

December 2002

Update 2002-7

TO HOLDERS OF THE *REHABILITATION SERVICES & CLAIMS MANUAL - VOLUME II*

This update of the *Rehabilitation Services & Claims Manual* contains changes to the *Manual* approved by the Panel of Administrators since update 2002-6.

These changes include:

- Appendix 1 – Index of Retired Decisions from Volumes 1 – 6 (Decisions No. 1 – 423) of the *Workers' Compensation Reporter*, and
- Consumer Price Index adjustments

A summary of the changes is attached and the amended pages are included as part of the package.

If you have any questions regarding this update, or the *Rehabilitation Services & Claims Manual*, please call the Publications and Videos Section of the Workers' Compensation Board at (604) 276-3068.

MAUREEN NICHOLLS
Chair, Panel of Administrators

Attachment

SUMMARY OF AMENDMENTS - Update 2002-7

Appendix 1 Appendix 1 was first issued in August 2000. It consists of an Index of retired Decisions from the *Workers' Compensation Reporter* Decisions 1 – 423. The Appendix is updated from time to time as Decisions are reviewed in the context of policy projects and retired.

At the November 19, 2002 Panel of Administrators meeting, the Panel approved a new *Assessment Manual*. Twenty-nine Decisions from *Workers' Compensation Reporter* Volumes 1 – 6 have now been consolidated into the new *Manual*.

The Index has been updated to reflect the retirement of these Decisions. The effective date of retirement is January 1, 2003.

C.P.I. ADJUSTMENTS

#34.20	#53.00	#67.31
#37.20	#55.10	#69.00
#43.20	#55.21	#80.20
#49.10	#55.26	#81.00
#51.00	#55.31	#82.20
#51.10	#55.32	#83.20
#51.20	#59.00	#114.11
#51.30	#67.20	

Appendix 5 - Supplement No. 5
Appendix 6 - Part 1

#34.20 Minimum Amount of Compensation

Wage-loss compensation cannot be less per week than the minimum set out below, unless the worker's average earnings are less than that sum per week, in which case compensation is paid in an amount equal to average earnings. (2)

			\$ Per Week
January 1, 2002	—	December 31, 2002	304.36
January 1, 2003	—	December 31, 2003	314.00

If required, earlier figures may be obtained by contacting the Board.

The minimum is subject to cost of living adjustments as described in policy item #51.20. However, these adjustments only apply to injuries or disablements occurring after they come into force. Existing payments are not automatically increased to a new minimum, although they may be the subject of cost of living adjustments in their own right.

#34.30 Commencement of Payment

Section 5(2) provides that "Where an injury disables a worker from earning full wages at the work at which the worker was employed, compensation is payable . . . from the first working day following the day of the injury; but a health care benefit only is payable . . . in respect of the day of the injury."

While the plain wording of the section would seem clearly to indicate that "day of the injury" means calendar day, the Board finds that the intention of the legislation is not to provide payment for the "shift" on which the worker is injured but to provide payment for any subsequent "shift" on which the worker is disabled. Payment of compensation, therefore, will commence effective the shift next following the shift on which the worker is injured.

#34.31 Worker Continues to Work After Injury

If a worker continues to work beyond the day of the injury, no compensation is payable until it actually causes a lay-off from work. If the worker works or is paid for part of the day on which the lay-off occurs, the amount of compensation paid for that day is as follows:

- (a) if he or she works or is paid for one quarter of the day or less, compensation is paid for the full day;
- (b) if he or she works or is paid for more than one quarter but less than three quarters of the day, compensation is paid for half the day;

- (c) if he or she works or is paid for three quarters of the day or more, compensation is not paid for the day.

Except where section 34(1) is being applied, (3) the employer is not refunded any money paid to the worker for time not worked on the day when he or she lays off work.

The above rules apply equally where the worker becomes disabled from working following a recurrence of a compensable condition.

#34.32 *Strike or Other Lay-Off on Day Following Injury*

In cases where a worker's job would not have been available during a period of disability, or for some reason the worker cannot or will not be returning to the prior job upon recovery, the following general guidelines will apply.

1. Where the injury disables the worker beyond the day of the injury and this results in an actual loss of earnings or a potential loss of earnings, the requirement of section 5(2) will be met and wage-loss compensation will be paid.
2. Where the disability beyond the day of injury does not result in any actual or potential loss of earnings, the requirements of section 5(2) will be deemed to have not been met.

In interpreting "potential loss" no rigid rules can be established since every case will have to be determined on the information received. In situations where there is a lay-off due to lack of work, a worker would normally be considered as having suffered a potential loss. The position would be similar where a partially disabled worker has continued work on light work and has been laid off due to a lack of work, but payments on such a claim would be considered under section 30 of the *Act*. The general expectation in those situations is that the worker would, if not injured, have immediately sought new employment and the Board should not speculate as to if and when it would have been found. If, however, there is evidence to rebut this general expectation, the Board may conclude in a particular situation that there was no actual or potential loss. For example, suppose a homemaker has been injured in the course of a single day's work at a polling station during an election and has no other attachment to the labour force whatsoever. The homemaker would not normally be available on the general labour market beyond the one day of work at the polling station.

Some examples of permanent total disability are paraplegia, quadriplegia, hemiplegia, and total or near total blindness. Combinations of permanent partial physical impairments can also become permanent total disabilities, such as bilateral amputations of arms and legs.

Permanent total disability periodic payments continue until a worker reaches age 65, or later if the Board is satisfied that the worker would have worked past age 65. (Policy item #41.00)

On reaching retirement age, a worker who has received a permanent disability award is entitled to a retirement benefit (policy item #116.00). Permanently totally disabled workers are also entitled to rehabilitation and health care services and personal supports after reaching retirement age (policy item #116.30). Board policies on the retirement benefit are contained in Chapter 18 of the *RS&CM*.

#37.10 Commencement of Permanent Total Disability Payments

Awards for permanent total disability are granted as soon as the medical evidence confirms that the worker is permanently totally disabled as a result of the work injury or occupational disease.

However, it may be necessary to make these payments at a provisional rate pending clarification of the worker's pre-injury earnings. (1)

Following the calculation of a worker's permanent total disability award, the Board must deduct from a worker's periodic payment an amount equal to 50% of any Canada Pension Plan (CPP) disability benefit that the worker is paid in respect of the work injury. The required CPP disability benefit deduction is subject to the Board's statutory minimum (policy items #36.20 to #36.24).

#37.20 Minimum Amount of Compensation

Section 22(2) provides that the compensation awarded for permanent total disability cannot be less per month than the minimum set out below. This minimum is subject to cost of living adjustments as described (policy item #51.20).

Date			\$ Minimum
January 1, 2002	—	December 31, 2002	1,319.06
January 1, 2003	—	December 31, 2003	1,360.85

If required, earlier figures may be obtained by contacting the Board.

3. The area of the body affected is determined. Five areas are recognized. A minimum and maximum award exists for each of the four classes for each area of the body as shown in the following table:

January 1, 2003 – December 31, 2003

	Minimum	Maximum
Head and Neck		
1.	\$ 0	\$ 4,804.32
2.	4,804.32	9,608.62
3.	9,608.62	29,186.14
4.	29,186.14	48,643.59
Each Hand		
1.	\$ 0	\$ 1,561.40
2.	1,561.40	3,242.91
3.	3,242.91	9,608.62
4.	9,608.62	16,214.52
Each Arm		
1.	\$ 0	\$ 1,201.06
2.	1,201.06	2,402.15
3.	2,402.15	7,326.55
4.	7,326.55	12,130.88
Each Leg (including the foot)		
1.	\$ 0	\$ 840.74
2.	840.74	1,561.40
3.	1,561.40	4,804.32
4.	4,804.32	8,047.21

Torso

1.	\$ 0	\$ 840.74
2.	840.74	1,561.40
3.	1,561.40	4,804.32
4.	4,804.32	8,047.21

The above figures are adjusted on January 1 of each year. Effective June 30, 2002, the percentage change in the consumer price index determined under section 25.2 of the *Act*, as described in policy item #51.20 will be used.

- The amount of the award is (subject to the minimum) the percentage of the maximum dollar amount for the class that the average points for the disfigurement bears to the maximum points assigned to the class. For example, if the average points for a hand disfigurement is 6, it is assigned to Class 1 of the hands area of the body and the amount of the award is \$325 $((6/24) \times \$1,300)$. If a burn to the chest is assigned an average of 34 points, it is in Class 2 of the torso area of the body and the amount of the award is \$897 $((34/49) \times \$1,300)$.

Detailed examples of the application of the above guidelines are set out below:

Example 1

The worker has a loss of the fingernail and nailbed, slight shortening of the right mid finger, a small curved raised nail growing through the graft at the injury site. Assuming that the disfigurement was found capable of impairing earning capacity, the award would be calculated as follows:

Factors	Description	Points
Surface area	Less than 25%	2
Texture / keloid	Minimal alteration; no keloid	2
Colour	No contrast	0
Visibility	Less than 25%	20
Structure	Mild evidence of depression	5

2. it is considered unreasonable or inadvisable to proceed with recovery.

In no case will recovery be waived if there was fraud or misrepresentation. Approval to waive recovery, when granted, does not constitute forgiveness of the debt. In some instances, at the discretion of the Vice-President (or Director for waivers under \$1,000), a recovery waiver may be granted even though a permanent disability award is being paid or will be paid. Should a further claim be recorded or a later reopening accepted where a prior waiver has been approved, the question of initiating recoveries must first be discussed with the Vice-President or Director who approved the waiver.

#48.48 *Unpaid Assessments*

Unpaid and overdue assessments are treated in the same manner as overpayments if a claim is later received from an employer or principal of the limited company responsible for the debt or an independent operator who has purchased but not fully paid for personal optional protection coverage. If, at the time of the claim, the worker is working for another company or organization, the decision whether or not to recover the overdue assessment from benefit entitlements can only be made by the Manager, Collections, or a Compensation Services Director or a delegate. Recoveries will not be made from widows, widowers or dependants where the claim is the result of a fatality and the worker was employed with an employer other than the employer owing the assessments.

