Section Title: Finance, Assessments and Administration – *Accounting & Finance*
Subject: Cost Relief/Cost Transfer - Class E
Effective Date: This policy applies to all cost relief and cost transfer decisions made on or after January 1, 2018 and any reconsiderations and appeals of these decisions.

A. POLICY PURPOSE

Section 73 of *The Workers Compensation Act* (Act) groups employers into five broad classes (Classes A to E). Class E Employers pay for the costs of the workers compensation system based on their payroll and Claim Costs Experience. These employers are subject to the collective liability provisions of the Act.

This policy provides a framework for the removal of claim costs from a Class E Employer's Claim Costs Experience and assigning them to a collective cost pool (Cost Relief) and for the transfer of claim costs from a Class E Employer to another employer in Classes A to E (Cost Transfer).

Policy 31.05.15, *Cost Transfer - Self Insured*, provides a framework for the removal of claim costs from a Self-Insured Employer's Claim Costs Account through Cost Transfer.

Appendix A includes a glossary of commonly used terms.

GOAL

The goal of Cost Relief and Cost Transfer is to ensure fairness and accountability for employers. To achieve this goal, the Workers Compensation Board (WCB) may re-allocate claim costs to reflect collective or individual responsibility.

CIRCUMSTANCES FOR COST RELIEF OR COST TRANSFER

As described in the attached Schedules, Cost Relief or Cost Transfer may be provided to Class E Employers in the following circumstances:

- A claim is either primarily caused by a pre-existing condition or significantly prolonged by the pre-existing condition. See Schedule A - *Pre-Existing Conditions*.
- Additional compensation costs arise from earnings that exceed the average earnings at the time of the accident (indexed). See Schedule B - *Additional Compensation Costs*.
- The injury or illness is compensable under policy 44.10.80.40, *Secondary Injury*. See Schedule C - *Secondary Injury*.
- Rehabilitation program expenditures are incurred for preventive rehabilitation measures or for a new injury that occurs while the worker is in a vocational rehabilitation training program or job placement. See Schedule D - *Rehabilitation Program Expenditures*.
- The claim involves cumulative trauma or long-latency occupational disease. See Schedule E - Cumulative Trauma and Long-Latency Occupational Disease.
- The claim involves negligence by another covered employer or the worker(s) of another covered employer. See Schedule F - *Negligence*.

- The WCB pursues a Third Party action on behalf of an injured or deceased worker of a Class E Employer or cost-sharing with Manitoba Public Insurance for a motor vehicle accident. See Schedule G - *Third Party Actions and Motor Vehicle Accidents*.
- The costs are determined to unfairly burden a Class E Employer. See Schedule H - *Unfair Burden*.
- The declared worker's injury or illness occurs in a work experience program described in policy 35.10.60, *Coverage under a Work Experience Program*. See Schedule I - *Work Experience Program*.
- The injury or illness occurs in circumstances described in policy 44.10.70.50, *Public Interest Emergency Actions.* See Schedule J - *Public Interest Emergency Actions.*

PROCESS

Except for circumstances dealt with in Schedules F and G, the basic process for Cost Relief and Cost Transfer is as follows:

- Initially, all claim costs are charged to the Claim Costs Experience of the Accident Employer.
- Based on information provided, the WCB considers and processes Cost Relief and Cost Transfers when the Class E Employer is eligible under this policy.
- If Cost Relief is provided, the removed costs are charged to the Cost Apportionment Fund or the Work Experience Program Fund, as applicable.
- If Cost Transfer is provided, the removed costs are transferred from one employer to another employer.
- If Cost Relief or Cost Transfer is provided, this alters the Claim Costs Experience used to calculate the employer's assessment rate(s).
- When Cost Relief or Cost Transfer affects an employer's future year(s) assessment rate, the revised Claim Costs Experience is used to calculate the employer's assessment rate(s).
- When Cost Relief or Cost Transfer affects the Claim Costs Experience used to calculate an employer's assessment rate in the current year and/or prior years, the process is subject to a threshold set out in Appendix B of this policy along with a limit to the number of years assessment rates will be retroactively recalculated.
- If the total Cost Relief or Cost Transfer credit is less than the threshold amount, the revised Claim Costs Experience is used to calculate the employer's future year(s) assessment rate.
- Once the total Cost Relief or Cost Transfer credit **reaches or exceeds the threshold amount**, the WCB applies the Cost Relief or Cost Transfer for any Rate-Setting Year within the current Experience Period. The WCB will retroactively recalculate any applicable year's assessment rate.
- The retroactive recalculation of assessment rates arising from Cost Transfers applies to employers who are having claim costs transferred to or away from their Claim Costs Experience.

