

DISCUSSION PAPER

1. TITLE

Cost Relief for Subsequent Non-Compensable Incidents

2. WHAT IS THE NATURE OF THE PROBLEM TO BE SOLVED?

- Policy coming into effect on July 1, 2010 deals with a situation where a subsequent non-compensable incident delays a worker's recovery from a compensable disability. The nature of the problem is whether an employer should receive cost relief in these situations.

3. ISSUE

In October 2007, the Board of Directors approved a policy entitled *Subsequent Non-Compensable Incidents*, of the *Rehabilitation Services & Claims Manual*, Volume II ("RS&CM") ("New Policy")¹ to replace an existing policy in the *RS&CM*.² The New Policy comes into effect on July 1, 2010.

The New Policy addresses situations such as where a worker's recovery from a compensable disability is delayed due to the occurrence of a subsequent non-compensable incident.

In such cases, under the New Policy, WorkSafeBC ("WCB") would estimate the period that the worker would have taken to fully recover from the compensable injury, had the subsequent non-compensable incident not occurred. If the worker is still disabled due to the compensable injury when the estimated date for terminating wage-loss benefits arrives, the WCB may continue to pay wage-loss benefits for the delay in recovery.

At issue is whether an employer should receive cost relief when a worker continues to receive temporary wage-loss benefits for a compensable disability when a subsequent non-compensable incident delays recovery.

4. GOALS IN ADDRESSING ISSUE

The goal of this project is to ensure that claims costs are fairly and equitably distributed among employers, resulting in appropriate experience rating adjustments and assessment rates.

¹ Policy item #34.55, *Subsequent non-Compensable Incidents*, of the *RS&CM*.

² Policy item #22.14, *Treatment Unrelated to Injury*, of the *RS&CM*.

5. BACKGROUND

5.1 How this Issue Arose

Current policy entitled *Treatment Unrelated to Injury*, of the *Rehabilitation Services & Claims Manual*, Volume II (“RS&CM”) (“Current Policy”)³ offers two alternative methods for payment of wage-loss benefits in situations where a subsequent non-compensable incident delays a worker’s recovery from a compensable condition. The WCB may:

1. continue to pay wage-loss benefits after the occurrence of the non-compensable incident, for a period that the WCB estimates the worker would have taken to fully recover from the compensable injury if the non-compensable incident had not occurred; or
2. immediately terminate benefits on the occurrence of the non-compensable incident, and recommence payment of benefits when the worker's recovery is at the same stage as it was immediately before the occurrence of the non-compensable incident.

The legality of both methods of payment has been questioned in appeal decisions, as the legislative justification for each was not clear.⁴

As a result, at the October 2007 Board of Directors meeting, a policy entitled *Subsequent Non-Compensable Incidents*, of the *RS&CM* (“New Policy”)⁵ was approved to replace the Current Policy. The New Policy comes into effect on July 1, 2010, and does not address cost relief as this was identified as an issue for further policy development.

The New Policy includes legislative justification for the first method of compensation and deletes the second method, based on feedback that the first method is the most legally defensible.

The New Policy also requires that if a worker is still disabled when the estimated date for terminating wage-loss benefits arrives, the WCB would have to make a new decision as to whether the continuing disability is due to the compensable injury, and if so, continue to pay wage-loss benefits.

Since cost relief in these situations is not addressed in the New Policy, and other jurisdictions provide for cost relief regarding subsequent non-compensable incidents, this issue was added to the PRD’s 2009 workplan.

³ Policy item #22.14, *Treatment Unrelated to Injury*, of the *RS&CM*.

⁴ For example, Appeal Division Decision Nos. 2002-0479, 2000-1612, and 2002-1170.

⁵ Policy item #34.55, *Subsequent non-Compensable Incidents*, of the *RS&CM*.

5.2 Law and Policy

5.2.1 The Classification System and Assessment Rates

The *Assessment Manual* (“AM”) provides that the “costs of compensable injuries and diseases, along with the costs of administering claims and carrying out other statutory requirements, are collected from employers in the form of assessments”.⁶

Employers and independent operators are assigned to *classification units* on the basis of the industry in which the firm is operating.⁷

Classification units are combined into larger groups called *industry groups*, which allows more reliable statistics about claims history to be calculated. Industry groups are made up of one or more classification units that have similar industrial activities and a reasonable expectation of similar cost rates.

