



Policy and Research Division

Mailing Address

PO Box 5350 Stn Terminal
Vancouver BC V6B 5L5

Location

6951 Westminster Highway
Richmond BC

Telephone 604 276-5160
Fax 604 279-7599

WORKING TO MAKE A DIFFERENCE

March 2007

Update 2007 – 2

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

This update of the *Rehabilitation Services & Claims Manual* contains amendments to the *Manual* implemented since update 2007 – 1.

This amendment includes;

- Policy Item #45.20, *Criteria for Allowing or Disallowing a Commutation* and #45.30, *Types of Commutations Permitted*, **effective March 1, 2007**

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

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

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

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

Roberta Ellis
Vice-President
Policy and Research Division

Attachments

Rehabilitation Services & Claims Manual, Volume I

SUMMARY OF AMENDMENTS – Update 2007 – 2

Chapter 6	Pages 57 – 58	Amendment to policy items #45.20 and #45.30, effective March 1, 2007 regarding commutations
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6. If the other requirements are met, a commutation may be in the worker's long term interests notwithstanding the worker's medical condition may not have settled or involves a significant risk of deterioration. However, while a potential deterioration in the worker's condition will not automatically bar a request, it is a relevant factor to be considered. It might, for instance, lead to a conclusion that the worker's existing income from other sources would not be stable from a long-term point of view.

Similarly, the fact that a disability may improve in the future will not automatically bar a request for a commutation, even though the commutation will prevent the Board from reducing the pension when the improvement occurs. The possibility of such an improvement may, however, be taken into account if it is significant. It may influence the amount of commutation granted.

7. A short expectation of life or a worker's wish to benefit the dependants following his or her death is not a ground on which the Board can permit a commutation.

EFFECTIVE DATE: March 1, 2007

APPLICATION: This policy applies to all applications for commutations made on or after March 1, 2007.

#45.21 Death of Worker Prior to Award under Category A in Policy Item #45.10

Under the terms of the *Act*, disability awards are payable to a worker. There is no provision for a disability award to be payable in respect of a deceased worker.

The *Act* distinguishes between two different categories of benefits:

1. Benefits payable to a disabled worker.
2. Benefits payable to dependants and others in respect of the death of a worker.

No compensation under the first heading can validly be awarded in respect of future disability after the death of a worker. Where future benefits have been issued after the death of a worker, the benefit will be cancelled and recalculated up to the date of the worker's death.

#45.30 Types of Commutations Permitted

There are two types of commutations that the Board may permit:

1. A partial commutation resulting in a reduced level of pension for life.
2. A full commutation of the whole pension for life.

To ensure that a commutation is used for the purpose for which it is sought, the Board may make a commutation cheque payable to a worker and to another.

EFFECTIVE DATE: March 1, 2007

APPLICATION: This policy applies to all applications for commutations made on or after March 1, 2007.

#45.40 Purpose of Commutations

Certain purposes for which commutations are commonly requested are discussed below. The list is not intended to cover every purpose for which a commutation may be requested but rather is designed to provide guidelines to ensure the consistent handling of certain common types of application.

#45.41 Paying Off Debts

The Board is concerned that lenders might be encouraged to grant excessive extensions of credit to pensioners if they became aware that commutations could easily be obtained to pay off debts. Section 15 of the *Act* seeks to protect workers from creditors by making pension payments non-assignable. The Board will not undermine this intention by freely allowing commutations for the purpose of debt reduction. Therefore, a commutation is more likely to be allowed for paying off debts that were incurred prior to the injury.

A person incurring heavy debt may have serious long-term problems which will not be resolved simply by a commutation to pay debts. These problems may lead to incurring further debt even if the existing debt is paid. The person will then be in an even more serious position than before because there will now be no pension. It may, in such cases, be more appropriate to refer the pensioner for financial counselling rather than to attempt to resolve the situation by a commutation of pension payments. Nevertheless, a commutation to pay off debts may be advisable and in the best interests of the worker if it will avoid high interest obligations. Commutation applications for this purpose will be carefully scrutinized for other alternatives before being allowed.

#45.42 Investments

A commutation will not be allowed for investment purposes.