

Client Services Procedure Manual

Procedure: 23.00

Subject: Proportionment

23.01 Introduction

The intent of section 51 of the Workplace Health, Safety and Compensation Act, 2022 is to ensure that compensation is payable for the proportion of the loss of earnings or permanent impairment that WorkplaceNL determines is attributable to the work injury. Entitlement to benefits is based on the degree of disability or loss of function associated with the work injury. If a non-work-related condition is aggravated, activated, or accelerated by the work injury or the work injury is aggravated, activated, or accelerated by a non-work factor, compensation is adjusted (or proportioned). Factors that affect the ability to work or earn at the pre-injury level are considered. A factor may have existed before the work injury or become known after the work injury.

23.02 Proportioning Claims Process

1. Identify

It is important to identify factors other than the work injury which may affect a worker's ability to regain his or her pre-injury earning level as soon as possible following a work injury. Early identification will provide the worker with advance notice, where possible, of a potential proportioning factor and possible impacts this may have on future entitlement.

Potential Indicators that may Impact Entitlement

- **Medical Information:**
Information contained on forms or documents placed on the worker's file may indicate the existence of potential proportioning factors. For example, physician or hospital reports that provide detailed medical histories or mention other treatments or conditions.
- **Expected Recovery Period Exceeded:**
Exceeding the usual or expected recovery period following a work injury may also indicate that a proportioning factor exists and needs to be considered.

2. Investigate

The case manager must request more detail if further investigation regarding the medical situation is necessary, prior to deciding on proportionment. The request(s) may involve:

- Writing the worker or treating physician;
- Accessing relevant medical reports, notes of other physicians, results of previous diagnostic procedures, or hospital discharge summaries; or

- Requesting relevant information from the employer related to a previous disability or lost time from work.

The case manager will review all of the relevant evidence after the requested information is received.

3. Request Medical Opinion

To provide background information to inform the request for a medical opinion, these guidelines apply:

- The case manager arranges a meeting with a WorkplaceNL medical consultant and provides a summary of the background information for the consultant's review prior to the meeting.
- The summary may include, but is not limited to, a description of:
 - The compensable injury, part of body and mechanism of injury;
 - Nature of impairment(s) under consideration; and
 - A brief list of all medical findings regarding the potential non-compensable impairment.
- The case manager, team lead and medical consultant meet to discuss the following:
 - Any issues which need to be clarified in the background information (e.g., confirmation of the compensable diagnosis);
 - Whether or not a proportioning factor exists; and
 - Severity ratings for the work injury and proportioning factor.
- After the meeting:
 - The case manager documents the proportionment question to the medical consultant on the claim file; and
 - The medical consultant provides their opinion within two business days.

4. Provide Medical Opinion

The WorkplaceNL medical consultant provides their medical opinion, which includes the following information:

- An introduction that identifies the proportionment question posed by the case manager.
- Details of the compensable injury including the:
 - Mechanism of injury as documented on the claim;
 - Severity of the mechanism;
 - Diagnosis;
 - Expected prognosis for this type of injury in the absence of the non-compensable or pre-existing condition (reference research or literature); and
 - Medical interventions and findings (i.e., specialist consults, diagnostics, and rehabilitation).

- Details of the non-compensable or pre-existing condition including:
 - The diagnosis;
 - The medical interventions and findings (i.e., specialist consults, diagnostics, and rehabilitation);
 - Expected prognosis for the non-compensable or pre-existing condition in the absence of the work injury; and
 - The medical information and consideration of whether the non-compensable condition is affecting the worker's recovery or extent of disability.

- A summary to:
 - Compare the nature of injury and the significance of the underlying condition;
 - Comment on whether or not the non-compensable condition is a proportioning factor that is affecting the worker's recovery or extent of disability; and
 - If so, provide an opinion on severity ratings for the work injury and the proportioning factor.

5. Make Decision

The case manager provides the final decision when all evidence and the required medical opinion is received.

6. Communicate Decision

The case manager provides a well-reasoned, written decision explaining the rationale, impact of the proportioning factor on benefits, if any, and the effective date.

23.03 Impact on Benefits

Temporary Earnings Loss Benefits

Benefit entitlement is generally not proportioned (i.e., adjusted) during the temporary earnings loss period, even if a condition other than the work injury is affecting the level of disability.

Temporary earnings loss benefits are payable while a worker receives necessary medical treatments, labour market re-entry assistance or vocational rehabilitation programs.

WorkplaceNL will not proportion (or adjust) costs related to labour market re-entry assistance or vocational rehabilitation programming.

Permanent Functional Impairment Benefits

Decisions to proportion Permanent Functional Impairment benefits shall be made in accordance with Policy EN-01 Permanent Functional Impairment.

Extended Earnings Loss Benefits

Decisions to proportion benefits normally take effect when extended earnings loss benefits begin. There may be cases where extended earnings loss benefits are being paid when the proportioning factor arises and subsequently changes the benefit level. When this occurs, the

worker shall be provided a written decision, giving at least one month notice before the new benefit level is put into effect.

Health Care Benefits

Health care benefits are not proportioned. This includes reasonable expenses incurred by workers, such as travel required to access such services.

Employment-related Benefits Considered as Post-injury Earnings

Proportionment decisions apply to post-injury earnings and the degree of compensation benefit offset will be reduced in accordance with the determined proportioning factor.

Examples of post-injury earnings are: Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) disability benefits; income from a registered employment pension plan; etc.

23.04 Calculating Benefits on a Proportioned Claim

Benefits on a claim that has been proportioned are calculated as on any claim with the appropriate offsets. In the case of claims that are proportioned, the weekly rate is multiplied by the proportioning factor for the compensable injury.

Calculation Example:

Rate Calculation with 25 per cent Proportioning Factor Applied to CPP or QPP Offset and the Compensation Rate:

Calculation of Weekly Compensation Rate

Average gross weekly earnings	\$500.00
100% net earnings	\$409.73
100% net earnings	\$409.73
85% of net rate	<u> x 85%</u>
Weekly compensation rate	= \$348.27

Calculation of 25 Per cent Proportioning Factor Applied to Weekly Compensation Rate

Weekly compensation rate	\$348.27
25% proportioning factor	<u> x 25%</u>
25% of weekly compensation rate	= \$87.06

Weekly compensation rate	\$348.27
25% of weekly compensation rate	<u>- \$87.06</u>
Weekly compensation rate proportioned	= \$261.20

Calculation of CPP/QPP Offset

CPP or QPP weekly benefit	\$166.00
75% of CPP or QPP offset	<u> x 75%</u>
CPP/QPP offset amount	= \$124.50

Calculation of 25 Per cent Proportioning Factor Applied to CPP/QPP Offset

CPP or QPP offset amount	\$124.50
25% proportioning factor	<u>x 25%</u>
25% of CPP/QPP offset amount	= \$31.12

CPP or QPP offset amount	\$124.50
25% of CPP or QPP amount	<u>- \$31.12</u>
CPP or QPP amount proportioned	= \$93.38

Calculation of Proportioned Weekly Rate Entitlement

Weekly compensation rate proportioned	\$261.20
CPP or QPP amount proportioned	<u>- \$93.38</u>
Weekly rate entitlement	\$167.82

Reference: Workplace Health, Safety and Compensation Act, 2022, Section 51
Policies: EN-01 Permanent Functional Impairment
EN-02 Proportionment

Amendment History

Original Effective Date	2001 06 01
Revision #1	2008 11 27
Revision #2	2018 09 11
Revision #3	2021 07 07