

# DISCUSSION PAPER

## 1. TITLE

Enhancement/Devaluation of Permanent Disability Awards

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

- Policy is not clear as to when permanent disability awards should be adjusted for enhancement or devaluation. This is resulting in inconsistent application of policy and overturns on review and appeal.

## 3. ISSUE

Policy provides that a permanent partial disability award *may be* increased (“enhancement”) in certain situations, for example, injuries in both arms, or injuries in both legs. A separate policy directs that a permanent partial disability award *must be* decreased (“devaluation”) when there are multiple injuries existing alongside each other in the same part of the body, for example, multiple injuries to one leg.

The Workers’ Compensation Appeals Tribunal (“WCAT”) has taken a different approach than the Disability Awards Department to the application of these policies in a number of appeals.<sup>1</sup> In some cases, the WCAT’s approach has also been adopted in recent Review Division decisions.<sup>2</sup> At issue is whether these policies should be clarified to ensure consistent application.

## 4. GOAL IN ADDRESSING ISSUE

The goal of this project is to enable the consistent application of the enhancement and devaluation policy. Another goal is to improve the clarity of the policy for stakeholders and decision-makers.

## 5. BACKGROUND

### 5.1 The *Workers Compensation Act* (“Act”)

When a worker suffers a disability as a result of a workplace injury or disease, WorkSafeBC (“WCB”) pays compensation during the course of the disability. In most cases, the disability is temporary. In some cases, however, the worker may not fully recover and may be left with a permanent disability.

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<sup>1</sup> For example, WCAT Decisions: 2005-01417, 2006-04281, 2006-03029, 2006-04641, 2007-00050, 2007-01782, 2007-02559, 2007-01107, 2008-02841, 2008- 02331, 2009-02481 and 2009-02984.

<sup>2</sup> For example, Review Division decisions #R0085815, #R0089588, and #R0090573.

Permanent disability awards commence at the point when the worker's temporary disability stabilizes. Permanent disability awards may be total or partial.<sup>3</sup> This issue relates to the assessment of permanent partial disabilities.

The *Act* sets out the general rule for evaluating a permanent partial disability. Section 23(1) of the *Act* provides that the WCB must:

- estimate the impairment of earning capacity from the nature and degree of the injury; and
- pay the worker compensation that is a periodic payment that equals to 90% of the WCB's estimate of the loss of average net earnings resulting from the impairment.

The *Act* provides that the WCB may compile a rating schedule of percentages of impairment of earning capacity for specified injuries.<sup>4</sup> The rating schedule may be used as a guide in determining the compensation payable for a worker's permanent partial disability. That schedule is set out in the WCB's *Permanent Disability Evaluation Schedule* ("PDES").<sup>5</sup>

## 5.2 The PDES

The PDES serves as a guide in the measurement of a worker's permanent partial disability by setting out percentages of disability for given permanent medical impairments. These percentages represent the portion of total disability (100%) that results from a permanent physical or psychological impairment. If a worker suffers multiple disabilities in different areas of the body, then the scheduled percentages are added together, not to exceed 100% total disability.

The aim of the PDES is to maintain a consistent, objective approach to evaluating a worker's impairment. Consistency ensures that workers who suffer similar disabilities are provided compensation based on the same percentage of total disability.

The percentages set out in the PDES represent the loss occurring when a disability exists alone, in an otherwise healthy limb or body. When a disability exists alongside another disability in the same or another part of the body, adjustments may have to be made to the scheduled percentages. Policy provides for these adjustments by allowing for other variables to be considered when assessing the degree of physical impairment and any adjustments to the scheduled percentages. Two of these additional variables are enhancement and devaluation.

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<sup>3</sup> Compensation for permanent total disability is provided under section 22 of the *Act*. Compensation for permanent partial disability is provided under section 23 of the *Act*.

<sup>4</sup> Section 23(2) of the *Act*.

<sup>5</sup> The PDES is set out in Appendix 4 of the *Rehabilitation Services & Claims Manual*, Volume II ("RS&CM").

## 5.3 Policy and Practice

The current enhancement and devaluation policies originated from a series of *Workers' Compensation Reporter* ("WCR") Decisions in the 1970's.<sup>6</sup> Much of the language in those decisions was imported word for word into policy. Substantively, these policies have remained virtually unchanged since the consolidation of the *RS&CM* in 1984.<sup>7</sup>

### 5.3.1 Enhancement Policy and Practice

The WCB may, in certain situations, increase the overall percentage of the disability that would be awarded. One situation is through the application of the enhancement factor. An enhancement factor may be added when the combined effect of two disabilities, exceeds the sum of the scheduled percentages allocated to each disability.

Policy provides enhancement can be applied to disabilities involving both ears, both eyes, the spine, and a thumb and one or more fingers.<sup>8</sup>

Policy also provides that enhancement may be awarded for injuries to both arms or both legs. For example, consider a worker with impairment to both legs. The overall impact on a worker's functioning where the worker suffers immobility of the right ankle (12%) and immobility of the left knee (25%) in combination may be far greater than 37%, the sum of both impairments.

By policy, an enhancement factor of 50% of the lesser disability may be added to the total of the percentage awarded for each separate disability. This calculation is set out below:

#### Impairment in the PDES

12% (right ankle) + 25% (left knee) = **37%**

#### Enhancement Factor

37% (impairment in the PDES) + 6% (50% of the lesser disability) = **43%**

Accordingly, a worker suffering immobility to a right ankle and left knee in combination could receive a permanent partial disability award based on 43% total disability.

In practice, with respect to disabilities in the limbs, the Disability Award Department only applies enhancement to bilateral disabilities involving both arms (e.g. right wrist and left

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<sup>6</sup> See *Workers' Compensation Reporter* ("WCR") Decision No. 95, 1975; WCR Decision No 260, 1977; and WCR Decision No. 289, 1978.

<sup>7</sup> In 2003, language from the WCR Decision No. 260, 1977 was added to policy item #39.12, *Enhancement*, of the *RS&CM*, to clarify the application of the enhancement factor to disabilities involving the spine.

<sup>8</sup> Policy items #31.90, *Assessment of Permanent Disability Awards for Traumatic Hearing Loss under Section 5(1)*; #39.42, *Visual Acuity*; #39.12, *Enhancement*; #39.21, *Amputations of Digits of the Hand*; #39.31, *Finger Restrictions*, and #39.32 *Thumb Restrictions* of the *RS&CM*.

elbow), or bilateral disabilities involving both legs (e.g. right ankle and left ankle). In applying enhancement in these situations, the WCB recognizes that where a worker has disabilities involving both arms, or both legs, it may be significantly more difficult to function. As a result, the worker may be considered to be disabled to a greater extent than the sum of the individual disabilities.

### 5.3.2 Devaluation Policy and Practice

Where the sum of the scheduled percentages allocated to several disabilities in the same part of the body exceeds their actual combined effect, policy states that a downward adjustment in the award is required. This is known as “devaluation”.<sup>9</sup>

For example, consider a worker who has multiple disabilities in one arm (a fused index finger, a fused elbow, and a frozen shoulder).

Fused index finger	18%
Fused elbow	20%
Frozen shoulder	<u>35%</u>
<b>Total</b>	<b>73%</b>

If devaluation is not applied, there is the potential that adding up the scheduled impairments in the worker's existing arm would result in an impairment that is greater than if the worker had lost his or her whole arm (70% of total disability).

Applying devaluation to the scheduled percentages for each disability ensures that the worker will not receive more than 70% (the value of the amputated arm), when in fact, the worker still has his or her arm.

