

Client Services Policy Manual

Policy Number: **EN-03**
Subject: **Recurrences**
Chapter: **Entitlement**

Policy Statement

A *recurrence* is a return of disabling symptoms directly related to an original work injury which results in loss of earning capacity more than 12 months after the worker was last considered capable of earning.

Recurrence symptoms must result from and be medically compatible with the original injury. The nature and significance of the original injury and the length of time since the original injury are important factors to be weighed. An onset of symptoms will not be considered a recurrence where other injuries, accidents or processes have intervened to cause the current condition. Decisions to accept or deny recurrence claims will consider medical and all other relevant evidence, and be based on the balance of probabilities.

Compensation rates for recurrences are based on the earnings at the time of the recurrence. Where there are no earnings at the time of the recurrence but the worker demonstrates earnings in the 12 months prior to the recurrence, compensation may be based on those earnings. In either case, workers are eligible for health care benefits, case management support, and permanent functional impairment, if appropriate.

General

A number of factors must be considered before a recurrence claim is accepted:

- The current symptoms must result from and are *medically compatible* with the original work injury.
- To properly decide the matter of medical compatibility, a worker's complete medical history -- particularly since the original work injury -- must be compared with his or her current condition. A medical opinion from the WorkplaceNL's health care consultant may be necessary to assist in determining medical compatibility.
- The most basic indicators of medical compatibility are that the same body part(s) is affected and similar symptoms are reported. Even though body part and symptoms may be consistent, however, other important factors must be reviewed before a recurrence is verified.

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- For example, the nature and significance of the original injury must be consistent with the current disability. It may be decided that a recurrence has occurred when disabling symptoms arise sometime after stabilization from a traumatic original injury. Recurrences may be more readily expected following major injuries which cause objectively verifiable physical damage and a long period of disability.
- On the other hand, it is less likely that a minor soft tissue injury will be judged medically compatible with disabling symptoms which develop more than 12 months after the worker was capable of returning to work. Such a case may be accepted as a recurrence if, on the balance of probabilities, there is clear and objective medical evidence, but the possibility that the original injury is the cause of current symptoms must be weighed against other important variables: expected recovery due to the passage of time; the activities of daily living; aggravating lifestyle factors; or, depending upon the circumstances, the effects of natural physical deterioration processes.
- A case will not be considered a compensable recurrence where some other variable -- such as a new injury, accident, disease, or other process -- has intervened as a significant cause of the current condition.
- Continuity of symptoms during the period between stabilization or recovery from the original injury and the onset of the current impairment is a reliable indicator of a direct causal relationship. Lack of continuing symptoms, however, does not entirely rule out the possibility that the current impairment is a recurrence. For example, a successful orthopaedic surgical intervention may bring about years of symptom-free living but deteriorate quickly due to mechanical breakdown into an obvious case of recurrence. Specific indicators that may assist determinations are:
 - evidence of continuing medical care since the previous injury;
 - work restrictions or job modifications following the previous injury; or,
 - continuing entitlement to long-term disability benefits from the original injury.

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Recurrence Versus a New Injury

A claim will be classified as a new and separate injury where the current disabling symptoms are caused by an intervening incident, event, or exposure which, by itself, may have caused a new injury and there is no evidence of continuity of symptoms since recovery from the original injury.

Recurrence Versus Reinstatement

Where a worker has returned to work (either fully or in a limited capacity) or is considered capable of work, and subsequently experiences a return of symptoms resulting in loss of earnings within 12 months, it is considered to be a continuation of the previous injury.

Recurrences and Cost Relief

When a claim for a recurrence is accepted, WorkplaceNL must decide whether there is entitlement in accordance with the guidelines on Second Injury Relief [Policy ES-11].

Reference: *Workplace Health, Safety and Compensation Act, 2022, Sections 2(1)(i), 2(1)(t), 2(1)(v), 20, 56, 74, 82, 83, 87, 89, 90, 91, and 138.*

Amendment History

<i>Original Effective Date</i>	1988 06 30
<i>Revision #1</i>	2001 05 31
<i>Revision #2</i>	2015 05 21