

Section	Policy
30	35.10.120

Section Title: Finance, Assessments and Administration - *Assessments*  
Subject: Terms and Conditions of Optional and Personal Coverage  
Effective Date: Applies to optional coverage purchased or renewed on or after June 1, 2011

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## **A. POLICY PURPOSE**

*The Workers Compensation Act* (the Act) gives the Workers Compensation Board (the WCB) authority to extend optional coverage to businesses in non-mandatory industries, and personal coverage to employers, directors and independent contractors.

This policy sets out the terms and conditions applicable to a business, employer, director or independent contractor when optional or personal coverage is extended.

## **B. POLICY**

### **General**

1. In this policy:
  - a. extending coverage to a business in a non-mandatory industry is referred to as selling optional coverage;
  - b. extending coverage to an employer (including a sole proprietor or a partner in a partnership), a director or an independent contractor is referred to as selling personal coverage; and
  - c. the term self-employed person means an employer, a director and an independent contractor.
2. The WCB may, but is not required to, sell optional coverage with respect to a business in a non-mandatory industry or personal coverage to a self-employed person. Where the WCB agrees to sell such coverage, it may do so on terms and conditions. When optional or personal coverage is sold, the resulting workers are entitled to all of the benefits and services set out in the Act subject to whatever limits are contained in the terms and conditions of coverage.
3. The WCB is committed to providing coverage to as many workers as possible. It will ordinarily sell optional or personal coverage upon request. However, there are instances when an application for coverage will be denied. Typically that will occur where the business involves, or the self-employed person engages in, an activity that is very high risk and is not similar to industries already covered by the WCB. In those cases, the WCB may be unable to adequately assess the risk in order to set an appropriate assessment rate. As a result, the WCB may refuse to sell optional or personal coverage in order to maintain the financial integrity of the accident fund.
4. The maximum optional/personal coverage ("MOC") which can be purchased and upon which wage loss and fatality benefits will be calculated is \$400,000 annually per worker or self-employed person. The MOC will be adjusted annually by applying the indexing factor set out in section 47 of the Act. The adjusted level will be rounded to the nearest \$10 and set out in an Appendix to this policy.
5. The minimum level of earnings for personal coverage which can be purchased by a self-employed person is \$20,597, effective January 1, 2011. This level will be adjusted annually by applying the indexing factor set out in section 47 of the Act. The adjusted level will be rounded to the nearest \$10 and set out in an Appendix to this policy.
6. In general, all policies of the Board of Directors, including policies relating to the calculation of average earnings, net average earnings and recurrences, apply to the calculation of benefits where optional or personal coverage has been purchased subject to the limits on coverage described in this policy.

**Non-Mandatory Industries**

7. When an employer in a non-mandatory industry purchases optional coverage for its business, it must purchase coverage for all of its workers involved in that business. It cannot selectively cover or exclude workers or groups of workers within a single business. When an employer has more than one distinct business, it may purchase coverage for one business but not the other.
8. Assessment rates will be calculated on assessable payroll in the same manner as assessment rates are calculated for businesses in mandatory industries.
9. An employer who has purchased optional coverage for its business is entitled to the same benefits and has the same duties and obligations as any other employer whose business is covered under the Act.

Concurrent Earnings

10. Where a worker suffers a loss of concurrent earnings (i.e. earnings from a non-accident employer) as a result of a compensable injury, concurrent earnings will be included in the calculation of wage loss and fatality benefits up to the MOC. Wage loss benefits will be limited to the MOC on the date of accident indexed in the same manner as average earnings are indexed by subsection 40(2) of the Act (the "MOC indexed"), regardless of the amount of concurrent earnings lost.

Recurrences

11. Subject to policy 44.80.30.20, *Post Accident Earnings - Deemed Earning Capacity*, where a worker suffers a loss of earning capacity as a result of a recurrence, the worker's wage loss benefits will be calculated in accordance with Policy 44.10.20.50.10, *Recurring Effects of Injuries and Illness*, except that they will be limited by the greater of the MOC indexed or MOC in effect on the date of recurrence.