Other Processes

The process for Cost Transfer and Cost Relief for claims involving negligence is set out in Schedule F - *Negligence*.

The process for Cost Relief for claims involving Third Party actions and motor vehicle accidents is set out in Schedule G - *Third Party Actions and Motor Vehicle Accidents*. Schedule G also sets out the process for transferring costs away from the Accident Employer pending the recovery of claim costs from a Third Party or Manitoba Public Insurance.

B. REFERENCES

The Workers Compensation Act, sections or subsections 1(12.1), 28(2), 40(5), 40(7), 45(2), 45(3), 45(4), 45(5), 73, 76.7, 77.1, 81(1), 81(3), 82(4), 82(5), 105

Manitoba Regulation 132/2020, *Adjustment in Compensation Regulation*
Adjustment in Compensation Tables

WCB Policy 31.05.05, *Rate Setting Model for Class E Employers*
WCB Policy 31.05.15, *Cost Transfer - Self Insured*
WCB Policy 31.10.40, *Recoveries from Third Parties*
WCB Policy 35.10.60, *Coverage under a Work Experience Program*
WCB Policy 35.10.120, *Terms and Conditions of Optional Coverage*
WCB Policy 35.40.50, *Overpayment of Benefits*
WCB Policy 43.10.60, *Preventive Vocational Rehabilitation*
WCB Policy 44.10.20.10, *Pre-Existing Conditions*
WCB Policy 44.10.20.60*, Recurring Effects of Injuries and Illnesses (Recurrences*)
WCB Policy 44.10.70.50, *Public Interest Emergency Actions*
WCB Policy 44.10.80.40, *Secondary Injury*
WCB Policy 44.20, *Disease/General*
WCB Policy 44.20.50.20*, Noise-Induced Hearing Loss*
WCB Policy 44.80.10.10, *Average Earnings*
WCB Policy 44.80.30.30, *Prospective Earnings - Apprentices and Youthful Workers*

History:

1. Policy 31.05.10, *Cost Relief/Cost Transfer - Class E*, established by Board Order 16/17 on June 28, 2017, effective for all cost relief and cost transfer decisions made on or after January 1, 2018 and any reconsiderations and appeals of these decisions. The policy was created in conjunction with the transition to a new rate-setting model. The previous policy, 31.05.10, *Cost Relief/Cost Transfers*, covered both Class E and self-insured employers. In addition to the new Policy 31.05.10, a separate policy was created for self-insured employers: policy 31.05.15, *Cost Transfer - Self Insured*. The former policy was reissued as 31.05.10.01 *Cost Relief/Cost Transfers* and will apply to decisions made from October 1, 2014 to December 31, 2017 and any reconsiderations or appeals of those decisions.
2. Under Appendix A, the term "Claim Costs Account" was revised to provide an expressed reference to policy 44.20.50.20, *Noise-Induced Hearing Loss*. Policy 44.20.50.20 allocates noise**-i**nduced hearing loss claim costs among employers.
3. In March 2020, the policy was revised to refer to Manitoba Regulation 01/2020, *Adjustment in Compensation Regulation*. Appendix B was revised to show only the relevant 5 year history. As well, entries related to Appendix B indexing were removed from the history section.
4. Minor formatting changes were made to the policy, October 2020.
5. Reference section updated to refer to Manitoba Regulation 132/2020, *Adjustment in Compensation Regulation*, on March 18, 2021.
6. Reference section and Appendix B updated to refer to the *Adjustment in Compensation Tables* on December 2, 2021.
7. In March 2022, the new title and number of the Recurrences policy was updated in the reference section. As well, .the new title of policy 44.10.80.40, *Further Separate Injuries Subsequent to a Compensable Injury,* was updated in the policy, reference section and Schedule C.