Using the above example, devaluation is calculated in the following way:

A	Value of whole arm in PDES	70%
B	Value of fused index finger and thumb in PDES	18%
C	Remaining value of arm (A - B)	52%
D	Value of fused elbow in PDES	20%
E	Percentage awarded for fused elbow ( $\frac{D}{A} \times C$ )	14.9%

The sum 14.9% represents the amount awarded for the devalued elbow. Using the same formula, a subsequent frozen shoulder would be devalued to 18.6%

<sup>9</sup> Policy item #39.13, *Devaluation, RS&CM*.

Therefore, when adding the fused index finger and thumb (18%), the devalued fused elbow (14.9%) and the devalued frozen shoulder (18.6%), the result is 51.5% total disability (not 73%).

In practice, the Disability Awards Department applies devaluation to two or more separate disabilities in the same limb. Disabilities are considered to be separate when two or more anatomical parts are listed as separate percentage values in the PDES.

#### **5.4 American Medical Association Guides to the Evaluation of Permanent Impairment (“AMA Guides”)<sup>10</sup>**

In those cases where an impairment is not covered by the PDES, policy provides that the WCB may refer to other published guides such as the WCB’s Additional Factors Outline and the AMA Guides to assist in determining the level of a worker’s disability.<sup>11</sup>

The methodology used to evaluate a worker’s disability in the AMA Guides is different than in the PDES. The AMA Guides do not apply enhancement to disabilities in bilateral areas of the body. The AMA Guides do, however, apply a form of devaluation. Devaluation is accounted for by using the Combined Values Chart set out in the AMA Guides.

The Combined Values Chart is a numerical grid that is used to combine multiple impairments. The AMA Guides’ Combined Values Chart is attached as Appendix B.

## **6. OTHER JURISDICTIONS**

### **6.1 Enhancement**

Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Newfoundland, the Northwest Territories and Nunavut use schedules similar to the PDES. All of these jurisdictions restrict the application of enhancement to bilateral disabilities such as both arms, both legs, or both eyes.<sup>12</sup> This is consistent with the practice of the Disability Awards Department.

In these jurisdictions, enhancement is explained in different ways:

- “parts of the body which perform identical functions, e.g. both arms, both legs, both eyes”;
- “bilateral injuries involve parts of the body which perform identical function, such as both hands or ankles...”; and

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<sup>10</sup> There are several editions of the AMA Guides in existence. The most recent is the sixth edition.

<sup>11</sup> Policy item #39.50, *Non-Scheduled Awards, RS&CM*.

<sup>12</sup> Ontario applies enhancement pursuant to the *Ontario Rating Schedule* to injuries prior to January 2, 1990. Injuries occurring after this date are evaluated using the AMA Guides. Nova Scotia applies enhancement pursuant to the *Guides for the Assessment of Permanent Medical Impairment* to injuries prior to January 1, 2000. Injuries occurring after this date are evaluated using the AMA Guides.

- “injuries which involve mirror parts of bilateral structures; e.g. both wrists, both knees”.
- “bilateral injury resulting from anatomicophysiological deficits in symmetrical organs...bilaterality in limbs is determined by reference to the corresponding part, for example, right arm with left arm and right leg with left leg.”

Policy in four jurisdictions specifically state that the enhancement factor does not ordinarily apply to a hand and a foot, or a foot and an eye combination, etc.<sup>13</sup>

British Columbia is the only jurisdiction that has policy applying the enhancement factor to disabilities involving the spine.

Ontario, Nova Scotia, Prince Edward Island, and the Yukon currently use the AMA Guides and the Combined Values Chart exclusively when evaluating permanent partial disability awards. As previously discussed, the AMA Guides do not consider enhancement.

## 6.2 Devaluation

Jurisdictions that use schedules similar to the PDES apply different forms of “devaluation”. Most jurisdictions have a statement in their respective schedule which provides that the impairment rating for the loss of function of an extremity cannot exceed the rating allowed for amputation of that extremity.<sup>14</sup>

Some jurisdictions that use similar schedules also adjust scheduled percentage values for multiple disabilities in accordance with the AMA Guides’ Combined Values Chart.<sup>15</sup> Manitoba uses the Combined Values Chart for all disabilities resulting from one workplace injury (this includes disabilities in different areas of the body, and not just disabilities in the same limb).

The Northwest Territories and Nunavut also use the Combined Values Chart for all disabilities and not just disabilities in the same limb. However, they apply it to all disabilities regardless of whether they result from one or more workplace accidents. Alberta only uses the Combined Values Chart with respect to burns.

The jurisdictions that use the AMA Guides exclusively apply the Combined Values Chart to adjust values to account for subsequent disabilities. Again, this is applied to all disabilities in different areas of the body, and not just disabilities that exist in the *same* limb.

A table setting out an interjurisdictional analysis of enhancement and devaluation policy is attached as Appendix C of this paper.

<sup>13</sup> Saskatchewan, New Brunswick, Nova Scotia, and Newfoundland.

<sup>14</sup> Alberta, Saskatchewan, Manitoba, New Brunswick, and Newfoundland.

<sup>15</sup> Alberta, Manitoba, New Brunswick and Northwest Territories & Nunavut.

## 7. DISCUSSION

Five issues have been identified with the enhancement and devaluation policies. These issues are as follows:

1. When is enhancement applied to disabilities involving arms and legs?
2. When is enhancement applied to disabilities involving the spinal column?
3. Is enhancement applied to non-scheduled awards, e.g. chronic pain?
4. How should devaluation be applied to disabilities involving the same part of the body?
5. Should a Combined Values Chart be considered as an alternative to devaluation?

These issues are each addressed in the following sections.

### 7.1 Enhancement

The longstanding practice in the Disability Awards Department has been to apply enhancement where there are bilateral disabilities such as both arms, both legs, or both eyes. This approach reflects the original intent of the policy that bilateral disabilities have a greater impact on a worker's loss of function than is simply represented by adding the two percentages.

The following sections discuss situations where the WCAT has applied enhancement differently from WCB policy and practice.

#### 7.1.1 *Disabilities involving arms and legs*

In recent years, some WCAT decisions have applied enhancement in the following instances:

a) *Disabilities involving the same limb*, for example:

- right shoulder and right hand;
- left finger and left shoulder;
- right shoulder and right elbow; and
- left ankle and left foot.<sup>16</sup>

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<sup>16</sup> WCAT Decisions: 2008-02841, 2007-0178, 2007-00050 and 2009-02984 respectively.

b) *Disabilities involving limbs on the same side of the body*, for example:

- left elbow and left knee; and
- lower leg and hip.<sup>17</sup>

c) *Disabilities involving lower and upper limbs in combination*, for example:

- left elbow and right knee.<sup>18</sup>

These applications of enhancement are different from the longstanding practice of the Disability Awards Department to apply enhancement only to bilateral disabilities of both arms or both legs.

Inconsistent applications of the enhancement policy arise due, in part, to the wording of the policy. Policy is not clear as to when enhancement should be applied.

Enhancement policy provides the following example: *Enhancement can be applied “in certain situations”, and “one situation where this may be done is where the worker has impairment in both arms or both legs”*. This language was imported directly from a 1975 WCR decision (Decision No. 95).

It is not clear from the policy, or Decision No. 95, whether this example is intended to be the one and only situation where enhancement is applied (the Disability Awards Department’s practice), or whether this example is just one situation, among others, in which enhancement is applied (the WCAT’s interpretation).

If the enhancement policy is read in conjunction with the devaluation policy, it lends to the interpretation that the enhancement policy is intended to provide discretion to increase disability awards where a disability is enhanced by a disability in a “different” area of the body, not the same area.

Until recently, the appellate bodies have generally been in line with the Disability Awards Department’s practice in applying enhancement only to injuries on opposite sides of the body.