Rate groups are made up of one or more industry groups based on similarity of historical injury cost rates.

Assessment rates are calculated at the rate group level. Rate group data is used to create a classification unit’s base assessment rate, which is then modified by the employer’s own experience rating adjustment if applicable.

The *aggregate* is made up of all the registered employers in the province. This category is used to pool and distribute certain costs to be spread across all rate groups, rather than charging the costs to an individual rate group. For example, the WCB’s administrative costs are distributed from the aggregate level down to the rate groups, so that all rate groups share the costs.

5.2.2 Experience Rating

The *Act* provides the WCB with the authority to adopt an experience rating (“ER”) system.⁸ ER is a method for adjusting employers’ assessment rates to reflect their injury costs.⁹

As a general rule, all claims associated with an employer are counted for ER purposes.¹⁰

⁶ Item AP1-39-1, *Assessment Rates*, of the *AM*.

⁷ *Ibid.*

⁸ Section 42 of the *Act*.

⁹ Item AP1-42-1, *Experience Rating*, of the *AM*.

¹⁰ Item AP1-42-2, *Experience Rating Cost Inclusions/Exclusions*, of the *AM* and policy item #115.30, *Experience Rating Cost Exclusions*, of the *RS&CM*.

5.2.3 Cost Relief

The *Act* allows the WCB to provide cost relief to employers.¹¹

One form of cost relief is to exclude claims costs from an employer's ER. An example where claims costs are excluded from an employer's ER are costs related to the enhancement of a disability by reason of pre-existing disease, condition or disability.¹²

Another form of cost relief is to exclude the costs charged to the particular rate group of an employer. The costs are taken out of the individual rate groups and are reallocated so that they are shared by all rate groups. For example, administration costs are spread throughout the aggregate.

5.3 Claims Statistics

The Compensation Practice & Quality Department advises no data is available to show how often a worker's recovery is delayed by a subsequent non-compensable incident while the worker is receiving wage-loss benefits.

However, the Review Division advises that from 2004 – 2009, there were 438 completed appeals related to the Current Policy. Of the 438 appeals, 284 were confirmed, 123 were varied, and 31 were returned to the WCB.

6. OTHER JURISDICTIONS

Seven jurisdictions¹³ have policy on payment of wage-loss benefits when a subsequent non-compensable incident delays the worker's recovery while the worker is receiving wage-loss benefits for a compensable injury. Of the seven jurisdictions, five of them – Alberta, Saskatchewan, New Brunswick, Newfoundland, and Quebec – provide for cost relief for the employers.

In Alberta and Quebec, temporary benefits are paid until healing of the compensable condition or death. Although cost relief is not set out in policy, in practice, Alberta and Quebec consider cost relief, but it only applies to costs related to the subsequent non-compensable incident, if the incident has prolonged the disability period for the work-related injury. In Alberta, the costs are excluded from the experience rating calculations, whereas in Quebec, the costs are reallocated so that they are shared by all assessed employers.¹⁴

In Saskatchewan, payment will be provided from the date of disablement, or the inability to attend medical treatment or a rehabilitation program for a period of up to four weeks,

¹¹ Section 39 and 42 of the *Act*.

¹² Section 39(1)(e) of the *Act* and policy item #114.40, *Enhancement of Disability by Reason of Pre-Existing Disease, Condition or Disability*, of the *RS&CM*.

¹³ Alberta, Saskatchewan, Nova Scotia, New Brunswick, Newfoundland, Quebec, and Manitoba.

¹⁴ In Quebec, employers may get cost relief, either by application of an employer, or initiated by the Commission.

depending on the severity of the cause. Benefits are reinstated once the worker is able to participate in treatment or the rehabilitation program required for the work injury. Cost relief is provided for the payment period (up to four weeks), and the costs are reallocated so that they are shared by all assessed employers and are also excluded from the experience rating calculations.

In both New Brunswick and Newfoundland, depending on the circumstances, wage-loss benefits are either continued for an estimated period of time, or suspended and reinstated when the worker is able to resume treatment. In both provinces, the costs are reallocated so that they are shared by all assessed employers and are also excluded from the experience rating calculations.

