

| Section | Policy |
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| 40 | 44.100.10 |

Section Title: Benefits Administration - *Other Entitlements*
Subject: Lump-Sum Commutations
Effective Date: Requests for pension commutations received on or after January 1, 2017

A. POLICY PURPOSE

Many workers who were injured prior to January 1, 1992, and had a permanent disability as a result of that injury, received a monthly pension for life. This pension is called a Permanent Partial Disability Award (PPD). Some of these workers may convert their pension benefits to a lump-sum payment.

If the total combined permanent disability rating does not exceed ten percent, the worker has the option of receiving a lifetime monthly benefit or a lump-sum payment. If, however, the total combined permanent disability rating is greater than ten percent, the WCB must decide whether the worker's request for a lump-sum payment should be granted. The purpose of this policy is to establish the circumstances when the Workers Compensation Board (WCB) will pay these lump-sum amounts when requested by the worker. All references to *The Workers Compensation Act* (the Act) in this policy refer to the Act as it existed prior to 1992.

B. POLICY

1. DEFINITIONS

Commutation: The conversion of a periodic pension payment to a lump-sum payment.

Future Financial Hardship: In this policy a future financial hardship would occur if a worker, after commuting the PPD award, loses a significant amount of that worker's future income and has minimal alternative sources of income.

2. GENERAL STATEMENT

The WCB will approve a worker's request for commutation except under certain limited circumstances. These are:

- a) when the worker's life expectancy is clearly affected by a serious illness; or
- b) when, in the opinion of the WCB, it is likely that the worker would suffer future financial hardship as a result of the commutation.

3. SERIOUS ILLNESS

Under the Act, the pension benefits are payable to the worker for life. The WCB may not make a lump sum payment when it is likely that the amount is greater than the present value of the worker's future pension payments. Therefore, if the worker's life expectancy is clearly affected by a serious illness, the WCB will not commute the worker's pension.

This requirement does not prevent the WCB from providing partial commutations to seriously ill workers for humanitarian purposes as long as the partial commutation would not exceed the commuted value of the pension for the period in which the pension would likely be paid.

4. MONTHLY PENSION

If there is no serious illness, the WCB will approve the request and will not attempt to determine whether there is a likelihood of future financial hardship if:

- a) the worker is under 65 and the pension is less than \$250 per month; or
- b) the worker is 65 or over and the worker's pension is less than the basic monthly Old Age Security Pension.

However, the WCB may refuse the commutation if the worker's compensable condition is likely to worsen in the near future and, as a result, the worker's monthly pension would be increased to an amount greater than the amounts established in this policy.

If the worker's pension is above the amounts established in this section, then the WCB will determine whether there is a likelihood of a future financial hardship.

5. FUTURE FINANCIAL HARDSHIP - SPECIAL ADDITIONAL COMPENSATION OR LONG-TERM WAGE LOSS

If the worker's pension is above the amounts established in this policy and the worker is in receipt of Special Additional Compensation or long-term wage loss, the WCB has already recognized that the pension is "a significant amount of the worker's future income" and the commutation will not be granted.

6. FUTURE FINANCIAL HARDSHIP - CRITERIA

If the worker's pension is above the amounts established in this policy, and the worker does not receive Special Additional Compensation or long-term wage loss, the commutation will be granted unless the WCB determines that worker is likely to suffer a future financial hardship. The questions the WCB will consider for determining whether the future financial hardship is likely to occur are:

- How much does the worker currently rely on the pension?
- How much income does the worker have from other sources?
- What is the likelihood that the worker will be able to maintain the income from other sources?

7. LUMP SUM AMOUNT

The lump sum amount will be calculated based on interest rates and mortality tables outlined in WCB policy 44.100, *Interest Rates*.

8. INDEPENDENT FINANCIAL ADVICE

The worker may obtain independent financial advice if the lump sum amount is greater than \$30,000 regardless of the worker's total combined permanent disability rating. The WCB will pay up to an amount set out in Table A for this advice when the financial advisor meets the criteria set out in this policy.

The option to obtain independent financial advice is solely for the purpose of assisting eligible workers in making an informed choice among their options under the Act. It is not meant to provide extensive long-term investment counselling or other tax or estate planning. The cost of any additional financial advice other than for the above purpose or other expenses in obtaining the above financial advice, such as travel costs, will be at the expense of the worker.

A person with a professional accounting or certified financial planning designation or a financial advisor with a minimum experience of five (5) years dealing with periodic pension payments and lump sums may provide independent financial advice on the type of payment decision (pension or lump sum) at WCB expense. The designation or experience of the financial advisor must be indicated on the invoice submitted to the WCB.

The WCB will periodically review the maximum fee payable for independent financial advice set out in this policy and WCB policy 44.100.20, *Annuities*. The fee may be adjusted to reflect current market rates.

C. REFERENCES

The Workers Compensation Act (as it existed prior to January 1, 1992), subsections 26(2) and 40(4)

The Workers Compensation Act (on or after January 1, 1992), section 109.4

Related WCB Policies:

44.100, *Interest Rates*

44.100.20, *Annuities*

History:

1. Board Order 186/84 limited discretion for commutation of pensions under subsection 26(2) of *The Workers Compensation Act*.
2. Board Order 197/88 - Lump Sum Settlements/Full or Partial Commutation of Permanent Partial Disability Awards approved December 14, 1988. Board Order 186/84 rescinded.
3. Policy 44.100.10 - Lump Sum Settlement Eligibility approved by Board Order 32/91 on December 17, 1991. Effective retroactive to September 1, 1991. Board Order 197/88 rescinded.
4. Clarification of Policy 44.100.10 approved by Board Order 3/92 on January 27, 1992.
5. Policy 44.100.10 revised by Board Order 45/92 to provide ability to recognize unique situations, effective September 28, 1992 (Point B.6).
6. Revised authority levels in section F approved by the WCB March 2, 1993.
7. Policy updated for current position and division titles, May 2, 1994.
8. Definitions as approved by the Board of Directors on January 27, 1992, re-incorporated into the Policy Manual and references updated January 11, 1995.
9. Effective application date confirmed by the Board of Directors, September 26, 1995.
10. Policy amended effective June 1, 2000, by Board Order 13/00 on April 27, 2000.
11. Policy clarified effective June 1, 2000, by Board Order 12/02 on March 22, 2002.
12. Policy 44.100.10 approved by Board Order 12/07 on March 31, 2007. The revised policy is effective April 1, 2007, for lump sum commutation requests on or after this date. Revisions to the policy include: clarifying the interest rates and mortality tables used to determine the lump sum amounts and expanding the list of individuals with professional designations who may provide independent financial advice. Former policy re-issued to Policy Manual as 44.100.10.01.
13. Minor formatting, wording, and grammatical changes were made to the policy June 27, 2012
14. Policy amended effective January 1, 2017 by Board Order 26/2016 on September 29, 2016. Policy revisions increased the maximum fee for independent financial advice, synchronized adjustments to this fee with the financial advice fee set out in policy 44.100.20, *Annuities* and clarified that the worker's total combined permanent disability rating determines whether the worker has the option of a lump-sum commutation or must request a lump-sum commutation.
15. Minor formatting changes were made to the policy, August 2021.

Table A - Maximum Fee Payable for Independent Financial Advice

| Effective Date | \$ |
|---|-----|
| Pension Commutation requested on or after June 1, 2000 | 400 |
| Pension Commutation requested on or after January 1, 2017 | 625 |