

Section	Policy
40	44.60.20.01

Section Title: Benefits Administration - *Wage Loss*
Subject: Date of Retirement
Effective Date: January 1, 2001 for accidents prior to January 1, 2006

A. POLICY PURPOSE

When a worker who is capable of employment voluntarily retires or withdraws from the labour force, the Workers Compensation Board (WCB) will complete a new review of his or her loss of earning capacity. This policy provides the WCB with a set of principles for determining when a worker is retired from the labour force.

This policy applies to all claims with accidents prior to January 1, 2006.

B. POLICY

Generally a worker's date of retirement will be considered to be the date when the worker reaches age 65, or, where the worker is age 63 or over at the date of accident, two years after the date of accident.

The WCB may consider that the worker has retired prior to these ages if the evidence supports the conclusion that the worker has voluntarily retired or withdrawn from the labour force. Examples of situations where the worker may be considered to have retired include:

- a) The worker provides the WCB with information about an expected retirement date that is earlier than the dates established in *The Workers Compensation Act*.
- b) The worker (prior to the work-related accident) had definite and documented plans for an early retirement.
- c) The WCB may consider several indicators that will help to establish a retirement date and adopt the most appropriate date. Among these indicators are:
 - The worker has taken actions, such as refusal to co-operate in rehabilitation or refusal to seek or accept available employment that could be based on a decision to retire.
 - The worker has accepted a company or union retirement pension, unless the worker demonstrates a continuing commitment to the labour force. The WCB recognizes that some individuals may apply for and receive retirement benefits without intending to retire or completely withdraw from the labour force. Therefore, the existence of the pension plan and the amount of the pension as a percentage of the worker's pre-accident average earnings will be weighed against the evidence of the worker's continuing commitment to the labour force.
 - The worker is in receipt of CPP retirement benefits, unless the worker demonstrates a continuing commitment to the labour force.
 - Where the WCB has reason to believe that the worker intends to retire in the near future, it will evaluate the worker's individual situation. Factors to be considered that might suggest that the worker has retirement plans include the availability and amount of personal pension plans, the typical retirement age for the worker's occupation, the worker's general health, and any other relevant information. These must be weighed against evidence that the worker is still in the labour force or attempting to re-enter it by co-operating in rehabilitation or actively seeking employment.

C. REFERENCES

The Workers Compensation Act, sections 24(1) 27(20), 40(2), 44(2), 45, and 46 (Prior to January 1, 1992)

The Workers Compensation Act, sections 39(2) & (3) (On or After January 1, 1992)

Related WCB Policies:

44.60.30, *Special Additional Compensation*

44.80.10.10, *Average Earnings*

44.80.30.10, *Establishing Post-Accident Earning Capacity*

44.80.30.20, *Post-Accident Earnings – Deemed Earning Capacity*

44.80.80.10, *Wage Loss Benefits – Temporary Partial Disability*

44.80.80.20, *Loss of Earning Capacity Reviews*

History:

1. Retirement criteria included in *Augmentation Awards* Policy effective January 1, 1985 (Board Order 18/85), and in all subsequent *Special Additional Compensation* policies or guidelines since then (see History section of Policy 44.60.30).
2. Separate policy 44.60.20, *Date of Retirement*, established by Board Order 15/00 on May 30, 2000, effective January 1, 2001.
3. Policy 44.60.20 amended by Board Order 18/05 on May 26, 2005 effective January 1, 2006 for accidents on or after January 1, 2006. Former policy reissued as 44.60.20.01.
4. October 2019 - Effective date clarified as Policy 44.60.20.01 applies to accidents prior to January 1, 2006.
5. Minor formatting changes were made to the policy, July 2021.