Four jurisdictions¹⁵ have no legislation, policy or practice regarding payment of wage-loss benefits when a subsequent non-compensable incident delays the worker's recovery for a compensable injury.

7. DISCUSSION

7.1 Impacts of Providing Cost Relief

Under the New Policy, a worker may continue to receive temporary wage-loss and health care benefits for a compensable disability when a subsequent non-compensable incident delays recovery.

If a worker continues to receive temporary wage-loss and health care benefits beyond the estimated date for terminating wage-loss benefits, the claims costs associated with the delay in recovery would affect the employer in two ways:

1. The claims costs associated with the delay in recovery would be included in the employer's ER adjustment for three years, at varying percentages.¹⁶ This may result in a higher assessment rate for the employer.
2. The claims costs associated with the delay in recovery would be charged to the rate group to which the employer belongs. The rate group data would be used to calculate the base assessment rate for the employer. This may result in a higher assessment rate.

¹⁵ Northwest Territories & Nunavut, Yukon, Prince Edward Island, and Ontario. However, Ontario has draft policy on this issue. The policy sets out how wage loss benefits may be adjusted where a worker's status changes due to a post-accident change in circumstances, but the WSIB does not provide any type of cost relief to employers in these situations. The policy will be implemented pending completion of the new service delivery model that is currently being rolled out in the WSIB's Operations Division.

¹⁶ The ER system uses a weighted three-year window of claims costs. The most recent year is weighted at 50 percent, the prior year at 33.3 percent, and the most distant year at 16.7 percent.

Cost relief for claims costs associated with the delay in recovery is not addressed in legislation or policy.

In determining whether to provide cost relief, there are a number of factors to consider.

The first factor to consider is the concern that when an employer is relieved of costs, they may no longer actively participate in the management of the claim and the goals of return to work.

The second factor to consider would be the potential administrative impacts. From a compensation services and assessment perspective, it may be administratively burdensome to provide cost relief to employers in these situations. There would be significant costs involved with making and implementing such decisions.

From the compensation services perspective, providing cost relief in these situations would result in a new decision on cost relief that requires information gathering and adjudication efforts that would otherwise be applied to the decisions. The Assessment Department would need to recalculate the assessment rate and/or ER of an employer, and the Actuary would need to consider the transferred costs in setting assessment rates.

The third factor to consider would be the anticipated increase in reviews and appeals. There would be costs involved with handling such appeals. This has been the WCB's experience in the provision of cost relief in other situations. Cost relief has been a high review and appeal issue.

The last factor to consider is equity – to ensure that claims costs are fairly distributed among employers. Cost relief is much more than a simple reallocation of costs. If cost relief is not granted, employers would be directly hit with additional claims costs that are not related to the original disability, while their competitors would not. Accordingly, cost relief puts all the employers on a more level playing field.

This type of situation, where a worker's recovery from a compensable disability is delayed by a subsequent non-compensable incident, is not industry specific. A subsequent non-compensable incident could develop in a worker who had a compensable disability in *any* industry or rate group.

Because it may be considered unfair that individual employers should be adversely affected by claims costs attributable to subsequent non-compensable incidents, providing cost relief for claims costs associated with the delay in recovery would maintain equity among employers.

7.2 Approaches to Cost Relief

If an employer is granted cost relief for the delay in the recovery of a worker's compensable disability, the claims costs associated with the delay in recovery beyond the estimated date for terminating temporary wage-loss benefits could be relieved at:

- the employer's ER; or
- the employer's ER *and* the employer's rate group.

It is noted that the claims costs associated with a permanent disability award would continue to be charged to the employer as the permanent disability is the result of the work injury or exposure.

7.2.1 Exclude Claims from an Employer's ER

If the claims costs associated with the delay in recovery beyond the estimated date for terminating wage-loss benefits are excluded from the employer's ER adjustment, this may result in a lower assessment rate for the employer than if all the costs were included.

When cost relief is granted, it would reflect that the ongoing claims costs for the delay in recovery are due to the subsequent non-compensable incident and would maintain equity among employers.

7.2.2 Exclude Costs from the Employer's ER and the Rate Group

An argument for excluding claims costs associated with the delay in recovery from an employer's rate group is that a subsequent non-compensable incident is not industry specific, as it could develop in a worker who had a compensable injury in any industry or rate group.