In considering the WCAT’s recent applications of enhancement, a number of issues have been identified:

- Applying enhancement to disabilities involving the same limb would result in situations where the total disability is greater than the amputation value of the limb. This is confirmed in the devaluation policy which requires devaluation for multiple disabilities in one limb.<sup>19</sup>

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<sup>17</sup> WCAT Decisions: 2007-02559 and 2007-01107 respectively.

<sup>18</sup> WCAT Decision 2006-04641.

<sup>19</sup> The application of enhancement to disabilities in the same limb is particularly problematic considering policy provides that devaluation is mandatory, whereas enhancement is discretionary.

- This approach would dilute the original intent of the policy, which is to recognize that bilateral disabilities have a greater impact on a worker's loss of function. For example, where both ankles or both wrists are immobile, it becomes extremely difficult to function. It is less clear whether, for example, if immobility to a left knee and a right elbow limits function in the same way.
- Applying enhancement in these instances would potentially result in more scheduled awards exceeding 100% total impairment.
- No other jurisdictions apply enhancement in this way. The Disability Awards Department's approach is consistent with the approaches in all other jurisdictions that have an enhancement policy.

Policy clarification is needed to support the aim of the PDES, which is to maintain a consistent approach to evaluating a worker's impairment and ensure equity among workers.

### 7.1.2 *Disabilities involving the spinal column*

The Disability Awards Department has requested that the Policy and Research Division review policy regarding disabilities involving the spinal column. Changes to enhancement policy may be required to more clearly set out that enhancement does not apply to two or more disabilities of the spinal column in combination, e.g. cervical spine and lumbar spine.

Policy provides enhancement can apply to "*combinations of disabilities when one of those disabilities involves the spinal column and that disability is shown to have been enhanced by other disabilities*". It does not clearly set out that "*other disabilities*" must be elsewhere in the body.

In practice, the Disability Awards Department only applies enhancement to a disability in the spinal column that is enhanced by a disability elsewhere in the body (e.g. another disability in the leg).<sup>20</sup> Policy changes would confirm the Disability Awards Department's practice.

### 7.1.3 *Enhancement and Chronic Pain*

Recently the WCAT has applied enhancement in a case involving chronic pain.<sup>21</sup> Chronic pain is a non-scheduled award that exists outside of the PDES as a separate policy.<sup>22</sup>

<sup>20</sup> The Disability Awards Department's application of enhancement is supported by WCAT Decisions. See WCAT Decisions: 2004-04571 and 2007-02939.

<sup>21</sup> WCAT Decision 2009-02481.

<sup>22</sup> Policy item #39.02, *Chronic Pain*, of the *RS&CM*, Vol. II. The Policy and Research Department is currently reviewing the chronic pain policy as part of a separate, ongoing policy project.

In certain situations, the PDES does not capture the full extent of the worker's disability. In these cases, chronic pain, as well as enhancement, devaluation, and other adjustments such as the age adaptability factor, may be added to account for a worker's full disability. These adjustments are referred to as non-scheduled awards.

A chronic pain award, like enhancement, devaluation, and the age adaptability factor, is applied to scheduled awards after they are calculated. However, each of these non-scheduled awards is made independent of each other. For example, enhancement is not applied to age adaptability. For the same reason, enhancement and devaluation are not applied to chronic pain.

Given this recent decision, a statement in the enhancement policy may be required to clarify that enhancement is not applied to non-scheduled awards, such as chronic pain.

## 7.2 Devaluation

By policy and practice, devaluation is always applied to multiple disabilities in the same part of the body, where there is the potential that the sum of the separate disabilities could add up to more than the amputation value of that part of the body. Disabilities are considered separate when two or more anatomical parts are listed with separate percentage values in the PDES.

There are two key issues raised with the devaluation policy. First, how should devaluation be applied to disabilities involving the same part of the body? Second, should the AMA Guides' Combined Values Chart be considered as an alternative to devaluation?

### 7.2.1 *Disabilities in the same part of the body*

Certain decisions of the WCAT have not applied devaluation to *disabilities in different areas of the same limb*, for example:

- right shoulder and right hand;
- left finger and left shoulder; and
- right shoulder and right elbow
- left ankle and left foot.<sup>23</sup>

In each of the situations where the WCAT did not apply devaluation, the disabilities had separate percentage values in the PDES.

Not applying devaluation in the above examples is contrary to policy, and creates the potential for total disability to exceed the amputation value of each limb. This raises equity issues among workers. A worker who has lost his or her arm due to a workplace

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<sup>23</sup> See footnote 16.

injury or disease could have a lesser disability award than a worker who still has his or her arm, but with limited function.

WCAT panels have also not applied devaluation to *disabilities that are very close in proximity*. Specifically, this has been done with three injury types, as follows:

- left ankle and left hind foot;
- left wrist and left forearm; and
- left elbow and left forearm.<sup>24</sup>

A WCAT noteworthy decision sets out an argument as to why the three exceptions to devaluation policy should be made.<sup>25</sup> The argument is based on the “one injury theory”. According to the “one injury theory”, in certain cases, two injuries (two anatomical parts with separately listed percentage values in the PDES) that are in close proximity may be treated as one injury because they relate to the loss of motion of one injury. In this decision the forearm and the elbow were treated as “one injury”.

In considering the WCAT’s application of devaluation, a number of issues have been identified:

- To treat these disabilities as “one injury” is not correct from an anatomical perspective. The Clinical Services Department has advised that the three types of injuries identified by the WCAT each involve anatomically separate areas of the body. From a medical perspective, these injuries do not operate as “one injury”.
- These disabilities are not treated as “one injury” in other impairment schedules. Applying this approach would move away from the standardized system used by medical practitioners. This could create lack of clarity and further inconsistencies in the evaluation of disability awards.
- Failing to apply devaluation to ankle/hind foot, wrist/forearm, and elbow/forearm combinations could also result in situations where total disability exceeds the amputation value of a limb. As previously mentioned, this raises equity issues among workers.
- If devaluation is not applied to multiple disabilities there would be the potential for a worker’s percentage of total disability to be greater than his or her actual

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<sup>24</sup> See WCAT Decisions: 2006-03029, 2006-04281 and 2008-02331 respectively. These decisions follow the precedent set by the WCAT Noteworthy Decision 2005-01417. In this case, the separate joint disabilities involving the elbow and forearm were found to be the cumulative effect of one injury. As a result, devaluation was not applied. The Review Division has followed this precedent; see Review Division decisions #R0085815, #R0089588, and #R0090573.

<sup>25</sup> WCAT Noteworthy Decision 2005-01417.

disability. This is because the percentages in the PDES, when added together, exceed 100% of total disability.

### 7.2.2 *The Combined Values Chart*

When considering whether to amend the devaluation policy, it is useful to look to policies in other jurisdictions. Some jurisdictions, that have schedules similar to the PDES, apply a different model for devaluation.

For example, Manitoba, the Northwest Territories and Nunavut adjust their scheduled percentage values for multiple disabilities in accordance with the AMA Guides' Combined Values Chart.<sup>26</sup> In these jurisdictions the Combined Values Chart is used to combine all multiple disabilities, and not just disabilities in the same part of the body.

If BC were to adopt this approach, the Combined Values Chart would apply to all multiple disabilities, including disabilities that would not normally be devalued. This would result in most scheduled multiple disability awards being decreased. Attached as Appendix D is a table providing an estimated overview of how various combinations of disabilities would be adjusted if the Combined Values Chart were to be adopted.

The Combined Values Chart would also be applied in situations where enhancement is applied. This approach would reduce the percentage awarded for multiple disabilities that are enhanced. For an example of how Manitoba, the Northwest Territories and Nunavut apply the Combined Values Chart in cases of enhancement please refer to Appendix E.

