

Client Services Policy Manual

Policy Number: **EN-02**
Subject: **Proportionment**
Chapter: **Entitlement**

Policy Statement

The intent of section 51 of the Workplace Health, Safety and Compensation Act, 2022 is to ensure that the workers' compensation system does not compensate for disability or impairment unrelated to work injury. It states that the amount of compensation payable following a work injury will be based on the degree of disability and impairment attributable to the work injury. Specifically, compensation for loss of earnings and functional impairment may be proportioned where an injury aggravates, activates, or accelerates a condition, disease or disability existing prior to the injury; or where an injury is aggravated, activated or accelerated by causes other than the injury. Where such factors are present WorkplaceNL will assess their effect and proportion benefit entitlement in accordance with the guidelines contained in this policy.

The workers' compensation system will assume full responsibility for disability immediately following a work injury and will usually not proportion benefit entitlement 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.

Proportionate entitlement decisions will be implemented when a worker has completed necessary medical treatments but his or her ability to return to work, or his or her long-term earning capacity, is negatively affected by factors other than the work injury. In other words, these decisions will normally take effect when extended earnings loss, or long term disability, benefits become payable.

General

A proportionate entitlement decision shall not be made without the advice of a WorkplaceNL medical consultant. It is very important to judge all cases according to their individual merits.

Where a factor other than the work injury is negatively affecting the worker's ability to return to the preinjury earning level it is important to identify them as soon as possible, even though the usual 85 per cent income replacement rate paid by WorkplaceNL will most likely not be affected throughout the temporary earnings loss period.

For the purpose of this policy, a proportioning factor is any condition unrelated to a work injury which may affect recovery or the extent of

Client Services Policy Manual

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disability. Proportioning factors may be known to exist prior to a work injury (usually because they caused symptoms), or they may develop post-injury. Examples of factors known to exist prior to a work injury include previous non-work injuries, active disease processes, or specific conditions for which medical assistance has been required. Examples of conditions which develop post-injury include new non-work accidents or injuries, the onset of disease processes which are not work related, or the onset of disease processes which would have, on the balance of probabilities, eventually manifested themselves but are activated or accelerated by the work injury.

Where a worker has completed necessary medical treatments but his or her ability to return to the preinjury earning level is negatively affected by a proportioning factor, compensation entitlement may be adjusted to reflect the impact of the proportioning factor. The following Severity of Work Injury and Proportioning Factor table shall be used when making these determinations (see guidelines for use below):

Severity of Work Injury	Severity of Proportioning Factor	Proportioning Factor	Percentage of Compensation Rate Payable
Minor	Minor	50%	50%
Moderate	Minor	25%	75%
Major	Minor	0%	100%
Minor	Moderate	75%	25%
Moderate	Moderate	50%	50%
Major	Moderate	25%	75%
Minor	Major	100%	0 %
Moderate	Major	75%	25%
Major	Major	50%	50%

Example: Worker with moderately severe work injury and a minor proportioning factor receives 75% of his or her entitlement in the event that the worker's ability to return to the preinjury level following medical recovery is limited by the proportioning factor.

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Policy Number: **EN-02**
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Minor, moderate, and major, as used in this table, are defined as follows:

Minor: is not expected to limit the worker's ability to earn at the preinjury level.

Moderate: is not expected to limit the worker's ability to earn at the preinjury level. Even though this is a more serious injury or factor, permanent disability is not anticipated.

Major: expected to cause long-term inability to earn at the preinjury level and possible permanent disability.

Proportionment decisions regarding Permanent Functional Impairment benefits shall be made in accordance with Policy EN-01, Permanent Functional Impairment.

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

Amendment History

Original Effective Date	2001 06 01
Reviewed	2018 02 14
Revision #1	2018 12 13

Next Review Date	2023 12 01
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