

2007/01/23-02

THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA**RESOLUTION OF THE BOARD OF DIRECTORS****Re: Commutations****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:

Section 35(2) of the *Act* permits the Board to commute all or part of a worker's permanent disability award and retirement benefits to a lump sum;

AND WHEREAS:

Policy in the *Rehabilitation Services and Claims Manual ("RS&CM")*, Volumes I and II sets out four commutation methods available to workers;

AND WHEREAS:

Incorporating the two term commutation methods from policy into the Claims Management Solutions ("CMS") system would require a significant staff commitment in order to design, develop and test the CMS system;

AND WHEREAS:

The two term commutation methods are rarely used;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. Amendments to policy items #45.20 and #45.30 of the *RS&CM*, Volumes I and II, attached as Appendices 'A' and 'B', are approved and apply to all applications for commutations made on or after March 1, 2007.

2. This resolution is effective March 1, 2007.
3. This resolution constitutes a policy decision of the Board of Directors.

DATED at Richmond, British Columbia, January 23, 2007.

By the Workers' Compensation Board

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

APPENDIX A

Rehabilitation Services & Claims Manual, Volume I

#45.20 Criteria for Allowing or Disallowing a Commutation

The same criteria apply, whether or not the Board has recovered all or part of the capital reserve in a third party action.

Workers granted awards that fall within Category A will automatically be given a lump sum award.

The general rule is that no commutation will be granted for cases in Category B.

There are, however, certain situations where a commutation may be desirable. The purpose of the guidelines set out below is to define those situations where it is in the worker's long term interests to receive a commutation and to state the terms and conditions on which such commutations are granted.

In considering a commutation, the following will apply:

1. A commutation must be for a specific purpose.
2. A commutation will, in general, only be allowed for purposes that are calculated to enhance the income position of the worker.
3. The applicant must have a stable source of income other than the disability pension.
4. A commutation will not be allowed where the applicant is a person whom the Board considers incapable of managing his or her own affairs or who has a demonstrated incapacity for money management.
5. Where there is an application by a widow or widower to commute a pension which is paid in whole or part for the children regard may have to be had to the separate interests of the children.
6. If the other requirements are met, a commutation may be in the worker's long term interests notwithstanding the worker's medical condition may not have settled or involves a significant risk of deterioration. However, while a potential deterioration in the worker's condition will not automatically bar a request, it is a relevant factor to be considered. It might, for instance, lead to a conclusion that the worker's existing income from other sources would not be stable from a long-term point of view.

Similarly, the fact that a disability may improve in the future will not automatically bar a request for a commutation, even though the commutation

APPENDIX A

will prevent the Board from reducing the pension when the improvement occurs. The possibility of such an improvement may, however, be taken into account if it is significant. It may influence the ~~term and~~ amount of commutation granted.

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

EFFECTIVE DATE: March 1, 2007

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

#45.30 Types of Commutations Permitted

There are ~~two~~ **basically four** types of commutations that the Board may permit:

1. ~~A partial commutation by way of a term of years resulting in a total suspension of pension payments for a fixed period, after which the pension resumes with full payments.~~
2. ~~A partial commutation by way of a reduced level of pension payments for a term of years, after which the full payments resume.~~
3. ~~A partial commutation resulting in a reduced level of pension for life.~~
24. A ~~full~~ **total** commutation of the whole pension **for life**.

~~A commutation for a term of years will be made only for units of whole years.~~

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

EFFECTIVE DATE: March 1, 2007

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

APPENDIX B

Rehabilitation Services & Claims Manual, Volume II

#45.20 Criteria for Allowing or Disallowing a Commutation

The same criteria apply, whether or not the Board has recovered all or part of the capital reserve in a third party action.

Workers granted awards that fall within Category A will automatically be given a lump sum award.

The general rule is that no commutation will be granted for cases in Category B.

There are, however, certain situations where a commutation may be desirable. The purpose of the guidelines set out below is to define those situations where it is in the worker's long term interests to receive a commutation and to state the terms and conditions on which such commutations are granted.

In considering a commutation, the following will apply:

1. A commutation must be for a specific purpose.
2. A commutation will, in general, only be allowed for purposes that are calculated to enhance the income position of the worker.
3. The applicant must have a stable source of income other than the disability award.
4. A commutation will not be allowed where the applicant is a person whom the Board considers incapable of managing his or her own affairs or who has a demonstrated incapacity for money management.
5. Where there is an application by a widow or widower to commute an award which is paid in whole or part for the children regard may have to be had to the separate interests of the children.
6. If the other requirements are met, a commutation may be in the worker's long-term interests, notwithstanding the worker's medical condition may not have settled or involves a significant risk of deterioration. However, while a potential deterioration in the worker's condition will not automatically bar a request, it is a relevant factor to be considered. It might, for instance, lead to a conclusion that the worker's existing income from other sources would not be stable from a long-term point of view.

Similarly, the fact that a disability may improve in the future will not automatically bar a request for a commutation, even though the commutation will prevent the Board from reducing the permanent disability award when the improvement occurs. The possibility of such an

APPENDIX B

improvement may, however, be taken into account if it is significant. It may influence the ~~term and~~ amount of commutation granted.

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

EFFECTIVE DATE: March 1, 2007

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

#45.30 Types of Commutations Permitted

Where a ~~total or partial~~ **or full** commutation of a permanent disability award is granted, the corresponding portion of the future amounts that are to be set aside for payment of a retirement benefit will also be commuted.

~~For partial commutations, any remaining future amounts to be set aside on the future reduced permanent disability periodic payments, will continue to be set aside by the Board for payment to the worker on reaching retirement age.~~

Any amounts that have already been set aside by the Board in the retirement reserve will be held in the reserve until the worker reaches retirement age. These amounts will not be commuted. ~~Please refer to Chapter 18, Retirement Benefits, for further information regarding the provision of this benefit.~~

There are ~~two~~ **basically four** types of commutations that the Board may permit:

1. ~~A partial commutation by way of a term of years resulting in a total suspension of both the permanent disability periodic payments and the corresponding additional future amounts to be set aside by the Board for the payment of a retirement benefit for a fixed period. After which, the permanent disability periodic payments, and the additional future amounts to be set aside by the Board, resume with full payments.~~
2. ~~A partial commutation by way of a reduced level of permanent disability periodic payments and a reduced level of the corresponding additional future amounts set aside by the Board for the payment of a retirement benefit for a term of years. After which, the full periodic payments as well as the amounts to be set aside by the Board resume.~~
3. ~~A partial commutation resulting in a reduced level of both the permanent disability periodic payments, and the corresponding additional future amounts set aside by the Board for the payment of a retirement benefits~~ **set aside by the Board**, until the worker reaches 65 years of age.

APPENDIX B

24. A ~~full~~**total** commutation of **both** the ~~whole~~ permanent disability-award, and ~~the corresponding~~ **additional future amounts set aside by the Board for the payment of a retirement benefits set aside by the Board.**

With the exception of the retirement benefit provisions, the Board permits the same types of commutations of periodic payments of compensation made to a dependant of a deceased worker.

~~A commutation for a term of years will be made only for units of whole years.~~

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

EFFECTIVE DATE: March 1, 2007

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

CROSS REFERENCES: Chapter 18, *Retirement Benefits*