#48.50 **Payment to Widow or Widower Free from Debts of Deceased**

Any compensation owing or accrued to a worker for a period not exceeding three months before death may, at the discretion of the Board, be paid to a widow, widower, or a person who takes charge of the funeral arrangements, free from debts of the deceased. (3)

#49.00 **INCAPACITY OF A WORKER**

Under section 12 of the *Act*, "A worker under the age of 19 years is sui juris for the purpose of this Part, and no other person has a cause of action or right to compensation for the personal injury or disablement except as expressly provided in this Part."

An exception is made by section 35(1) of the *Act* which provides in part that “. . . in the case of minors or persons of unsound mind who the board considers are incapable of managing their own affairs, . . .” payments of compensation “. . . may be made to the persons that the board thinks are best qualified in all the circumstances to administer the payments, whether or not the person to whom the payment is made is the legal guardian of the person in respect of whom the payment is being made.”

Compensation benefits due to a worker, where a public trustee has been appointed, will be issued in the name of the worker but sent to the public trustee.

#49.10 Worker Receiving Custodial Care in Hospital

Section 35(5) provides that “Where a worker is receiving custodial care in a hospital or elsewhere, periodical payments of compensation due to the worker . . . may be paid to or for the benefit of

- (a) the worker to the extent the worker is able to make use of the money for his or her personal needs or is able to manage his or her own affairs; or
- (b) any person who is dependent on the worker for support, or in a case of temporary disability of the worker may be
- (c) applied to the maintenance of a home to which the worker is likely to return on his or her recovery; or
- (d) accumulated by the board for payment to the worker on his or her recovery,

or in a case of permanent disability may be applied toward the cost of the worker's maintenance, but, in that case and where the worker is conscious, there must be paid to, or for the use of, the worker a comfort allowance of at least . . .” the amount set out below out of each periodic payment.

January 1, 2002	—	December 31, 2002	\$181.86
January 1, 2003	—	December 31, 2003	\$187.62

If required, earlier figures may be obtained by contacting the Board.

“Subsection (5) applies, regardless of the date of the injury.” (4)

The rate of interest provided in this policy will also be used in the calculation of overpayments as outlined in policy item #48.42.

#51.00 COST OF LIVING ADJUSTMENTS TO PERIODIC PAYMENTS MADE TO A WORKER

Sections 25(1) and (2) of the *Act* provide the method for indexing periodic payments of compensation to a worker. The sections provide:

- (1) For the purposes of this section, the Board must, as of January 1 of each year,
 - (a) determine the percentage change in the consumer price index for Canada, for all items, for the 12 month period ending on October 31 of the previous year, as published by Statistics Canada, and
 - (b) subtract 1% from the percentage change determined under paragraph (a).
- (2) The percentage resulting from calculations made under subsection (1) must not be greater than 4% or less than 0%.

The Board determines the indexing factor to be applied to periodic payments of compensation to a worker in the following manner:

- The Board compares the consumer price index for October of the previous year with the consumer price index for October of the year prior to the previous year.
- One percentage point is subtracted from the percentage change between these two consumer price indexes.
- If the percentage that results from this subtraction is greater than 4%, it is reduced to 4%. If the percentage that results from this subtraction is less than 0%, no adjustment to periodic payments of compensation is made.

The resulting percentage changes determined annually are set out below:

Date	Percentage
January 1, 2003	2.167808

If required, earlier figures may be obtained by contacting the Board.

The resulting percentage change is applied on January 1 of each year to periodic payments of compensation made continuously in respect of an injury occurring more than 12 months before the date of the adjustment.

If the Board starts or restarts periodic payments of compensation to a worker on a date more than 12 months after the date of the worker's injury, the Board adjusts all periodic payments as if payments were made continuously from the date of injury. This means that if payments on a claim are started or restarted more than 12 months after the injury, the worker will receive the benefit of any cost of living adjustments occurring in the intermediary period as if he or she had been continuously paid since the date of injury.

Compensation paid to a worker on or after June 30, 2002 will be indexed according to section 25 of the *Act*, irrespective of the date the worker was injured. However, if the Board pays to a worker, who was injured before June 30, 2002, compensation as a result of a retroactive adjustment, the indexing rules in section 25 of the *Act*, as it read immediately before June 30, 2002, apply to the compensation benefits that should have been paid to the worker before June 30, 2002. Compensation due to the worker on or after June 30, 2002 will be indexed according to section 25 of the *Act*.

Authority to approve adjustments under section 25 has been assigned to the President.

#51.10 Cost Of Living Adjustments To Periodic Payments Made To Dependants

Sections 25.1(1) and 25.1(2) of the *Act* provide the rules for indexing periodic payments of compensation made under sections 17, 18 or 19 to dependants in respect of a death of a worker. The sections provide:

- (1) For the purposes of this section, the Board must
 - (a) as of January 1 of each year, determine the percentage change in the consumer price index for Canada, for all items, for the 6 month period ending on October 31 of the previous year, as published by Statistics Canada, and
 - (b) as of July 1 of each year, determine the percentage change in the consumer price index for Canada, for all items, for the 6 month period ending on April 30 of that year, as published by Statistics Canada.
- (2) The percentage resulting from calculations made under subsection (1) must not be less than 0%.

The Board determines the indexing factor to be applied to periodic payments of compensation to a dependant in the following manner:

January 1 calculation

- The Board compares the consumer price index for October of the previous year with the consumer price index for April of the previous year.
- If the resulting percentage change between the two indexes is less than 0%, no adjustment to periodic payments of compensation is made.
- The resulting percentage change is applied on January 1 of each year to periodic payments of compensation to be paid to a dependant in the 6 month period beginning on that January 1.

July 1 calculation

- The Board compares the consumer price index for April of that year with the consumer price index for October of the previous year.
- If the resulting percentage change between the two indexes is less than 0%, no adjustment to periodic payments of compensation is made.
- The resulting percentage change is applied on July 1 of each year to periodic payments of compensation to be paid to a dependant in the 6 month period beginning on that July 1.

The resulting percentage changes, determined semi-annually, are set out below:

Date	Percentage
July 1, 2002	1.369863
January 1, 2003	1.773649

If required, earlier figures may be obtained by contacting the Board.

Where a worker in receipt of a permanent disability periodic payment dies as a result of the compensable disability and dependant's benefits are payable, no cost of living adjustment is applied in the 6 month period following the date of death.

Compensation paid on or after June 30, 2002 to a dependant will be indexed according to section 25.1 of the *Act*, irrespective of the date the worker died.

An exception to section 25.1 applies to those surviving widows or widowers whose pensions were reinstated in 1993. For those dependants, section 19(2.1) of the *Act*, as it read immediately before June 30, 2002, applies to the reinstated amounts. The indexing under section 19(2.1) of the *Act* as it read immediately before June 30, 2002, that applies to reinstated monthly payments covers a period of time that ended in 1993.

Authority to approve adjustments under section 25.1 has been assigned to the President.

#51.20 Dollar Amounts in the Act – Non-Fatality Amounts

Section 25.2 (1) of the *Act* provides:

Subject to subsection (3) and section 25.3, the Board must adjust every dollar amount referred to in this Act on January 1 of each year by applying the percentage change in the consumer price index for Canada, for all items, for the 12 month period ending on October 31 of the previous year, as published by Statistics Canada.

The Board determines the percentage change to be applied each January 1 to dollar amounts in the *Act*, other than those for fatalities, by comparing the consumer price index for October of the previous year with the consumer price index for October of the year prior to the previous year.

The resulting percentage changes determined annually are set out below:

Date	Percentage
January 1, 2003	3.167808

If required, earlier figures may be obtained by contacting the Board.

When the Board makes the adjustments, those dollar amounts referred to in the *Act* are deemed to be amended.

These provisions do not apply to the figures referred to in policy item #39.61, the maximum wage rate and other figures referred to in policy item #69.00.

Authority to approve adjustments under section 25.2 has been assigned to the President.

Authority has also been assigned to the President to adjust the following amounts to reflect changes based upon the consumer price index, using the formula set out in the applicable item of the *Manual*:

Maximum and Minimum Disfigurement Amount	#43.20
Clothing Allowances	#79.00
Personal Care Allowances	#80.20
Independence and Home Maintenance Allowance	#81.00
Transportation Allowance	#82.20
Subsistence Allowances: Meals	#83.20
Transfer of Costs	#114.11

#51.30 Dollar Amounts in the Act – Fatality Amounts

Section 25.3(1) of the *Act* provides:

- (1) The Board must adjust every dollar amount referred to in sections 17 and 18
 - (a) on January 1 of each year, by applying the percentage change in the consumer price index for Canada, for all items, for the 6 month period ending on October 31 of the previous year, as published by Statistics Canada, and
 - (b) on July 1 of each year, by applying the percentage change in the consumer price index for Canada, for all items, for the 6 month period ending on April 30 of that year, as published by Statistics Canada.

The Board determines the percentage change to be applied semi-annually to dollar amounts in the *Act* that related to fatalities in the following manner:

January 1 calculation

- The Board compares the consumer price index for October of the previous year with the consumer price index for April of the previous year.

July 1 calculation

- The Board compares the consumer price index for April of that year with the consumer price index for October of the previous year.

The resulting percentage changes determined semi-annually under these provisions are set out below:

Date	Percentage
July 1, 2002	1.369863
January 1, 2003	1.773649

If required, earlier figures may be obtained by contacting the Board.

When the Board makes the adjustments, those dollar amounts referred to in the *Act* relating to fatalities are deemed to be amended.

Authority to approve adjustments under section 25.3 has been assigned to the President.

CHAPTER 8

COMPENSATION ON THE DEATH OF A WORKER

#52.00 INTRODUCTION

Compensation is payable where “. . . death arising out of and in the course of the employment is caused to a worker . . .” (1) or death is caused by an occupational disease which is due to the nature of any employment in which the worker was employed. (2) The compensation is payable to surviving dependants of the deceased or in some cases to non-dependent relatives having a reasonable expectation of pecuniary benefit from the continuation of the life of the deceased.

