Workers Compensation Board of Manitoba

Policy # **31.05.10**

Section Title:	Finance, Assessments and Administration – Accounting & Finance
Subject:	Cost Relief/Cost Transfer - Class E Employers
Effective Date:	This policy applies to all cost relief and cost transfer decisions made on or after January 1, 2023, and any reconsiderations and appeals of these decisions.

A. POLICY PURPOSE

Section 73 of *The Workers Compensation Act* (Act) groups employers into four broad classes (Classes B to E). Class E Employers pay for the costs of the workers compensation system based on their payroll and Claim Costs Experience. These employers are subject to the collective liability provisions of the Act. Employers in Classes B to D are individually liable for the claim costs of their workers plus their share of administrative costs of the workers compensation system.

This policy provides a framework for the removal of claim costs from a Class E Employer's Claim Costs Experience and assigning them to a collective cost pool (Cost Relief) and for the transfer of claim costs from a Class E Employer to another employer in Classes B to E (Cost Transfer).

Policy 31.05.15, *Cost Transfer - Individually Assessed Employers*, provides a framework for the removal of claim costs from the Claim Costs Accounts of employers in Classes B to D through Cost Transfer.

Appendix A to this policy is a glossary of commonly used terms.

GOAL

The goal of Cost Relief and Cost Transfer is to ensure fairness and accountability for employers. To achieve this goal, the Workers Compensation Board (WCB) may re-allocate claim costs to reflect collective or individual responsibility.

CIRCUMSTANCES FOR COST RELIEF OR COST TRANSFER

As described in the attached Schedules, the WCB will provide Cost Relief or Cost Transfer to Class E Employers in the following circumstances:

- A worker's pre-existing condition contributes to the severity of their work-related injury or significantly prolongs their recovery. See Schedule A - *Pre-Existing Conditions*.
- There are compensation costs arising from other earning sources (i.e. part of the worker's average earnings which are not attributable to the Accident Employer). See Schedule B - *Additional Compensation Costs*.
- The worker sustains a secondary injury that is caused by an intervening event over which the WCB exercises direct, specific control, or caused by the delivery of treatment for their previous workplace accident. See Schedule C - *Secondary Injury*.
- Expenditures are incurred for preventive rehabilitation measures, the worker sustains a new injury that occurs while they are in a temporary job placement arranged by the WCB, or the worker sustains a new injury that occurs while they are in a vocational rehabilitation training program sponsored by the WCB. See Schedule D - *Rehabilitation Program Expenditures*.
- The claim involves cumulative trauma or long-latency occupational disease. See Schedule E - *Cumulative Trauma and Long-Latency Occupational Disease*.
- The claim involves negligence by another covered employer or the worker(s) of another covered employer. See Schedule F - *Negligence*.
- The WCB pursues a Third Party action on behalf of an injured or deceased worker of a Class E Employer, or negotiates cost-sharing with Manitoba Public Insurance for a motor vehicle accident. See Schedule G - *Third Party Actions and Motor Vehicle Accidents*.
- A declared worker sustains a workplace accident while participating in a work experience program described in policy 35.10.60, *Coverage under a Work Experience Program*. See Schedule H - *Work Experience Program*.
- In the course of their employment, a worker is injured while providing assistance to a member of the general public in distress. See Schedule I - *Public Interest Emergency Actions*.

During the course of a worker's claim, an employer may be eligible for Cost Relief or Cost Transfer under more than one schedule.

PROCESS

Except for circumstances dealt with in Schedules F and G, the process for Cost Relief and Cost Transfer is as follows:

- Initially, all claim costs are charged to the Claim Costs Experience of the Accident Employer.
- Based on information provided, the WCB considers and processes Cost Relief and Cost Transfers when the Class E Employer is eligible under this policy.
- If Cost Relief is provided, the removed costs are charged to the Cost Apportionment Fund or the Work Experience Program Fund, as applicable.
- If Cost Transfer is provided, the removed costs are transferred from a Class E Employer to another employer.
- If Cost Relief or Cost Transfer is provided, the removed costs may alter the Accident Employer's Claim Costs Experience for the applicable Experience Period.
- The Accident Employer's revised Claim Costs Experience will be used to calculate their assessment rate(s) for future years that fall within the Experience Period for the claim.
- The Accident Employer's revised Claim Costs Experience **may also** be used to recalculate the employer's assessment rate(s) in current and prior years that fall within the Experience Period for the claim, but only when the Cost Relief or Cost Transfer amount associated with a specific claim meets or exceeds the monetary threshold for the Rate-Setting Year set out in Appendix B.
- The rules respecting the retroactive recalculation of assessment rates arising from Cost Transfers apply both when employers have claim costs transferred to their Claim Costs Experience, and when they have claim costs transferred away from their Claim Costs Experience.
- Under WCB Policy 31.05.30, *Allocation of Surplus Distribution among Class E Employers*, the WCB may distribute surplus funds back to employers. Since the amount of surplus funds provided to employers is based on premiums paid in a year, a retroactive recalculation of assessment rates may impact the amount of surplus funds payable.
- Under WCB Policy 52.40, *Prevention Rebate Program*, an employer may be eligible for a prevention rebate. Since the prevention rebate payable to employers is based on premiums paid in a year, a retroactive recalculation of assessment rates may impact the amount of prevention rebate payable.

- Appendix C provides an example to illustrate the process the WCB uses to determine whether an employer's assessment rates will be recalculated.
- Further information on calculating assessment rates for Class E Employers is available in Policy 31.05.05, *Rate-Setting Model for Class E Employers*.

Other Processes

The process for Cost Transfer and Cost Relief for claims involving negligence is set out in Schedule F - *Negligence*.

The process for Cost Relief for claims involving Third Party actions and motor vehicle accidents is set out in Schedule G - *Third Party Actions and Motor Vehicle Accidents*. Schedule G also sets out the process for transferring costs away from the Accident Employer pending the recovery of claim costs from a Third Party or Manitoba Public Insurance.

B. REFERENCES

The Workers Compensation Act, sections or subsections 17(3), 28(1.1), 28(2), 40(5), 40(7), 45(2), 45(3), 45(4), 45(5), 73, 76.7, 77.1, 81(1), 81(3), 82(4), 82(5), 105

Manitoba Regulation 132/2020, *Adjustment in Compensation Regulation*

Adjustment in Compensation Tables

Interjurisdictional Agreement on Workers' Compensation

The Manitoba Public Insurance Corporation Act, section 195

Related WCB Policies:
31.05.05, *Rate Setting Model for Class E Employers*
31.05.15, *Cost Transfer - Individually Assessed Employers*
31.05.30, *Allocation of Surplus Distribution among Class E Employers*
31.10.40, *Recoveries from Third Parties*
35.10.60, *Coverage under a Work Experience Program*
35.40.50, *Overpayment of Benefits*
43.10.60, *Preventive Vocational Rehabilitation*
44.05.30, *Adjudication of Psychological Injury Claims*
44.10.20.10, *Pre-existing Conditions*
44.10.20.60, *Recurring Effects of Injuries and Illnesses (Recurrences*)
44.10.80.40, *Secondary Injury*

44.20, *Adjudication of Occupational Disease Claims*
44.20.50.20, *Noise-Induced Hearing Loss*
44.80.10.10, *Average Earnings*
44.80.10.40, *Net Average Earnings*
44.80.30.30, *Determining Average Earnings for Apprentices, Youthful Workers and Working Students*
44.90.10, Permanent Impairment Rating, and Schedules A and B
52.40, *Prevention Rebate Program*

History:

1. Policy 31.05.10, *Cost Relief/Cost Transfer - Class E*, established by Board Order 16/17 on June 28, 2017, effective for all cost relief and cost transfer decisions made on or after January 1, 2018 and any reconsiderations and appeals of these decisions. The policy was created in conjunction with the transition to a new rate-setting model. The previous policy, 31.05.10, *Cost Relief/Cost Transfers*, covered both Class E and self-insured employers. In addition to the new Policy 31.05.10, a separate policy was created for self-insured employers: policy 31.05.15, *Cost Transfer - Self Insured*. The former policy was reissued as 31.05.10.01 *Cost Relief/Cost Transfers* and will apply to decisions made from October 1, 2014 to December 31, 2017 and any reconsiderations or appeals of those decisions.
2. Under Appendix A, the term "Claim Costs Account" was revised to provide an expressed reference to policy 44.20.50.20, *Noise-Induced Hearing Loss*. Policy 44.20.50.20 allocates noise-induced hearing loss claim costs among employers.
3. In March 2020, the policy was revised to refer to Manitoba Regulation 01/2020, *Adjustment in Compensation Regulation*. Appendix B was revised to show only the relevant 5 year history. As well, entries related to Appendix B indexing were removed from the history section.
4. Minor formatting changes were made to the policy, October 2020.
5. Reference section updated to refer to Manitoba Regulation 132/2020, *Adjustment in Compensation Regulation*, on March 18, 2021.
6. Reference section and Appendix B updated to refer to the *Adjustment in Compensation Tables* on December 2, 2021.
7. In March 2022, the new title and number of the Recurrences policy was updated in the reference section. As well, the new title of policy 44.10.80.40, *Further Separate Injuries Subsequent to a Compensable Injury,* was updated in the policy, reference section and Schedule C.
8. In May 2022, Schedule H (Unfair Burden) of the policy was revised to reflect changes in organizational structure. The effective date and application of Schedule C was clarified specific to current policy 44.10.80.40, *Secondary*

