

Client Services Policy Manual

Policy Number: **EL-04 (B)**
Subject: **Overpayments**
Chapter: **Earnings Loss**

Definition

Overpayment

An overpayment occurs when WorkplaceNL receives information establishing that benefits, expenses or fees have been paid to workers, dependents, or employers in error or outside legislative authority.

Policy Statement

An overpayment only occurs when WorkplaceNL has the necessary information to identify it.

WorkplaceNL will make every reasonable effort to recover overpayments, will ensure that care is taken not to inflict financial hardship. Except as outlined in this policy, only overpayments that are identified by WorkplaceNL within one year from the date that they occur are recoverable. For example, WorkplaceNL will not recover an overpayment for an error in calculating the rate of compensation payable if the error is identified two years after it is made. However, the rate will be corrected from that date forward.

An overpayment will arise when a worker notifies WorkplaceNL that they are approved retroactively for Canada Pension Plan (CPP) disability benefits for a period when they also received compensation. Since an overpayment only occurs when WorkplaceNL has the necessary information to identify it, WorkplaceNL can consider the entire retroactive CPP amount in establishing the overpayment, even if the CPP retroactive amount covers a period of more than one year.

Workers must advise WorkplaceNL within 10 days of a change in their circumstances which may affect their entitlement to compensation. The one-year time limit does not apply where there is nondisclosure or misrepresentation to WorkplaceNL.

An overpayment shall not apply for amounts paid as a result of a discretionary decision, which is later reversed or amended as a result of new evidence or a reconsideration of existing evidence. However, the overpayment shall apply if

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the decision was as a result of misrepresentation or nondisclosure by the recipient.

In the case of fraud, misrepresentation or nondisclosure, recovery will not be limited to the one-year recovery time limit, nor will it be limited by financial hardship. Full repayment is expected and the guidelines under the General part of this policy do not apply. WorkplaceNL may refer cases of fraud, misrepresentation or nondisclosure for criminal prosecution where it determines appropriate.

General

Recovery Process

When a worker or an employer does not notify WorkplaceNL of a change made to the earnings paid during early and safe return to work prior to the payment of compensation, the overpayment is recovered through:

- Full repayment from the next compensation payment; or
- Full repayment from the overpaid party where no further compensation is payable.

All other overpayments (i.e., other than an early and safe return to work overpayment referred to above) may be recovered through:

1. Full repayment or reasonable instalments;
2. Deductions from further benefits or expenses on the current claim or on future claim; and
3. Legal action.

When WorkplaceNL identifies an overpayment, the worker will be advised in writing, within 60 days of the date the overpayment is identified, regarding the amount and cause of the overpayment. Workers will be given the opportunity to respond and be advised of their right to appeal should they disagree with the overpayment amount or recovery plan.

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When setting employer assessment rates, the unrecovered amount of an overpayment is included in the industry group's historical costs. However, overpayments are not included when calculating the PRIME experience incentive for an individual employer.

Overpayment Waived

Except where the conditions of fraud, nondisclosure or misrepresentation apply, collection of an overpayment to a worker or dependent shall be waived where:

1. WorkplaceNL did not notify the worker or dependent in writing within 60 days of identifying the overpayment;
2. WorkplaceNL identified the overpayment more than one year after it occurred;
3. WorkplaceNL determines that repayment of the overpayment will result in financial hardship due to circumstances which are unlikely to change. (Flexible recovery arrangements will be considered in cases where the inability to repay is temporary); or
4. Bankruptcy or death of the worker or dependent occurs.

*This policy applies to overpayments identified on or after the policy Original Effective Date.

Overpayments identified prior to the Original Effective Date of this policy amendment are not subject to the provisions of this policy. Overpayments identified prior to the Original Effective Date of this policy are subject to the provisions of Policy EL-04(A).

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Merits and Justice

It is important to consider Policy EN-22 Merits and Justice when making a decision under this policy.

Reference: Workplace Health, Safety and Compensation Act, sections 19, 64, 81, 83.1, 89 and 125
Policies: EL-03 (R) Canada Pension Plan Disability Benefits to be Deducted
EN-22 Merits and Justice
PR-01 PRIME Overview

Amendment History

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