Appendix A - Glossary of Terms

Accident Employer: Generally the employer of the worker at the time of injury. For occupational disease or cumulative trauma claims, long periods of exposure or activity are often necessary before the disease/condition develops. The worker may no longer be employed with the employer where the exposure or activity occurred. In these cases, the Accident Employer will be the last employer with whom the worker had exposure or performed the activity contributing to the disease or condition.

Claim Costs Account (Self-Insured Employer): For the applicable period, the Self-Insured Employer's Claim Costs Account includes:

- Claim costs assigned to the individual employer; and
- Claim costs which are transferred to the Self-Insured Employer under policy 31.05.10, *Cost Relief/Cost Transfer - Class E*, policy 31.05.15, *Cost Transfer - Self Insured, and policy* 44.20.50.20*, Noise-Induced Hearing Loss*.

Claim Costs Experience (Class E Employer): For the applicable Experience Period, the Class E Employer's Claim Costs Experience includes:

- Claim costs assigned to the individual employer;
- Proxy costs which may be assigned as a result of an accepted fatality claim; and
- Claim costs which are transferred to the Class E Employer under policy 31.05.10, *Cost Relief/Cost Transfer - Class E*, policy 31.05.15, *Cost Transfer - Self Insured* and policy 31.05.20, *Transfer of Assessment Rates and Claim Costs Experience on Change of Ownership*.

Class E Employers: Those employers who pay for the costs of the workers compensation system based on their payroll and Claim Costs Experience. These employers are subject to the collective liability provisions of the Act.

Cost Apportionment Fund: The fund designated in paragraph 81(1) (c) of the Act to cover the claim costs that are not entirely or directly assigned to Class E Employers.

Cost Recovery: The process of recovering claim costs through a Third Party action or the Cost Recovery Agreement between the WCB and Manitoba Public Insurance.

Cost Relief: The process of moving claim costs from the Claim Costs Experience of the Class E Employer to collective cost pools. Costs will either be moved to the Cost Apportionment Fund or the Work Experience Program Fund, depending on the circumstances.

Cost Transfer: The process of moving claim costs from the Claim Costs Experience of the Accident Employer to another employer.

Costs Excluded from Rate Setting (Class E Employer): The Costs Excluded from Rate Setting for a Class E Employer are as follows:

- the costs incurred for claims with accident years outside the experience period;
- ineligible (disallowed) claims;
- translation or interpretation services;
- courier or mail delivery expenses;
- compliance investigative (surveillance) costs;
- WCB medical advisor fees;
- group life insurance benefits;
- medical review panel expenses;
- external legal counsel fees or expenses;

- wages paid for the day of the accident; and
- claim costs relieved or transferred as provided for in policy 31.05.10, *Cost Relief/Cost Transfer - Class E*, policy 35.40.50, *Overpayment of Benefits*, and policy 44.20.50.20, *Noise-Induced Hearing Loss*.

Experience Period: The time period and claim accident years that will be included to determine a Class E Employer's Rate-Setting Claim Costs.

Interim Administrative Account: An account to which claim costs are transferred pending the recovery of claim costs from a Third Party or Manitoba Public Insurance under Schedule G.

Rate-Setting Claim Costs (Class E Employer): The Claim Costs Experience for claims in the Experience Period less the Costs Excluded from Rate Setting.

Rate-Setting Year: The upcoming calendar year for which the WCB is currently setting assessment rates. For example, in 2017 the WCB set 2018 assessment rates. The Rate-Setting Year is 2018.

Self-Insured Employers: Employers in Classes A to D who are individually liable for the claim costs of their workers plus their share of administrative costs of the workers compensation system.

Third Party: A Third Party is someone who is neither a worker nor an employer under the Act.