Injury, and previous policy 44.10.80.40, *Further Separate Injuries Subsequent to a Compensable Injury*.

9. In September 2022, policy revisions respond to a change in terminology that was introduced by amendments to *The Workers Compensation Act* (the Act) by *The Minor Amendments and Corrections Act (MACA), 2022*. The term "self-insured employer" was replaced with "individually assessed employer" wherever it occurs. The title of the policy was renamed to *Cost Relief/Cost Transfer - Class E Employers*. The policy was also changed to reflect the new titles of policy 31.05.15, *Cost Transfer - Self Insured*, and the amended policies 35.10.120, *Terms and Conditions of Optional and Personal Coverage and* 44.20, *Disease/General*, which are now the *Cost Transfer - Individually Assessed Employers* policy, *Terms and Conditions of Optional Coverage* policy and the *Adjudication of Occupational Disease Claims* policy, respectively. The policy was further updated to reflect the renumbering of subsection 1(12.1) to subsection 28(1.1) and the reduction of the number of classes for assessment purposes from five to four by *The Workers Compensation Amendment Act* (commonly referred to as Bill 18).
10. Policy was revised by Board Order No. 41/22 on December 15, 2022 effective for all decisions on or after January 1, 2023. Policy changes include expanding the criteria for the removal of claim costs in some cases, and narrowing or clarifying them in others. Cost relief is provided for the additional claim costs associated with future changes in earning capacity for working students or workers with confirmed job offers. Cost transfer is provided for situations where a worker's psychological injury is caused by exposure to a series of traumatic events with more than one employer. Schedule H - Unfair Burden has been removed. Cost relief of 100% for pre-existing conditions has been eliminated. The dollar threshold applicable before the WCB would provide cost relief or cost transfer for claims involving negligence or third party has been raised and will be indexed annually. The revised threshold is the same monetary threshold used for retroactively recalculating assessment rates. Cost relief or cost transfer is mandatory when the criteria in the various schedules have been met. The process for retroactively recalculating assessment rates was clarified. An example has been added to illustrate how these determinations are made. Changes also include specifying when cost relief is provided for secondary injuries, and distinguishing between the accident employer and different employers to properly award cost relief. The separate and distinct adjudication and reconsideration processes for cost relief or cost transfer decisions involving negligence and a third party have been eliminated.

Appendix A - Glossary of Terms

Accident Employer: Generally, the accident employer is the worker's employer at the time of injury. However, in the case of cumulative trauma and occupational disease, the Accident Employer will be the last employer at which the worker was exposed to the agent or traumatic event, or engaged in the work activity or process that caused their injury or disease.

Claim Costs Account (Individually Assessed Employer): For the applicable calendar period, the Individually Assessed Employer's Claim Costs Account includes:

- Claim costs assigned to the individual employer; and
- Claim costs which are transferred to the Individually Assessed Employer under policies 31.05.10, *Cost Relief/Cost Transfer - Class E Employers*, 31.05.15, *Cost Transfer - Individually Assessed Employers, and* 44.20.50.20*, Noise-Induced Hearing Loss*.

Claim Costs Experience (Class E Employer): For the applicable Experience Period, the Class E Employer's Claim Costs Experience includes:

- Claim costs assigned to the individual employer;
- Proxy costs which may be assigned as a result of an accepted fatality claim; and
- Claim costs which are transferred to the Class E Employer under policies 31.05.10, *Cost Relief/Cost Transfer - Class E Employers*, 31.05.15, *Cost Transfer - Individually Assessed Employers*, 31.05.20, *Transfer of Assessment Rates, and Claim Costs Experience on Change of Ownership* or the *Interjurisdictional Agreement on Workers' Compensation (IJA)*.

