

2010/05/19-04**THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA****RESOLUTION OF THE BOARD OF DIRECTORS****RE: Room and Board****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 33 of the *Act*, the Workers' Compensation Board ("WorkSafeBC") must determine the amount of average earnings and earning capacity of a worker with reference to the worker's average earnings and earning capacity at the time of the worker's injury;

AND WHEREAS:

Pursuant to section 34(1) of the *Act*, WorkSafeBC must give consideration to any special allowances or payments made to the worker wholly at the employer's expense during the period of disability, and where WorkSafeBC deducts such payments from the compensation payable, those payments may be made to the employer;

AND WHEREAS:

Policy item #68.22, *Room and Board*, of the *Rehabilitation Services & Claims Manual*, Volume II ("*RS&CM*"), requires clarification to address situations where a worker continues to be provided room and board by the employer during a period of compensable disability;

AND WHEREAS:

The Policy and Research Division has undertaken consultation on this issue with specific stakeholders identified by the Policy and Practice Consultative Committee;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. Amendments to policy item #68.22, *Room and Board*, and a consequential amendment to policy item #34.40, *Pay Employer Claims*, of the *RS&CM*, as set out in Appendix A of this Resolution, are approved and apply to all decisions on or after December 1, 2010.
2. This resolution is effective December 1, 2010 and applies to all decisions made on or after December 1, 2010.
3. This resolution constitutes a policy decision of the Board of Directors.

DATED at Richmond, British Columbia May 19, 2010.

By the Workers' Compensation Board

**RICK ROGER
ACTING CHAIR, BOARD OF DIRECTORS**

APPENDIX A
REHABILITATION SERVICES & CLAIMS MANUAL, Volume II

Additions in Bold, Deletions Struckthrough

#68.22 Room and Board

The dollar value of room and board **or an allowance in lieu of room and board that is provided by an employer as part of a worker's remuneration** is included in the **calculation of average earnings. This includes**, unless the worker continues to receive room and board during the disability. However, any payment **made** by the worker for the continuation of room and board while disabled ~~can be included in average earnings.~~

A distinction should be made between room and board which is provided in total or in part by an employer as the remuneration for services rendered and **a room and board incurred as a business situation where a worker incurs a refundable expense by the employer.**

An **One** example of the latter type of situation **a business expense** occurs **is** where an official of a company ~~has to~~ **makes** a business visit out of town and incurs the cost of an hotel and meals. On return, the official submits an expense account and the actual expenses are refunded by the employer. **Another example of a business expense is where room and board is provided to a worker at a remote worksite.**

In such situations **where room and board is incurred as a business expense**, the Board does not consider the expenses when ~~computing~~ **calculating** a worker's ~~wage rate~~ **average earnings.**

A situation where room and board is considered remuneration is for ~~These principles apply to~~ resident caretakers of apartment buildings. The value of any free or subsidized apartment provided with the job ~~must be~~ **is** considered when determining average earnings. Where specific evidence is not available, section 17 of the *Employment Standards Regulation* may be referred to when valuing an apartment.

Where a worker continues to be provided with room and board during the disability without extra charge and the worker's salary is continued by the employer, any reimbursement to the employer carried out by the Board will, subject to the maximum wage rate under the *Act*, include the value of room and board as well as the worker's salary. ~~Where, however, during a period of disability, the worker is provided with free room and board but is not being paid full salary, there will be no reimbursement made to the employer for the value of the room and board. (9)~~

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Additions in Bold, Deletions Struckthrough

If an employer withdraws room and board during the disability, that portion of wage-loss compensation representing the dollar value of the room and board would be paid directly to the worker.

EFFECTIVE DATE: December 1, 2010

CROSS REFERENCES: Policy item #34.40 *Pay Employer Claims* and policy item #68.00 *Composition of Average Earnings* of the *Rehabilitation Services & Claims Manual, Volume II*

APPLICATION: Applies to all decisions made on or after December 1, 2010.

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#34.40 Pay Employer Claims

Section 34(1) provides that “In fixing the amount of a periodic payment of compensation, consideration must be had to payments, allowances or benefits which the worker may receive from the worker's employer during the period of the disability, including a pension, gratuity or other allowance provided wholly at the expense of the employer, and a sum deducted under this section from the compensation otherwise payable may be paid to the employer . . .”

The section does not provide that any payment made by the employer shall be deducted from the compensation, or that any compensation deducted shall be paid to the employer. It requires that the Board must consider the matter, and that any compensation deducted under this section may be paid to the employer. The section is permissive, not mandatory, and the question is, therefore, in what circumstances a deduction should be made.

In practice, employers who continue paying full wages to disabled workers are reimbursed in amounts equal to the compensation that would normally be paid to their employees. No refund is made for the difference between the amount of compensation and the worker's regular salary. ~~If an employer continues to pay 25% of a worker's salary or less, full wage-loss payments are made to the worker and no refund made to the employer.~~

Refunds are made to all employers except for the Federal Government. However, in any case where the Federal Government is not continuing to pay full salary, the Board must pay the wage-loss benefits to the worker.

If a claim is reopened and the worker is carried on full salary by a different employer from the employer at the time of the original injury, the new employer is reimbursed to the same extent as the original employer would have been. This applies even though the original or new employer is an agency or department of the Federal Government.

If an employer has any outstanding liability to the Board for assessments the amount of the liability is deducted from any payments made to the employer.

EFFECTIVE DATE: **December 1, 2010– Delete statement providing that no refund will be made to the employer where the employer continues to pay 25% or less of the worker's salary during the disability.**

APPLICATION: **Applies to all decisions made on or after December 1, 2010.**

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(CHAPTER 9)

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NOTES

- (1) See policy item #34.40
- (2) See policy item #34.20
- (3) See policy item #65.04
- (4) See policy items #34.20; #35.23; #37.20; #39.60
- (5) See Item AP1-2-3 of the *Assessment Manual*
- (6) See Item C8-56.00 and Item C8-56.40
- (7) See Item AP1-1-5 of the *Assessment Manual*
- (8) See Item AP1-3-1 of the *Assessment Manual*
- ~~(9) See policy item #34.40~~ **DELETED**
- (10) s.33(10)
- (11) s.33(9)
- (12) See policy item #70.20
- (13) See policy item #69.00
- (14) See policy item #69.10