

Client Services Policy Manual

Policy Number: **EN-17**
Subject: **Interruptions and Delays in Work Injury Recovery**
Chapter: **Entitlement**

Policy Statement

Section 74 of the Act directs WorkplaceNL to estimate the effect of a work injury on the loss of earning capacity resulting from the injury and to ensure compensation to the worker on the basis of that loss. When work injury recovery is interrupted or delayed for reasons unrelated to the work injury, however, or when intervening, non-work-injury factors are the dominant cause of the loss of earning capacity, compensation may be suspended, reduced or terminated.

Section 54.1 of the Act requires injured workers to take all reasonable steps to reduce or eliminate permanent impairment and loss of earnings resulting from an injury; to seek out and co-operate in any medical aid or treatment that, in the opinion of WorkplaceNL, promotes recovery and return to work; to take all reasonable steps to provide to WorkplaceNL full and accurate information on a matter relevant to a claim for compensation; and to notify WorkplaceNL immediately of a change in circumstances that affects or may affect entitlement to compensation. Failure to do so may result in suspension, reduction or termination of compensation benefits.

WorkplaceNL will advise workers of the possible consequences of interruptions or delays in work injury recovery. And, WorkplaceNL will notify workers immediately whenever a decision affecting their compensation entitlement is made. All decisions shall consider the individual merits of the case.

General

The following guidelines [I. and II.] apply where medical treatment or assessment for a work injury is interrupted, or where non-work-injury factors intervene as the dominant cause of lost earning capacity, respectively:

I. Interruptions and Delays - Medical Treatment or Assessment

- a. When medical treatment or assessment for a work injury is interrupted or delayed due to acceptable circumstances beyond the worker's control, WorkplaceNL shall continue compensation payments to the worker.

Acceptable circumstances, for example, include unforeseen and unavoidable transportation difficulties, a family medical emergency or some other crisis requiring the worker's immediate attention.

Client Services Policy Manual

Policy Number:
Subject:
Chapter:

EN-17
Interruptions and Delays in Work Injury Recovery
Entitlement

Where such a delay or interruption occurs, WorkplaceNL shall ensure that missed medical appointments are rescheduled on a priority basis.

If a prolonged delay occurs WorkplaceNL may temporarily suspend compensation, but reinstate payments as soon as the worker is able to resume medical treatment or assessment.

- b. When medical treatment or assessment for a work injury is interrupted or delayed because a worker declines medically recommended treatment or assessment without valid cause, or, as may occur rarely, because a worker introduces barriers that cause interruption or delay, WorkplaceNL may suspend compensation payments to the worker effective the date the treatment or assessment is interrupted or delayed.

WorkplaceNL will make every effort to inform workers of the consequences of unnecessary delays or interruptions through ongoing dialogue, outgoing correspondence and its various publications. Where a worker contacts WorkplaceNL regarding potential delays that are within his/her control, WorkplaceNL will ensure the worker is fully aware of the possible consequences and provide the worker with an opportunity to take alternative measures or reconsider his/her choices.

Generally, it is the worker's responsibility to reschedule any missed appointments, treatments or assessments such as with the family physician, specialists, physiotherapists, etc. Where a delay involves an additional clinic or speciality healthcare program scheduled by WorkplaceNL's Medical Department (e.g. orthopaedic or neurosurgical clinics, chronic pain programs, etc.) and it is WorkplaceNL's responsibility to reschedule the missed appointment(s), WorkplaceNL will do so but will not displace other workers already on the waiting list.

WorkplaceNL shall resume payment of compensation to the worker effective the date that medical treatment or assessment actually commences.

Client Services Policy Manual

Policy Number: **EN-17**
Subject: **Interruptions and Delays in Work Injury Recovery**
Chapter: **Entitlement**

II. Intervening Non-Work Injury Factors as the Dominant Cause of Lost Earning Capacity

There will be situations where an intervening factor not associated with the work injury interferes with medical treatment or assessment for the work injury and/or becomes the dominant cause of loss of earning capacity. A dominant cause is one that with or without the presence of the work injury would have caused loss of earning capacity. Such non-work injury factors may affect earnings loss temporarily or permanently. In those kinds of cases the following guidelines apply:

i) When a Non-Work-Injury Factor Becomes the Dominant Cause of Lost Earning Capacity and Recovery From the Work Injury Is Imminent

If an injured worker is at or near full recovery when a non-work-related disability becomes the dominant cause of loss of earning capacity, compensation may be terminated. For example, where a worker concluding a work hardening program with medical clearance for work expected without delay or complication is involved in a non-work motor vehicle accident resulting in serious non-compensable injuries causing loss of earning capacity.