Class E Employers: Those employers who pay for the costs of the workers compensation system based on their payroll and Claim Costs Experience. These employers are subject to the collective liability provisions of the Act.

Cost Apportionment Fund: The fund designated in paragraph 81(1)(c) of the Act to cover the claim costs that are not entirely or directly assigned to Class E Employers.

Cost Recovery: The process of recovering claim costs through a Third Party action or the Cost Recovery Agreement between the WCB and Manitoba Public Insurance.

Cost Relief: The process of moving claim costs from the Claim Costs Experience of the Class E Employer to collective cost pools. Costs will either be moved to the Cost Apportionment Fund or the Work Experience Program Fund, depending on the circumstances.

Cost Transfer: The process of moving claim costs from the Claim Costs Experience of the Accident Employer to another employer.

Costs Excluded from Rate Setting (Class E Employer): The Costs Excluded from Rate Setting for a Class E Employer are as follows:

- the costs incurred for claims with accident years outside the experience period;
- the costs transferred to Interim Administrative Accounts for interjurisdictional claims, and claims involving a third party or a work-related motor vehicle accident;
- ineligible (disallowed) claims;
- translation or interpretation services;
- courier or mail delivery expenses;
- compliance investigative (surveillance) costs;
- WCB medical advisor fees;
- group life insurance benefits;
- medical review panel expenses;
- external legal counsel fees or expenses;
- payment for full wages and benefits for the day of the accident or the repayment of unauthorized deductions or contributions; and
- claim costs relieved or transferred as provided for in policies 31.05.10, *Cost Relief/Cost Transfer - Class E Employers*, 35.40.50, *Overpayment of Benefits*, and 44.20.50.20, *Noise-Induced Hearing Loss* or the *Interjurisdictional Agreement on Workers' Compensation (IJA)*.

Experience Period: The time period and claim accident years the WCB uses to determine a Class E Employer's Rate-Setting Claim Costs. Since 2020, the Experience Period has been a rolling, three-year period commencing four years before the current year and ending two years before the current year. For example, to calculate an employer's assessment rate for 2024, the WCB

would include claim costs for all worker injury claims made in 2020, 2021, and 2022 where the employer was the Accident Employer.

Individually Assessed Employers: Employers in Classes B to D who are individually assessed for the claim costs of their workers plus their share of administrative costs of the workers compensation system.

Interim Administrative Account: An account to which claim costs are transferred pending the recovery of claim costs under the *Interjurisdictional Agreement on Workers' Compensation (IJA), or* from a Third Party or Manitoba Public Insurance under Schedule G.

Rate-Setting Claim Costs (Class E Employer): The Claim Costs Experience for claims in the Experience Period less the Costs Excluded from Rate Setting.

Rate-Setting Year: The upcoming calendar year for which the WCB is currently setting assessment rates. For example, in 2023 the WCB set 2024 assessment rates. The Rate-Setting Year is 2024.

Third Party: A Third Party is someone who is neither a worker nor an employer under the Act.

Work Experience Program Fund: The fund designated in paragraph 81(1)(h) of the Act to cover the claim costs of persons declared to be workers under a work experience program.

Appendix B - Threshold Amount

Threshold Amount for Recalculation of Current Year and Prior Years Assessment Rates

Threshold Amount ($)	Rate-Setting Year
16,750	2027
16,140	2026
15,720	2025
15,100	2024
14,430	2023

The threshold amount is set by subsection 28(2) of the Act and indexed annually. The *Adjustment in Compensation Tables* display these threshold amounts.

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

Appendix C - Example of the process the WCB uses to determine whether an employer's assessment rate(s) will be retroactively recalculated

Assume that a 2020 claim was awarded 50% cost relief in 2023 for a pre-existing condition that significantly prolonged a worker's recovery. The costs for this claim were $19,500 in 2020, another $10,500 in costs occurred in 2021 plus an additional $4,000 in costs in 2022.

A 2020 claim and its costs affect three rate-setting years (2022, 2023 and 2024).