This approach would be similar to the cost relief provision where there is an enhancement of a disability by reason of pre-existing disease, condition or disability. In those cases, claims costs are relieved at both the ER and the rate group level.

7.3 Amendment to the New Policy

When a compensable disability continues to be disabling, the *Act* requires that the WCB continue to pay compensation.¹⁷ When the ongoing disability is due solely to the non-compensable incident, no more compensation is paid.

In reviewing the New Policy as part of this project, the PRD identified a statement in policy that is incorrect and requires deletion. The New Policy provides that the WCB will not pay "for periods of disability that are extended because the subsequent non-compensable incident delays recovery." This is inconsistent with the intent of the policy changes and conflicts with other language contained in the New Policy.

Deleting this sentence from the New Policy would prevent confusion.

Draft policy amendments are attached as Appendix A.

¹⁷ Section 5 of the *Act*.

8. OPTIONS AND IMPLICATIONS

Option 1: Status quo

Under this option, no changes would be made to policy. Claims costs associated with the delay in recovery beyond the estimated date for terminating wage-loss benefits would be included for ER purposes and charged to the employer's rate group.

However, the New Policy would be amended to delete an incorrect statement as set out in Appendix A.

Implications

- Claims costs associated with the delay in recovery would be used to calculate the employers' ER adjustment, which may result in a higher assessment rate for the employer.
- Charging claims costs associated with the delay in recovery to an employer's rate group may increase the base assessment rate for the rate group.
- This may be viewed as unfair by some employers.

Option 2: Exclude claims costs associated with the delay in recovery from an employer's ER beyond the estimated date for terminating temporary wage-loss benefits

Under this option, claims costs associated with the delay in recovery beyond the estimated date for terminating temporary wage-loss benefits would be excluded for ER purposes, but charged to the employer's rate group. Cost relief would be provided for 100% of temporary wage-loss benefits and health care benefits. Draft policy amendments pursuant to this option are attached as Appendix B.

The New Policy would be amended to delete an incorrect statement as set out in Appendix A.

Implications

- Claims costs associated with the delay in recovery beyond the estimated date for terminating temporary wage-loss benefits would not be used to calculate the employer's ER adjustment. This may result in a lower assessment rate for the employer.
- All claims costs would continue to be used to calculate the rate group's base assessment rate.
- Some concerns may be raised that when an employer is relieved of costs, they may no longer actively participate in the management of the claim and the goals of return to work.

- It would be administratively burdensome to provide cost relief to employers in these situations and would increase review and appeals.

Option 3: Exclude claims costs associated with the delay in recovery from an employer's ER and spread claims costs across all rate groups beyond the estimated date for terminating temporary wage-loss benefits

Under this option, claims costs associated with the delay in recovery beyond the estimated date for terminating temporary wage-loss benefits would be excluded for ER purposes and spread across all rate groups. Cost relief would be provided for 100% of temporary wage-loss benefits and health care benefits. Draft policy amendments pursuant to this option are attached as Appendix C.

The New Policy would be amended to delete an incorrect statement as set out in Appendix A.

Implications

- Claims costs associated with the delay in recovery beyond the estimated date for terminating temporary wage-loss benefits would not be used to calculate the employer's ER adjustment. This may result in a lower assessment rate for the employer.
- Claims costs associated with the delay in recovery beyond the estimated date for terminating temporary wage-loss benefits would be spread across all rate groups. This may result in a lower base assessment rate.
- Some concerns may be raised that when an employer is relieved of costs, they may no longer actively participate in the management of the claim and the goals of return to work.
- It would be administratively burdensome to provide cost relief to employers in these situations and would increase review and appeals.

9. CONSULTATION

Stakeholders are invited to provide feedback on the discussion paper, options, draft policy, and any additional comments that may be relevant to the issue.

Stakeholder comments will be accepted until **May 14, 2010**. When responding, please provide your name, organization, and address. Comments may be sent by mail, fax or e-mail to:

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By mail: Louise Kim
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WorkSafeBC's governing body, the Board of Directors, will consider the options expressed by stakeholders before it adopts any amendments to the current policies.

Please note that all comments become part of the Policy and Research Division's database and may be published, including the identity of organizations and those participating on behalf of organizations. The identity of those who have participated on their own behalf will be kept confidential according to the provisions of the Freedom of Information and Protection of Privacy Act.