Decisions shall be based on the work injury prognosis and recovery status at the time of the non-work disability. Consultation with WorkplaceNL's Medical Officer and the worker's health care provider(s) shall be required.

ii) When a Non-Work-Injury Factor Becomes the Dominant Cause of Lost Earning Capacity and Recovery From the Work Injury is Not Imminent

Depending on the individual circumstances of the case, if an injured worker is not at or near full recovery when a non-work-related disability becomes the dominant cause of loss of earnings capacity, compensation may be suspended, terminated or reduced. For example, where a worker in the acute phase of a work injury or the early stages of treatment or assessment is involved in a non-work motor vehicle accident resulting in injuries that cause loss of earning capacity. The decision which must be made regarding compensation entitlement shall be made in consultation with WorkplaceNL's Medical Officer and the worker's health care

Client Services Policy Manual

Policy Number: **EN-17**
Subject: **Interruptions and Delays in Work Injury Recovery**
Chapter: **Entitlement**

provider(s), and the following guidelines apply:

a. Non-Work-Injury Factor is the Dominant Cause of Lost Earning Capacity and *Temporarily* Interrupts Recovery from the Work Injury:

If a non-work-injury factor is the dominant cause of lost earning capacity and *temporarily* interrupts treatment/assessment or programming for the work injury, compensation may be suspended **but** reinstated as soon as the worker is able to resume medical treatment/assessment or return-to-work programming.

For example, whiplash from a non-work motor vehicle accident renders the worker totally disabled for three weeks interrupting active medical treatment for the work injury. Compensation may be suspended, but reinstated when active medical treatment resumes.

b. Non-Work-Injury Factor is the Dominant Cause of Lost Earning Capacity *Permanently*:

If the non-work-injury factor is the dominant cause of lost earning capacity *permanently*, compensation benefits shall be terminated. For example, a non-work motor vehicle results in permanent paralysis or severe head injury. Compensation shall terminate as of the date of the decision.

III. Pregnancy

Usual medical treatment or assessments for a work injury may not be advisable where an injured worker is pregnant at the time of injury or during the recovery period. Where interruptions or delays of this nature occur, WorkplaceNL shall continue to pay compensation to the injured worker.

Where it is safe and medically recommended by the treating physician, WorkplaceNL may arrange suitable modified work programming during an interruption in order to maintain or improve the worker's physical capacity and reduce any negative effects which may be associated with inactivity.

However, compensation benefits will be suspended where an interruption occurs when factors directly associated with the

Client Services Policy Manual

Policy Number:

EN-17

Subject:

Interruptions and Delays in Work Injury Recovery

Chapter:

Entitlement

pregnancy itself become the dominant factor causing loss of earning capacity.

Pregnancy is considered the dominant disabling factor when, for example, the worker is admitted to hospital for delivery of the baby, or when medical complications associated with the pregnancy render the worker totally disabled. Benefits will be reinstated when the treating physician confirms the worker is fit to resume medical treatment, assessment or return-to-work programming.

IV. Extended Absence (Leaving the Locale)

To ensure that medical treatments or assessments are not jeopardized and to ensure that a worker's condition is not worsened (i.e. to confirm medical compatibility), injured workers shall contact WorkplaceNL before undertaking long distance travel.

Where an unauthorized absence from his or her locale, or from the province, interrupts or delays work injury recovery WorkplaceNL shall suspend compensation benefits. Benefits shall be reinstated when the missed medical treatment or assessment recommences. When a condition is worsened by the unauthorized travel, benefits shall be reinstated when the acute flare-up resolves; decisions are based on the work injury prognosis and recovery status at the beginning of the travel and must include consultation with WorkplaceNL's Medical Officer and the worker's health care provider(s).

V. Personal Healthcare Factors

A *personal healthcare factor* is one which the individual can positively influence in order to improve recovery from a work injury. Examples are weight loss and smoking.

Where medical treatment or assessment for a work injury is delayed because of personal health care factors, but the worker demonstrates positive control efforts which will eventually allow required medical treatment or assessment to proceed, WorkplaceNL shall continue to pay compensation for a reasonable period. WorkplaceNL's Medical Officer shall be consulted when determining a "reasonable period".

Client Services Policy Manual

Policy Number: **EN-17**
Subject: **Interruptions and Delays in Work Injury Recovery**
Chapter: **Entitlement**

Compensation payments may be suspended in those rare cases where a worker does not cooperate or demonstrates an unwillingness to participate in activities medically recommended to lessen the effects of personal healthcare factors which are delaying recovery or return to work. WorkplaceNL's Medical Officer shall be consulted when making such decisions. Each case shall be judged on its own merit.

Reference: *Workplace Health, Safety and Compensation Act (the Act), Section 5, 19, 54.1, 55, 62, 64, 74, and 82*
Policies RH-01 and RH-02

Amendment History

Original Effective Date 1999 06 01