Experience Period

The experience period for this claim's three rate-setting years is:

2022 Assessment Rate
- costs paid in 2020 on a 2020 claim.

2023 Assessment Rate
- costs paid in 2020 and 2021 on a 2020 claim.

2024 Assessment Rate
- costs paid in 2020, 2021 and 2022 on a 2020 claim.

Comparison Table

To determine whether current and prior year rates should be retroactively recalculated, cost relief amounts are compared to the monetary threshold for the Rate-Setting Year set out in Appendix B.

Comparison Table

Rate Setting Year	Costs by Rate-Setting Year	Cost Relief Amount based on 50% Cost Relief	Threshold Amount For 2023
2023	Total Costs $30,000 (which represents $19,500 in 2020 plus $10,500 in 2021)	$15,000	$14,430
2022	2020 costs: $19,500	$9,750	$14,110

The 2022 rate would not be recalculated since the cost relief amount in the 2022 rate-setting year ($9,750) is less than the threshold amount ($14,110) for that same rate-setting year.

The 2023 rate would be recalculated since the cost relief amount in the 2023 rate-setting year ($15,000) meets or exceeds the threshold amount ($14,430) for that same rate-setting year.

When the 2024 rate is calculated, the WCB will take into consideration the employer's cost relief amount of $17,000 [or $19,500+$10,500+$4,000 = $34,000 multiplied by 50% Cost Relief].

SCHEDULE A

PRE-EXISTING CONDITIONS

The WCB will provide Cost Relief to Accident Employers when a worker's pre-existing condition contributes to the severity of their work-related injury or significantly prolongs their recovery. Cost Relief will not be provided when the pre-existing condition stems from a previous workplace accident with the same Accident Employer.

As described in Policy 44.10.20.10, *Pre-existing Conditions*, a pre-existing condition is any medical condition the worker had prior to their work-related injury.

Cost Relief

When a worker's pre-existing condition:

- contributes to the severity of their work-related injury; or
- significantly prolongs their recovery, and the worker's time loss from work is greater than 12 weeks.

the WCB will provide the Accident Employer with Cost Relief in the amount of 50% of the claim costs, exclusive of the costs of any impairment award.

Impairment Awards
The WCB will not provide Cost Relief on any impairment award. Further guidance on determining the level of impairment rating is provided in policy 44.10.20.10, *Pre-existing Conditions*, and policy 44.90.10, *Permanent Impairment Rating*, and its Schedules.

Time Loss from Work
The WCB considers "time loss from work" to include any period in which full or partial wage loss benefits are paid. It also includes time where the worker was performing modified or alternative duties as a result of their workplace injury, regardless of whether the worker was paid for performing such duties.

SCHEDULE B

ADDITIONAL COMPENSATION COSTS

The WCB will provide Cost Relief to Accident Employers for compensation costs from earning sources other than the Accident Employer (i.e. part of the worker's average earnings which are **not** attributable to the Accident Employer).

These additional compensation costs are removed from the Accident Employer's Claim Costs Experience and charged to the Cost Apportionment Fund.

Recurrence

Sometimes, a worker will experience a recurrence of a previous workplace injury when working for an employer other than the Accident Employer. When the worker's net average earnings with the other employer are greater than the net average earnings (adjusted for statutory indexing) with the Accident Employer, only those compensation costs based on the worker's average earnings at the time of their original accident (adjusted for statutory indexing) will be charged to the Accident Employer's Claim Costs Experience. The Accident Employer will receive Cost Relief for additional compensation costs that are based on average earnings attributable to the other employer.

WCB Policy 44.10.20.60, *Recurring Effects of Injuries and Illnesses (Recurrences)*, provides guidance on the impact a recurrence has on the calculation and adjustment of a worker’s net average earnings.

Concurrent Employment

Sometimes, workers are employed with more than one employer when they suffer a workplace accident. In accordance with Policy 44.80.10.10, *Average Earnings*, a worker’s concurrent employment income is included in the calculation of average earnings when the worker’s ability to earn that income is affected by the compensable injury. However, the Accident Employer is only charged with the compensation costs based on average earnings with the Accident Employer (adjusted for statutory indexing). The Accident Employer will receive Cost Relief for additional compensation costs that are based on average earnings attributable to their other employer(s).