The compensation is normally based on the worker’s average net earnings prior to the death. However, cost of living adjustments are made to payments and to the dollar amounts in the *Act*. Where a worker in receipt of a permanent disability award dies as a result of the compensable disability and dependant’s benefits are payable, no cost of living adjustment is applied in the six-month period following the date of death. The meanings of “average earnings” and “average net earnings” are discussed in Chapter 9. Cost of living adjustments are dealt with in Chapter 7.

#53.00 FUNERAL AND OTHER DEATH EXPENSES

Where compensation is payable as the result of the death of a worker or as the result of injury resulting in the death, an amount in respect of funeral and related expenses is paid in addition to any other compensation payable. The amount payable is set out below.

The employer of the worker is required to bear the cost of transporting the body to the nearest business premises where funeral services are provided, and if burial does not take place there any additional transportation may, up to the sum set out below, be paid by the Board.

	Funeral And Related Expenses	Transportation of Body
January 1, 2002 – June 30, 2002	\$6,870.58	\$1,085.50
July 1, 2002 – December 31, 2002	\$6,964.70	\$1,100.37
January 1, 2003 – June 30, 2003	\$7,088.23	\$1,119.89

If required, earlier figures may be obtained by contacting the Board.

The above figures are adjusted semi-annually on January 1 and July 1 of each year. The percentage changes in the consumer price index determined under section 25.3 of the *Act*, as described in policy item #51.30, are used.

No action for an amount larger than that established by the above provisions lies in respect of the funeral, burial, or cremation of the worker or cemetery charges in connection with it. (3)

#53.10 Person to Whom Expenses are Paid

Payment is made to whomever appears to be the most eligible having regard to who has incurred the cost of funeral and other expenses, or who has undertaken to meet those payments. For example, if an employer, a union, or a distant relative has, perhaps by arrangement with the widow or widower, paid the undertaker before the claim has been adjudicated at the Board, the person who paid the bill may be reimbursed up to the amount provided in policy item #53.00. If that person has paid a lesser sum than the figures there mentioned, there should be a reimbursement to the extent of the payment, and the balance paid to the widow or widower, or whoever else appears to be the most eligible person.

However, once the Board has paid out the monies referred to in policy item #53.00, there can be no question thereafter of the Board considering claims by any other person for funeral expenses. For example, if an employer, a union, or a relative has paid the undertaker, but has not presented any claim to the Board until after the monies have been paid out to the widow or widower, such a person cannot subsequently be reimbursed directly by the Board by a deduction out of compensation benefits. If the other person wishes to be reimbursed out of compensation benefits, that person must make the request to the widow, widower or other person receiving those benefits.

#54.00 MEANING OF "DEPENDANT"

The term "dependant" is defined in section 1 of the *Act* to mean ". . . a member of the family of a worker who was wholly or partly dependent on the worker's earnings at the time of the worker's death, or who but for the incapacity due to the accident would have been so dependent, . . ."

The members of a worker's family means ". . . wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother and half-sister and a person who stood in loco parentis to the worker or to whom the worker stood in loco parentis, whether related to the worker by consanguinity or not;"

(4) A former husband or wife cannot be a member of the worker's family and therefore cannot be the worker's dependant.

Dependency does not exist simply because the claimant had the legal status of husband, wife, child, parent, etc. There must be evidence that, at the time of the worker's death, the claimant was actually dependent on the deceased's earnings. Normally, this means that there must be evidence of sufficient actual support having been provided by the deceased to the claimant. This is so even though the deceased was, at the time of death, subject to a court order to maintain the claimant and the claimant was in need of support. Except in respect of the provision discussed in policy item #60.00, a reasonable expectation of pecuniary benefit from the continuation of the life of the deceased is not itself sufficient to constitute dependency.

The above principles also apply where the claimant is a child. In the case of a child who was unborn at the date of the worker's death, once paternity is established, the fact that the deceased worker would have been under an obligation to support the child is evidence to warrant an inference that that person would have supported the child, and should be accepted as proof of dependency unless it is controverted by evidence to the contrary. If it is found that the deceased worker was supporting the mother at the time of death, that is also evidence from which an inference may be drawn that that person would have supported the child.

Dependency is determined at the date of death. Changes of circumstances after the death, for instance, the marriage of a child, do not affect the status of a person as a dependant.

#54.10 Presumptions of Dependency

For deaths occurring on or after July 1, 1974, section 17(7) of the *Act* provides that "Where 2 workers are married to each other and both are contributing to the support of a common household, each is deemed to be a dependant of the other." Section 17(8) provides that "Where 2 parents contribute to the support of a common household at which their children also reside, the children are deemed to be dependants of the parent whose death is compensable under this Part." The latter provision applies to children of the two parents, not to children of a former marriage of either parent living with them, but the two parents need not be married to each other.

An argument was made in one claim that section 17(7) applied because, though the claimant and her husband had been living in separate residences at the date of his death, the claimant was contributing to the support of a common household, namely the household where her husband and children resided. Her contribution included visits to the premises, assistance with housework and financial contributions. This argument was not accepted.

It was concluded that there was no common household. For a common household to exist it is not necessary that there be a constant 24-hour-a-day presence by both parties in the house. There are obviously many reasons why one party to a marriage would leave the house for different periods which would not affect the existence of the common household. However, this only applies when the absences are consistent with the normal continuation of the marriage. The common household will come to an end when there is some kind of separation of the parties which brings into question the continued existence of the marriage, for example, if one party deserts the other or, because of difficulties in the marital relationship, a separation agreement or court order comes into being. Nor could it be concluded that a prospect of reconciliation would make a difference. This might indicate a possibility of the common household again coming into existence at a future time, but did not alter the fact that there was no such household currently in existence.

**#55.00 WIDOWS AND WIDOWERS DEATH ON OR AFTER
JULY 1, 1974**

Widows or widowers who were not dependent on the earnings of the deceased at the time of death are not entitled to compensation under the provisions set out below. They may, however, be entitled under the provisions set out in policy item #60.00.

**#55.10 Lump Sum Payment to Dependent Widows or
Widowers**

In addition to any other compensation provided, a dependent widow or widower in Canada to whom compensation is payable is entitled to a lump sum equal to the amount set out below. (5)

January 1, 2002	—	June 30, 2002	\$2,029.24
July 1, 2002	—	December 31, 2002	\$2,057.04
January 1, 2003	—	June 30, 2003	\$2,093.52

If required, earlier figures may be obtained by contacting the Board. Payment of this amount is made as soon as the claim is accepted.

#55.20 Dependent Spouse with Dependent Children

#55.21 Widow or Widower with Two or More Children

Where the dependants are a widow or widower and two or more children, a monthly payment is made of such sum as, when combined with Federal benefits payable to or for those dependants, equals the total of:

- (a) the monthly rate of compensation that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability, (6) subject to the minimum set out in policy item #55.26, and
- (b) the amount set out below per month for each child beyond two in number. (7)

January 1, 2002	—	June 30, 2002	\$263.70
July 1, 2002	—	December 31, 2002	\$267.31
January 1, 2003	—	June 30, 2003	\$272.05

If required, earlier figures may be obtained by contacting the Board.

For example, consider the case of a worker whose death occurred on June 30, 2002 whose average earnings were \$40,000 per annum. He leaves a dependent widow and three dependent children, who were entitled to Federal benefits. The worker was claiming the maximum spousal tax credit and his average net earnings were determined to be \$31,556.

A.	Federal benefits		=	
	C.P.P. pension for widow		=	437.99
	C.P.P. pension for children	(3 x 183.77)	=	<u>551.31</u>
			=	989.30
	Total Federal benefits		=	989.30
B.	Monthly permanent total disability award rate at date of death	90% x <u>31,556</u> 12	=	2,366.70
C.	Additional child allowance under section 17		=	263.70
D.	Total monthly benefits (B plus C)		=	2,630.40
	Total benefit entitlement (W.C.B. and C.P.P.)		=	2,630.40
E.	Total W.C.B. benefits (D less A)		=	1,641.10

#55.22 *A Widow or Widower with One Child*

Where the dependants are a widow or widower and one child, a monthly payment is made of such sum as, when combined with Federal benefits payable to or for those dependants, equals 85% of the monthly rate of compensation that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability, subject to the minimum set out in policy item #55.26. (8) In regard to the example given in policy item #55.21, assume the deceased left only one dependent child.

A. Federal benefits			
C.P.P. pension for widow		=	437.99
C.P.P. pension for child		=	<u>183.77</u>
			621.76
Total Federal benefits		=	621.76
B. Monthly permanent total disability award rate at date of death			
	$90\% \times \frac{31,556}{12}$	=	2,366.70
C. 85% of permanent total disability award rate (total monthly benefits)			
	$85\% \times 2,366.70$	=	2,011.70
Total benefit entitlement (W.C.B. and C.P.P.)		=	2,011.70
D. Total W.C.B. benefits (C less A)		=	1,389.94

#55.23 *A Meaning of "Invalid"*

"Invalid" is defined in section 1 of the *Act* to mean ". . . physically or mentally incapable of earning". This excludes a person who is disabled, but capable of earning. However, it is provided in section 17(6) that "Where at the date of death a spouse is not an invalid, but is suffering from a disability that results in a substantial impairment of earning capacity, the board may, having regard to the degree of disability or the extent of impairment of earning capacity, pay the spouse a proportion of the compensation that would have been payable if the spouse had been an invalid." A temporary invalidism or disability is not covered by these provisions.

#55.24 *Meaning of "Federal Benefits"*

"Federal benefits" means the benefits payable under the Canada Pension Plan and to which any dependants are entitled as a result of the death, together with any benefits to which the dependent spouse is or becomes entitled under the Canada Pension Plan as a result of having retired or reached retirement age. (9)

#55.25 *Meaning of "Child" or "Children"*

This is discussed in policy item #58.10.

#55.26 *A Minimum Amount of Average Earnings*

The minimum allowances payable under policy items #55.21 - #55.22 are such allowances as would be payable if the allowances were calculated in respect of a deceased worker with average earnings equal to the amount set out below. (10)

January 1, 2002	—	June 30, 2002	\$28,408.32
July 1, 2002	—	December 31, 2002	\$28,797.48
January 1, 2003	—	June 30, 2003	\$29,308.25

If required, earlier figures may be obtained by contacting the Board.