Work Experience Program Fund: The fund designated in paragraph 81(1) (h) of the Act to cover the claim costs of persons declared to be workers under a work experience program.

Appendix B - Threshold Amount

Threshold Amount for Recalculation of Current Year and Prior Years Assessment Rates

Threshold Amount ($)	Rate-Setting Year
14,110	2022
13,570	2021
13,190	2020
12,890	2019
12,550	2018

The threshold amount is set by subsection 28(2) of the Act and indexed annually. The *Adjustment in Compensation Tables* display these threshold amounts.

Appendix B displays threshold amounts over a five-year period. A historical summary of threshold amounts can be obtained by contacting: policy@wcb.mb.ca

SCHEDULE A

PRE-EXISTING CONDITIONS

When the claim is either caused primarily by a pre-existing condition or is significantly prolonged by the pre-existing condition, the WCB may provide Cost Relief to Class E Employers except when the pre-existing condition relates to a previous accident with the same employer.

100% Relief

The following pre-existing conditions will result in immediate 100% Cost Relief to the employer when:

- a prior medical condition is determined to be the primary cause of the accident.
- the wearing of an artificial appliance is determined to be the primary cause of the accident.

Prior Medical Condition

A worker's prior medical condition may result in injuries at work or elsewhere. When the WCB determines a worker's prior medical condition is the primary cause of the workplace accident and the worker's workplace has increased the risk of additional injuries, the WCB may accept the claim. For example, a worker's systemic condition results in a loss of consciousness in the workplace and this results in an accident. The WCB determines this condition is the primary cause of the accident.

50% Relief

For other claims involving a pre-existing condition, 50% Cost Relief may be provided. When a claim is significantly prolonged by a pre-existing condition, Cost Relief for 50% of the claim costs, other than the costs of any impairment award, will be provided to the employer if the worker’s time lost from work is greater than 12 weeks.

Different rules apply with respect to Cost Relief and impairment awards. When a claim is significantly prolonged by a pre-existing condition and the impairment rating is not affected by the pre-existing condition, the WCB will provide 50% Cost Relief on the impairment award. When a claim is significantly prolonged by a pre-existing condition and the impairment rating is affected by the pre-existing condition, the WCB will not provide Cost Relief on the impairment award.

Return-to-Work Programs

The WCB will consider "time loss" to include absences from regular job duties and/or time worked during modified or alternate work programs. The payment of WCB wage loss benefits during a modified or alternate work program is not necessary to qualify for Cost Relief under this Schedule.

Accordingly, when the claim is significantly prolonged by a pre-existing condition and the policy criteria are met, employers who accommodate injured workers in early return-to-work programs may be eligible for Cost Relief.

SCHEDULE B

ADDITIONAL COMPENSATION COSTS

When the worker's average earnings on which benefits are paid include earnings unrelated to the worker's Accident Employer, the WCB may provide Cost Relief to the Accident Employer for the additional compensation costs that are unrelated to the Accident Employer and charge these claim costs to the Cost Apportionment Fund in the following circumstances:

Recurrence

When the worker's net average earnings with a different employer for the recurrence claim are greater than the net average earnings (adjusted for statutory indexing) with the Accident Employer, compensation costs based on the average earnings at the time of the original accident (adjusted for statutory indexing), will be charged to the Accident Employer where the original accident occurred. The remaining costs are removed from the Accident Employer's Claim Costs Experience.

Concurrent Employment

When the worker has two or more jobs concurrently (at the same time), the Accident Employer is charged with the compensation costs based on average earnings with the Accident Employer. The Accident Employer receives Cost Relief for compensation costs based on average earnings with concurrent employers. Where applicable, the combined average earnings cannot exceed the maximum optional/personal coverage level (adjusted for statutory indexing) in effect at the date of the accident. The maximum optional/personal coverage level is set out in policy 35.10.120, *Terms and Conditions of Optional and Personal Coverage*.

