

WCB Policy 31.10.50, Collections Administrative Guidelines

Please include the Board-Approved policy when referencing guidelines as they are intended to provide clarity and direction to ensure consistent administrative application of the policy.

The employers who must, or opt to, have coverage with the Workers Compensation Board of Manitoba (the "WCB") are obligated to pay their premiums in a timely manner as outlined on their Account Statement.

The following guidelines provide information about these financial obligations and the process that occurs when an employer fails to make a payment on time.

Collection Actions

Assessment Accounts will be referred to the Finance department immediately after a payment has been missed or when an employer anticipates not being able to meet their current payment obligations.

The WCB and the employer will attempt to mutually reach an agreement for the employer to remit the missed payment.

Progressive collection action will be taken as the overdue account ages.

The WCB will pursue collections from any liable party including:

- An employer
- A director of the corporation
- A principal for whom the employer has performed work in the capacity of a contractor
- A purchaser of the employer's business

Dishonoured Payments

A \$20.00 NSF fee will be charged on all dishonoured payments. The WCB will advise the employer in writing to replace the dishonoured payment.

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Initial Collection Efforts

When an account becomes 15 days past due and is \$5.00 or more, the WCB will send a collection letter to the employer reminding them that their premium has not been received and offering the various payment methods available. They are:

- Visa or Mastercard (only for accounts with an annual premium of \$10,000 or less)
 - ♦ online at www.wcb.mb.ca,
 - ♦ over the phone , or
 - ♦ in person at the WCB Assessment Department offices.
- Debit can be used online at www.wcb.mb.ca or in person at the WCB's Assessment Department offices.
- Telephone/Online Banking or in person at most financial institutions in Canada
- Cheque mailed or dropped off at any of the WCB offices.

The WCB may also attempt to contact the employer throughout this process in an effort to collect the outstanding amount.

Advanced Collection Efforts

Once an account becomes 45 days past due, and the balance is \$100 or more, any remaining installments will be revoked, and the employer's total annual premium becomes due and payable immediately. (For more information on installment payments, refer to *WCB Policy 35.05.20, Paying and Refunding Premiums* and its administrative guidelines). The WCB may also revoke any remaining installments on accounts owing less than \$100.

The WCB will send a second collection letter advising the employer that their total premium is due and requires immediate payment. If payment is not received after 15 days from the date of the letter, the WCB may:

- agree to a negotiated payment arrangement, or
- refer the account to an external collection agency, or
- pursue legal action.

The WCB may also attempt to contact the employer throughout this process by other means in an effort to collect the outstanding amount.

Directors Liability and Corporations

When a corporation's account becomes 60 days past due and the amount owing for the corporation exceeds \$1,000.00, the WCB will send a letter to all of the directors of the corporation as listed at the Companies Office. The directors will be advised they are each (jointly and severally) liable for the portion of the corporation's debt that exceeds \$1,000.00.

If the account remains outstanding the WCB may:

- agree to a negotiated payment arrangement, or
- refer the account and the directors liability to an external collection agency, or
- pursue legal action against the corporation and each director.

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The WCB may also attempt to contact the employer and/or the directors throughout this process in an effort to collect the outstanding amount.

Conditions of Negotiated Payment Arrangements

In order to satisfy an outstanding debt to the WCB, an employer may need to make installment payments that are not consistent with the installment options outlined in *WCB Policy 35.05.20, Paying and Refunding Premiums* and its administrative guidelines.

Negotiated payment arrangements will be approved if the terms and payment methods are acceptable to the WCB. Generally the account balance must be paid off by end of year. Acceptable payment methods include:

- Post-dated cheques
- Pre-authorized debit
- Pre-authorized credit card (only for accounts with an annual premium of \$10,000 or less)

If the agreed-to payment terms are not met or payments are dishonoured, the negotiated payment arrangement will be revoked and the employer's total premiums will become due and payable immediately.

The WCB will refer the account to a collection agency or take legal action based on the full balance of the account.

Legal Action

If an account balance continues to be unresolved, legal action will be taken. The employer will be responsible to pay for the costs of the action.

Legal action will include any or all of the following:

- Garnishment of earnings, personal and business bank accounts, or money owed to the employer by any third party.
- Judgment against personal or business property.
- Seizure and sale of personal and business assets.
- Temporary or permanent closure of business operations.

Sale or Purchase of a Business

Purchasers of a business (where inventory, equipment, receivables or intangibles are included in the sale) need to obtain a Disposition of Business Enterprise Certificate before paying any money to the previous business owner.

If such a certificate is not obtained, the purchaser will be responsible to pay any amounts owing to the WCB by the previous business owner.

Right to Offset Monies Owed to the WCB

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Monies payable by the WCB, i.e. to an employer or individual, will be used to reduce any indebtedness to the WCB.

Liability of a Principal or Contractor

If the WCB is unable to collect from an employer, it may collect the amounts owing from any principal or contractor who hires the defaulting employer. Under *The Workers Compensation Act*, a principal or contractor can be jointly liable for any premiums due on the labour portion of a contract to be paid or already paid out to the employer while in default. The premium may be levied upon and collected from either of them, or partly from one and partly from the other.

Notification of Insolvency

When the WCB receives notification that an employer has filed for Bankruptcy, Receivership or *Companies' Creditors Arrangement Act* ("CCAA") protection, the WCB will take immediate action to file a Proof of Claim to secure any debt owing. As an unsecured creditor, the WCB may be eligible to receive any of the proceeds available from the insolvency process.

- All account correspondence will be directed to the Trustee or Receiver Manager.
- Final payroll information will be obtained and relevant adjustments made to close the account.
- If the employer or Receiver Manager continues to operate the business after the date of insolvency, a new account will be opened, based on an estimate of payroll by the employer or Receiver Manager from the date of insolvency to the end of the calendar year.
- The WCB will pursue any non-bankrupt partners or directors for their liability under the *Act* in the form of legal action against property or assets.
- The WCB will refund credit balances, to the respective Trustee or Receiver Manager in accordance with *WCB Policy 35.05.20, Paying and Refunding Premiums* and its administrative guidelines.

Unrecoverable Accounts

If an account is closed and all attempts to collect the outstanding balance have been unsuccessful, the WCB may deem the balance unrecoverable. In this case, the balance will not be eliminated, but attempts to collect the balance will be suspended. Should the circumstances change in the future to facilitate further collection efforts, or should the employer reactivate their account with the WCB, any outstanding balance will be due and payable immediately.

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