

**2009/01/27-05****THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA****RESOLUTION OF THE BOARD OF DIRECTORS****RE: Workers Participating in Non-WorkSafeBC  
Return To Work Programs****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:**

Chapter 9 of the *Rehabilitation Services & Claims Manual* ("*RS&CM*"), Volume II provides the policies respecting determination of a worker's average earnings;

**AND WHEREAS:**

Current policy does not address when insurance payments may be considered Return to Work wages when calculating the short-term average earnings of a worker who is injured while participating in a non-WorkSafeBC Return to Work program;

**AND WHEREAS:**

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

**THE BOARD OF DIRECTORS RESOLVES THAT:**

1. The addition of policy item #65.05, *Workers Participating in Non-Board Sponsored Return to Work Programs*, to Chapter 9 of the *RS&CM*, Volume II, as per the attached Appendix "A", is approved.

2. This resolution is effective March 1, 2009 and applies to all decisions made on or after March 1, 2009.
3. This resolution constitutes a policy decision of the Board of Directors.

DATED at Richmond, British Columbia, January 27, 2009.

**By the Workers' Compensation Board**

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

## APPENDIX A

### REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II

#### ***#65.05 Workers Participating in Non-Board Sponsored Return to Work Programs***

Where a worker is participating in a non-Board sponsored Return to Work program, insurance proceeds may be considered earnings for the purposes of determining short-term average earnings. Generally, for insurance proceeds to be considered earnings, payment must relate to the work being performed.

For example, if a worker is only in the workplace for four hours, but receives a top up in insurance proceeds for an additional four hours not related to the work being performed, the insurance proceeds are not considered to be earnings for the purposes of determining short-term average earnings. Conversely, if the worker is in the workplace for eight hours, and the worker receives half of his or her wages through payment of insurance proceeds, the insurance proceeds may be considered earnings for the purposes of determining short-term average earnings.

Evidence which demonstrates that payment of insurance proceeds relate to the work being performed includes, but is not limited to:

- Continued payment of insurance proceeds is dependent upon active participation in the Return to Work program.
- The employer funds the insurance program as a wage replacement scheme.
- The Return to Work program is integrated into the normal production activities of the host employer.

See policy item #67.60 to determine the long-term average earnings for a worker participating in a non-Board sponsored Return to Work program.

**Effective Date:**      **March 1, 2009**

**Application:**        **Applies to all decisions made on or after the effective date.**