

## **Interim Relief – For Workers and Employers**

### **What are the issues?**

Interim relief is a new concept introduced by the WCB Review Panel and incorporated into recent changes to the *Workers' Compensation Act (WCA)*. Effective September 1, 2018, the *WCA* will allow interim relief to be granted “in accordance with policies established by the Board.”

Reviewing or appealing a WCB decision can add time and cost to the process for workers and employers. Interim relief was introduced to mitigate costs and ensure workers can meet basic costs of living and employers can continue carrying on business during the review or appeal process. Reviewing or appealing a WCB decision should not be cost prohibitive.

### **What is WCB proposing?**

The proposed new policy and policy applications provide:

- WCB may provide interim financial relief to workers and employers while matters are under review and appeal.
- Interim relief for workers ensures the worker is financially able to meet basic living expenses during the review and appeal process.
- Interim relief for employers ensures the employer is able to continue operating while a decision is under review or appeal.

Interim relief is not intended as a way for workers to prolong receiving full benefits or as a way for employers to delay paying invoices. The intent of the legislation and policy is to provide workers and employers with the added assistance they require during the review or appeal process.

### **How will costs be managed?**

Costs will be mitigated in the following ways:

- The review or appeal must have a reasonable chance of success for interim relief to be granted. This will keep costs manageable and ensure WCB's Dispute Resolution and Decision Review Body (DRDRB) and the Appeals Commission will be able to handle the additional requests for interim relief.
- For workers, interim relief is based on actual annual gross earnings or Minimum Personal Coverage, whichever is less (not full wage loss replacement, unless the workers' annual gross earnings are less than the Minimum Personal Coverage amount).

- For employers, once a review or appeal is finalized, the employer's account will be reconciled based on the final decision, so there will be no net financial losses due to interim relief granted to employers.

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### **WCB invites your input**

As this is a net new benefit, WCB is seeking your input on the proposed policy drafts. Do the policy documents provide a clear description of when and how interim relief will be provided?

The posting will be open for comment until **March 6, 2018**.

**Alberta WCB  
Policies &  
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Chapter:  
**GENERAL POLICIES**  
Subject:  
**INTERIM RELIEF**  
Authorization:  
**BoD Resolution**

Date:

**REFERENCE:**

[Workers' Compensation Act, RSA 2000, Sections 13.1, 45, and 119](#)

**POLICY:**

When an injured worker requests a review or an appeal of a decision affecting entitlement to wage replacement benefits, WCB may provide *interim relief to the worker* provided there is an arguable case.

WCB may also provide *interim relief to the employer* where the outcome of a decision under review or appeal may significantly impact an employer's ability to carry on business provided there is an arguable case.

This policy is effective September 1, 2018, and applies to reviews or appeals initiated on or after September 1, 2018, except when noted otherwise in specific policy section(s).

**INTERPRETATION:**

**1.0 Interim Relief for Workers**

Interim relief for workers is intended to ensure the worker is financially able to meet basic living expenses during the review and appeal process.

**2.0 Interim Relief for Employers**

Interim relief for employers is intended to ensure the employer is able to continue operating while a decision is under review or appeal.

**Please see Part II for additional information on the following subjects:**

**Application**

- 1 – [Interim Relief for Workers](#)
- 2 – [Interim Relief for Employers](#)

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**APPLICATION 1: INTERIM RELIEF FOR WORKERS**

**1. *When will WCB provide interim relief to a worker?***

WCB may provide interim relief to a worker while a decision is under review or appeal, in the following circumstances:

- if the review or appeal has a reasonable chance of success and is not frivolous, and
- if the decision under review or appeal hinges primarily on the weighing of evidence (particularly medical evidence), and
- if a different weighing of evidence would change the balance of probabilities in the worker’s favour, and
- if the decision under review or appeal affects the entitlement to wage loss benefits, and,
- if a reversal of the decision would result in a significant retroactive payment of wage replacement benefits, and
- if, without interim relief, the worker and his/her family would face financial hardship such as:
  - probable inability to provide necessities of life,
  - ineligibility for any other financial support,
  - probable forfeiture or seizure of assets (for example, home or car).

Interim relief will not be available if a worker submits multiple reviews or appeals separately in order to prolong the review or appeal process and collect interim relief more than one time on the same claim.

