that physiotherapy should continue beyond eight weeks, prior authorization must be obtained from a Board Medical Advisor. This may be done by writing or telephoning the Board. At the time the authorization is given, the period of additional treatment will be specified (up to a maximum of eight weeks additional).
6. Where it is not feasible for the attending physician to obtain prior authorization, the request shall be submitted by the attending physiotherapist.
7. The physiotherapist may also communicate with the Board concerning patient progress. Such communication may be in the form of a letter or copies of progress reports sent to the physician.

8. Any case requiring physiotherapy treatment in excess of 16 weeks total accumulative amount shall be referred to the appropriate Board Medical Advisor/Consultant for consideration of approval to continue beyond this interval.

### **#75.20 Nurses**

For seriously ill or injured workers who need additional nursing service, the necessary nursing service is determined and provided by the hospital. The Board is not responsible for payment of special duty nursing fees. If the worker or the worker's family desire to have a special nurse in attendance, the cost of employing such special nursing should be met by the worker. If the condition requires additional nursing service, the physician should indicate to the hospital the service necessary and discuss with the hospital any question about these requirements as this matter is outside the jurisdiction of the Board.

Temporary home nursing care is covered where it is specifically required because of the nature of the compensable medical condition. Where care is required permanently, the costs are covered under a personal care allowance (see #80.00).

When a registered nurse is required as nursing escort during emergency transportation, Registered Nurses Association fees will be paid, as well as the nurse's expenses.

Reports received from Canadian Red Cross Society Outpost Hospital nurses can be accepted in lieu of medical reports if there is no physician in the immediate area.

### **#75.30 Dental Mechanics**

The fees paid to Dental Mechanics cover such necessary reports as the Board may require.

Reports submitted should state clearly the exact extent of dental damage occasioned by the accident, the method of restoration and the fee therefore itemized according to the schedule.

### **#75.40 Health Spas and Public Swimming Pools**

The costs of using spas, public swimming pools or other exercise programs that are not provided by a recognized health care professional are not recognized by the Board as a health care benefit cost.

## **#93.20 Application for Compensation**

Section 55(1) provides in part that "An application for compensation must be made on the form prescribed by the board or the regulations and must be signed by the worker or dependant . . ."

Where the Board receives a report that a worker has suffered an injury or disease which will likely cause a loss of wages, it will automatically forward a Form 6, Application for Compensation and Report of Injury or Occupational Disease. The worker should complete this form and return it to the Board. In the case of someone covered by personal optional protection, the application is made on a Form 6/7, Independent Operator's Application for Compensation and Report of Injury, but a Form 6 may also be used.

For applications for compensation in respect of hearing loss, reference should also be made to #31.30. In the case of occupational diseases, reference should be made to #32.50 - #32.58.

### *#93.21 Time Allowed for Submission of Application*

Section 55(2) provides that "Unless an application is filed, or an adjudication made, within one year after the date of injury, death or disablement from occupational disease, no compensation is payable, except as provided in subsections (3), (3.1), (3.2) and (3.3)." (Subsections (3) and (3.1) are discussed in #93.22.)

Where the worker's condition results from a series of injuries rather than just one injury, Section 55(2) is complied with if the application is filed within one year of the last injury in the series.

The section is not complied with simply by reporting the injury to the first aid attendant or having it confirmed by witnesses. The one-year period commences at the date of injury or death, and except in the case of occupational diseases, not at the date of subsequent disablement. In the case of occupational diseases, reference should be made to #32.50.

### *#93.22 Application Made Out of Time*

Before an application for compensation can be considered on its merits, it must satisfy the requirements of section 55. It is important to distinguish between the decision on the merits of the claim and the decision made under section 55. Even though a Board officer may feel that a claim will, in any event, be denied on the merits, he or she must always first reach a separate decision on the effect of section 55.

Sections 55(3), (3.1), (3.2), and (3.3) provide as follows:

- "(3) If the Board is satisfied that there existed special circumstances which precluded the filing of an application within one year after the date referred to in subsection (2), the Board may pay the compensation provided by this Part if the application is filed within 3 years after that date.
- (3.1) The Board may pay the compensation provided by this Part for the period commencing on the date the Board received the application for compensation if
  - (a) the Board is satisfied that special circumstances existed which precluded the filing of an application within one year after the date referred to in subsection (2), and
  - (b) the application is filed more than 3 years after the date referred to in subsection (2).
- (3.2) The Board may pay the compensation provided by this Part if
  - (a) the application arises from death or disablement due to an occupational disease,
  - (b) sufficient medical or scientific evidence was not available on the date referred to in subsection (2) for the Board to recognize the disease as an occupational disease and this evidence became available on a later date, and
  - (c) the application is filed within 3 years after the date sufficient medical or scientific evidence as determined by the Board became available to the Board.
- (3.3) Despite section 96(1), if, since July 1, 1974, the Board considered an application under the equivalent of this section in respect of death or disablement from occupational disease, the Board may reconsider that application, but the Board must apply subsection (3.2) of this section in that reconsideration.