Probable Future Earning Capacity

Policy 44.80.30.30, *Determining Average Earnings for Apprentices, Youthful Workers and Working Students*, outlines how the WCB determines average earnings for apprentices, youthful workers, and working students, and when, on that basis, it adjusts their average earnings upwards to better reflect their future earning potential. The upward adjustments to average earnings these workers receive are unrelated to their average earnings with the Accident Employer. As a consequence, only those compensation costs based on these workers' average earnings with their Accident Employers (adjusted for statutory indexing) will be charged to the Accident Employer's Claim Costs Experience. The Accident Employer will receive Cost Relief for additional compensation costs that are based on average earnings adjustments made to reflect the future earning potential of these workers.

Adjustment of Net Average Earnings

The Act and policy 44.80.10.40, *Net Average Earnings*, allow the WCB to adjust the worker's net average earnings to better reflect the worker's probable earning capacity on the date of death. When the worker's date of death differs from their accident date and the worker dies as a result of an accident while employed with an employer other than the Accident Employer, the WCB may adjust the worker's net average earnings as provided in subsection 28(1.1) of the Act. If the WCB does so, only the compensation costs based on the average earnings (adjusted for statutory indexing) with the Accident Employer will be charged to the Accident Employer's Claim Costs Experience. The Accident Employer will receive Cost Relief for additional compensation costs that are based on the average earnings adjustments made to reflect the worker's probable future earning capacity with the different employer at the date of their death.

Future Change in Earning Capacity

Policy 44.80.10.10, *Average Earnings,* allows the WCB to adjust a worker's average earnings when the evidence demonstrates that the worker would have experienced a future change in earning capacity but for their workplace accident (i.e. there is sufficient evidence of an upcoming change in job or new job).

If the WCB adjusts the worker's average earnings to account for a future change in earning capacity due to evidence of an upcoming change in job or new job, only the compensation costs that are based on the average earnings with the Accident Employer (adjusted for statutory indexing) will be charged to the Accident Employer's Claim Costs Experience. The Accident Employer will receive Cost Relief for additional compensation costs that are based on the

average earnings adjustments made to reflect the worker's upcoming change of job or new job with a different employer.

Cost Relief will not be provided when the worker's average earnings are adjusted upward due to a change in job or new job with the Accident Employer.

SCHEDULE C

SECONDARY INJURY

Policy 44.10.80.40, *Secondary Injury*, explains when a secondary injury will be compensable.

Cost Relief will be provided to the Accident Employer when a secondary injury is caused by:

- an intervening event over which the WCB exercises direct, specific control; or
- the delivery of treatment for the previous workplace accident.

and additional compensation costs are paid.

Under policy 44.10.80.40, injuries that are part of the normal course of treatment and recovery, including known or expected complications, are not secondary injuries. Therefore, Cost Relief is not provided for such injuries.

SCHEDULE D

REHABILITATION PROGRAM EXPENDITURES

Preventive Rehabilitation
When preventive rehabilitation is provided under policy 43.10.60, *Preventive Vocational Rehabilitation*, the WCB will provide Cost Relief to the Accident Employer for the claim costs attributable to the preventive rehabilitation measures.

Vocational Rehabilitation Job Placements

(i) When the WCB places a worker in an active transitional program with a different employer and a new accident occurs, the WCB will provide Cost Relief to this other employer for the claim costs of the new accident. An active transitional program can include training on the job, work assessment and work experience.
(ii) When a worker has been placed in a permanent position with a different employer who is paying the worker's full wage or salary, and a new accident occurs, the claim costs of any new accident will be charged to this employer's Claim Costs Experience, subject to other provisions of this policy.

Training
When a worker suffers an accident in a training institution or other type of training program sponsored by the WCB, the WCB will provide Cost Relief to the Accident Employer for the claim costs of this accident.

SCHEDULE E

CUMULATIVE TRAUMA AND LONG-LATENCY OCCUPATIONAL DISEASE

Cumulative Trauma

In this policy, cumulative trauma means a combination of events or conditions related to a worker's work or workplace that results in injury to a worker. Cumulative trauma may include a series of repetitive work activities or processes. It may also include a series of traumatic events as that term is described in WCB Policy 44.05.30, *Adjudication of Psychological Injury Claims.*

Cost Transfer
When a worker's injury is a result of cumulative trauma experienced with more than one employer, claim costs will be transferred to employers with active WCB accounts in proportion to identifiable periods of engagement in repetitive work activities or processes, or identifiable periods of exposure to traumatic events, with each employer. The WCB will confirm that the worker engaged in work activities or processes, or was exposed to traumatic events in the employer's work or workplace which contributed to the development of the worker's injury.