The minimum average earnings applicable to deaths occurring on or after January 1, 2002, and before July 1, 2002, is \$28,408.32. If the average earnings of the worker referred to in the example in policy item #55.21 were only \$15,000.00 the monthly amount payable to his widow and three children would be as follows:

A.	Total Federal benefits (as in policy item #55.21)	=	989.30
B.	Monthly permanent total disability award rate at date of death	$90\% \times \frac{22,453.07^1}{12}$	= 1,683.98
C.	Additional child allowance under section 17	=	<u>263.70</u>

¹ If the minimum of \$28,408.33 is used as the worker's average earnings and the worker claimed the maximum spousal tax credit, \$22,453.07 would be the average net earnings.

D.	Total monthly benefits (B plus C)	=	1,947.68
	Total benefit entitlement (W.C.B. and C.P.P.)	=	1,947.68
E.	Total W.C.B. benefits (D less A)	=	958.38

#55.30 Dependent Spouse with No Children

#55.31 *Widow or Widower 50 Years of Age or Over or Invalid*

Where the dependant is a widow or widower who, at the date of death of the worker, is 50 years of age or over, or is an invalid spouse, a monthly payment of a sum that, when combined with Federal benefits payable to or for that dependant, equals 60% of the monthly rate of compensation that would have been payable if the deceased worker had, at the date of death, sustained a permanent total disability, but such monthly payments shall not be less than the minimum set out below. (11)

January 1, 2002	—	June 30, 2002	\$852.12
July 1, 2002	—	December 31, 2002	\$863.79
January 1, 2003	—	June 30, 2003	\$879.11

If required, earlier figures may be obtained by contacting the Board.

For the definition of “invalid”, see policy item #55.23.

The minimum monthly payment is the actual minimum paid by the Board. It is not a minimum total benefits which incorporates Federal benefits.

The computation formula is the same as was described in policy item #55.22, however, 60%, rather than 85%, of the deceased’s projected permanent total disability award is taken. “Federal benefits” has the meaning set out in policy item #55.24.

#55.32 *Non-Invalid Widow or Widower under 40 Years*

Where the dependant at the date of the worker’s death is a widow or widower who is not an invalid and is under the age of 40 years, and there are no dependent children, a capital sum equal to the amount set out below is payable. Of this, a first installment is payable immediately. The balance is payable at a time the Board determines; but the payment cannot, except at the request of the

dependant, be delayed beyond six months after the date of death of the worker.
 (12) The amount of the first installment and the balance is also set out below.

	First Installment	Balance	Total Amount
January 1, 2002 — June 30, 2002	\$4,058.39	\$36,524.82	\$40,583.21
July 1, 2002 — December 31, 2002	\$4,113.98	\$37,025.16	\$41,139.14
January 1, 2003 — June 30, 2003	\$4,186.95	\$37,681.85	\$41,868.80

If required, earlier figures may be obtained by contacting the Board.

In exercising its discretion when to pay the balance, the Board does not seek to regulate the use of the money. But it does try to ensure that the surviving spouse has a good opportunity to make rational choices about its use.

The letter of decision accepting the claim will provide for the immediate payment of the first installment. Ordinarily, payment of the balance will be processed one month after this letter. That should normally provide a reasonable period for the spouse to consider how the money should be used before it arrives. But the Board officer in Vocational Rehabilitation Services may consider whether it should be sent earlier or later and make a recommendation on this to the Board officer in Compensation Services. In no case must payment in full be delayed more than six months after the date of death.

#55.33 *Non-Invalid Widow or Widower between 40 and 49 Years*

Where the dependant is a widow or widower who is not an invalid and who, at the date of death of the worker, has reached the age of 40 years but not the age of 50 years, and there are no dependent children, a monthly sum calculated under Schedule C of the Act is paid. (13)

Schedule C provides for a monthly payment of the minimum amount set out in policy item #55.31 plus the following proportion of the difference between that amount and the monthly payment that would be payable using the general formula set out in policy item #55.31.

Schedule C

Age of Widow or Widower at Date of Death of Worker	Proportion of Difference
40	1/11
41	2/11
42	3/11
43	4/11
44	5/11
45	6/11
46	7/11
47	8/11
48	9/11
49	10/11

Consider the example of a worker who dies on June 30, 2002, leaving a dependent widow or widower aged 45 years and no children. The worker's average earnings are \$40,000 per annum and the wife or husband is entitled to Federal benefits. The worker was claiming the maximum spousal tax credit and his average net earnings were determined to be \$31,556.

A.	Federal benefits C.P.P. pension for widow or widower	=	437.99
B.	Monthly permanent total disability award rate at date of death	$90\% \times \frac{31,556}{12}$	= 2,366.70
C.	60% of permanent total disability rate (Total monthly benefits under policy item #55.31)	$60\% \times 2,366.70$	= 1,420.02
	Maximum benefit entitlement (W.C.B. and C.P.P.)	=	1,420.02

The computation formula is similar to the one used for computing widows' or widowers' pensions described in policy items #55.21-#55.22. Only the percentages taken of the projected permanent total disability award are different. "Federal benefits" has the meaning set out in policy item #55.24 and the minimum average earnings referred to in policy item #55.26 is applicable.

#59.00 OTHER RELATIVES

Where there is no dependent spouse or child entitled to compensation, but a worker leaves other dependants, payment is made of a sum reasonable and proportionate to the pecuniary loss suffered by those dependants by reason of the death, to be determined by the Board, but not exceeding in the whole the maximum set out below per month. (24)

January 1, 2002	—	June 30, 2002	\$466.70
July 1, 2002	—	December 31, 2002	\$473.09
January 1, 2003	—	June 30, 2003	\$481.48

If required, earlier figures may be obtained by contacting the Board.

Except in the case of parents, no compensation is payable to other relatives who were not dependants of the deceased worker in accordance with the principles set out in policy item #54.00.

#59.10 Dependent Parents

Where there is a dependent spouse, or a dependent child or children, entitled to compensation, but not a spouse and child or children, and, in addition, the worker leaves a dependent parent or parents, then, in addition to the compensation payable to the spouse or children, payment is made of a sum, reasonable and proportionate to the pecuniary loss suffered by the dependent parent or parents by the death, to be determined by the Board, but not exceeding the maximum set out in policy item #59.00 per month. (25)

The provision in policy item #59.00 also applies to dependent parents.

Parents who were not dependent on the earnings of the deceased in the manner set out in policy item #54.00 are not entitled under the above provisions. They may, however, be entitled under the provisions set out in policy item #60.00.

#60.00 PERSONS NOT DEPENDENT ON THE EARNINGS OF THE DECEASED

Where

- (a) no compensation is payable to a dependant of the deceased, or
- (b) the compensation is payable only to a spouse, a child or children, or a parent or parents,

but the worker leaves a spouse, child, or parent who, though not dependent upon the worker's earnings at the time of death, had a reasonable expectation of pecuniary benefit from the continuation of the life of the worker, payments, at the discretion of the Board, are made to that spouse, child or children, parent or parents, but not to more than one of those categories, not exceeding the maximum set out in policy item #59.00 per month for life or a lesser period determined by the Board. (26)

An application for compensation from a spouse, child, parent, or other person on the grounds that he or she is a dependant of the deceased worker will automatically be considered under the above provision if it is concluded that the person was not a dependant.

#61.00 MISCELLANEOUS PROVISIONS

#61.10 Apportionment

Where in any situation there is a need to apportion allowances payable to dependants among those dependants, the formula for apportionment shall be at the discretion of the Board; but, unless the Board has grounds for a different apportionment, the apportionment shall be

- (a) where there is a dependent spouse and one child, two-thirds to the dependent spouse and one-third to the child;
- (b) where there is a dependent spouse and more than one child, one-half to the dependent spouse and one-half among the children in equal shares; and
- (c) where there are children but no dependent spouse, among the children in equal shares. (27)

This is an exception to both general rules for determining average earnings. The average earnings of a person entitled to personal optional protection under section 2(2) of the *Act* (4) are the earnings for which coverage has been purchased. There is no 10-week average earnings review.

The maximum amount of earnings for which coverage can be purchased are set out below.

	Monthly Amount	With Proof of Earnings
January 1, 2002 – December 31, 2002	\$2,500.00	\$4,967.00
January 1, 2003 – December 31, 2003	\$2,500.00	\$5,008.00

If required, earlier figures may be obtained by contacting the Board.

Where an applicant is applying for personal optional protection in an amount which exceeds the maximum per month, proof of gross earnings must be provided. If verification of earnings is not provided, the Board automatically reduces coverage to the maximum per month. Proof of gross earnings must be in the form of a certified copy of the applicant's previous year's tax return or a declaration must be completed by a professional accountant (C.A., C.G.A., or C.M.A.), lawyer or notary public. This declaration must certify that the self-employed earnings of the applicant for the previous year were equal to or exceeded the coverage requested.

Because of frequent changes in the maximum wage rate, where coverage at the maximum has been granted, the Board permits an application for personal optional protection at the "maximum wage rate" with coverage and assessment to be adjusted automatically from time to time.

Where a claim is made in respect of an injury, a disablement from an occupational disease, or a death from either cause occurring on or after January 1, 1978, the minimum amounts of compensation provided for in sections 22(2), 23(4), 29(2) and 30(2) have no application to persons who have purchased personal optional protection. (5) However, the minimum average earnings provided for in section 17(3)(g) does apply. (6)

The amount of personal optional protection purchased will be used to calculate a person's average net earnings. Compensation will be based on 90% of the person's average net earnings calculated as set out in policy item #71.00.

Compensation payable to persons entitled to personal optional protection is subject to the same cost of living adjustments as compensation payable to other persons.

#67.30 Workers with No Earnings

Section 33.7 of the *Act* provides:

If a worker had no earnings at the time of injury, the Board must determine the amount of average earnings of a worker under section 33.1 from the date of injury in a manner that the Board considers appropriate.

