

**2004/06/22-03**

**THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA**  
**RESOLUTION OF THE BOARD OF DIRECTORS**

**Re: Referral to Disability Awards**

**WHEREAS:**

Pursuant to section 82 of the *Workers Compensation Act*, RSBC 1996, Chapter 492 and amendments thereto ("Act"), the Board of Directors must set and revise as necessary the policies of the Board of Directors, including policies respecting compensation, assessment, rehabilitation, and occupational health and safety;

**AND WHEREAS:**

Policy items #96.20, *Board Officers* and #96.30, *Disability Awards Officers and Adjudicators in Disability Awards* of Volumes I & II the *Rehabilitation Services & Claims Manual* ("RS&CM") contain ambiguous and contradictory statements;

**AND WHEREAS:**

The ambiguity and contradiction in policy has led to inconsistent interpretation and numerous appeals;

**AND WHEREAS:**

The Policy & Research Division has consulted with stakeholders on this issue;

**THE BOARD OF DIRECTORS RESOLVES THAT:**

To implement amendments, the following revisions are approved and apply to all decisions, including appellate decisions, made on or after July 2, 2004:

- (a) The revisions to policy item #96.20 of Volume I of the *RS&CM*, attached as Appendix A.

**WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA**

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- (b) The revisions to policy item #96.30 of Volume I of the *RS&CM*, attached as Appendix B.
  - (c) The revisions to policy item #96.20 of Volume II of the *RS&CM*, attached as Appendix C.
  - (d) The revisions to policy item #96.30 of Volume II of the *RS&CM*, attached as Appendix D.
2. This resolution is effective July 2, 2004, and applies to all decisions, including appellate decisions, made on or after that date.

DATED at Richmond, British Columbia, June 22, 2004.

**By the Workers' Compensation Board**

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**DOUGLAS J. ENNS, CHAIR  
BOARD OF DIRECTOR**

## Appendix A

### VOLUME I

#### **#96.20 BOARD OFFICERS**

**For all decisions, including appellate decisions, made on or after July 2, 2004, please refer to policy item #96.20, *Board Officers*, in Volume II of the *RS&CM*.**

A Board officer determines whether compensation is payable. They will decide, for instance, whether a claimant was employed in an industry under Part 1 of the *Act*, whether a personal injury was suffered arising out of and in the course of employment, or whether the claimant is suffering from an occupational disease which is due to the nature of the employment.

Following acceptance of a claim, the Board officer determines the amount and duration of compensation to be paid for temporary disability.

In a case of death, the Board officer decides whether the death is compensable and whether the members of the worker's family are dependants and entitled to compensation.

The term "compensation" includes, among other things, health care benefits, transportation and subsistence.

It is the responsibility of Board officers to determine whether a worker's claim should be referred to the Disability Awards Department for review and possible pension evaluation. This decision is generally made on the basis of information supplied by a treating physician, qualified practitioner, consulting specialist or the injured worker. Treating physicians and qualified practitioners are required to send periodic reports to the Board outlining the worker's condition. These reports include a question which asks specifically whether there will be any permanent disability resulting from the injury.

To ensure consistent referrals of all cases where there is a potential permanent disability, the Board officer is required to refer the claim to the Disability Awards Department for further evaluation where any of the following guidelines apply:

1. Where a medical report indicates that a permanent disability exists or that there is a possibility a permanent disability exists.
2. Where a worker indicates there is a permanent disability as a result of the compensable injury, or states there is an inability to return to employment as a consequence of the injury.

3. Where there is any other indication of a permanent disability or potential permanent disability.

If there is any doubt about the existence of a permanent disability, these claims are referred to the Disability Awards Department for final consideration. Board officers, however, are expected to exercise discretion and common sense in deciding whether to refer a worker's claim to the Disability Awards Department. Once a decision is made to refer a claim to the Disability Awards Department, it is up to the Board officer to clearly delineate by memo the status of the claim and to confirm what conditions have been accepted.

**EFFECTIVE DATE:** July 2, 2004  
**APPLICATION:** For all decisions, including appellate decisions, made on or after July 2, 2004, please refer to policy item #96.20, *Board Officers*, in Volume II of the *RS&CM*.  
**HISTORY:** March 3, 2003 - deletion of statements regarding the return of receipts for particular items that do not qualify for payment on a claim, and housekeeping changes.