APPENDIX A

REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II DRAFT POLICY

Additions In Bold, Deletions Struckthrough

#34.55 Subsequent Non-Compensable Incidents

If a subsequent non-compensable incident occurs at a time when a worker is still recovering from his or her compensable injury, the following principles apply.

A subsequent non-compensable incident may include:

- sustaining a non-compensable injury, condition, disease, or disability; or
- undergoing surgery, tests or other treatment for a non-compensable injury, condition, disease, or disability.

In the event that a worker temporarily suspends treatment for a compensable injury because of personal reasons, such as a family emergency or a vacation, this would not be considered a subsequent non-compensable incident.

The Board is only authorized to pay for disability that is caused by an employment-related injury and only to the extent of that disability. For this reason, the Board will not pay for periods of disability caused by a subsequent non-compensable incident. ~~or for periods of disability that are extended because the subsequent non-compensable incident delays recovery.~~

If a worker is still disabled by a compensable injury when a subsequent non-compensable incident occurs, the Board estimates when the disability resulting from the compensable injury would have ended. The Board then continues to pay wage-loss benefits for the period that the Board estimates the worker would have taken to fully recover from the compensable injury had the subsequent non-compensable incident not occurred.

When the estimated date for terminating wage-loss benefits arrives, if the worker is still disabled, the Board makes a new decision as to whether the disability, or increased disability, is due to the compensable injury or the subsequent non-compensable incident that has aggravated the compensable injury. If the disability is due only to the subsequent non-compensable incident, wage-loss benefits are terminated. However, if the disability is due to the compensable injury, wage-loss benefits may be continued.

In the marginal cases, it is impossible to do better than weigh the medical evidence related to the compensable injury against the medical evidence related to the subsequent non-compensable incident to reach a conclusion on the termination of wage-loss benefits. The standard of proof is the balance of probabilities and consideration is given to section 99(3) of the *Act*.

APPENDIX A

REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II DRAFT POLICY

Additions In Bold, Deletions Struckthrough

The above applies even if the treatment for the subsequent non-compensable incident is carried out at the same time as treatment for the compensable injury and might not have been carried out at the time if the worker had not then sought treatment for the condition resulting from the compensable injury.

If a compensable injury delays a worker's recovery from a subsequent non-compensable incident, wage-loss benefits may be paid for the period of the delay.

EFFECTIVE DATE: July 1, 2010

APPLICATION: This item applies to all claims for injuries occurring on or after July 1, 2010.

APPENDIX B

REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II DRAFT POLICY OPTION 2

Additions In Bold, Deletions Struckthrough

#115.30 Experience Rating Cost Exclusions

Section 42 provides as follows.

The Board shall establish subclassifications, differentials and proportions in the rates as between the different kinds of employment in the same class as may be considered just; and where the Board thinks a particular industry or plant is shown to be so circumstanced or conducted that the hazard or cost of compensation differs from the average of the class or subclass to which the industry or plant is assigned, the Board must confer or impose on that industry or plant a special rate, differential or assessment to correspond with the relative hazard or cost of compensation of that industry or plant, and for that purpose may also adopt a system of experience rating.

The Board has adopted an experience rating plan (ER) under this section. The plan compares the ratio between an employer's claim costs and assessable payroll with the ratio between the total claim costs and assessable payroll of the employer's rate group. Subject to maximums, discounts are assigned for favourable ratios and surcharges for unfavourable ratios. The discount or surcharge takes the form of a percentage increase or decrease in the usual assessment rate. Details of ER can be found in the policy in Item AP1-42-1 of the *Assessment Manual*.

As a general rule, all acceptable claims coded to a particular employer are counted for experience rating purposes. It makes no difference whether the injury was or was not the employer's fault. There are, however, some types of claim costs which are excluded from consideration. These are:

1. Costs recovered by way of a third party action (see policy item #111.25).
2. Investigation and/or compensation costs paid out prior to the disallow of a claim or reversal of a decision by the Board or the Workers' Compensation Appeal Tribunal (see policy item #113.10).
3. Costs transferred to the rate group of another employer under section 10(8) (see policy item #114.10).
4. Costs assigned to the funds created by section 39(1)(d) and (e) (see policy item #114.30 and policy item #114.40).