**Self-Employed Persons**

12. The amount of personal coverage purchased by a self-employed person should accurately reflect his or her actual earnings. To verify this, the WCB requires proof of the person's level of earnings when: he or she renews or applies for personal coverage; or a claim is filed for wage loss or fatality benefits. The level of earnings may be verified by the individual's tax return as reported to the Canada Revenue Agency (CRA), audited financial statements or other independent sources of information. The WCB may also request the supporting documents used to prepare the income tax returns or audited financial statements.
13. Wage loss and fatality benefits will be calculated in accordance with Policy 44.80.10.10, *Average Earnings*, but they will also be limited by the circumstances described in paragraphs 15, 16 and 17.
14. Upon the self-employed person's request, the WCB refunds the difference between the premiums already paid and the premiums that would have been paid based on the lower earnings figure where a claim for wage loss benefits or fatality benefits is filed and accepted for a self-employed person and the person's actual earnings are lower than the level of coverage purchased, This refund is subject to the minimum annual assessment set out in Manitoba Regulation (MR) 15/2015, *Interest, Penalties and Financial Matters Regulation*.

Concurrent Earnings

15. When, as a result of a compensable injury, the self-employed person suffers a loss of earning capacity in respect of another employer in addition to the self-employed income for which he or she has purchased coverage, wage loss and fatality benefits will be calculated in accordance with Policy 44.80.10.10 – *Average Earnings* but will be limited to:

- a. loss of self-employed income to a maximum of coverage purchased; plus
- b. loss of income from the concurrent employment;

to a maximum of MOC indexed.

#### Recurrences

16. For the purpose of determining maximum entitlement in relation to the business for which the self-employed person purchased coverage in years subsequent to the date of accident, the coverage purchased will be indexed in the same manner as average earnings are indexed by subsection 40(2) of the Act ("coverage indexed").
17. Subject to Policy 44.80.30.20, *Post Accident Earnings - Deemed Earning Capacity*, when a self-employed person suffers a loss of earning capacity as a result of a recurrence, his or her wage-loss benefits will be calculated in accordance with Policy 44.10.20.50.10, *Recurring Effects of Injuries and Illness*, except that they will be limited to:
  - a. loss of self-employed income to the greater of coverage indexed or coverage in place at the time of the recurrence; plus
  - b. loss of income from concurrent employment;to a maximum of the greater of the MOC indexed or MOC in effect on the date of recurrence.

#### **C. REFERENCES**

*The Workers Compensation Act*, sections 74 and 75

#### **History:**

1. Policy 35.10.120 passed by Board Order 16/09 effective July 1, 2009, to limit wage loss and fatality benefits payable under optional or personal coverage.
2. Policy revised by Board Order No. 08/11 on April 28, 2011. Changes include: establishing and adjusting the minimum level of earnings for personal coverage and allowing the substantiation of earnings at time of injury, purchase or renewal of personal coverage.
3. Minor formatting and wording changes were made to the policy and the policy title was amended, June 27, 2012.
4. Updated section 14 to reference Manitoba Regulation 15/2015 - December 2016.
5. In October 2020, Appendices A and B were revised to show the relevant 5-year history. In addition, the history section was reduced by removing entries related to appendices updates. Minor formatting changes were also made to the policy.
6. Additional minor formatting changes were made to the policy, January 2021.

**APPENDIX A**

Maximum Optional/Personal Coverage (MOC)

<b>Effective Date</b>	<b>\$</b>
January 1, 2021	528,590
January 1, 2020	513,990
January 1, 2019	502,200
January 1, 2018	489,010
January 1, 2017	481,930

**APPENDIX B**

Minimum Level of Earnings for Personal Coverage

<b>Effective Date</b>	<b>\$</b>
January 1, 2021	26,010
January 1, 2020	25,290
January 1, 2019	24,710
January 1, 2018	24,060
January 1, 2017	23,710