This is an exception to both general rules for determining average earnings. There is no 10-week average earnings review.

Persons working without pay are not generally considered as “workers” under the *Act*. However, there are some exceptional situations of this type which are covered and for which the *Act* or the Board has specified the earnings on which compensation is to be based. These situations are described in policy items #67.31 - #67.34.

#67.31 *Volunteer Workers Admitted by the Board under Section 3(5)*

Where a person who is deemed to be a worker under section 3(5) of the *Act* is not regularly employed, and having regard to all the circumstances, including income, the Board may fix the worker’s average earnings at not less than the amount set out below per week nor more than the maximum wage rate provided under section 33 of the *Act*.

January 1, 2002	—	December 31, 2002	\$101.47
January 1, 2003	—	December 31, 2003	\$104.68

If required, earlier figures may be obtained by contacting the Board.

The minimum wage set out above is subject to cost of living adjustments as described in policy item #51.20.

#67.32 *Volunteer Firefighters and Ambulance Drivers and Attendants*

The average earnings of volunteer ambulance drivers and attendants and members of fire brigades working without remuneration is deemed to be the same in amount as the average earnings in their regular employment or employments, not, however, to be less than the amount on which the employer has been assessed. (7)

In compensating the principal of a small limited company, the Board's obligations extend only to the losses suffered in the capacity of employee. Wage-loss compensation cannot be paid to reflect any detrimental effect that the injury may have on the company's business.

#69.00 MAXIMUM AMOUNT OF AVERAGE EARNINGS

Section 33(3) provides that a worker's average earnings cannot exceed the "maximum wage rate".

The *Act* contains a special procedure for determining the maximum wage rate in force in any year. Section 33(7) provides that "Prior to the end of each calendar year, the board must determine the maximum wage rate to be applicable for the following calendar year." The maximum wage rate to be determined under subsection (7) is an amount that the Board thinks represents the same relationship to the sum of \$40,000 as the annual average of wages and salaries in the province for the year preceding that in which the determination is made bears to the annual average of wages and salaries for the year 1984; and the resulting figure is rounded to the nearest \$100. (10) For the purpose of determining annual average of wages and salaries under subsection (8), the Board may use data published or supplied by Statistics Canada. (11) Prior to 1986, the *Act* referred to \$11,200 and 1972 as the factors in the formula for calculating the maximum.

For the maximum wage rates in force used to calculate temporary and permanent disability payments, see below.

	Yearly Applicable
January 1, 2002 – December 31, 2002	\$59,600.00
January 1, 2003 – December 31, 2003	\$60,100.00

If required, earlier figures may be obtained by contacting the Board.

The maximum wage rate is not subject to consumer price index adjustments. Nor can a worker who is in receipt of the current maximum compensation benefits receive the benefit of such adjustments. However, if the maximum wage rate is increased in any year, workers injured in a prior year who were limited by

the maximum compensation for that year can receive the benefit of any applicable cost of living adjustments occurring after the increase. Such adjustments are calculated using the previous maximum as a base and cannot at any time increase the worker's compensation above the current maximum. Increases in the maximum wage rate do not have the effect of increasing the existing compensation being paid to workers whose payments have been limited by the lower maximum existing in a previous year. An exception to this rule may occur when, on a reopening occurring more than three years after the injury, the Board exercises its authority under section 32 to base compensation payments on the worker's earnings at the time of the reopening. (12)

Authority to approve increases in the maximum wage rate under section 33 has been assigned to the President.

#69.10 Deduction of Permanent Disability Periodic Payments from Wage Loss

Section 31(1) provides as follows:

Where a worker is receiving compensation for a permanent or temporary disability, the worker must not receive compensation for a further or other disability in an amount that would result in the worker receiving in the aggregate compensation in excess of the maximum payable for total disability.

Where a worker is entitled to wage-loss payments at the current maximum, and is in receipt of a permanent disability award under a previous claim, the permanent disability award is deducted from the wage-loss payments. If the wage-loss payments are less than the current maximum only the amount in excess of the maximum when the permanent disability award and wage loss are added together is deducted.

For calculating the amount of a deduction, the daily rate of the permanent disability award must be determined and then deducted from the daily rate of wage-loss compensation in the manner set out in policy item #70.10.

The deduction made under section 31 must be reviewed on each January 1 following the injury. This is to allow for possible cost of living adjustments to the amount of the permanent disability award and the wage loss and, with regard to January 1, changes in the maximum wage rate. For the purpose of section 31, the relevant maximum is the one applying in the year in which the wage-loss payment is being made.

For the deduction from wage loss of permanent disability awards under the same claim, reference should be made to policy items #70.00, #70.10, and #70.20.

Level 3: Restricted mobility. Worker needs ongoing assistance in washing, shaving, dressing, feeding, precautionary attention to skin care and ongoing assistance in daily living.

Examples are:

1. Severe head injury resulting in brain damage to the extent that the worker is not bedridden, but is dependent upon assistance and ongoing care.
2. Quadriplegia with impairment of bowel and bladder functions.

Level 4: Worker is almost totally immobile and requires extensive assistance in maintaining personal hygiene, precautionary attention to skin care and ongoing assistance in all phases of daily living.

Examples are:

High lesion quadriplegia or severe head injuries.

Level 5: The worker is totally immobile for all practical purposes and essentially requires assistance in all phases of personal hygiene, body functions and acts of daily living (quadriplegic, decerebrate and bedridden).

The determination of whether a personal care allowance is applicable and the appropriate level may include consideration of factors such as home and family situation, geographic location and other difficulties that may be encountered in relating to the worker's environment. Other medical conditions that may not be a direct result of the personal injury sustained may also be considered in the determination.

Personal care allowances may be adjusted up or down in the event that the circumstances following the original application substantially change.

#80.20 Amounts Payable at Each Level

The amounts of personal care allowances are set out below:

	Level 1	Level 2	Level 3	Level 4	Level 5
January 1, 2002 – December 31, 2002					
Daily Amount	\$13.26	\$22.60	\$33.62	\$40.62	\$50.09
Monthly Amount	\$399.31	\$698.61	\$1,009.07	\$1,308.36	\$1,608.00
January 1, 2003 – December 31, 2003					
Daily Amount	\$13.68	\$23.32	\$34.68	\$44.91	\$55.38
Monthly Amount	\$411.96	\$720.74	\$1,041.03	\$1,349.80	\$1,658.94

If required, earlier figures may be obtained by contacting the Board.

Effective June 30, 2002, the amounts of the personal care allowances will be adjusted on January 1 of each year. The percentage change in the consumer price index determined under section 25.2 of the *Act*, as described in policy item #51.20, will be used.

#80.30 Payment Procedure

Where the Board is paying the worker's actual expenses, it may pay directly the account of a company registered to provide the required assistance. The Board does not pay a personal care allowance directly to an individual attendant.

In a case where the worker is receiving a flat rate allowance or has hired an individual attendant, the amount is paid directly to the worker if he or she is capable of money management.

Once approved, personal care allowances are normally paid monthly. The worker, or the person providing the care, is required to complete and sign the prescribed form and return it to the Board each month, or at such other intervals as may be determined by the Board.

#80.40 Worker Requires Institutional Care

The payment of personal care expenses or allowances will be suspended if the worker is institutionalized for more than fourteen calendar days, but may be reinstated upon returning home.

If a worker is totally disabled and requires ongoing institutional care as a result, a flat rate personal care allowance will not be paid. The Board provides the cost of institutional care as part of the health care benefit program. If it appears that such a worker can be provided the same kind of nursing or custodial care outside an institution, the Board may, as an alternative to paying personal care allowance, pay an amount calculated, at least in part, by reference to the cost of institutional care.

#81.00 INDEPENDENCE AND HOME MAINTENANCE ALLOWANCE

Normally, most workers who are homeowners have the physical capacity to maintain their property in order to protect their investment in home and property. Such things as painting, repairing, landscaping, appliance repairs, renovations and the many other activities required to maintain the home are difficult or impossible for the disabled. The severely disabled worker is usually required to

hire tradespersons or others to carry out these activities, thereby incurring additional costs for maintaining home and property.

Similarly, the disabled worker may not have the physical capacity to maintain and/or drive a car or to use public transportation, and is consequently required to hire taxis or other forms of transportation to enjoy a reasonable degree of independence.

In order to assist in these and similar kinds of expenses, the Board has established a category of assistance separate and distinct from personal care allowances, called the independence and home maintenance allowance. This allowance may be paid over and above any level of personal care allowance and is in addition to any wage-loss or permanent disability award benefits.

Effective September 1, 1992, the criteria for paying the independence and home maintenance allowance are as follows:

1. The worker must have sustained a permanent compensable disability which meets one of the following criteria:
 - (a) The disability measured using the physical-impairment method of assessment is equal to 75% of total or greater.
 - (b) The disability measured using the projected-loss-of-earnings method of assessment is equal to an equivalent of 75% of total or greater and it is concluded, after obtaining the advice of the Board officer in Vocational Rehabilitation Services, that the disability will prevent the worker from carrying out the activities covered by the allowance.
 - (c) The compensable disability is superimposed on another permanently disabling medical condition, whether compensable or not, and the combined disability meets (a) above or the Board grants a projected-loss-of-earnings award which meets (b) above. Where the pre-existing disability is non-compensable, the compensable disability must be at least half the combined disability measured using the physical-impairment method of assessment and be a significant factor in the worker's inability to do the activities covered by the allowance.
2. The worker must maintain a home or live in rented accommodation. A worker who lives in a nursing hospital or extended care facility will not be eligible. Other accommodation may be approved if it can be concluded that the worker would have contributed to its maintenance had the disability not occurred.

3. If the worker is institutionalized in a hospital, nursing care facility or extended care facility, but the spouse and children continue to maintain the family home, the allowance may be paid to the spouse.
4. The allowance commences as of the date when the worker meets the criteria set out above and will be terminated upon the death of the worker or if the worker ceases to meet the above criteria. The allowance may be paid retroactively if time elapses between the date of the worker becoming eligible for the allowance and the date eligibility is determined. With regard to any period prior to September 1, 1992, no payment can be made unless the worker meets the criteria which existed prior to that date. (22)

The independence and home maintenance allowance is payable at the discretion of the Board. The circumstances surrounding each case will be reviewed by the Board officer in Vocational Rehabilitation Services who will provide a report and recommendations.