Adjustment of Earning Capacity

When the worker is subject to an adjustment of earning capacity as provided in subsections 45(3) or 45(4) of the Act for a worker who is an apprentice or a youthful worker, compensation costs, based on the average earnings at the time of the original accident (adjusted for statutory indexing), will be charged to the Accident Employer where the original accident occurred. The remaining costs are removed from the Accident Employer's Claim Costs Experience.

Adjustment of Net Average Earnings

When the worker's date of death differs from his or her accident date and the worker dies as a result of an accident while employed with an employer other than the Accident Employer, the WCB may adjust the worker's net average earnings as provided in subsection 1(12.1) of the Act. The compensation costs, based on the average earnings at the time of the original accident (adjusted for statutory indexing), will be charged to the Accident Employer where the original accident occurred. The remaining costs are removed from the Accident Employer's Claim Costs Experience.

With the exception of the Adjustment of Net Average Earnings, this schedule applies only to accidents occurring on or after January 1, 1992. The Adjustment of Net Average Earnings applies only to accidents on or after January 1, 2006.

SCHEDULE C

SECONDARY INJURY

Cost Relief may be provided to the Accident Employer if an injury is compensable as a "secondary injury" under policy 44.10.80.40, *Secondary Injury.*

The additional costs associated with the secondary injury are removed from the Accident Employer's Claim Costs Experience.

Policy 44.10.80.40 excludes injuries that are part of the normal course of treatment and recovery from the definition of "secondary injury". Therefore, Cost Relief is not provided for such injuries.

SCHEDULE D

REHABILITATION PROGRAM EXPENDITURES

Preventive Rehabilitation

When preventive rehabilitation is provided under policy 43.10.60, *Preventive Vocational Rehabilitation*, the WCB may provide Cost Relief to the Accident Employer for the claim costs attributable to the preventive rehabilitation measures.

Vocational Rehabilitation Job Placements

(i) When a worker has been placed by the WCB in an active transitional program with another employer, and a new accident occurs, the WCB may provide Cost Relief to the new Accident Employer for the claim costs of the new accident. An active transitional program can include training on the job, work assessment and work experience.

(ii) When a worker has been placed in a permanent position with a new employer covered by the WCB, and the new employer is paying the worker's full salary, the cost of any new accident will be the sole responsibility of the new employer, subject to other provisions of this policy.

Training

When a worker suffers an accident in a training institution or other type of training program sponsored by the WCB, the WCB may provide Cost Relief to the Accident Employer for the claim costs of this accident.

SCHEDULE E

CUMULATIVE TRAUMA AND LONG-LATENCY OCCUPATIONAL DISEASE

Cumulative Trauma

Cost Transfer

When the injury is a result of cumulative trauma, claim costs will be transferred to active employers on the basis of identifiable exposure with each employer. The WCB will confirm that the worker was exposed to an occupational hazard in the employer's workplace which contributed to the development of the cumulative trauma injury.

Cost Relief

Cost Relief will be provided to the Class E Accident Employer when the WCB is unable to directly transfer some of the claim costs to other Class E Employers for part of the exposure because:

(i) the worker's exposure in previous employment is identified but cannot be confirmed by the specific employer; or
(ii) part of the identified exposure was out-of-province; or
(iii) the employer is out-of-business.

Long-Latency Occupational Disease

While the WCB makes decisions regarding Cost Relief or Cost Transfer on a case-by-case basis, "long latency" is generally understood as involving a period of at least two years between the worker's last exposure to the harmful substance and the manifestation of the disease.

When the Accident Employer is a Class E Employer, all claim costs are assigned to the Cost Apportionment Fund, with the following exception:

- When the worker had exposure to a hazardous substance while he or she was previously employed with a Self-Insured Employer, the Self-Insured Employer is assigned its portion of the claim costs based upon the period of exposure.

If hearing loss has developed gradually over time as a result of exposure to noxious occupational noise levels, this claim is treated by the WCB as an occupational disease. Policy 44.20.50.20, *Noise-Induced Hearing Loss,* provides the WCB with adjudicative and entitlement guidance on this type of hearing loss claim.

