

Title: Finance, Assessments and Administration - *Accounting and Finance*
Subject: Recoveries from Third Parties
Effective Date: January 22, 1976

A. POLICY PURPOSE

As provided for in *The Workers Compensation Act*, when funds are recovered by the WCB from third parties as a result of legal action arising from an accident, any excess over the costs incurred by the WCB, including benefits awarded, will be paid to the claimant.

If the WCB recovers an amount of money that is less than the amount of compensation the worker is entitled to, then the WCB will keep the recovered amount and apply it to reduce the costs of compensation. The worker will still be entitled to the full amount of compensation he or she would have received had an action not been taken.

This policy describes when and how third-party recoveries are processed and excess recoveries are calculated and paid.

B. POLICY

1. Before any excess money from a third party recovery is paid to a claimant, the injured worker's condition must have reached a point where disability, both temporary and permanent (for accidents before January 1, 1992) or impairment (for accidents on or after January 1, 1992), can be defined.
2. All claim costs are to be offset against the gross recovery, including the following:
 - a) All benefits paid and known at the date of review.
 - b) Legal fees and costs incurred in the action or settlement.
 - c) WCB administrative expenses as determined by the WCB.
3. Any further compensation awarded, other than by reason of a statutory increase in benefits, will be reduced by the amount of excess third party recovery paid to the claimant. When deducting the excess from further compensation, the WCB may adjust the rate of deduction so as not to cause unreasonable financial hardship to the claimant.
4. Third party recoveries will be credited to the firm cost experience to which the compensation and other costs were initially charged.

C. REFERENCES

The Workers Compensation Act, sections 9(2), and 10

History:

1. Policy on payment of excess third party recoveries to claimants approved by the Board of Commissioners on January 22, 1976.
2. Policy re-written and approved for issue to the Policy Manual as Policy 31.10.40, by Board Order 9/91 on June 19, 1991.
3. Policy amended by Board Order 14/02 on April 30, 2002, to clarify it also applies to accidents on or after January 1, 1992 and to incorporate that financial hardship will be considered when deducting further benefits from an excess recovery already paid out (previously included in Procedural Guidelines)
4. Minor formatting and grammatical changes were made to the policy, June 27, 2012.
5. Minor formatting changes were made to the policy, October 2020.
6. Policy 31.10.40, *Recoveries from Third Parties* was rescinded by Board Order 15/23 on April 19, 2023 effective April 30, 2023. The repealed policy was removed from the WCB Policy Manual and archived.