APPENDIX B

REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II DRAFT POLICY OPTION 2

Additions In Bold, Deletions Struckthrough

5. Occupational disease claims which on average require exposure for, or involve latency periods of, two or more years before manifesting into a disability. The diseases presently excluded on this ground are:

Non-traumatic hearing loss, excluding hearing loss resulting from other injuries

Silicosis

Asbestosis

Other diagnosed pneumoconioses, for example, anthracosis and siderosis

Pneumoconioses not specifically diagnosed

Heart disease

Cancer

Hand-arm vibration syndrome, vinyl chloride induced Raynaud's phenomenon, disablement from vibrations

(see policy item #113.20)

6. Until September 27, 2002, costs after 13 weeks where section 5(3) applies (see policy item #16.60). Effective September 28, 2002, costs after 10 weeks where section 5(3) applies (see policy item #16.60).
7. Costs from accidents substantially due to personal illness, e.g. epilepsy (see policy item #15.30).
8. Injuries covered by policies C11-88.10, C11-88.40, and C11-88.50.
9. The situations covered by policy item #115.31 and policy item #115.32 below.
10. **The situation covered by policy item #115.33.**

APPENDIX B

REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II DRAFT POLICY OPTION 2

Additions In Bold, Deletions Struckthrough

The decision whether a claim falls within one of the exclusions will usually be made by the Board. In the case of third party actions (Exclusion 1), a Board solicitor makes the decision.

EFFECTIVE DATE: June 1, 2009 – Delete references to the Review Division, Medical Review Panel and the Worker and Employer Services Division.

HISTORY: March 1, 2005 – Updates language as to the use of the phrase “rate group”, consistent with rate-making system in *Assessment Manual*; updates and incorporates cross-references to policy items #113.20 and C11-88.10, to make all items consistent and accurate. This policy continues the substantive requirements as they existed prior to the effective date. Applied to all decisions on or after March 1, 2005.

March 18, 2003 – “Discount”, “Surcharge” and the numerical reference to the policy in Item AP1-42-1 in the *Assessment Manual* were incorporated.

APPLICATION: Applies on or after June 1, 2009

APPENDIX B

REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II DRAFT POLICY OPTION 2

Additions In Bold, Deletions Struckthrough

#115.33 *Subsequent Non-Compensable Incidents*

A worker may continue to receive temporary wage-loss benefits where recovery from a compensable disability is delayed due to a subsequent non-compensable incident.

As set out in policy item #34.55, the Board estimates when the disability would have ended. The Board continues to pay wage-loss benefits for the period that the Board estimates the worker would have taken to fully recover from the compensable injury had the subsequent non-compensable incident not occurred.

When the estimated date for terminating wage-loss benefits arrives, if the worker is still disabled, the Board makes a new decision as to whether the disability is due to the compensable injury or the subsequent non-compensable incident. If the disability is due to the compensable injury, wage-loss benefits may be continued.

Where the delay in recovery is due to the subsequent non-compensable incident, the cost of compensation associated with the delay in recovery beyond the estimated date for terminating temporary wage-loss benefits is excluded from the employer's experience rating.

Claims costs associated with a permanent disability award would not be relieved under this policy.

APPENDIX C

REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II DRAFT POLICY OPTION 3

Additions In Bold, Deletions Struckthrough

#115.33 *Subsequent Non-Compensable Incidents*

A worker may continue to receive temporary wage-loss benefits where recovery from a compensable disability is delayed due to a subsequent non-compensable incident.

As set out in policy item #34.55, the Board estimates when the disability would have ended. The Board continues to pay wage-loss benefits for the period that the Board estimates the worker would have taken to fully recover from the compensable injury had the subsequent non-compensable incident not occurred.

When the estimated date for terminating wage-loss benefits arrives, if the worker is still disabled, the Board makes a new decision as to whether the disability is due to the compensable injury or the subsequent non-compensable incident. If the disability is due to the compensable injury, wage-loss benefits may be continued.

Where the delay in recovery is due to the subsequent non-compensable incident, the cost of compensation associated with the delay in recovery beyond the estimated date for terminating temporary wage-loss benefits is excluded from the employer's experience rating. These costs will also not be charged to the employer's rates group, but will be spread across all rate groups.

Claims costs associated with a permanent disability award would not be relieved under this policy.