Cost Relief
Cost Relief will be provided to the Class E Accident Employer when the WCB is unable to directly transfer some of the claim costs to other Class E Employers because:

(i) the worker's engagement in repetitive work activities or processes, or exposure to traumatic events in previous employment is identified but cannot be confirmed by the specific employer; or
(ii) part of the identified period of engagement or exposure was out-of-province; or
(iii) the employer is out-of-business.

Long-Latency Occupational Disease

While the WCB makes decisions regarding Cost Relief or Cost Transfer on a case-by-case basis, "long latency" is generally understood as involving a period of at least two years between the worker's last exposure to an agent, or

last engagement in a specific work activity or process, and the manifestation of their occupational disease.

When the Accident Employer is a Class E Employer, all claim costs are assigned to the Cost Apportionment Fund, with the following exception:

- When the worker was exposed to an agent, or engaged in a work activity or process, which caused their disease while they were previously employed with an Individually Assessed Employer, the Individually Assessed Employer is assigned its portion of the claim costs based upon the period of exposure or engagement.

If hearing loss has developed gradually over time as a result of exposure to noxious occupational noise levels, this claim is treated by the WCB as an occupational disease. Policy 44.20.50.20, *Noise-Induced Hearing Loss,* provides the WCB with adjudicative and entitlement guidance on this type of hearing loss claim. It also details the method for assigning costs among employers for noise-induced hearing loss claims.

SCHEDULE F

NEGLIGENCE

Under the Act, an injured worker (or their dependants) cannot sue the worker's covered employer, another covered employer, or a fellow worker if any of them caused the work-related injury or death. The only recourse the worker (or their dependants) has is to claim compensation under the Act. Subsection 82(4) of the Act gives the WCB discretion to remove the claim costs from an Accident Employer's Claim Costs Experience if the worker is injured or killed due to the negligence of another employer or the worker(s) of another employer.

Cost Transfer

If the WCB determines the worker's injury or death resulted in whole or in part from the negligence of another employer or the worker(s) of another employer, claim costs are transferred to the negligent employer's Claim Costs Experience (Class E Employer) or Claim Costs Account (Individually Assessed Employer) or to Claim Costs Experience or Claim Costs Account of employers whose workers were negligent.

The claim costs are transferred to the Claim Costs Experience or Claim Costs Account of other employers in proportion to the degree of negligence of each employer or worker.

The injured or deceased worker's own negligence may have contributed to the injury or death. If this is the case, the WCB will consider to what degree the worker was contributorily negligent when it determines the amount of claim costs to transfer to other employers.

Criteria for Cost Transfer
Cost Transfers will be made when the negligence of another party is established to the satisfaction of the WCB, and the worker's injury or death results in claim costs that meet or exceed the monetary threshold set out in Appendix D for a given year. The monetary claim threshold level is the net amount after costs are removed from the Accident Employer's Claim Costs Experience under schedules A to E and G to I of this policy or the Interjurisdictional Agreement on Worker's Compensation (IJA).

In making its determination of negligence, the WCB may consider a determination of negligence made by other sources.

Some examples of sources the WCB may use in its determination of negligence include:

- police reports;
- Workplace Safety and Health reports;
- Transportation Safety Board of Canada reports.

Cost Relief

In exceptional circumstances, Cost Relief may be provided to a Class E Accident Employer. Cost Relief to Class E Employers will be provided when the following criteria have been met:

(i) the injury or death results in claim costs that meet or exceed the monetary threshold set out in Appendix D for a given year; and

(ii) the WCB has determined to its satisfaction, after investigation, that:

a) the worker's injury or death involved negligence on the part of another employer or the worker(s) of another employer; and
b) the injured or deceased worker was not contributorily negligent ; and

(iii) the WCB has determined that a Cost Transfer to a negligent employer is not appropriate because:

a) the negligent employer is out-of-province or out-of-business, or;
b) the identity of the negligent employer cannot reasonably be determined, or;
c) further investigation is not feasible given the passage of time, lack of information, or excessive cost of investigation.

The monetary claim threshold level is the net amount after cost transfers under this schedule and costs removed from the Accident Employer's Claim Costs Experience under schedules A to E and G to I of this policy or the Interjurisdictional Agreement on Worker's Compensation (IJA).