The only circumstances where the Combined Values Chart approach would result in an award that is higher than the current BC approach is where multiple disabilities on the same limb are combined. In these limited situations, the difference in amount between the Combined Values Chart and the current devaluation approach is only slightly higher, e.g. 3% for a right elbow and a right shoulder.

There are some additional implications to adopting the Combined Values Chart approach:

- The Combined Values Chart would not resolve the question of how to combine disabilities that are very close in proximity; and
- The Combined Values Chart was developed in accordance with another model, the AMA Guides. Mathematical inconsistencies in the calculation of disability awards could arise if the two models are superimposed.

## 7.3 **Reorganization**

Various enhancement policies are currently found in different sections of the *RS&CM*. Enhancement policy could be reorganized to consolidate policy items #39.21,

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<sup>26</sup> The AMA Guides' Combined Values Chart is attached as Appendix B.

*Amputation of Digits of the Hand*, #39.32, *Thumb Restrictions*, and a cross reference to #39.42, *Visual Acuity*, of the *RS&CM*, into the enhancement policy. Reorganization would create a better flow to the policy and provide greater clarity to workers, WCB staff, and the WCAT.

## **8. OPTIONS AND IMPLICATIONS**

The enhancement policy options are considered under Section 8A, and the devaluation policy options are considered under Section 8B.

### **8A. Enhancement Policy Options**

#### **Option A1: Status quo**

##### *Implications*

- There would continue to be a lack of clarity regarding when enhancement should be applied.
- Inconsistent application of policy would continue.

#### **Option A2: Amend enhancement policy to reflect longstanding practice**

Under this option, policy would be amended to:

- Clarify that enhancement may only be applied to bilateral disabilities involving both arms, or both legs;
- Clarify that enhancement does not apply to two or more disabilities of the spinal column; and
- Clarify that enhancement is only applied to scheduled awards.

Policy reflecting this approach is set out in Appendix A.

##### *Implications*

- Policy would more clearly reflect longstanding practice in the Disability Awards Department.
- Various enhancement policies would be consolidated under one policy.
- There would be greater clarity for workers, employers, WCB staff, and the WCAT. This may result in a reduction in appeals to the Review Division and the WCAT.
- Calculations of permanent partial disabilities that require enhancement would be consistent, creating equity between workers with the same injuries.
- Enhancement would not be applied to non-scheduled awards, such as awards for chronic pain.

- The original intent of the policy that multiple disabilities such as disability to both arms, have a greater impact on a worker's functioning would be recognized.
- Approach would be consistent with the approach in all other jurisdictions that have an enhancement policy and use schedules similar to the PDES.

### **Option A3: Expand situations where enhancement is applied**

Under this option, policy would be amended to:

- Clarify that enhancement applies to arm and leg disabilities as follows:
  - Disabilities involving the same limb
  - Disabilities involving limbs on opposite sides of the body
  - Disabilities involving limbs on the same side of the body
  - Disabilities involving upper and lower limbs in combination
- Clarify that enhancement applies to two or more disabilities in the spinal column; and
- Clarify that enhancement applies to non-scheduled awards.

#### *Implications*

- Policy would be consistent with the approaches taken in recent WCAT decisions.
- Various enhancement policies would be consolidated under one policy.
- There would be greater clarity for workers, employers, WCB staff and the WCAT.
- Calculations of permanent partial disabilities that require enhancement would be consistent, creating equity between workers with the same injuries.
- Enhancement would be applied to non-scheduled awards such as awards for chronic pain.
- Situations would arise where the sum of the individual disabilities in a limb is greater than the amputation value of that limb.
- There would potentially be more cases where 100% disability is exceeded.
- Approach would be different from original intent of policy.
- There would be an increase in the amount of enhancement awards granted. This would result in additional costs.
- Operational changes would be required.
- This approach is not consistent with other jurisdictions.

## 8B. Devaluation Policy Options

### Option B1: Status quo

#### *Implications*

- There would continue to be a lack of clarity regarding when devaluation should be applied.
- Inconsistent application of policy would continue.

### Option B2: Amend devaluation policy to reflect current practice

Under this option, policy would be amended to:

- State that devaluation is always applied to two or more separate disabilities in the same limb;
- State that disabilities are considered separate when two or more anatomical parts are listed with separate percentage values in the PDES; and
- Clarify devaluation example to demonstrate how a fused forearm is calculated.

Policy reflecting this approach is set out in Appendix A.

#### *Implications*

- Policy would more clearly reflect longstanding practice in the Disability Awards Department.
- There would be greater clarity for workers, employers, WCB staff, and the WCAT. This would result in a reduction of overturns at the Review Division and the WCAT.
- Calculations of permanent partial disabilities that require devaluation would be consistent, creating equity between workers with the same injuries.
- The sum of the individual disabilities in a limb would not exceed the amputation value of that limb.

### Option B3: Amend devaluation policy to set out three exceptions where devaluation is not applied

- Disabilities involving the ankle and hind foot;
- Disabilities involving the wrist and forearm; and
- Disabilities involving the elbow and forearm.

#### *Implications*

- Policy would be consistent with the approaches taken in recent WCAT and Review Division decisions.

- There would be greater clarity for workers, employers, WCB staff, and the WCAT.
- Calculations of permanent partial disabilities that require devaluation would be consistent, creating equity between workers with the same injuries.
- Situations would arise where the sum of the individual disabilities in a limb exceeds the amputation value of that limb.
- Treating certain disabilities in close proximity as “one injury” is not consistent with medical science regarding anatomical systems. This could cause confusion among medical practitioners.
- There would be fewer instances where devaluation is applied. This would result in additional costs.
- Operational changes would be required.
- This approach is not consistent with other jurisdictions.

#### **Option B4: Replace devaluation policy with a Combined Values Chart**

Under this option, the following changes would be made:

- The Combined Values Chart from the AMA Guides, 6<sup>th</sup> edition, would be added to the PDES and devaluation policy would be deleted; and
- A statement would be added to policy to clarify that the total impairment assessed for an extremity cannot exceed the value of that extremity.

#### *Implications*

- All multiple disabilities would be devalued regardless of whether part of the same limb. This would result in greater instances of devaluation.
- Awards requiring enhancement would also be devalued.
- The overall value of awards to workers would be reduced.
- Adopting the Combined Values Chart would not resolve how to combine two disabilities that are in very close proximity.
- The Combined Values Chart represents a separate model from the current PDES/enhancement/devaluation model. Applying the Combined Values Chart model to the current model may lead to inconsistencies.
- Reduced awards to workers with multiple disabilities would result in decreased costs.
- Operational changes would be required.
- This approach is consistent with Manitoba, the Northwest Territories and Nunavut.

## 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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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**

**PROPOSED DRAFT POLICY**

Additions In Bold, Deletions Struckthrough

**#39.12**      *Enhancement*

**In the event of multiple disabilities, the percentage rates derived by use of the *Schedule* may be enhanced in order to better reflect the combined effect of the disabilities on a worker's ability to function.**

Therefore, ~~W~~where a worker has an additional disability which pre-existed the injury or the injury causes more than one disability, the Board may, in certain situations, increase the overall percentage of disability that would otherwise be awarded. This is known as the "enhancement factor".

