

PRACTICE DIRECTIVE #18

CONTINUITY OF INCOME (CODE R) BENEFITS

Background:

Income continuity (Code R) benefits were initiated by the Board in 1980 to reduce the financial hardship on workers between the termination of temporary disability benefits or vocational rehabilitation payments, and the commencement of permanent disability benefits. Policy Item #89.11 of the *Rehabilitation Services and Claims Manual* (RSCM) set out Board policy with respect to Code R benefits.

In September 1996, the Rehabilitation and Compensation Services Division made a practice change to the Code R benefit rate. Prior to the practice change, Vocational Rehabilitation Consultants generally did not adjust the Code R rate, but maintained it at the worker's temporary wage loss rate. Following the practice change, after an employability assessment was completed and all other rehabilitation payments were finalized, the Rehabilitation Consultant adjusted the Code R rate to reflect the conclusion of the employability assessment. This meant that the Code R rate was then based on the expected pension rate.

In 1997 the Hunt and Leahy Report on Vocational Rehabilitation Services was released which identified the Division's practice change as a policy matter. The Panel of Administrators then asked the Policy Bureau to consult with stakeholders regarding the changes to the payment procedure and bring any other policy issues to the Panel for decision.

Several issues pertaining to Code R benefits were brought forward for the Panel's consideration and decision. On July 16, 1998, the Panel of Administrators rescinded Policy Item #89.11 of the RSCM and replaced it with new Policy Items #89.11, #89.12, and #89.13. As well, the *Vocational Rehabilitation Services Procedure Handbook* (RPH) has been revised to reflect the new policies and to add further details as to how this investigation and decision-making process will occur. **This practice directive provides general directions with respect to the new policy items approved by the Panel. Vocational Rehabilitation staff who are applying income continuity benefits should refer to both the new policies and the RPH revisions.**

1. *Administration of Continuity of Income Benefits*

Code R benefits will be considered by the Vocational Rehabilitation Consultant following discussions with the Case Manager and other appropriate Board staff. Consistent with current practice, prior to implementing the Code R benefit, the Rehabilitation Consultant must have considered and offered to the worker all rehabilitation measures which are reasonable and might be of assistance to the worker.

Workers who are in receipt of Code R benefits will be given priority handling in the assessment of their pension entitlement.

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2. *Eligibility for Code R Benefits*

Policy Item #89.11, Continuity of Income Pending Assessment of Permanent Disability Pension, outlines the circumstances in which a worker would be considered eligible for Code R benefits. Consideration will be given to workers whose disability has stabilized, who are not entitled to receive temporary wage-loss or other wage-loss equivalency (vocational rehabilitation) benefits, who are unemployed, and who are likely to receive either a significant permanent partial disability award based upon the Permanent Disability Evaluation Schedule, or a pension calculated on the worker's potential loss of earnings under Section 23(3).

Effective July 16, 1998, this policy also applies, but not retroactively, to those workers who meet the above criteria and are employed at a reduced income level due to their compensable disability.

3. *Code R Eligibility for Pension Re-Assessments*

The Panel also approved the consideration of Code R benefits for those workers whose existing permanent disability pension is being re-assessed. The new Policy Item #89.13, Pension Re-assessments, states that these workers will be considered for Code R benefits while the Board is reviewing their original pension to determine if it should be increased. To be eligible there must be evidence of a deterioration in the worker's medical condition which is likely to be permanent, and the worker must be experiencing a reduction in income during the review period which is related to the reasons for the pension review. Once a preliminary decision has been made by the Claims Adjudicator in Disability Awards or Case Manager that these criteria have been met, the file will be referred to the Vocational Rehabilitation Consultant. This new policy item is effective as of July 16, 1998 and therefore does not apply retroactively.

4. *Continuity of Income Benefits Rate*

Policy Item #89.12, Amount of Payment states that:

Effective September 1, 1996, continuity of income payments will be based initially on the same rate as the wage-loss benefit rate and will continue at that level until the pension is awarded, except in any of the following circumstances:

1. The worker has retired.
2. The worker is experiencing non-compensable medical, psycho-social or financial problems which preclude active participation in the rehabilitation process.
3. The worker refuses to actively participate in the rehabilitation process.

When determining if a worker falls under one of the above criteria, the Vocational Rehabilitation Consultant must investigate the worker's circumstances and must consider the impact of the compensable disability on the worker's decision to retire or not participate in the rehabilitation process.

In each case, the Vocational Rehabilitation Consultant completes the employability assessment and provides it to the worker. The worker has thirty (30) days in which to review the assessment

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and provide any new evidence which might alter the Vocational Rehabilitation Consultant's decision.

If one of the above three criteria is met, thirty days after the worker has received the assessment, the Rehabilitation Consultant will implement Code R benefits at a rate that best reflects the conclusions contained in the employability assessment. The employability assessment provides details on the worker's long-term earning capacity, subject to the provisions noted above.

All other workers will receive Code R benefits based on the same rate as the wage-loss benefit rate until their pension has been granted. In particular terms, therefore, the full Code R rate will apply, until pension implementation, to two remaining categories of workers:

1. Those who are deemed unemployable on account of their compensable disability; and
2. Those who have actively participated in their Vocational Rehabilitation programs, but who have run out of other Vocational Rehabilitation entitlement and are still unemployed.

Policy Item #89.12 is effective as of September 1, 1996, and is applicable in all cases affected since that date by the changes made to the payment procedures by the Rehabilitation and Compensation Services Division. This will require re-adjudication of claims on which income continuity benefits were reduced or terminated, and retroactive payments in some situations.