

Section	Policy
40	43.10.50

Section Title: Benefits Administration – *Vocational Rehabilitation*
Subject: Rehabilitation for Spouses or Common-law Partners of Deceased Workers
Effective Date: January 1, 2006

A. POLICY PURPOSE

Under *The Workers Compensation Act* (the Act), the WCB may provide academic or vocational assistance to surviving dependant spouses or common-law partners of deceased workers to assist them in becoming employable or increasing their earning capacity. While participation by surviving spouses or common-law partners is voluntary, it should be offered to all eligible individuals.

The intent of this policy is to minimize the impact of the death of a worker by assisting the spouse or common-law partner to become more self-sufficient before WCB survivors' benefits end. Given the individual's personal circumstances, the goal of this policy is to maximize the employability or earning capacity of the spouse or common-law partner. Through this policy, the WCB provides academic or vocational assistance to help a spouse or common-law partner who is committed and motivated to become more self-sufficient.

This policy explains how and when and for how long rehabilitation for spouses or common-law partners will be provided.

Assistance under the Act does not affect entitlement to other benefits provided under the Act. Nor does it create any additional entitlement beyond what is provided for in the Act.

This policy applies to fatalities resulting from accidents on or after January 1, 2006.

B. POLICY

1. The WCB will generally offer the opportunity for academic or vocational rehabilitation services to all surviving spouses or common-law partners. The exceptions are when:
 - a. the spouse or common-law partner is an invalid. In the Act, an "invalid" is a person who is physically or mentally incapable of earning.
 - b. the spouse or common-law partner is 50 years of age or older and qualifies for an extension of monthly payments under subsection 29(9). These payments may be extended because the results of a vocational assessment indicate to the WCB that the spouse or common-law partner is likely incapable of finding and keeping employment. This suggests that the spouse or common-law partner has no earning capacity.
2. Surviving spouses or common-law partners may request academic or vocational rehabilitation at any time during the period in which they are entitled to receive monthly payments under the Act, regardless of whether the monthly payment is taken as a lump sum. However, spouses or common-law partners who require assistance should make their request as soon as practicable to allow time to explore, develop, implement and complete the most suitable academic or vocational plan within the entitlement period.
3. The goal of this rehabilitation assistance is to minimize the impact of the worker's death on the surviving family by maximizing the employability or earning capacity of the surviving spouse or common-law partner.

4. When a surviving spouse or common-law partner requests vocational rehabilitation assistance, the WCB will assess the individual's personal circumstances, vocational goals, skills and work experience to determine the feasibility, extent and timing of cost-effective vocational rehabilitation assistance.
5. Rehabilitation assistance will normally include training costs (e.g., tuition, books, supplies, etc.), and reimbursement for additional costs incurred as a result of participating in the rehabilitation plan (e.g., travel expenses, child care expenses, etc.).
6. When a spouse or common-law partner is employed, but at a minimal level, and this employment is a barrier to participating in vocational rehabilitation, the WCB may replace net employment income foregone to enable participation in a rehabilitation plan. The maximum annual net employment income that the WCB will replace is set out in Appendix A. The total maximum net employment income that the WCB will replace is three times the maximum annual net employment income. Net employment income means gross employment income less the probable deductions for income tax, CPP and EI premiums.

The maximum annual net employment 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 dollar.

To be eligible for net employment income replacement, the WCB must consider that the spouse or common-law partner has a strong probability of significantly improving employability and earning capacity as a result of the rehabilitation program. Net employment income replacement will only be paid while the spouse or common-law partner is actively participating in the plan.

7. Vocational rehabilitation assistance will end when the WCB considers that the spouse's or common-law partner's maximum vocational/earning capacity has been attained, or when the entitlement to monthly benefits provided under the Act ends, whichever occurs first.

However, a rehabilitation plan that is substantially completed when entitlement to monthly benefits ends may, under exceptional circumstances, be supported to completion when the spouse's or common-law partner's progress in the rehabilitation plan is satisfactory to the WCB.

No new plans will be started after entitlement to monthly benefits has ended, but the WCB will offer transitional services similar to those offered to injured workers leaving the WCB benefits system.

8. When more than one spouse or common-law partner is eligible for monthly payments, all spouses and common-law partners are eligible for consideration under this policy.

C. REFERENCES

The Workers Compensation Act, section 33 (on or after January 1, 2006)

Policy 43.00, *Vocational Rehabilitation*

Policy 44.110.55, *Spousal or Common-law Partner Options - Undue Hardship*

History:

1. Policy 43.10.50, *Spousal Rehabilitation*, established by Board Order 35/92, effective January 1, 1992.
2. Policy revised to expand opportunities for spousal rehabilitation. Approved by Board Order 13/00 on April 27, 2000. Revised policy effective for fatalities on or after January 1, 2000. Former policy re-issued as 43.10.50.01.

3. Administrative Guidelines have been revised – February 2003.
4. Policy 43.10.50 approved by Board Order No. 22/05 on June 29, 2005. The revised policy is effective January 1, 2006. Revisions to the policy include: changing the title of the policy, eliminating the reference to the maximum insurable earnings, adding the phrase “or common-law partner” after “spouse” and adjusting the maximum annual net employment income level. Board Order No. 13/00 was rescinded on June 29, 2005, and re-issued to the Policy Manual as 43.10.50.01. It will continue to apply to fatalities resulting from accidents on or after January 1, 2000, and prior to January 1, 2006.
5. Minor formatting, grammar, and wording changes were made to the policy, June 27, 2012.
6. In October 2020, Appendix A was revised to show only the relevant 5 year history. In addition, the history section was reduced by removing entries related to appendix updates and minor formatting changes were made.
7. Minor formatting changes were made to the policy February 2021.

D. ADMINISTRATIVE GUIDELINES

1. Vocational rehabilitation assistance may result from an application by the surviving spouse or common-law partner. This assistance may be provided from an initiative and proposal by the WCB. It is a voluntary choice by the surviving spouse or common-law partner on whether or not to pursue or accept this assistance.
2. The major focus of the initial contact should be to offer support and determine the need for vocational rehabilitation services. The WCB should assess whether the spouse or common-law partner wishes to enter the labour force in the near future.
3. To support a training or re-training program, the WCB must determine that the surviving spouse or common-law partner has the entry qualifications and a reasonable prospect of success. Where this is not the case, the WCB will assist the spouse or common-law partner in exploring other alternatives.
4. Some factors to consider in assessing the spouse’s or common-law partner’s employment potential could include such things as marketable work skills, communication skills, physical capabilities, and current job market conditions/trends.
5. Eligibility for net employment income replacement will be determined on a case-by-case basis using the criteria set out in Section 6 of this policy. Net employment income replacement will be paid under rehabilitation expense code R69.
6. The WCB should review any proposed plan extensions due to exceptional circumstances. Key factors to consider when deciding whether an extension is appropriate include how close the plan is to being completed, the spouse’s or common-law partner’s progress in the plan to date and the prospects for a successful plan outcome.

APPENDIX A

Maximum Annual Net Employment Income

Effective Date	\$
January 1, 2024	34,202
January 1, 2023	32,682
January 1, 2022	31,961
January 1, 2021	30,723
January 1, 2020	29,874

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