**Enhancement is only applied to scheduled awards. An enhancement factor is not applied to non-scheduled awards, such as chronic pain.**

**The enhancement factor may be applied in the following limited situations:**

**1.      Arms**

**An enhancement factor may be applied to disabilities on opposite sides of the body involving both arms. For example, a right wrist and a left wrist, or a left shoulder and a right elbow, etc. An enhancement factor of 50% of the lesser disability may be added to the total of the percentages awarded for each separate disability.**

**2.      Legs**

**An enhancement factor may be applied to disabilities on opposite sides of the body involving both legs. For example, a right ankle and a left ankle or a right ankle and a left knee, etc. An enhancement factor of 50% of the lesser disability may be added to the total of the percentages awarded for each separate disability.**

~~One situation where this may be done is where the worker has impairment in both arms or both legs. An enhancement factor of 50% of the lesser disability may be added to the total of the percentages awarded for each separate disability. Suppose, for example, a worker suffers an injury causing total immobility in the right ankle. That would be assessed pursuant to the *Schedule* at 12% of total disability. There may be an adjustment for age; but suppose it appeared that, at the time of the work injury, the worker was already suffering from a serious disability involving total immobility in the left knee. The Board may well conclude that having regard to the impaired mobility that the worker was already suffering through the disability in the left leg, the compensable disability~~

**APPENDIX A  
REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II**

**PROPOSED DRAFT POLICY**

Additions In Bold, Deletions Struckthrough

~~in the right ankle results in a greater degree of disability than it would for a person with a normal left leg.~~

**3. Spine**

Prior to October 27, 1977, the Board did not normally permit an enhancement factor in respect of spinal column disabilities. However, subsequent to that date, the Board has concluded that such a factor may be added for combinations of disabilities when one of those disabilities involves the spinal column and that disability is shown to have been enhanced by the others. **An enhancement factor is not applied to two or more disabilities of the spinal column in combination.** A factor of 50% of the disability attributed to the spine is added. Therefore, if the disability in the back is 10%, and the sum of the other disabilities is 16%, the enhancement factor is 5% and the total disability awarded 31%. This has not been retroactively applied to awards made prior to October 27, 1977.

**4. Thumb and One or More Fingers**

**An enhancement factor may be applied to disabilities involving the thumb and one or more fingers.**

**(a) Multiple Digit Amputations:**

**Where a thumb and one or more fingers is amputated, the percentage of disability of the thumb is determined and the percentage of the disability for the finger or fingers is determined. Normally, an enhancement factor of 100% of the lesser of these disabilities is then added.**

**(b) Restriction of Movement**

**Where a finger and a thumb are affected, hand chart 1 and 2 of the *Schedule* are used. An enhancement factor of 100% of the lesser of these two disabilities is then added. Where the thumb and multiple fingers are affected, hand charts 3 to 5 are used and an enhancement factor of 100% of the lesser of the disabilities is then added.**

**APPENDIX A**  
**REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II**

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**5. Eyes**

**The enhancement factor with respect to eyes is dealt with in policy item #39.42, *Visual Acuity*.**

~~Enhancement factors applied where more than one finger of the same hand is affected are dealt with in policy items #39.21, #39.31 and #39.32.~~

**EFFECTIVE DATE:** ~~June 1, 2009 — Delete reference to Board officer.~~

**HISTORY:** ~~August 1, 2003 — Amendments to insert a statement regarding the application of an enhancement factor in respect of spinal column disabilities and housekeeping changes.~~

**APPLICATION:** ~~Applies on or after June 1, 2009~~

**APPENDIX A  
REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II**

**PROPOSED DRAFT POLICY**

Additions In Bold, Deletions Struckthrough

**#39.13      Devaluation**

The percentages set out in the ~~Permanent Disability Evaluation Schedule~~ represent the loss occurring when a disability exists alone in an otherwise healthy limb or body. When a disability exists alongside another disability in the same or another part of the body, adjustments may have to be made. This adjustment may be in an upward direction. For instance, as indicated in policy item #39.12, an enhancement factor may be added in certain cases when the combined effect of two disabilities in different areas of the body exceeds the sum of the schedule percentages allocated to each disability. On the other hand, ~~W~~**where** the sum of the scheduled percentages allocated to several **separate disabilities in the same limb could** exceeds their actual combined effect, a downward adjustment is required. This is known as “devaluation”.

**Disabilities are considered to be separate when two or more anatomical parts are listed with separate percentage values in the *Schedule*.**

If the ***Schedule*** schedule provides that the total loss of a particular **limb** part of the body causes a certain percentage loss of future earning capacity, then a partial loss of the use of that particular **limb** part will leave only a portion of the function of that **limb** part of the body remaining.

**For example,** if the ***Schedule*** schedule allocates 70% to the amputation of an arm at the shoulder, the occurrence of a fused index finger and thumb, worth 18%, will leave only 52% of the value of the arm. Any subsequent disabilities will be measured by reference to the remaining percentage, not the whole percentage set out in the schedule, i.e. 52% rather than 70% in the above example. Therefore, if, following the fused index finger and thumb, the claimant suffers a fused **forearm elbow**, and then a **fused elbow** frozen shoulder, the relevant percentages of disability awarded will be as follows:

A.	Value of whole arm in <b><i>Schedule</i></b> schedule	70% of total
B.	Value of fused index finger and thumb disability in <b><i>Schedule</i></b> schedule	18%
C.	Remaining value of arm (A-B)	52%
D.	Value of fused <b>forearm elbow</b> in <b><i>Schedule</i></b> schedule	<del>1020%</del>
E.	Percentage awarded for fused <b>forearm elbow</b> $\frac{D}{A} \times C$	<del>7.414.9%</del>

**APPENDIX A  
REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II**

**PROPOSED DRAFT POLICY**

Additions In Bold, Deletions Struckthrough

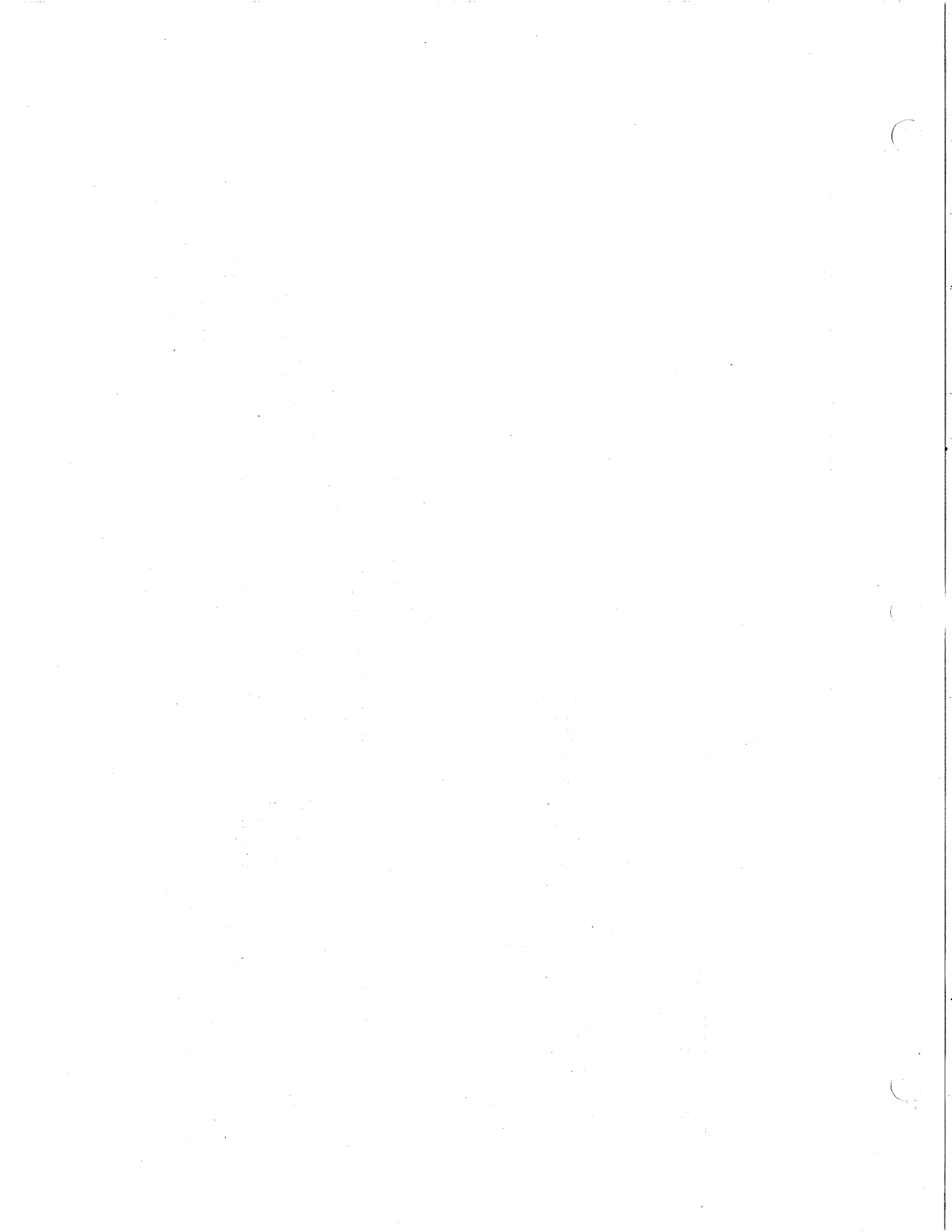
F.	Remaining value of arm (C-E)	<b>44.63</b> <del>7.4</del> %
G.	Value of frozen <b>elbow</b> <del>shoulder</del> in <b>Schedule</b> schedule	<b>20</b> <del>35</del> %
H.	Percentage awarded for frozen shoulder ( $\frac{G}{A} \times F$ )	<b>12.71</b> <del>8.6</del> %
I.	Total percentage of disability awarded (B + E + H)	<b>38.15</b> <del>4.5</del> %

