

Section	Policy
20	22.70.40

Section Title: Board and Corporate Administration - Legal
Subject: Employer Obligations to Pay and Repay Workers
Effective Date: For accidents occurring on or after January 1, 2022

A. POLICY PURPOSE

The Workers Compensation Act (the Act) requires employers to:

- pay workers their full wages and benefits for the day of their workplace accident; and
- repay workers any amounts they have improperly deducted from workers' wages or benefits, or required workers to contribute, in certain circumstances.

Where the employer fails to comply with these statutory obligations, the Act allows the Workers Compensation Board (WCB) to reimburse the worker, and to collect the amount of the reimbursement from the employer as a debt owing to the WCB.

This policy describes:

- the circumstances in which the employer is obligated to pay or repay the worker;
- the consequences employers may face for failing to comply with their payment/repayment obligations; and
- when the WCB will exercise its authority to reimburse the worker.

B. POLICY

I. Payment for Day of Accident

Under subsections 4(1.1) to (1.3) of the Act, when a worker is injured in an accident and is unable to work during any part of the day of the accident, the accident employer is required to pay the worker full wages and benefits for that day. Employers are prohibited from charging such payments against a worker's sick leave or any other benefit entitlements.

A worker may be employed with more than one employer when they suffer a compensable injury. Concurrent employers are not obligated to pay a worker their wages and benefits for the day of accident when the worker is injured while working for another employer.

If the WCB determines that the worker has not suffered a compensable injury, the accident employer may recover any amount previously paid to the worker for the day of accident.

The WCB may impose an administrative penalty against an employer for failing to pay full wages and benefits to the worker for the date of the accident or for deducting from the worker's sick pay entitlement or other benefits to cover the costs of the payment to the worker. WCB Policy 22.20, *Compliance and Enforcement*, provides guidance on when the WCB will impose administrative penalties.

II. Repayment of Unauthorized Deductions or Contributions

Section 15 of the Act prohibits employers from deducting sums from workers' wages or benefits, or alternatively, requiring or permitting workers to contribute amounts, to cover the cost of employers' liabilities under the Act.

Section 16 makes it an offence for an employer to make such deductions, or require or permit such contributions, and obligates employers to repay workers the amounts of these unauthorized deductions or contributions.

Employers may be subject to an administrative penalty for deducting sums from workers' wages or benefits, or requiring or permitting contributions from the worker to cover the cost of employers' liabilities under the Act.

Policy 22.20 provides guidance on when the WCB will impose administrative penalties.

III. Reimbursement by the WCB

Where the WCB determines that:

- an employer has not fulfilled its statutory obligation to pay a worker's full wages or benefits for the date of the accident, or has charged such payments against the worker's sick leave or other benefit entitlements; or
- an employer has deducted sums from a worker's wages or benefits, or required or permitted a worker to contribute amounts, to cover the cost of employers' liabilities under the Act;

the WCB may reimburse the worker for the amounts the employer owes the worker.

Before reimbursing the worker, the WCB will contact the employer and advise them of their obligation to pay or repay the worker. If the WCB determines that the employer is not taking reasonable steps to fulfil the obligation to pay or repay or is incapable of doing so, the WCB will reimburse the worker.

The employer must pay the WCB the amount of the reimbursement. If the employer does not do so, the WCB may collect this money from the employer as a debt owing to the WCB. The employer's obligation to pay the WCB is in addition to any administrative penalty that the WCB may impose on the employer for their failure to pay or repay the worker.

C. REFERENCES

The Workers Compensation Act, subsections 4(1.1)-(1.3), sections 15, 16, 85, 104 and 109.7

Related WCB Policies:

WCB Policy 22.20, *Compliance and Enforcement*

History:

1. New policy approved by Board Order 18/21 on June 17, 2021 effective for accidents occurring on or after January 1, 2022. Policy 22.70.40 outlines the employer's obligation to pay or repay their worker, the consequences employers face for failing to comply with this obligation, and when the WCB will reimburse the worker.

2. Policy 22.70.30.10, *Employer Obligation to Pay a Worker for the Day of Accident*, was rescinded by Board Order 18/21 effective on January 1, 2022 and removed from the WCB Policy Manual. The rescinded policy applied to accidents occurring between 2006 and 2021.
3. In September 2022, the policy was revised to reflect the new title of the amended policy 22.20, *Program Abuse*, which is now the *Compliance and Enforcement* policy.