## Appendix B

### Volume I

#### **#96.30        DISABILITY AWARDS OFFICERS AND ADJUDICATORS IN DISABILITY AWARDS**

**For all decisions, including appellate decisions, made on or after July 2, 2004, please refer to policy item #96.30, *Board Officers in Disability Awards*, in Volume II of the *RS&CM*.**

Disability Awards Officers and Adjudicators in Disability Awards determine whether a worker's injury or occupational disease has caused a permanent disability. They then decide the extent of the disability and calculate the worker's pension entitlement. Disability Awards Officers and Adjudicators in Disability Awards must accept the final decision of the Claims Adjudicator as to what conditions are accepted under the claim. The Claims Adjudicator is required to outline the decision in a memo when referring the claim to the Disability Awards Officer or Adjudicator in Disability Awards.

In cases of minor disabilities, the Disability Awards Officer or Adjudicator in Disability Awards may calculate the award without the benefit of a medical examination if this is considered unnecessary having regard to the medical evidence already on the claim. Except for those cases, the normal practice is for a permanent functional impairment evaluation to be conducted for disability awards purposes by a Disability Awards Medical Advisor or an authorized External Service Provider (see *Item #38.10*).

Although the evaluation is not the only medical evidence that the Disability Awards Officer or Adjudicator in Disability Awards may use, it will usually be the primary input.

The decision-making procedure for assessing entitlement to a permanent disability award for psychological impairment is discussed in #38.10

There may be cases where the Disability Awards Officer or Adjudicator in Disability Awards will be able to conclude from the information on the claim that there is no compensable permanent disability resulting from the injury.

Where, after reviewing a claim, the Disability Awards Officer or Adjudicator in Disability Awards decides there is no permanent disability, it is not necessary to inform the worker of this conclusion unless it is evident the worker has enquired about entitlement or expressed some expectations of receiving an award. The above process is considered an extension of the referral initiated by the Claims Adjudicator or Claims Officer.

There are also borderline situations where the Disability Awards Officer or Adjudicator in Disability Awards may seek advice or clarification from the Disability Awards Medical Advisor concerning the question of potential disability. If, after this process, the Disability Awards Officer or Adjudicator in Disability Awards concludes that no disability is evident, it is not necessary to advise the worker of this conclusion, unless there has been a specific enquiry or it is evident that the worker has expectations of receiving an award.

However, in those cases where the worker has a permanent functional impairment evaluation, the Disability Awards Officer or Adjudicator in Disability Awards is required to notify the worker indicating the results of the evaluation and the conclusions reached regarding the question of pension entitlement.

The final decision on the assessment of a pension on a projected loss of earnings basis is made by the Disability Awards Committee which consists of one senior representative from the Disability Awards, Medical, and Vocational Rehabilitation Services Departments.

Requests for the commutation of pensions are adjudicated in the first instance by Adjudicators in Disability Awards. Before making a decision, they may ask the Rehabilitation Consultant to contact the claimant and obtain the necessary information.

**EFFECTIVE DATE:** July 2, 2004  
**APPLICATION:** For all decisions, including appellate decisions, made on or after July 2, 2004, please refer to policy item #96.30, *Board Officers in Disability Awards*, in Volume II of the *RS&CM*.

## Appendix C

### VOLUME II

#### 96.20 Board Officers

A Board officer determines whether compensation is payable. They will decide, for instance, whether a worker was employed in an industry under Part 1 of the Act, whether a personal injury was suffered arising out of and in the course of employment, or whether the worker is suffering from an occupational disease which is due to the nature of the employment.

Following acceptance of a claim, the Board officer determines the amount and duration of compensation to be paid for temporary disability.

In a case of death, the Board officer decides whether the death is compensable and whether the members of the worker's family are dependants and entitled to compensation.

The term "compensation" includes, among other things, health care benefits, transportation and subsistence.

**The Board officer determines when temporary total disability or temporary partial disability benefits are concluded, and whether an actual or potential permanent disability is accepted on the claim.** ~~It is the responsibility of Board officers to determine whether a worker's claim should be referred to the Disability Awards Department for review and possible permanent disability evaluation. This decision is~~ **These decisions are** generally made on the basis of information supplied by a treating physician, qualified practitioner, consulting specialist ~~or~~ **and/or** the injured worker. Treating physicians and qualified practitioners are required to send periodic reports to the Board outlining the worker's condition **and restrictions**. ~~These reports include a question which asks specifically whether there will be any permanent disability resulting from the injury.~~

**A decision is provided to the worker, setting out whether an actual or potential permanent disability is accepted on the claim.**

**If an actual or potential permanent disability is accepted on the claim, the Board officer will refer the file to the Disability Awards Department for assessment. As part of the referral, the Board officer will prepare a memo, clearly setting out the status of the claim and confirmation of what permanent conditions have been accepted.**

**If the Board officer determines that there is no actual or potential permanent disability, the worker may request a review of the decision.**