A worker will never receive more than 70% for disabilities existing in one arm, **or 65% for disabilities existing in one leg.**









## APPENDIX C INTERJURISDICTIONAL RESEARCH TABLE

Enhancement Policy		
<b>British Columbia</b>	Yes (policy)	<p>"The combined effect of two separate disabilities may be greater than the separate effect of each. Therefore, where a worker has an additional disability which pre-existed the injury or the injury causes more than one disability, the Board may, in certain situations, increase the overall percentage of disability that would otherwise be awarded. This is known as the "enhancement factor".</p> <p>One situation where this may be done is where the worker has impairment in both arms or both legs. An enhancement factor of 50% of the lesser disability may be added to the total of the percentages awarded for each separate disability. Suppose, for example, a worker suffers an injury causing total immobility in the right ankle. That would be assessed pursuant to the <i>Schedule</i> at 12% of total disability. There may be an adjustment for age; but suppose it appeared that, at the time of the work injury, the worker was already suffering from a serious disability involving total immobility in the left knee. The Board officer in Disability Awards may well conclude that having regard to the impaired mobility that the worker was already suffering through the disability in the left leg, the compensable disability in the right ankle results in a greater degree of disability than it would for a person with a normal left leg.</p> <p>Enhancement factors applied where more than one finger of the same hand is affected are dealt with in policy items #39.21, #39.31 and #39.32.</p> <p>Prior to October 27, 1977, the Board did not normally permit an enhancement factor in respect of spinal column disabilities. However, subsequent to that date, the Board has concluded that such a factor may be added for combinations of disabilities when one of those disabilities involves the spinal column and that disability is shown to have been enhanced by the others. A factor of 50% of the disability attributed to the spine is added. Therefore, if the disability in the back is 10%, and the sum of the other disabilities is 16%, the enhancement factor is 5% and the total disability awarded 31%. This has not been retroactively applied to awards made prior to October 27, 1977."<sup>27</sup></p>
<b>Alberta</b>	Yes (policy)	<p><i>"1. What is an enhancement factor?</i> When the combined effect of two or more disabilities is greater than the sum of the separate impairments (for example, immobility of the ankle joint is rated at a 12% impairment, according to the Alberta Permanent Clinical Impairment Guide, but the combined effect of immobility of both ankle joints may be greater than 24%). The WCB may, in certain circumstances, increase the permanent clinical impairment award (NELP) to a higher percentage. The percentage increase is called the "enhancement factor".</p> <p><i>2. What does the WCB take into consideration when determining whether to include an enhancement factor?</i> The WCB will usually include an enhancement factor only when the worker's disabilities involve parts of the body with identical functions (for example, both arms both legs, both eyes). The disabilities may all be compensable, or may be a combination of compensable and non-compensable. Each case will be considered on its own merits."</p> <p><i>3. What limitations are there?</i> If one of the disabilities is non-compensable, the enhancement factor will usually be considered only when the non-compensable condition pre-existed the compensable (for example, a worker who lost the use of an arm as a child loses the use of the remaining arm due to a compensable injury). The only exceptions are loss of vision (see Question 5) and compensable lung conditions combined with non-compensable heart condition (see Question 6).</p> <p>The enhancement factor is normally limited to a maximum of 50% of the lesser permanent clinical impairment. For example, if the two impairments are below knee amputation (35%) and immobility of the ankle joint (12%) on the opposing leg, the enhancement factor would normally be limited to 6% (50% of 12%). Once again, loss of vision and compensable lung conditions combined with a non-compensable heart condition are exceptions. The combination of permanent clinical impairment and the enhancement factor cannot be more than 100% total impairment on any one claim.</p> <p><i>5. How is the enhancement factor applied to loss of vision?</i> The permanent disability rating for loss of vision in one eye is normally 16% or 18% (depending on the individual circumstances) while the compensable loss of vision in both eyes is considered total (100%) disability. If a worker who has a complete loss of vision in one eye due to a compensable injury subsequently loses the vision in the remaining eye for non-compensable</p>

<sup>27</sup> Policy item #39.12, *Enhancement*, of the *Rehabilitation Services & Claims Manual*, Vol. II.