Once the allowance is approved, the worker or spouse is required to complete and sign the appropriate form and submit it each month, or at such other intervals as may be determined by the Board.

The amount of the independence and home maintenance allowance is set out below:

Date	Monthly Amount
January 1, 2002 – December 31, 2002	\$211.09
January 1, 2003 – December 31, 2003	\$217.78

If required, earlier figures may be obtained by contacting the Board.

Effective June 30, 2002, the amount of the independence and home maintenance allowance will be adjusted on January 1 of each year. The percentage change in the consumer price index determined under section 25.2 of the *Act*, as described in policy item #51.20, will be used.

The independence and home maintenance allowance is not retroactive to before June 13, 1980. However, if the worker meets the criteria for the allowance, the allowance is paid regardless of date of injury or permanent disability due to occupational disease.

#82.00 TRANSPORTATION ALLOWANCES

Section 21(1) authorizes the Board to furnish or provide the injured worker with transportation it may deem reasonably necessary.

#82.10 Eligibility for Transportation

Subject to the exceptions set out at the end of this item, return transportation expenses are normally reimbursed when:

1. A worker travels to a place of medical examination or treatment where the appointment has been previously approved by the Board or is subsequently paid for by the Board; or
2. A worker travels in connection with a vocational rehabilitation program where the travel is requested or approved as part of the program by the Board officer in Vocational Rehabilitation Services; or
3. A worker is at the time of injury working at a place other than his or her place of residence and wishes to transfer to the place of residence and the disability from the injury prevents the worker from using the mode of transportation which he or she ordinarily would have used to do this; or
4. A worker meets the criteria set out in policy item #100.12 or policy item #100.13 in connection with attendance at a claims or appeal inquiry.

Transportation expenses are not normally paid in regard to:

1. Travel within the boundaries of a local bus service (including the area serviced by the Greater Vancouver Regional District transportation system) where the bus is a reasonable means of transportation for the worker.
2. The portion of any journey which takes place within a distance of 24 kilometres of the destination. This does not apply where the worker's condition is such as to require travel by:
 - (a) ambulance; or
 - (b) taxi, and the worker has received prior authorization for this from the Board.

3. The portion of any journey which takes place beyond the boundary of the province. This does not apply where the Board specifically requests the worker to attend a medical examination, or in certain situations specified in policy item #100.15 in relation to claims inquiries and appeals.

#82.11 *Worker Bypasses Nearby Medical Facilities*

Workers may, of their own accord, bypass adequate local treatment facilities to attend a practitioner of their own choice elsewhere. The *Act* allows freedom of choice of physician or qualified practitioner by the injured worker. Obviously, there must be some limitation of the costs of such freedom. For example, a worker in Prince George could not reasonably insist that since the physician or qualified practitioner of her or his choice worked in Vancouver, there should, therefore, be reimbursement for transportation to and from Vancouver to seek this medical care.

If, however, necessary medical care is only available in a given centre, or the Board, acting on the advice of the health professional, refers a worker to another centre for medical care, the costs of transportation will be chargeable to the Accident Fund.

If a worker, by choice, bypasses adequate local treatment facilities, transportation costs will not be paid. Adequate treatment facilities in this case are defined as physicians or hospitals in all cases. Since all other “qualified practitioners” are limited in the types and extent of care they can offer, it would not be reasonable to prohibit a worker from bypassing one of those practitioners to get to the nearest hospital or doctor. On the other hand, it would be unreasonable to allow a worker to bypass a hospital or a doctor to go to a “qualified practitioner”. (23)

A worker may, following the injury, move his or her place of residence to another location and thereby incur increased transportation costs. This may or may not be because the worker was injured while working away from home. The Board will not normally pay the cost of the move from one place of residence to another. It will, however, pay normal transportation costs for travel from the place where the worker resides to a place of treatment or examination in the worker’s area of residence even though the worker’s choice of place of residence results in greater transportation costs. The Board will not pay for travel from the place of residence to a doctor in the worker’s former residence unless the worker’s condition requires treatment by that particular doctor.

#82.20 Amount of Reimbursement

The principles set out below also apply with regard to expenses incurred in connection with a claims or appeal inquiry dealt with in policy item #100.00.

The Board will pay the cost of public transportation where this is available and is a reasonable and normal means of travel for the journey to be made by the worker. Where the Board considers it advisable, a worker will be encouraged to travel by air and the Board will assume the cost of the air fare, together with the cost of transportation to and from airports. In situations where air travel is acceptable and the worker elects to use some alternative means, such as the use of a private car, only the most reasonable and economical public transportation cost, which is usually the bus fare, will be reimbursed. Where air travel is not practical, and not approved, only the bus fare will normally be reimbursed irrespective of the method of travel utilized by the worker. The "bus fare" rate includes necessary meal costs and taxi costs to and from bus terminals.

Where public transportation is not reasonably available, the most economical method of transport that is reasonably available will be considered.

Taxi fares will be paid when medical reports indicate that the worker's condition does not permit travel by public transportation. The worker must first obtain prior Board approval and will be required, if no voucher is provided, to obtain receipts from the taxi driver and submit the receipts for a refund.

Where there is no public transportation available, or it is deemed otherwise reasonable and acceptable for the worker to drive his or her own vehicle, an allowance of 28 cents per kilometre is paid, effective January 1, 1997, for journeys meeting the minimum kilometre limit set out in policy item #82.10.

It may, for example, be considered reasonable for a worker to drive his or her own vehicle where there is available public transport if the bus journey would involve multi bus transfers or coming by automobile would be acceptable where it permits the worker to put in half a day at work and still keep an appointment.

Parking fees are payable if parking charges are levied by the hospital or medical building where the worker is attending for treatment, but are only paid where approval has been given to pay a kilometre allowance.

The amount of the kilometre rate is set out below:

Date	Amount Per Kilometre
January 1, 2002 – December 31, 2002	30¢
January 1, 2003 – December 31, 2003	31¢

If required, earlier figures may be obtained by contacting the Board.

Effective June 30, 2002, the kilometre rate will be adjusted on January 1 of each year. The percentage change in the consumer price index determined under section 25.2 of the *Act*, as described in policy item #51.20, will be used. The result is rounded to the nearest cent.

Where a worker has voluntarily moved out of the province, eligible expenses are normally limited to what would be paid if the expenses were incurred in British Columbia. Where travel costs are being paid, the cost of travel back to British Columbia (usually the air fare) is prorated on a kilometre basis and the payment covers only the percentage of the travel occurring in British Columbia.

Parking fees may be payable where approval has been given to pay a kilometre/mileage allowance. Where a worker has to buy meals while engaged in a journey for which the Board is paying expenses, the Board will pay the rates set out in policy item #83.20.

Flat rate travel allowances to cover the cost of different forms of transportation from different starting points to different destinations may be established. This includes situations where part of the journey takes place outside the province.

These allowances should cover the normal cost of the journey in question including incidental costs such as parking, taxi, airporters, and meals which will usually be incurred in the journey. The amount of the allowance may be paid to the worker in place of actual expenses.

The worker in receipt of a flat rate payment may request reimbursement of actual expenses if, because of exceptional circumstances, expenses are incurred which are significantly higher than the amount of the flat rate. These expenses would have to meet the normal criteria for payment set out in this part of the manual.

#82.30 Manner of Payment

Air travel is normally arranged through a travel agency used by the Board.

Travel arrangements may also be made by forwarding a cheque to the worker in advance of the scheduled trip. Normally, such advance payments will only be

As such, no income-loss subsistence will be paid for losses incurred on the day of the injury.

If a loss is due either to the worker's personal selection of a physician or qualified practitioner which involves bypassing closer treatment facilities, this will be taken into account when evaluating an entitlement to income-loss subsistence.

In situations where the worker is maintained on full salary by the employer and an entitlement to income-loss subsistence has accrued, the payment will be made to the employer under the terms of section 34 of the *Act*.

#83.20 Rates of Subsistence

"Subsistence" means the costs of accommodation and meals.

The Board will normally reimburse actual accommodation costs. When contacting the worker prior to departing from home, the Board officer will reach an agreement with the worker regarding the accommodation to be selected and the amount the Board is prepared to approve as a reimbursement.

In addition to accommodation costs, the worker will be paid a full or partial per diem meal allowance as follows:

Date	Breakfast	Lunch	Dinner	Per Day
January 1, 2002 – December 31, 2002	\$9.89	\$12.19	\$20.96	\$43.04
January 1, 2003 – December 31, 2003	\$10.20	\$12.58	\$21.62	\$44.40

If required, earlier figures may be obtained by contacting the Board.

The above meal rates also apply where a worker has to buy meals while engaged on a journey for which the Board is paying expenses.

Where board and/or room is included in a treatment or vocational rehabilitation program, it will be paid at cost.

The meal allowance will be adjusted on January 1 of each year.

Effective June 30, 2002, the percentage change in the consumer price index determined under section 25.2 of the *Act*, as described in policy item policy item #51.20, will be used.

The rules set out above apply equally to family members or other persons travelling with or visiting an injured worker.

#84.20 Right of Eligible Workers to Choose Own Accommodation

Patients are allowed a free choice as to whether they wish to stay at accommodations paid for by the Board or stay elsewhere. Where it is the opinion of the treating doctor that residence elsewhere would be detrimental to the health of the patient, the patient will be advised to stay at the accommodations paid for by the Board and be informed of the medical opinion. But the patient will still be allowed the choice.

Patients who live outside the Lower Mainland area, but within the Fraser Valley, who come to the Rehabilitation Centre for treatment daily, will be offered accommodation. If they elect not to accept that accommodation, they will be offered their actual travel expenses up to a maximum equal to the rate of subsistence payable under policy item #83.20 to a worker who is eligible for paid accommodation but chooses not to do so. The use of automobiles will be permitted where it is unreasonable to expect the patient to use public transport.