Costs for long-latency occupational disease claims and noise-induced hearing loss claims are transferred among employers in an identical manner. Policy 44.20.50.20 details the method for assigning costs among employers for noise-induced hearing loss claims.

SCHEDULE F

NEGLIGENCE

Under the Act, an injured worker (or his or her dependants) cannot sue the worker's covered employer, another covered employer, or a fellow worker if any of them caused the work-related injury or death. The only recourse the worker (or his or her dependants) has is to claim compensation under the Act. Under subsection 82(4) of the Act, the WCB may remove the claim costs from an Accident Employer's Claim Costs Experience if the worker is injured or killed due to the negligence of another employer or the worker(s) of another employer.

Cost Transfer

If the WCB determines the worker's injury or death resulted in whole or in part from the negligence of another employer or the worker(s) of another employer, claim costs are transferred to the negligent employer's Claim Costs Experience (Class E Employer) or Claim Costs Account (Self-Insured Employer) or to Claim Costs Experience or Claim Costs Account of employers whose workers were negligent.

The claim costs are transferred to the Claim Costs Experience or Claim Costs Account of other employers in proportion to the degree of negligence of each employer or worker.

The injured or deceased worker's own negligence may have contributed to the injury or death. If this is the case, the WCB will consider to what degree the worker was contributorily negligent when it determines the amount of claim costs to transfer to other employers.

Criteria for Cost Transfer

Cost Transfers will only be made when the negligence of another party is established to the satisfaction of the WCB and the worker's injury or death results in claim costs of $10,000 or more.

In making its determination of negligence, the WCB may consider a determination of negligence made by other sources.

Some examples of sources the WCB may use in its determination of negligence include:

- police reports;
- Workplace Safety and Health reports;
- Transportation Safety Board of Canada reports.

Cost Relief

In exceptional circumstances, Cost Relief may be provided to a Class E Employer. Cost Relief to Class E Employers will only be provided when the following criteria have been met:

(i) the injury or death results in claim costs of $10,000 or more; and

(ii) the WCB has determined to its satisfaction, after investigation, that:

a) the worker's injury or death involved negligence on the part of another employer or the worker(s) of another employer; and
b) the injured or deceased worker was not contributorily negligent ; and

(iii) the WCB has determined that a Cost Transfer to a negligent employer is not appropriate because:

a) the negligent employer is out-of-province or out-of-business, or;
b) the identity of the negligent employer cannot reasonably be determined, or;
c) further investigation is not feasible given the passage of time, lack of information, or excessive cost of investigation.

Written justification for the decision to grant Cost Relief in these circumstances must also be provided, and the Vice-President responsible for Assessment Services or the President and CEO or designates must authorize the decision.

The $10,000 threshold level is the net amount after all Cost Transfers.

SCHEDULE G

THIRD PARTY ACTIONS AND MOTOR VEHICLE ACCIDENTS

Third Party Actions

Under the Act, an injured worker (or his or her dependants) cannot sue the worker's covered employer, another covered employer, or a fellow worker if any of them caused the work-related injury or death. Someone who is neither a worker nor an employer under the Act is called a "Third Party". Examples of a Third Party include members of the general public, the owner of a private residential property or an out-of-province manufacturer of a defective product.

When a worker is injured or killed through the fault or negligence of a Third Party, the injured worker (or his or her dependants) may elect to claim compensation under the Act or sue the Third Party. If the worker (or his or her dependants) elects to claim compensation, the right to sue belongs to the WCB. The WCB may decide to pursue legal action, in which case the WCB controls the lawsuit and bears all costs associated with it.

Transfer of Costs to Interim Administrative Account

If the WCB issues a Statement of Claim against a Third Party, all claim costs incurred are removed from the Accident Employer's Claims Cost Experience and placed into an Interim Administrative Account. The WCB will recalculate the Accident Employer's assessment rates with these costs removed and adjust the rates accordingly.

Following the resolution of the lawsuit, the claim costs and any recovery received will be allocated from the Interim Administrative Account back to the Accident Employer's Claims Cost Experience.