Appendix D - Threshold Amount

Monetary Threshold Amount for a Given Year

Threshold Amount ($)	Year
16,750	2027
16,140	2026
15,720	2025
15,100	2024
14,430	2023

The threshold amount is set by subsection 28(2) of the Act and indexed annually. The *Adjustment in Compensation Tables* display these threshold amounts.

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

SCHEDULE G

THIRD PARTY ACTIONS AND MOTOR VEHICLE ACCIDENTS

Third Party Actions

Under the Act, an injured worker (or their dependants) cannot sue the worker's covered employer, another covered employer, or a fellow worker if any of them caused the work-related injury or death. Someone who is neither a worker nor an employer under the Act is called a "Third Party". Examples of a Third Party include members of the general public, the owner of a private residential property or an out-of-province manufacturer of a defective product.

When a worker is injured or killed through the fault or negligence of a Third Party, the injured worker (or their dependants) may elect to claim compensation under the Act or sue the Third Party. If the worker (or their dependants) elects to claim compensation, the right to sue belongs to the WCB. The WCB may decide to pursue legal action, in which case the WCB controls the lawsuit and bears all costs associated with it.

Transfer of Costs to Interim Administrative Account
If the WCB issues a Statement of Claim against a Third Party, all claim costs incurred are removed from the Accident Employer's Claim Costs Experience and placed into an Interim Administrative Account. The WCB will recalculate the Accident Employer's assessment rates with these costs removed and adjust the rates accordingly.

Following the resolution of the lawsuit, the claim costs and any recovery received will be allocated from the Interim Administrative Account back to the Accident Employer's Claim Costs Experience.

Cost Relief
In exceptional circumstances, Cost Relief may be provided to a Class E Accident Employer. Cost Relief to Class E Employers will only be provided when the following criteria have been met:

(i) the WCB determines that no action will be taken because the Third Party cannot be identified, has no assets, is not criminally responsible, the

action would not be in the public interest, or for other reasons as determined by the WCB; and

(ii) the injury or death results in claim costs that meet or exceed the monetary threshold set out in Appendix E for a given year.

The monetary claim threshold level is the net amount after all recoveries and costs removed from the Accident Employer's Claim Costs Experience under schedules A to F and H to I of this policy.

Appendix E - Threshold Amount

Monetary Threshold Amount for a Given Year

Threshold Amount ($)	Year
16,750	2027
16,140	2026
15,720	2025
15,100	2024
14,430	2023

The threshold amount is set by subsection 28(2) of the Act and indexed annually. The *Adjustment in Compensation Tables* display these threshold amounts.

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

Motor Vehicle Accidents

The Personal Injury Protection Plan (PIPP) is administered by Manitoba Public Insurance (MPI).

If the work-related injury or fatality involves a motor vehicle, the worker (or their dependants) may elect between workers compensation benefits and benefits under the PIPP system. Once a worker (or their dependants) elects with the WCB, the WCB will request cost recovery from MPI pursuant to the Cost Recovery Agreement between these two entities.

Transfer of Costs to Interim Administrative Account
When a worker of a Class E Employer is involved in a work-related motor vehicle accident and the claim is eligible for cost recovery from MPI, the WCB and MPI will arrange for cost sharing. In such cases, all claim costs incurred are removed from the Accident Employer's Claim Costs Experience and placed into an Interim Administrative Account. The WCB will recalculate the Accident Employer's assessment rates with these costs removed and adjust the rates accordingly.

Once cost sharing negotiations have been concluded between the WCB and MPI, the claim costs and any recovery received will be allocated from the Interim Administrative Account back to the Accident Employer's Claim Costs Experience.

In all cases involving motor vehicle accidents which are eligible for cost recovery from MPI, once a binding decision has been made between the WCB and MPI, there is no further entitlement to Cost Relief as provided under Schedule F - *Negligence*.

SCHEDULE H

WORK EXPERIENCE PROGRAM

The WCB will provide Cost Relief to deemed Class E Employers (work experience employers) when their workers (trainees) are injured in an accident during a work experience program described in policy 35.10.60, *Coverage under a Work Experience Program*.

SCHEDULE I
PUBLIC INTEREST EMERGENCY ACTIONS

The WCB will provide Cost Relief to the Accident Employer if:

- in the course of their employment, a worker is injured while providing assistance to a member of the general public in distress; and
- the WCB determines that the worker's assistance was necessary.