~~To ensure consistent referrals of all cases where there is a potential permanent disability, the Board officer is required to refer the claim to the Disability Awards Department for further evaluation where any of the following guidelines apply:~~

- ~~1. Where a medical report indicates that a permanent disability exists or that there is a possibility a permanent disability exists.~~
- ~~2. Where a worker indicates there is a permanent disability as a result of the compensable injury, or states there is an inability to return to employment as a consequence of the injury.~~
- ~~3. Where there is any other indication of a permanent disability or potential permanent disability.~~

~~If there is any doubt about the existence of a permanent disability, these claims are referred to the Disability Awards Department for final consideration. Board officers, however, are expected to exercise discretion and common sense in deciding whether to refer a worker's claim to the Disability Awards Department. Once a decision is made to refer a claim to the Disability Awards Department, it is up to the~~

~~Board officer to clearly delineate by memo the status of the claim and to confirm what conditions have been accepted.~~

**EFFECTIVE DATE: July 2, 2004**

**APPLICATION: Applies to all decisions, including appellate decisions, made on or after July 2, 2004.**

## Appendix D

### VOLUME II

#### 96.30 ~~Board Officers in Disability Awards Officers and Adjudicators in Disability Awards~~

~~Disability Awards Officers and Adjudicators in Disability Awards determine whether a worker's injury or occupational disease has caused a permanent disability. Where the Board officer has accepted an actual or potential permanent disability, Board officers in Disability Awards~~ They then decide the extent of the disability and calculate the worker's permanent disability award entitlement. **Board Officers in Disability Awards Officers and Adjudicators in Disability Awards** must accept the final decision of the ~~Claims Adjudicator~~ **Board officer** as to what conditions are accepted under the claim. The **Board officer** ~~Claims Adjudicator~~ is required to outline the decision in a memo when referring the claim to the Disability Awards **Department**. ~~Officer or Adjudicator in Disability Awards.~~

In cases of minor disabilities, the **Board officer in Disability Awards** ~~Officer or Adjudicator in Disability Awards~~ may calculate the award without the benefit of a medical examination if this is considered unnecessary having regard to the medical evidence already on the claim. Except for those cases, the normal practice is for a ~~permanent functional impairment evaluation~~ **section 23(1) assessment** to be conducted for disability awards purposes by a Disability Awards Medical Advisor or an authorized External Service Provider (see policy item ~~#38.10~~ **#39.01**)

Although the evaluation is not the only medical evidence that the **Board Officer in Disability Awards** ~~Officer or Adjudicator in Disability Awards~~ may use, it will usually be the primary input.

The decision-making procedure for assessing entitlement to a permanent disability award for psychological impairment is discussed in policy item ~~#38.10~~ **#39.01**.

~~There may be cases where the Disability Awards Officer or Adjudicator in Disability Awards will be able to conclude from the information on the claim that there is no compensable permanent disability resulting from the injury.~~

~~Where, after reviewing a claim, the Disability Awards Officer or Adjudicator in Disability Awards decides there is no permanent disability, it is not necessary to inform the worker of this conclusion unless it is evident the worker has enquired about entitlement or expressed some expectations of receiving an award. The above process is considered an extension of the referral initiated by the Claims Adjudicator or Claims Officer.~~

~~There are also borderline situations where the Disability Awards Officer or Adjudicator in Disability Awards may seek advice or clarification from the Disability Awards Medical Advisor concerning the question of potential disability. If, after this process, the Disability Awards Officer or Adjudicator in Disability Awards concludes that no disability is evident, it is not necessary to advise the worker of this conclusion, unless there has been a specific enquiry or it is evident that the worker has expectations of receiving an award.~~

~~However, in~~ In those cases where the worker has a ~~permanent functional impairment evaluation~~ **section 23(1) assessment**, the **Board officer in Disability Awards** ~~Officer or Adjudicator in Disability Awards~~ is required to notify the worker indicating the results of the evaluation and the conclusions reached regarding the question of permanent disability award entitlement.

The final decision on the assessment of a permanent disability award ~~on a projected loss of earnings basis under section 23(3)~~ is made by the Disability Awards Committee which consists of one senior representative from the Disability Awards, Medical, and Vocational Rehabilitation Services Departments.

Requests for the commutation of permanent disability awards are adjudicated in the first instance by **Board officers in** ~~Adjudicators in~~ Disability Awards. Before making a decision, they may ask the **Vocational** Rehabilitation Consultant to contact the worker and obtain the necessary information.

**EFFECTIVE DATE:**  
**APPLICATION:**

**July 2, 2004**  
**Applies to all decisions, including appellate decisions, made on or after July 2, 2004.**