Cost Relief

In exceptional circumstances, Cost Relief may be provided to a Class E Employer. Cost Relief to Class E Employers will only be provided when the following criteria have been met:

(i) the WCB determines that no action will be taken because the Third Party cannot be identified, has no assets, is not criminally responsible, the action would not be in the public interest, or for other reasons as determined by the WCB; and

(ii) the injury or death results in claim costs of $10,000 or more.

Written justification for the decision to grant Cost Relief in these circumstances must be provided, and the Vice-President responsible for Assessment Services or the President and CEO or designates must authorize the decision.

The $10,000 threshold level is the net amount after all recoveries.

Motor Vehicle Accidents On or After March 1, 1994

The Personal Injury Protection Plan (PIPP), was implemented March 1, 1994 and is administered by Manitoba Public Insurance (MPI).

If the work-related injury or fatality involves a motor vehicle, the worker (or his or her dependants) may elect between workers compensation benefits and benefits under the PIPP system. Once a worker (or his or her dependants) elects with the WCB, the WCB will request cost recovery from MPI pursuant to the Cost Recovery Agreement between these two entities.

Transfer of Costs to Interim Administrative Account

When a worker of a Class E Employer is involved in a work-related motor vehicle accident on or after March 1, 1994, and the claim is eligible for cost recovery from MPI, the WCB and MPI will arrange for cost sharing. In such cases, all claim costs incurred are removed from the Accident Employer's Claim Costs Experience and placed into an Interim Administrative Account. The WCB will recalculate the Accident Employer's assessment rates with these costs removed and adjust the rates accordingly.

Once cost sharing negotiations have been concluded between the WCB and MPI, the claim costs and any recovery received will be allocated from the Interim Administrative Account back to the Accident Employer's Claims Cost Experience.

In all cases involving motor vehicle accidents which are eligible for cost recovery from MPI, once a binding decision has been made between the WCB and MPI, there is no further entitlement to Cost Relief as provided under Schedule F - *Negligence*.

SCHEDULE H

UNFAIR BURDEN

Under paragraph 82(4)(d) of the Act, where the WCB is of the opinion that claim costs could unfairly burden a Class E Employer, it may offer Cost Relief in respect of some or all of the claim costs.

Although the WCB exercises its authority under this subsection only in extraordinary circumstances, it is prudent to express when and how the WCB will consider requests for Cost Relief on the basis of unfair burden.

The removal of claim costs under paragraph 82(4)(d) will only be provided on written justification, and with the approval of both the Vice-President responsible for Assessment Services and the WCB's General Counsel or designates. Reconsideration of this decision is undertaken by the President and CEO.

An "unfair burden" is generally understood to mean having a substantial financial impact. Recognizing that the rate-setting model imposes financial limits on employer's assessment rates, there must be other compelling reasons or unusual or extraordinary situations an employer is facing before the WCB considers applying paragraph 82(4)(d). A burden is regarded as unfair when it imposes disadvantages other employers would not face in similar circumstances or when the impact is clearly unwarranted for the situation at hand.

In determining whether an employer is unfairly burdened by compensation costs awarded to workers of the employer, the WCB may consider a number of factors including:

- What effect will this claim have on the employer's assessment rates and over what period of time?
- Will there be any additional financial effects other than the assessment rate?
- What is the degree or magnitude of the financial burden?
- Could the burden threaten the employer's viability?
- Is the impact outside the realm of what was reasonably anticipated in the design of the rate-setting model?
- Has the employer taken all reasonable steps to control its own costs by investing in injury prevention and disability management?

SCHEDULE I

WORK EXPERIENCE PROGRAM

The WCB will provide Cost Relief to deemed employers (work experience employers) when their workers (trainees) are injured in an accident during a work experience program described in policy 35.10.60, *Coverage under a Work Experience Program.* When Cost Relief is provided, the removed costs are charged to the Work Experience Program Fund**.**

SCHEDULE J

PUBLIC INTEREST EMERGENCY ACTIONS

The WCB may provide Cost Relief to the Accident Employer if an injury or illness occurs in circumstances described in policy 44.10.70.50, *Public Interest Emergency Actions.*