Patients are not allowed to park campers or trailers on the Board's premises while attending the Rehabilitation Centre for the purpose of accommodating themselves or their families. The vehicle should be parked at a recognized trailer park and the worker will receive the appropriate subsistence allowance if he or she chooses to live there.

#84A.00 HOMEMAKERS SERVICES

The Board provides homemakers' services for cases involving a single parent or, in families with two parents, when one parent is incapable of maintaining the home and family due to illness or other reasons.

Normally, in such circumstances, arrangements have been made by the worker to look after home and family with live-in housekeepers/babysitters, daycare centres or other family or community resources while the worker is away on the job. It is assumed that the same or similar arrangements would continue as an ongoing personal responsibility even though the worker is attending treatment for an industrial injury or undergoing a vocational rehabilitation program rather than being at work.

Homemakers' services may also be provided to workers where the seriousness of the injury would otherwise require hospitalization.

The Board does, however, recognize cases in which the provision of homemakers' services on a temporary basis should be considered, particularly in instances where a worker is away overnight. The Board will pay for such services under appropriate circumstance.

#114.11 *The Amount of Compensation Awarded Must Be Substantial*

The Board has interpreted the word “substantial” as referring to a specific dollar amount. The amounts are set out below:

January 1, 2002 – December 31, 2002	\$36,967.79
January 1, 2003 – December 31, 2003	\$38,138.86

If required, earlier figures may be obtained by contacting the Board.

Effective June 30, 2002, the dollar amount will be adjusted on January 1 of each year. The percentage change in the consumer price index determined under section 25.2 of the *Act*, as described in policy item #51.20, will be used.

#114.12 *Serious Breach of Duty of Care of Another Employer Must Have Caused or Substantially Contributed to Injury*

“Duty of care” has the same meaning as it does in the law of tort. It is therefore relevant to consider what conclusions a court of common law would come to if a claim for damages for personal injury were brought by the worker against the other employer. The basic question considered is whether there was a failure to take reasonable care. The mere fact that the employer may have violated the Occupational Safety and Health Regulations is not sufficient since they often impose strict liability.

The doctrine of vicarious liability has no application to section 10(8), and a transfer of costs is only available where the breach of duty of care consisted of acts or omissions by management personnel who can be identified as the employer, and not to cases where the breach of duty consists only of the act or omissions of other workers.

If there has been a breach of duty of care by the employer, the next question to be considered is whether it was a “serious” one. The word “serious” refers to the culpability of the employer’s behaviour rather than the consequences of that behaviour. Regard will be had to the probability of injury resulting from the breach and the predictable gravity of the likely consequences of such an injury.

The fact that the worker was negligent does not necessarily mean that the employer's breach of duty did not cause or substantially contribute to the injury. Lapses of attention are a normal part of ordinary human behaviour that should be foreseen and guarded against.

#114.13 *Discretion of the Board*

The Board has a discretion where the requirements set out in policy items #114.10 – 12 are satisfied to transfer all or part of the cost of a claim. In exercising this discretion, the Board takes no account of any contributory negligence by the worker.

#114.20 **Depletion or Extinction of Industries or Classes**

Section 39(1)(b) requires the Board to “provide a reserve in aid of industries or classes which may become depleted or extinguished; ...”

Employers may apply to have the costs of a claim transferred from their class to that fund. This provision is very rarely used.

#114.30 **Disasters or Other Circumstances which Unfairly Burden a Class**

Section 39(1)(d) requires the Board to provide a reserve to meet the loss arising from a disaster or other circumstances which the Board considers would unfairly burden the employers in a class.

Costs will not be charged to the fund created by section 39(1)(d) because there is an unfair burden on an individual employer. The unfair burden must be on a class or subclass of employers.

Each deposit account employer forms a class by itself. This does not automatically mean that a burden on the individual is a burden on the class. The relief available to deposit accounts under section 39(1)(d) is limited to the same sorts of situations as for other employers.

APPENDIX 1

INDEX OF RETIRED DECISIONS FROM VOLUMES 1 – 6 (DECISIONS NO. 1 – 423) OF THE *WORKERS' COMPENSATION REPORTER*

EXPLANATORY NOTE:

Bylaw No. 4 (10 *WCR* 781) lists the policy manuals and other documents that are “published policy of the governors” for purposes of the *Workers Compensation Act*.¹ Included in the list are Decisions No. 1 – 423 in volumes 1 – 6 of the *Workers' Compensation Reporter*. These Decisions consist, for the most part, of decisions made by the former commissioners on various matters between 1973 and 1991.

In order to reduce the number of sources of “published policy”, the Panel of Administrators has approved a strategy for consolidating Decisions No. 1 – 423 into the various policy manuals, as appropriate, and “retiring” the Decisions over time.

“Retire” for this purpose means that, as of the “retirement date”, the Decision is no longer current policy or current published policy of the Governors under Bylaw No. 4.

“Retiring” does not affect a Decision’s status as policy prior to the date it was “retired”. A “retired” Decision therefore applies in decision-making on historical issues to the extent it was applicable prior to the “retirement date”. “Retiring” also does not affect the disposition of any individual matters dealt with in a Decision.

This Index sets out the Decisions from volumes 1 - 6 that have been “retired” and the “retirement date”. It will be updated as further Decisions are “retired” in the future.²

¹ The *Prevention Manual* does not appear on this list. The *Prevention Manual* was adopted by the Panel of Administrators as “published policy of the governors” in 1999.

² Decisions that do not appear in the Index should not necessarily be considered current policy. Decisions or parts of Decisions may have been replaced, either expressly or impliedly, by subsequent policies in the policy manuals or other policy documents. Under Bylaw No. 4, where there is a conflict between policy in Decisions No. 1 - 423 and policy in a policy manual listed in the Bylaw, the policy in the manual is paramount. In the event of any other conflict between policies, the most recently approved policy is paramount.

DECISION No.	TITLE	RETIREMENT DATE
1	Publication of Decisions	May 1, 2000
8	The Measurement of Partial Disability	May 1, 2000
14	Rehabilitation and Re-training	May 1, 2000
22	The Measurement of Partial Disability	May 1, 2000
24	The Revision of Appeal Procedures	May 1, 2000
26	Coverage of Workmen's Compensation	January 1, 2003
28	Oral Enquiries on Appeals to the Commissioners	May 1, 2000
32	The Employment Relationship (Taxis)	January 1, 2003
33	The Measurement of Partial Disability and Proportionate Entitlements	May 1, 2000
43	<i>The Workmen's Compensation Amendment Act</i>	May 1, 2000
46	The Consumer Price Index	May 1, 2000
49	The Coverage of Workers' Compensation	January 1, 2003
55	Rehabilitation and Re-training	May 1, 2000
58	Industries and Classifications	January 1, 2003
67	The Commutation of Pensions	May 1, 2000
68	The Maximum Wage Rate	May 1, 2000
73	Transcripts of Interviews	May 1, 2000
79	Time Limit on Appeals	May 1, 2000
82	The Consumer Price Index	May 1, 2000
89	Personal Care Allowances	May 1, 2000
91	Boards of Review and the Pension Plan	May 1, 2000

DECISION No.	TITLE	RETIREMENT DATE
92	Allowances to Claimants	May 1, 2000
94	Industrial Diseases	May 1, 2000
98	Remarriage Allowances	May 1, 2000
106	A One-Man Company	May 1, 2000
111	A Penalty for Non-Registration	January 1, 2003
112	The Consumer Price Index	May 1, 2000
116	The Coverage of Independent Operators	January 1, 2003
117	Adjustments According to the Consumer Price Index	May 1, 2000
118	Remarriages Allowances	May 1, 2000
119	Medical Information	May 1, 2000
123	Changes in the <i>Workers Compensation Act</i>	May 1, 2000
125	The Commencement of <i>Workers Compensation Amendment Act, 1975</i>	May 1, 2000
136	Compensation for Hearing Loss	May 1, 2000
138	The Employment Relationship	January 1, 2003
141	A One-Man Company	May 1, 2000
143	The Maximum Wage Rate	May 1, 2000
149	Commercial Stock Audits	January 1, 2003
153	Compensation Coverage for Volunteers	May 1, 2000
154	Legal Services for Rehabilitation Purposes	May 1, 2000
155	The Commutation of Pensions	May 1, 2000
159	The Consumer Price Index	May 1, 2000

DECISION No.	TITLE	RETIREMENT DATE
160	The Calculation of Projected Loss of Earnings	May 1, 2000
161	Compensation Coverage for Volunteers	January 1, 2003
163	The Fishing Industry	January 1, 2003
165	Compensation Coverage for Trainees	January 1, 2003
166	Adjustments According to the Consumer Price Index	May 1, 2000
168	The Disclosure of Information on Claim Files	May 1, 2000
169	An Employer or Independent Operator	January 1, 2003
170	The Fishing Industry	January 1, 2003
171	Allowances to Claimants	May 1, 2000
174	Time for Appeals	May 1, 2000
175	The Reimbursement of Expenses	May 1, 2000
183	An Employer or an Independent Operator	January 1, 2003
184	Application of the Dual System	May 1, 2000
187	The Fishing Industry	January 1, 2003
191	The Consumer Price Index	May 1, 2000
193	Adjustments According to the Consumer Price Index	May 1, 2000
196	Boards of Review	May 1, 2000
201	Payments of Claims Pending Appeals to the Commissioners	May 1, 2000
202	Dual System of Measuring Disability	May 1, 2000
204	The Maximum Wage Rate	May 1, 2000