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**APPLICATION 1: INTERIM RELIEF FOR WORKERS**

**2. *What amount does WCB pay eligible workers?***

WCB pays eligible workers interim wage replacement benefits based on the lesser of:

- a) the worker’s annual gross earnings, or
- b) the Minimum Personal Coverage amount for the year the review or appeal is initiated (see Appendix F).

Partial disability benefits (for example, TEL, TPD) are paid proportionally.

**3. *For how long is the interim relief paid?***

Interim relief is payable from the date it is applied for and typically continues until the matter is decided at the respective review or appeal level.

When interim relief is granted, a hearing must be held within two months.

WCB or the Appeals Commission may grant interim relief with conditions. Should the worker fail to meet those conditions, the relief will be discontinued. Conditions may include such things as the worker pursuing the appeal with all due haste, being available for meetings or hearings and presenting no barriers or delays in the review or appeals process.

**4. *Who decides if interim relief should be provided?***

The worker can be granted interim relief by either the WCB Dispute Resolution and Decision Review Body (DRDRB) or the Appeals Commission.

Decisions made by the DRDRB regarding interim relief are appealable to the Appeals Commission.

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**APPLICATION 1: INTERIM RELIEF FOR WORKERS**

- 5. *Does a worker need to apply for interim relief to have it considered?* Yes, workers must submit a request to receive interim relief while a decision is under review or appeal, based on the criteria outlined in Question 1.
- 6. *What happens when the review or appeal is finalized?*

If the worker is successful and entitled to retroactive benefits, the value of the interim relief will be deducted from the arrears owing to the worker.

If the worker is not successful, the interim relief ends and WCB will not recover the interim benefit amount that was paid to the worker. If, however, there was deliberate misrepresentation or fraud on the part of the worker, WCB may recover the interim benefit amount paid.
- 7. *What happens to the charges resulting from providing interim relief to a worker?*

Interim relief costs are not charged to the employer’s account and instead are directed to the Accident Fund.

If the worker’s review or appeal is subsequently successful and the worker is entitled to interim relief and retroactive benefits, the interim relief costs will be removed and the new costs charged normally.
- 8. *When is this policy application effective?* This policy application (Application 1 – Interim Relief for Workers) is effective September 1, 2018, and applies to reviews or appeals initiated on or after September 1, 2018, except when noted otherwise in specific policy section(s).

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**APPLICATION 2: INTERIM RELIEF FOR EMPLOYERS**

**1. *When will WCB provide interim relief to an employer?***

WCB may provide interim relief to an employer:

- if the review or appeal has a reasonable chance of success and is not frivolous, and
- if the outcome of a decision under review or appeal could significantly impact the employer’s ability to continue operations.

Reviews or appeals for cost relief adjustments affecting an employer’s experience rating must, at the time of the review or appeal, fall within the time limits outlined in Policy 07-02, Part II, Application 2, Experience Rating.

Interim relief will not be available if an employer submits multiple reviews or appeals separately in order to prolong the review or appeal process and be granted interim relief more than one time to avoid paying invoices for an extended or indefinite period of time.

**2. *What type of relief is provided to eligible employers?***

WCB provides eligible employers interim relief in the form of delayed collection of the disputed portion(s) of an assessment while a matter is under review or appeal. Undisputed portions of the employer’s invoices are still payable.

Interim relief for employers is not the same as cost relief (see Policy 05-02, *Cost Relief*).

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**APPLICATION 2: INTERIM RELIEF FOR EMPLOYERS**

**3. *For how long is the interim relief provided?***

Relief is typically provided from the date it is applied for until the matter is decided at the respective review or appeal level.

When interim relief is granted, a hearing must be held within two months.

WCB or the Appeals Commission may grant interim relief with conditions. Should the employer fail to meet those conditions, the relief will be discontinued.

**4. *Who decides if interim relief should be provided?***

The employer can be granted interim relief by either the WCB Dispute Resolution and Decision Review Body (DRDRB) or the Appeals Commission.

Decisions made by the DRDRB regarding interim relief are appealable to the Appeals Commission.

**5. *Does an employer need to apply for interim relief to have it considered?***

Yes, employers must submit a request to receive interim relief while a decision is under review or appeal, based on the criteria outlined in Question 1.

**6. *What happens when the review or appeal is finalized?***

Once the review or appeal is finalized, the employer's account will be reconciled based on the final decision.

**7. *When is this policy application effective?***

This policy application (Application 2 – Interim Relief for Employers) is effective September 1, 2018, and applies to reviews or appeals initiated on or after September 1, 2018, except when noted otherwise in specific policy section(s).

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