

**Alberta WCB
Policies &
Information**

Chapter:

BENEFITS

Subject:

**SERVICES FOR WORKERS WITH SEVERE
INJURIES**

Authorization:

BoD Resolution 2010/10/31

Date:

November 30, 2010

APPLICATION 5: CO-DECISION-MAKERS, GUARDIANS AND TRUSTEES**1. *What do Co-decision-makers, Guardians and Trustees do?***

Court-appointed Co-decision-makers are responsible to guide, support, and make personal decisions with injured workers who have significantly impaired decision-making capacity. Personal decisions include decisions concerning personal well-being, place of residence, and health care. The specific scope of responsibility is determined in each case by the court.

In some situations the court will appoint a Guardian instead of a Co-decision-maker. Guardians are responsible for personal decisions including the personal well-being, place of residence, and health care of injured workers who lack capacity to make personal decisions. The specific scope of responsibility is determined in each case by the court.

Court-appointed Trustees are responsible for administering the worker's estate, and may be authorized to make decisions on financial matters like investments and disposal of personal property for workers who lack capacity to make financial decisions. As with Co-decision-makers and Guardians, the specific scope of responsibility is determined in each case by the court.

2. *Must there be a Co-decision-maker or Guardian, AND a Trustee?*

No, but if the worker needs a Co-decision-maker or Guardian, he or she will most likely also need a Trustee to care for financial matters. The Co-decision-maker or Guardian and the Trustee can be two individuals, or one person may be appointed as both.

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3. *How much financial assistance will WCB provide?*

WCB will only cover the legal costs necessary for a standard appointment of a legal Co-decision-maker or Guardian, and/or Trustee and the periodic reviews required by the Court.

WCB will not accept responsibility for any remuneration paid to the Co-decision-maker, Guardian, or Trustee or any other costs arising from the guardianship or trusteeship.

Legal Services coordinates the services and payment to legal counsel, based on a WCB-established fee schedule.

4. *Who is eligible for assistance?*

WCB may provide assistance when, as a direct result of a compensable injury, a worker is no longer competent, or has a significantly impaired capacity, to make personal or financial decisions. Financial assistance may be given to the worker's family (including an adult interdependent partner as defined in the *Adult Interdependent Relationship Act*), or any other private individual undertaking responsibility for the worker's well-being.

This financial assistance is normally for cases of permanent incapacity or impairment (e.g., permanent brain damage). If the worker's incapacity or impairment is expected to be temporary, WCB will consider the individual merits of the claim.

WCB may also provide financial assistance if, at the time of a worker's compensable death, the surviving spouse or dependant(s) is not competent, or has a significantly impaired capacity, to make personal or financial decisions.

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5. *Will WCB give financial assistance if a Co-decision-maker, Guardian, or Trustee is needed for reasons unrelated to the compensable injury?* WCB will only give assistance if the worker's incapacity is a direct consequence of the compensable injury. WCB does not accept responsibility for conditions (e.g., Alzheimer's disease) not caused by the injury.
- In the case of a deceased worker's dependants, financial assistance is given only when a court-appointed Co-decision-maker, Guardian, or Trustee is needed as an immediate consequence of the worker's death (e.g., if at the time of the death, the worker was solely responsible for the care of a dependent adult).
6. *What happens if the application is contested?* If an application is contested, WCB will only provide financial assistance to the successful applicant. The amount will not exceed the WCB-established fee schedule for an uncontested application.
7. *Can applicants choose their own lawyers?* If the applicant wishes the services of a lawyer, WCB will provide financial assistance in an amount up to, but not exceeding, the WCB-established fee schedule.
8. *When is this policy application effective?* This policy application (Application 5 – Co-decision-makers, Guardians and Trustees) is effective January 1, 2011, except when noted otherwise in a specific policy section(s).

Previous versions

- [Policy 0407 Part II - August 2015](#)
- [Policy 0407 Part II - January 2011](#)
- [Policy 0407 Part II - January 27, 2004](#)
- [Policy 0407 Part II - January 1, 2004](#)
- [Policy 0407 Part II - January 2000](#)
- [Policy 0407 Part II - June 1999](#)

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- [Policy 0407 Part II - February 1999](#)
- [Policy 0407 Part II \(consolidated manual 1st Issue\) - February 1997](#)