

2008/05/28-04**THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA****RESOLUTION OF THE BOARD OF DIRECTORS****RE: Prevention Policy D24-73-1
Imposition of Levies – Charging of Claim Costs****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:

Pursuant to section 73(1) of the *Act*, the Workers' Compensation Board (“WCB”) may levy and collect from an employer as a contribution to the accident fund all or part of the amount of the compensation payable in respect of the injury, death or occupational disease, to a maximum of \$48,244.78;

AND WHEREAS:

Policy D24-73-1 in its current form requires the WCB to always levy the full costs of a compensation claim up to the statutory maximum under section 73(1) of the *Act*;

AND WHEREAS:

The Board of Directors has been apprised that the present Policy conflicts with the *Act*;

AND WHEREAS:

The Policy and Research Division has undertaken stakeholder consultation on this issue.

THE BOARD OF DIRECTORS RESOLVES THAT:

1. The POLICY statements in *Prevention Manual* Item D24-73-1 are approved as set out in Appendix A of this resolution, and apply to all decisions, including appellate decisions, to charge claim costs on and after July 1, 2008.
2. This resolution constitutes a policy decision of the Board of Directors.

DATED at Richmond, British Columbia, May 28, 2008.

By the Workers' Compensation Board

**DR. ROSLYN KUNIN, CM, ICD.D
CHAIR, BOARD OF DIRECTORS**

**APPENDIX A
PREVENTION MANUAL POLICY**



WORKING TO MAKE A DIFFERENCE

PREVENTION MANUAL

**RE: Imposition of Levies –
Charging of Claim Costs**

ITEM: D24-73-1

BACKGROUND

1. Explanatory Notes

Section 73 authorizes the Board to charge claims costs to the employer in certain circumstances. The maximum amount the Board may levy is adjusted annually in accordance with the Consumer Price Index under section 25 of the *Act*. Starting January 1, 2004-~~2008~~, the maximum amount is ~~\$44,468.66~~ **\$48,244.78**.

2. The Act

Section 73:

- (1) If
 - (a) an injury, death or disablement from occupational disease in respect of which compensation is payable occurs to a worker, and
 - (b) the Board considers that this was due substantially to
 - (i) the gross negligence of an employer,
 - (ii) the failure of an employer to adopt reasonable means for the prevention of injuries, deaths or occupational diseases, or
 - (iii) the failure of an employer to comply with the orders or directions of the Board, or with the regulations made under Part 3 of this Act,

the Board may levy and collect from that employer as a contribution to the accident fund all or part of the amount of the compensation payable in respect of the injury, death or occupational disease, to a maximum of ~~\$44,468.66~~ **\$48,244.78**.

- (2) The payment of an amount levied under subsection (1) may be enforced in the same manner as the payment of an assessment may be enforced.

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POLICY

This section may be applied if:

- the grounds for an administrative penalty under Item D12-196-1 are met; and
- a serious injury or disablement from occupational disease, or a death, results from a violation of the regulations.

~~A claim may be reopened at any time in the future and further costs may be incurred after the decision under section 73(1). The Board will charge the employer:~~

- ~~• the costs incurred up to the time of the decision; and~~
- ~~• any additional amounts that result from matters still under consideration by the Compensation Services Division, the Review Division or the Workers' Compensation Appeal Tribunal.~~

The Board has a discretion as to the amount charged under section 73(1) up to the maximum amount. A decision to charge claim costs may include the cost of future amounts of compensation that may be incurred after the decision if those future costs result from matters currently under consideration by the Worker and Employer Services Division, the Review Division or the Workers' Compensation Appeal Tribunal.

Where appropriate, the Board will apply the policies and practices set out in the following Items to the charging of claim costs under section 73(1):

- D12-196-1, -2, -3, -4;
- D12-196-8;
- D12-196-10, -11; and
- D16-223-1.

PRACTICE

There is no PRACTICE for this Item.

**APPENDIX A
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EFFECTIVE DATE:	March 3, 2003 July 1, 2008
AUTHORITY:	s. 73(1), <i>Workers Compensation Act</i>
CROSS REFERENCES:	See also Accident Reporting and Investigation – Types of Incidents Covered (Item D10-172); Administrative Penalties – Criteria for Imposing (Item D12-196-1);
HISTORY:	Item developed to align prevention policy with section 73(1) of the <i>Workers Compensation Act</i> so that the Board’s discretion as to the amount of the claim cost levy is not fettered, effective July 1, 2008. Item developed to implement the <i>Workers Compensation (Occupational Health and Safety) Amendment Act, 1998</i> , effective October 1, 1999. Consequential changes subsequently made to the policy statement to reflect the <i>Workers Compensation Amendment Act (No. 2), 2002</i> , on March 3, 2003. Effective December 31, 2003 a consequential change was made to include a reference to new Item D12-196-4 and the maximum amount referenced in section 73(1) was updated.
APPLICATION:	This policy applies to all decisions, including appellate decisions , to charge claim costs on and after March 3, 2003 July 1, 2008 .