

# COMPENSATION PRACTICE AND QUALITY DEPARTMENT

## PRACTICE DIRECTIVE # C5-3

**TOPIC:** Termination of Temporary Disability Benefits  
**ISSUE DATE:** December 21, 2004

### **Objective**

The following is intended to clarify ongoing entitlement to temporary disability benefits in cases where the worker continues to be temporarily disabled but would not have been working in any event for reasons unrelated to the work injury.

### **Students Returning to their Studies**

This issue has primarily been raised with respect to cases involving students. It has been questioned whether benefits should continue to be paid in the case of a student injured while working on a break from school, who has now returned to school but who remains temporarily disabled. Wage loss benefits were commenced prior to the student returning to his/her studies. The student did not plan for, or pre-arrange part-time work for the school year.

### **Law & Policy**

Specific clarification has been requested as to whether the following statement from RSCM Policy Item #35.30, *Duration of Temporary Benefits*, may be relied on to terminate benefits in such a case:

*"... In all cases, benefits will be terminated under s.29(1) and 30(1) where, notwithstanding the existence of a temporary total or temporary partial impairment, the worker is suffering no loss of earnings as a result of the work injury."*

The language noted above is problematic and has been identified to the Policy & Research Division as an item requiring further policy development. This statement should not be relied on in isolation of other relevant policies or the rest of Policy item #35.30.

RSCM Policy item #34.32, *Strike or Other Lay-Off on Day Following Injury*, provides that "once the Board has commenced the payment of temporary disability benefits, it does not normally discontinue them simply because, irrespective of the injury, the worker would not have been working for some period of time."

## **COMPENSATION PRACTICE AND QUALITY DEPARTMENT**

RSCM Policy item #34.51, *Other Factors Prevent Return to Employment*, provides that "where a worker has not attained the age at which compensation payments are terminated under section 23.1 of the Act and the temporary total disability remains, wage-loss payments continue to be paid even though some event occurs after their commencement which would in any event have meant the worker would not be working."

### **Adjudicative Guidelines**

Board officers should consider the general principle that a worker's entitlement to temporary disability benefits continues as long as that worker remains temporarily disabled (subject to the age limitation contained in section 23.1).

Wage-loss benefits usually commence shortly after the initial acceptance of a claim and may be total (section 29) or partial (section 30). They cease when the worker no longer has the disability (section 31.1) or the condition becomes a permanent one in which case the worker is entitled to be assessed for a permanent partial disability award.

A student who remains temporarily disabled after returning to school is treated in the same manner as any other worker and wage loss benefits would continue to be payable until the student's temporary disability resolves or stabilizes.

Wage loss payments for a student who has a temporary partial disability may be based on estimated earnings capability in accordance with Section 30 and RSCM Policy item #35.20, *Amount of Payment*, even though the student is attending classes full-time and therefore not available to work.