DECISION No.	TITLE	RETIREMENT DATE
211	The Reimbursement of Expenses	May 1, 2000
212	Commutation of Pensions	May 1, 2000
215	Consulting Firms	January 1, 2003
216	The Consumer Price Index	May 1, 2000
217	Adjustments According to the Consumer Price Index	May 1, 2000
218	Commutation of Pensions	May 1, 2000
220	Proportionate Entitlement and the Dual System	May 1, 2000
223	The Fishing Industry	January 1, 2003
224	The Fishing Industry	January 1, 2003
225	The Fishing Industry	January 1, 2003
226	The Fishing Industry	January 1, 2003
229	Industries and Employment	January 1, 2003
233	Security and Investigation Services	May 1, 2000
235	Manpower Supply Agencies	January 1, 2003
237	Complaints to the Commissioners in Respect of Compensation Claims	May 1, 2000
241	Inmates on Work Release Programmes	January 1, 2003
244	The Consumer Price Index	May 1, 2000
245	Adjustments According to the Consumer Price Index	May 1, 2000
248	Class 11	May 1, 2000
249	Recurrence of Disability	May 1, 2000

DECISION No.	TITLE	RETIREMENT DATE
254	Payment of Claims Pending Appeals to the Commissioners	May 1, 2000
255	Registration of Labour Contractors as Employers	January 1, 2003
257	The Maximum Wage Rate	May 1, 2000
258	The Reimbursement of Expenses	May 1, 2000
264	Compensation Payable when Company Unregistered	May 1, 2000
265	The Consumer Price Index	May 1, 2000
266	Adjustments According to the Consumer Price Index	May 1, 2000
272	Commutations	May 1, 2000
277	The Consumer Price Index	May 1, 2000
278	Adjustments According to the Consumer Price Index	May 1, 2000
280	Appeals & Referrals to the Commissioners	May 1, 2000
284	The Maximum Wage Rate	May 1, 2000
285	The Reimbursement of Expenses	May 1, 2000
287	Proportionate Entitlement and Dual System	May 1, 2000
290	The Consumer Price Index	May 1, 2000
291	Adjustments According to the Consumer Price Index	May 1, 2000
297	Dual System and Non-Spinal Injuries	May 1, 2000
300	Section 52 - "Special Circumstances"	May 1, 2000
303	Access to Claim Files	May 1, 2000

DECISION No.	TITLE	RETIREMENT DATE
304	The Consumer Price Index	May 1, 2000
305	Adjustments According to the Consumer Price Index	May 1, 2000
307	The Fishing Industry	January 1, 2003
308	The Maximum Wage Rate	May 1, 2000
309	The Reimbursement of Expenses	May 1, 2000
310	Commutation of Hearing Loss Pensions	May 1, 2000
311	Commutation of Pensions	May 1, 2000
314	The Consumer Price Index	May 1, 2000
315	Adjustments According to the Consumer Price Index	May 1, 2000
319	Clothing Allowances	May 1, 2000
321	<i>Workers Compensation Act</i>	May 1, 2000
322	The Consumer Price Index	May 1, 2000
323	Adjustments According to the Consumer Price Index	May 1, 2000
327	The Maximum Wage Rate	May 1, 2000
328	The Reimbursement of Expenses	May 1, 2000
331	The Consumer Price Index	May 1, 2000
332	Adjustments According to the Consumer Price Index	May 1, 2000
335	Principals of Limited Companies	January 1, 2003
336	The Consumer Price Index	May 1, 2000
337	Adjustments According to the Consumer Price Index	May 1, 2000

DECISION No.	TITLE	RETIREMENT DATE
338	Disclosure of Claim Files	May 1, 2000
339	The Maximum Wage Rate	May 1, 2000
340	The Reimbursement of Expenses	May 1, 2000
342	Assessment of Employers	May 1, 2000
344	The Consumer Price Index	May 1, 2000
345	Adjustments According to the Consumer Price Index	May 1, 2000
346	Payment of Interest	May 1, 2000
347	Oral Hearings on Appeals to the Commissioners	May 1, 2000
350	Commissioners' Decisions	May 1, 2000
351	Assessment of Employers	January 1, 2003
352	The Consumer Price Index	May 1, 2000
353	Adjustments According to the Consumer Price Index	May 1, 2000
358	The Maximum Wage Rate	May 1, 2000
359	The Reimbursement of Expenses	May 1, 2000
361	Coverage of the Farming Industry	May 1, 2000
362	The Maximum Wage Rate	May 1, 2000
364	Retraining of Surviving Spouses	May 1, 2000
365	The Consumer Price Index	May 1, 2000
366	Adjustments According to the Consumer Price Index	May 1, 2000
370	Disclosure of Board Files	May 1, 2000

DECISION No.	TITLE	RETIREMENT DATE
371	Publication of Board Manuals	January 1, 2003
372	The Consumer Price Index	May 1, 2000
373	Adjustments According to the Consumer Price Index	May 1, 2000
374	Appeals to the Commissioners	May 1, 2000
375	The Maximum Wage Rate	May 1, 2000
376	The Reimbursement of Expenses	May 1, 2000
380	The Consumer Price Index	May 1, 2000
381	Adjustments According to the Consumer Price Index	May 1, 2000
385	The Consumer Price Index	May 1, 2000
386	Adjustments According to the Consumer Price Index	May 1, 2000
389	Refusals of Certificates of Fitness Under the Mines Act	May 1, 2000
390	The Maximum Wage Rate	May 1, 2000
391	The Reimbursement of Expenses	May 1, 2000
392	The Consumer Price Index	May 1, 2000
393	Appeals	May 1, 2000
396	The Consumer Price Index	May 1, 2000
397	The Maximum Wage Rate	May 1, 2000
398	The Consumer Price Index	May 1, 2000
400	The Consumer Price Index	May 1, 2000
401	Experience Rating	January 1, 2003

DECISION No.	TITLE	RETIREMENT DATE
402	Adjustments According to the Consumer Price Index	May 1, 2000
403	Appeals to Workers' Compensation Review Board	May 1, 2000
404	The Maximum Wage Rate	May 1, 2000
405	The Consumer Price Index	May 1, 2000
408	The Consumer Price Index	May 1, 2000
409	The Maximum Wage Rate	May 1, 2000
410	Disclosure of Board Files	May 1, 2000
411	The Consumer Price Index	May 1, 2000
412	The Consumer Price Index	May 1, 2000
413	The Maximum Wage Rate	May 1, 2000
414	The Consumer Price Index	May 1, 2000
415	The Consumer Price Index	May 1, 2000
416	The Maximum Wage Rate	May 1, 2000
417	Adjustments According to the Consumer Price Index	May 1, 2000
418	The Consumer Price Index	May 1, 2000
420	The Consumer Price Index	May 1, 2000
421	The Maximum Wage Rate	May 1, 2000
422	The Consumer Price Index	May 1, 2000
423	Adjustments According to the Consumer Price Index	May 1, 2000

- (10) Ratio of the estimated difference in earnings to the B.C. average wage in the year age 65 was attained, i.e. (9)/(6). _____10)
(4 decimals)
- (11) Estimated average monthly wage for B.C. in the year of adjustment (see Supplement No. 1). _____11)
- (12) Projection of estimated monthly wage loss in the year age 65 was attained to the date of adjustment, i.e., (10) x (11). _____12)
- (13) Total work months disabled due to compensable disability, i.e., 12 months/year x (2). _____13)
- (14) Lifetime lost earnings to age 65 expressed in terms of most recent dollars, i.e., (12) x (13). _____14)
- (15) Deemed total disability pension payments to age 65 = deemed current pension (including term pensions expiring at age 65) x (13). _____15)
- (16) Net lifetime lost income, i.e., (14) – (15). _____16)
- (17) Projected monthly loss of retirement income from reduced savings, i.e., 0.0005 x (16). _____17)

THE FIGURE SHOWN AS ITEM (17) IS TRANSFERRED TO ITEM (d) ON THE CALCULATION SHEET FOR WORKERS 65 AND OVER.

SUPPLEMENT NO. 5

MONTHLY REDUCTION OF POST-RETIREMENT EARNING CAPACITY

- (1) Percentage of total disability that would be awarded at the date of the adjustment for the disability sustained by the applicant. % _____ 1)
- (2) Monthly allowance for loss of earning capacity from the disability.
\$0.80 for each 1% of total disability, i.e.,
\$0.80/per 1% x (1). \$ _____ 2)

THIS FIGURE SHOWN AS ITEM (2) IS TRANSFERRED TO ITEM (e) ON THE CALCULATION SHEET FOR WORKERS AGED 65 AND OVER.

The cash figure in Item (2) will be adjusted with the Consumer Price Index, the first such adjustment being made on July 1, 1976.

Effective June 30, 2002, the percentage change in the Consumer Price Index determined under section 25.2 of the *Act*, as described in policy item #51.20, will be used.

Rates

January 1, 2002	–	\$2.68 for each 1%
January 1, 2003	–	\$2.76 for each 1%

If required, earlier figures may be obtained by contacting the Board.

APPENDIX 6

MAXIMUM FINES FOR COMMITTING OFFENCES UNDER THE ACT

Part 1 – Offences for which No Other Punishment is Provided – #47.20, #74.10, #94.15, #95.30, #98.12, #99.00

Section 77(2) provides that “Every person who commits an offence under this *Act* for which no other punishment has been provided is liable on conviction to a fine not exceeding . . .” the amount set out below.

Date		Amount
January 1, 2001	– June 30, 2001	3,981.95
July 1, 2001	– December 31, 2001	4,044.49
January 1, 2002	– December 31, 2002	4,058.39
January 1, 2003	– December 31, 2003	4,186.95

If required, earlier figures may be obtained by contacting the Board.

Part 2 – Maximum Fine for Discouraging Worker from Reporting to Board – Section 13(2) – #94.20

Date	Employer	Supervisor
January 1, 1998 – June 30, 1998	\$18,745.52	\$3,749.15
July 1, 1998 – December 31, 1998	18,815.01	3,763.05
January 1, 1999 – June 30, 1999	18,936.62	3,787.37
July 1, 1999 – December 31, 1999	19,127.72	3,825.59

If required, earlier figures may be obtained by contacting the Board.

Part 3 – Maximum Fine for Obstructing Board in Investigation – Section 71(8) – #98.11

	Date	Maximum Amount
July 1, 1998	– December 31, 1998	\$18,815.01
January 1, 1999	– June 30, 1999	18,936.62
July 1, 1999	– December 31, 1999	19,127.72

If required, earlier figures may be obtained by contacting the Board.