## APPENDIX C INTERJURISDICTIONAL RESEARCH TABLE

Enhancement Policy		
		<p>reasons, the WCB will increase the worker's NELP to 50%. This increase is made on the basis that the worker now has 100% clinical impairment, one half (50%) of which is attributable to the compensable injury.</p> <p>6. <i>How is the enhancement factor applied when a compensable lung condition affects a non-compensable heart disease?</i> When, at the same time, a worker has both: 1) a compensable permanent impairment of the respiratory system, and 2) a disabling degree of non-compensable heart disease, the WCB considers that the compensable impairment of lung function affects the non-compensable heart disease. The non-compensable heart disease may pre-exist or be diagnosed after the compensable lung condition.</p> <p>In recognition of the resulting increased disability, the WCB applies an enhancement factor of 50% of the permanent clinical impairment rating assigned to the respiratory disease. For example, if the permanent clinical impairment rating assigned to the worker's compensable respiratory condition is 35%, the enhancement factor is 17.5%. If the clinical impairment of the respiratory condition increases, the enhancement factor will be increased proportionately, provided the combined value does not exceed 100% impairment.</p> <p><i>Limitations</i> The worker's benefit entitlement for the non compensable heart disease is limited to the enhancement factor paid under this policy. The WCB will not accept any responsibility for death attributable to the heart disease unless the conditions for acceptance outlined in Application 4 of Policy 03-01, Injuries, are met."<sup>28</sup></p>
<b>Saskatchewan</b>	Yes (schedule)	"In multiple injuries, or in serial injuries, the impairment rating must sometimes be enhanced in order to accurately reflect the effect of the injury on the individual's activities. This is true when injuries involve parts of the body which perform identical functions, e.g. both arms, both legs, both eyes, etc. Ordinarily, there would be no enhancement factor between a hand and a foot, a foot and an eye, etc. An enhancement of up to 50% of the lesser impairment might be warranted in injuries of both arms or both legs, but care must be taken that the sum of the two individual ratings plus the added enhancement is not disproportionate when applied to the whole person." <sup>29</sup>
<b>Manitoba</b>	Yes (schedule)	"As well, in the event of multiple injuries, the impairment rating may be enhanced in order to reflect the cumulative functional effect. Enhancement is particularly important in dealing with finger injuries, loss of vision, and loss of hearing; therefore, the enhancement factor has been considered in the development of the rating schedule for these particular conditions. Enhancement is considered to be relevant in respect of injuries which involve mirror parts off bilateral structures; e.g. both wrists, both knees. In these instances, an enhancement factor of up to 50% of the lesser impairments is awarded. The ratings must not be disproportionate when applied to the whole person and are therefore subject to the combined values chart." <sup>30</sup>
<b>Ontario</b>	No	For injuries post January 2, 1990, the <i>AMA Guides to the Evaluation of Permanent Impairment-3<sup>rd</sup> ed.</i> are used. For injuries prior to January 2, 1990 the <i>Ontario Rating Schedule</i> is used. Under the old <i>Ontario Rating Schedule</i> , enhancement was applied to bilateral disabilities. <sup>31</sup>
<b>Quebec</b>	Yes	L'article 85 de la Loi sur les accidents du travail et les maladies professionnelles (An Act respecting industrial accident and occupational diseases)  s. 85 The table of compensation for bodily injury adopted by regulation must allow for the determination of an additional percentage where a worker, by reason of an employment injury or an occupational disease, sustains anatomicophysiological deficits in symmetrical organs or an

<sup>28</sup> Policy 04-04 Part II Benefits, Permanent Disability, under the heading *Application 6: Enhancement Factor*.

<sup>29</sup> The *Functional Impairment Rating Schedule*, under the heading *Enhancement of Multiple Injuries*.

<sup>30</sup> The *Permanent Impairment Rating Schedule*, under the heading *Types of Evaluations or Ratings*.

<sup>31</sup> In Ontario enhancement is only applied to injuries prior to January 2, 1990.

## APPENDIX C INTERJURISDICTIONAL RESEARCH TABLE

Enhancement Policy		
		<p>anatomicophysiological deficit in an organ that is symmetrical to an already impaired organ.</p> <p>L'article 7 du Règlement sur le barème des préjudices corporels (Scale of bodily injuries regulation) s. 7 Where a worker suffers, as a result of an industrial accident or an occupational disease, bilateral injury resulting from anatomicophysiological deficits in symmetrical organs or from an anatomicophysiological deficit in an organ that is symmetrical to the one already impaired, the scale shall award an additional percentage, corresponding to the sum of the percentages of anatomicophysiological deficits fixed for the less severely impaired organ...Bilaterality in limbs is determined by reference to the corresponding part, for example, right arm with left arm and right leg with left leg. The arm includes the scapula and the clavicle. The leg includes the hip and the hemipelvis. A sequela to the left hand with a sequela to the right scapula requires the application of bilaterality.</p>
<b>New Brunswick</b>	Yes (schedule)	<p>"In multiple injuries, or in serious injuries, the impairment rating may be enhanced in order to accurately reflect the effect of the injury on the worker's activities. Particularly this is true when the injuries involve parts of the body which perform identical functions, e.g., both arms, both legs, both eyes. Ordinarily, there would be no enhancement factor between a hand and a foot, a foot and an eye, etc. An enhancement factor of up to 50 percent of the lesser impairment may be warranted in injuries to both arms or both legs, but the sum of the two individual ratings plus the added enhancement must not be disproportionate when applied to the whole man. Enhancement is particularly important when dealing with finger injuries. For this reason the enhancement factor has been included as part of the finger injury rating schedule, as well as the schedules for loss of hearing and vision."<sup>32</sup></p>
<b>Nova Scotia</b>	No (schedule)	<p>For injuries post January 1, 2000, the <i>AMA Guides to the Evaluation of Permanent Impairment-4<sup>th</sup> ed.</i> are used. For injuries prior to January 1, 2000 the <i>Guides for Assessment of Permanent Medical Impairment</i> are used. Under the old <i>Guides for Assessment of Permanent Medical Impairment</i> enhancement was applied to parts of the body that perform identical functions: e.g. both arms, both legs or both eyes.<sup>33</sup></p>
<b>PEI</b>	No	<p>Uses the <i>AMA Guides to the Evaluation of Permanent Impairment-4<sup>th</sup> ed.</i></p>
<b>Newfoundland</b>	Yes (schedule)	<p>"In multiple injuries, or in successive injuries, the impairment rating must sometimes be enhanced in order to accurately reflect the effect of the injury on the individual's activities. This is true when injuries involve parts of the body which perform identical functions, e.g. both arms, both legs, both eyes, etc. Ordinarily, there would be no enhancement factor between a hand and a foot, a foot and an eye, etc. An enhancement of up to 50% of the lesser impairment might be warranted in injuries of both arms or both legs, but care must be taken that the sum of the two individual ratings plus the added enhancement is not disproportionate when applied to the whole person."<sup>34</sup></p>
<b>Yukon</b>	No	<p>Uses the <i>AMA Guides to the Evaluation of Permanent Impairment</i>.</p>
<b>NWT &amp; Nunavut</b>	Yes (policy and schedule)	<p>"If the worker's pre-existing disability combined with the impairment from the work-related incident makes the overall impairment greater, the WSCC's Medical Advisor(s) may recommend an enhancement factor to increase the rating of the permanent impairment. For example, an enhancement factor may be applied in the case of a worker who has existing vision loss in one eye and suffers vision loss in the other eye, due to a work related injury. According to the NWT and Nunavut Permanent Impairment Rating Guide, total loss of vision in one eye is rated at 16% and the</p>

<sup>32</sup> N.B. Reg. 82-165, *Permanent Physical Impairment Rating Schedule Regulation*, under the heading *Enhancement of Multiple Injuries*.

<sup>33</sup> In Nova Scotia, enhancement is only applied to injuries prior to January 1, 2000.

<sup>34</sup> The *Permanent Functional Impairment Rating Schedule*, under the heading *Enhancement of Multiple Injuries*.

<sup>35</sup> Policy 03.12, *Pre-existing Disability*, under the heading: (c) *Enhancement factors and Permanent Impairment Ratings*.

## APPENDIX C INTERJURISDICTIONAL RESEARCH TABLE

Enhancement Policy		
		<p>total loss of vision in both eyes is 100%. This enhancement may result in the injured worker being awarded 100% rather than the 16% normally awarded in cases of vision loss in one eye.”<sup>35</sup></p> <p>“Where bilateral injuries involve parts of the body which perform identical function, such as both hands or ankles, an enhancement factor of up to 50% of the permanent impairment rating of the less impaired side will be considered. The enhancement factor is added to the lower impairment rating prior to combining the bilateral permanent impairment ratings. An enhancement factor of up to 50% of a permanent impairment rating of an extremity is indicated when an amputation of the contralateral limb is present prior to the compensable injury.”<sup>36</sup></p>