The general effect of these provisions is that two requirements must be met before an application received outside the one year period can be considered on its merits. These are:

1. There must have existed special circumstances which precluded the application from being filed within that period, and

	<b>Percentage</b>
82. Diplopia, all fields	10
83. Scotomata, depending on location and extent	Up to 16
<b>Loss of Visual Acuity:</b>	
84. 20/30	0
85. 20/40	1
86. 20/50	2
87. 20/60	4
88. 20/80	6
89. 20/100	8
90. 20/200 or poorer	16

### **IMPAIRMENT OF HEARING**

#### Unilateral Hearing Loss:

91. Difference of 20 dB average at 500 cps, 1000 cps and 2000 cps	1
92. Difference of 30 dB average at 500 cps, 1000 cps and 2000 cps	2
93. Difference of 40 dB average at 500 cps, 1000 cps and 2000 cps	3

#### Bilateral Hearing Loss:

94. 35 dB ANSI (25 ASA) in single ear	0.2
95. 40 dB ANSI (30 ASA) in single ear	0.3

		<b>Percentage</b>
96.	45 dB ANSI (35 ASA) in single ear	0.5
97.	50 dB ANSI (40 ASA) in single ear	0.7
98.	55 dB ANSI (45 ASA) in single ear	1.0
99.	60 dB ANSI (50 ASA) in single ear	1.3
100.	65 dB ANSI (55 ASA) in single ear	1.7
101.	70 dB ANSI (60 ASA) in single ear	2.1
102.	75 dB ANSI (65 ASA) in single ear	2.6
103.	80 dB ANSI (70 ASA) in single ear	3.0

#### **SCHEDULE D**

#### **NON-TRAUMATIC HEARING LOSS**

#### **(Section 7)**

104.	Complete loss of hearing in both ears	15.0
105.	Complete loss of hearing in one ear with no loss in the other	3.0

<b>Loss of hearing in dbs measured in each ear in turn (ANSI)</b>	<b>Percentage of total disability Ear most affected PLUS ear least affected</b>	
0 - 27	0	0
28 - 32	0.3	1.2
33 - 37	0.5	2.0
38 - 42	0.7	2.8
43 - 47	1.0	4.0
48 - 52	1.3	5.2
53 - 57	1.7	6.8

Loss of hearing in dbs measured in each ear in turn (ANSI)	Percentage of total disability Ear most affected PLUS ear least affected	
58 - 62	2.1	8.4
63 - 67	2.6	10.4
68 or more	3.0	12.0

**Percentage**

**VISCERAL LOSS**

106.	Loss of Kidney	15
107.	Loss of Spleen	10

**THE SPINE**

**(Codified March 1, 1990)**

This schedule recognizes that anatomical loss or damage resulting from injury or surgery may contribute to physical impairment of the spine. When anatomic and/or surgical impairment is present as well as loss of range of movement of the spine, the **final** impairment rating will be based on the greater of the two.

Range of movement of the spine is difficult to assess on a consistent basis because the joints of the spine are small, inaccessible and not externally visible. Only movement of a region of the spine can be measured; it is not possible to measure mobility of a single vertebra. Spine movement also varies with an individual's body type, age and general health. Because of these, a judgment factor will continue to be necessary in spine assessment.

**Percentage**

Cervical Spine:

108.	(a) Compression fractures	
	(i) Up to 50% compression	0-2% impaired
	(ii) Greater than 50% compression	2-4% impaired

		<b>Percentage</b>
(b)	Impairment resulting from surgical loss of intervertebral disc C1 to D1	0-2% per level
(c)	Ankylosis (fusion) C1 to D1 including surgical loss of intervertebral disc	3% per level
109.	Loss of range of motion	
	Flexion	0-6%
	Extension	0-3%
	Lateral flexion right and left	each 0-2%
	Rotation right and left	each 0-4%
	Maximum impairment of function	not to exceed 21%
 Dorsal Spine:		
110.	(a) Compression fractures	
	(i) Up to 50% compression	0-1% impaired
	(ii) Over 50% compression	1-2% impaired
	(b) Impairment resulting from surgical loss of intervertebral disc D1 to D12	0-1% per level to a maximum of 6%
	(c) Ankylosis (fusion) D1 to D12 including surgical loss of intervertebral disc	1% per level to a maximum of 6%
	Maximum impairment of function	not to exceed 6%