

## Client Services Policy Manual

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

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### Definition

#### ***Overpayment***

An overpayment occurs when benefits, expenses or fees are paid to workers, dependents, employers, or service providers outside legislative authority. For example, the Act requires that Canada Pension Plan (C.P.P.) disability benefits must be offset from compensation. An overpayment will result when C.P.P. disability benefits are provided retroactively for a period during which compensation has been paid.

### Policy Statement

WorkplaceNL will make every reasonable effort to recover overpayments, although care must be taken not to inflict financial hardship. Regardless of the date the overpayment first occurred, only those monies overpaid within the 36 month period immediately prior to the date WorkplaceNL notifies the overpaid party are recoverable.

Benefits 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, shall not constitute an overpayment.

An overpayment will not be established for money paid during the month of the death where a worker or a dependent in receipt of a monthly benefit dies.

In the case of fraud, recovery will not be limited to the 36 month period immediately prior to the date WorkplaceNL notifies the overpaid party - full repayment will be expected. Where appropriate, cases will be referred for criminal prosecution.

### General

An overpayment may be recovered through:

- direct full repayment or reasonable instalments (by agreement);
- appropriate deductions from further benefits or expenses to be paid to an injured worker on the claim in which the overpayment occurred or on a future claim by the same worker, including 50% of future Permanent Functional Impairment (P.F.I.) benefits. However, an injured worker can agree to have more than the automatic 50% deducted from a P.F.I. benefit (these

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various terms will be acknowledged in repayment plan agreements);

- further fees payable to a service provider; or,
- legal action.

Persons from whom reimbursement is sought will be advised in writing of the amount and cause of overpayment. They will also be given the opportunity to respond and advised of their right to appeal should they disagree with the overpayment amount or recovery plan.

For employer assessment purposes, more precisely for setting employers' base rates, the unrecovered amount of an overpayment is included in the rate group's historical costs. However, overpayments are not included when calculating the experience-rated rate for an individual employer.

This policy applies to overpayments identified on or after the policy Effective Date, and prior to 1998 09 09. Overpayments identified on or after 1998 09 09 are subject to Policy EL-04(B) [Effective Date 1998 09 09].

**Reference:** *Workers' Compensation Act, R.S.N. 1990, c. W-11, Sections 19 and 64.*

### **Amendment History**

<i>Original Effective Date</i>	1987 08 20
<i>Revision #1</i>	1996 02 22