Devaluation Policy		
<b>British Columbia</b>	Yes (policy) <sup>37</sup>	<p>“The percentages set out in the Permanent Disability Evaluation Schedule represent the loss occurring when a disability exists alone in an otherwise healthy limb or body. When a disability exists alongside another disability in the same or another part of the body, adjustments may have to be made. This adjustment may be in an upward direction. For instance, as indicated in policy item #39.12, an enhancement factor may be added in certain cases when the combined effect of two disabilities in different areas of the body exceeds the sum of the schedule percentages allocated to each disability. On the other hand, where the sum of the schedule percentages allocated to several disabilities exceeds their actual combined effect, a downward adjustment is required. This is known as “devaluation”.</p> <p>If the schedule provides that the total loss of a particular part of the body causes a certain percentage loss of future earning capacity, then a partial loss of the use of that particular part will leave only a portion of the function of that part of the body remaining. If the schedule allocates 70% to the amputation of an arm at the shoulder, the occurrence of a fused index finger and thumb, worth 18%, will leave only 52% of the value of the arm. Any subsequent disabilities will be measured by reference to the remaining percentage, not the whole percentage set out in the schedule, i.e. 52% rather than 70% in the above example. Therefore, if, following the fused index finger and thumb, the claimant suffers a fused elbow, and then a frozen shoulder, the relevant percentages of disability awarded will be as follows: [refer to policy for detailed calculation]. A worker will never receive more than 70% for disabilities existing in one arm.”</p>
<b>Alberta</b>	Yes (schedule) <sup>38</sup>	<p>Found in the <i>Alberta Permanent Clinical Impairment Guide</i>: The Upper Extremities – Introduction: “C. The total impairment assessed for the upper extremity cannot exceed the value of the upper extremity i.e. equivalent disarticulation at the shoulder or 70% whole person.</p> <p>The Lower Extremities – Introduction: “C. The total impairment assessed for the lower extremity cannot exceed the value of the lower extremity i.e. 65% for disarticulation at the hip. (Alberta uses a Combined Values Table for multiple body impairments involving the skin, e.g. with respect to burns.)</p>
<b>Saskatchewan</b>	Yes (schedule)	<p>Found in the introduction of the <i>Permanent Impairment Rating Schedule</i>: “6. Ratings for loss of function of an extremity cannot exceed the rating for amputation of that extremity. 7. The rating for the loss of function at a joint rarely exceeds one half of the rating for an amputation of that extremity.”</p>
<b>Manitoba</b>	Yes (schedule)	<p>Found in policy 44.90.10.01, Schedule A- <i>Permanent Impairment Rating Schedule</i>, Guidelines for Permanent Impairment Evaluation: “Impairment rating for the loss of function of an extremity cannot exceed the rating allowed for amputation of that extremity. Multiple impairments affecting a single extremity, or part thereof, may be calculated on the basis of the combined values chart, or as a percentage loss of total function for that extremity.” (Manitoba also uses a Combined Values Table for multiple body impairments arising from <u>one</u> workplace accident.)</p>
<b>Ontario</b>	Yes,	<p>Uses the <i>AMA Guides to the Evaluation of Permanent Impairment</i>. The AMA Guides used a combined values approach.</p>

<sup>36</sup> The *NWT and Nunavut Permanent Medical Impairment Rating Guide*, under the heading *Enhancements*:

<sup>37</sup> Policy item #39.13, *Devaluation*, of the *Rehabilitation Services & Claims Manual*, Vol. II.

<sup>38</sup> *Alberta Permanent Clinical Impairment Guide*.

## APPENDIX C INTERJURISDICTIONAL RESEARCH TABLE

Devaluation Policy		
<b>Quebec</b>	No	n/a
<b>New Brunswick</b>	Yes (schedule)	Found in Regulation 82-165, <i>Permanent Physical Impairment Rating Schedule Regulation</i> : "5. Impairment rating for the loss of function of an extremity cannot exceed the rating allowed for amputation of that extremity; 6. Impairment rating for the loss of function at a joint is not to exceed one half of the rating allowed for an amputation at that joint, unless special circumstances exist;" New Brunswick also uses a Combined Values Table for multiple body impairments.
<b>Nova Scotia</b>	Yes	For injuries post January 1, 2000 the <i>Guides to the Evaluation of Permanent Impairment - 4<sup>th</sup> ed.</i> are used. For injuries prior to Jan 1, 2001 the <i>Guides for Assessment of Permanent Medical Impairment</i> are used.
<b>PEI</b>	Yes,	Uses the <i>AMA Guides to the Evaluation of Permanent Impairment- 4<sup>th</sup> ed.</i> The AMA Guides used a combined values approach.
<b>Newfoundland and</b>	Yes (schedule)	Found in the <i>Permanent Functional Impairment Rating Schedule</i> "6. Ratings for loss of function of an extremity cannot exceed the rating for amputation of that extremity. 7. The rating for the loss of function at a joint rarely exceeds one half of the rating for an amputation of that extremity."
<b>Yukon</b>	Yes,	Uses the <i>AMA Guides to the Evaluation of Permanent Impairment</i> . The AMA Guides used a combined values approach.
<b>NWT &amp; Nunavut</b>	Yes	Found in the <i>Permanent Impairment Rating Guide</i> . "Permanent impairment ratings will be combined using the combined values table where multiple body part impairments exist." (NWT and Nunavut use combining tables to combine all multiple disabilities)

**APPENDIX D**  
**EXAMPLES OF DISABILITY AWARDS BASED ON ADOPTION OF COMBINED VALUES CHART**

Disabilities	Current approach (% of total disability)	Current approach applying the Combined Values Chart (% of total disability)
Right shoulder (35%) and left knee (25%)	<b>60%</b>	<b>51%</b>
Right wrist (12.5%) and right ankle (12%)	<b>24.5%</b>	<b>23%</b>
Right hip (30%) and left shoulder (35%)	<b>65%</b>	<b>55%</b>
Right shoulder (35%), right ankle (12%), loss of spleen	<b>57%</b>	<b>49%</b>
Left ankle (12%), left knee (25%), left hip (30%)	<b>47.44%</b>	<b>54%</b>
Left wrist (12.5%), left forearm (10%), left elbow (20%), left shoulder (35%)	<b>52.4%</b>	<b>60%</b>
Left wrist (12.5%), left forearm (10%), left elbow (20%), left shoulder (35%), and Right wrist (12.5%), right forearm (10%), right elbow (20%), right shoulder (35%)	52.4  52.4  <b>= 100%</b>	<b>83%</b>
Left ankle (12%), left knee (25%), left hip (30%), and Right ankle (12%), right knee (25%), right hip (30%)	47.4  47.4  <b>= 100%</b>	<b>78%</b>
Lumbar spine (24%) and left knee (25%)	<b>49%</b>	<b>43%</b>
Lumbar spine (24%), left knee (25%), right knee (25%)	<b>86.5%</b>	<b>63%</b>

**APPENDIX D**  
**EXAMPLES OF DISABILITY AWARDS BASED ON ADOPTION OF COMBINED VALUES CHART**

Cervical spine (21%), left shoulder (35%), right shoulder (35%)	108.5  = 100%	<b>73%</b>
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## APPENDIX E

### EXAMPLE OF MANITOBA, THE NORTHWEST TERRITORIES AND NUNAVUT'S APPLICATION OF THE COMBINED VALUES CHART TO DISABILITIES REQUIRING ENHANCEMENT

#### Current BC Approach to Enhancement

20% (right elbow) + 20% (left elbow) +10% (the enhancement factor)

Total Disability = **50%**

#### Manitoba's Approach to Enhancement

Use the Combined Values Chart to combine together 20% (right elbow) + 20% (left elbow) + 10% (enhancement factor)

Total Disability = **42%**

#### Northwest Territories and Nunavut's Approach to Enhancement

First add the enhancement factor 20% (right elbow) + 10% (enhancement factor) = 30%

Then use the Combined Values Chart to combine together 30% (enhanced right elbow) + 20% (left elbow)

Total Disability= **44%**

As a result of using the Combined Values Table, a worker with immobility to both elbows in combination could receive 6-8% less than is currently awarded.