

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

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## Policy Statement

Section 83 of the Workplace Health, Safety and Compensation Act, 2022 (the Act) directs WorkplaceNL to estimate the effect of a work injury on loss of earning capacity and to ensure compensation is provided to the worker on the basis of that loss. Compensation may be suspended, reduced or terminated when:

- Recovery from a work injury is interrupted or delayed for reasons not related to the work injury; or
- When intervening, non-work-injury factors are the dominant cause of the loss of earning capacity.

Section 63 of the Act outlines requirements for injured workers to lessen the impact of work injuries. Failure to comply with these requirements may result in suspension, reduction or termination of compensation benefits. The requirements for injured workers include:

- Taking all reasonable steps to reduce or eliminate permanent impairment and loss of earnings resulting from an injury;
- Seeking out and co-operating in any health care or treatment that, in the opinion of WorkplaceNL, promotes recovery and return to work;
- Taking all reasonable steps to provide to WorkplaceNL full and accurate information on a matter relevant to a claim for compensation; and
- Notifying WorkplaceNL immediately of a change in circumstances that affects or may affect entitlement to compensation.

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 their control, WorkplaceNL will ensure the worker is fully aware of the possible consequences and provide the worker with an opportunity to take alternative measures.

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For decisions made under this policy, consultation may be required with WorkplaceNL's Medical Consultant and the worker's health care provider.

To avoid delays in recovery from work injuries, the worker is expected to prioritize re-scheduling missed medical appointments. Examples include appointments, treatments, assessments with family physicians, specialists and physiotherapists. However, WorkplaceNL will be responsible for rescheduling any missed appointments where its Health Care Services Department scheduled an additional clinic or specialty healthcare program (e.g., orthopedic or neurosurgical clinics).

## General

### **PART 1: INTERRUPTIONS AND DELAYS IN MEDICAL TREATMENT OR ASSESSMENT**

The following guidelines apply if medical treatment or assessment for a work injury is interrupted:

#### **Benefits Shall Continue:**

WorkplaceNL shall continue compensation payments to the worker when there are acceptable circumstances beyond the worker's control that interrupt or delay medical treatment or assessment.

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

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

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### **Benefits may be Suspended:**

WorkplaceNL may suspend compensation payments as of the date 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
- Introduces barriers that cause interruption or delay.

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

### **PART 2: FACTORS NOT RELATED TO THE WORK INJURY ARE THE DOMINANT CAUSE OF LOSS OF EARNING CAPACITY**

Earnings loss benefits may be affected temporarily or permanently where a factor not associated with the work injury, interferes with medical treatment or assessment for the work injury and becomes the dominant cause of loss of earning capacity. A dominant cause is one that would have caused loss of earning capacity, even if there was no work injury. The following guidelines apply if factors not related to the work injury are the dominant cause of loss of earning capacity:

#### **1. Near recovery and factors not related to the work injury:**

Compensation may be terminated if an injured worker is at, or near full recovery, when a factor not related to the work injury becomes the dominant cause of loss of earning capacity. For example, a worker concluding a clinic-based occupational rehabilitation program with expected medical clearance for the work injury, is involved in a non-work-related motor vehicle accident. This non-work accident results in serious injuries that impact the capacity to work and earn. The injuries from this motor vehicle accident now become the dominant cause for loss of earning capacity rather than the work injury.

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Decisions shall be based on the prognosis and recovery status of the work injury at the time the non-work-disability.

## **2. Incomplete recovery and factors not related to the work injury:**

When disability not related to the work injury becomes the dominant cause of loss of earning capacity and the injured worker is still not at or near full recovery, compensation may be suspended, terminated or reduced. For example, where a worker in the early stages of treatment or assessment has surgery for a condition not related to the work injury that causes loss of earning capacity. For these situations, the following decision-making guidelines apply:

- **A factor not related to the work injury is the dominant cause of loss of earning capacity and temporarily interrupts recovery from the work injury:**

If a factor not related to the work injury is the dominant cause of loss of earning capacity and temporarily interrupts treatment, assessment or programming for the work injury, compensation benefits may be suspended but reinstated when 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 benefits may be suspended, but reinstated when active medical treatment resumes.

- **A factor not related to the work injury is the dominant cause of permanent loss of earning capacity:**

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Compensation benefits shall be terminated if the factor not related to the work injury is the dominant cause of permanent loss of earning capacity. For example, a non-work motor vehicle accident results in permanent paralysis or severe head injury. Compensation shall terminate as of the date of the decision.

### **PART 3: INTERRUPTIONS AND DELAYS IN MEDICAL TREATMENT OR ASSESSMENT FOR OTHER SITUATIONS**

The following guidelines apply if medical treatment or assessment for a work injury is interrupted or delayed for other situations:

#### **1. Pregnancy**

WorkplaceNL shall continue to pay compensation benefits where the worker's pregnancy, confirmed by a treating physician, presents a valid medical reason for a delay or interruption in the treatment, assessment or programming for the recovery of the work injury. In these circumstances, WorkplaceNL may consult with a treating physician to explore suitable and modified work programming. The goal is to maintain or improve physical capacity and prevent negative effects which may be associated with inactivity.

WorkplaceNL may suspend benefits in those circumstances where:

- Childbirth (i.e., condition not related to the work injury) interrupts or delays the treatment, assessment or programming for the recovery of the work injury; or
- Medical complications from the pregnancy (i.e., conditions not related to the work injury) render the worker totally disabled and cause a delay in the treatment, assessment or programming for the recovery of the work injury.

In these circumstances, benefits will be reinstated when the treating physician confirms the worker is fit to resume medical

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treatment, assessment or return-to-work programming for the recovery of the work injury.

## **2. Extended absence (leaving the locale)**

Injured workers shall contact WorkplaceNL prior to undertaking long-distance travel. This is to ensure that medical treatments or assessments are not jeopardized and that a worker's condition is not worsened by the long-distance travel.

WorkplaceNL shall suspend compensation benefits where an unauthorized absence from a worker's locale, or from the province, interrupts or delays work injury recovery. Benefits shall be reinstated when the missed medical treatment or assessment resumes. When a condition is worsened by the unauthorized travel, benefits shall be reinstated when the acute flare-up resolves. Decisions are based on the prognosis of the work injury and recovery status at the beginning of the travel.

## **3. Personal factors**

WorkplaceNL shall continue to pay compensation where medical treatment or assessment for a work injury is delayed because of personal factors under the following conditions:

- The delay is for a reasonable period; and
- Where the worker demonstrates positive control efforts in order to allow required medical treatment or assessment to proceed.

Examples include, but are not limited to, smoking and grief.

Compensation payments may be suspended where a worker does not cooperate or is unwilling to participate in medically recommended activities to lessen the effects of personal factors, which are delaying recovery or return to work.

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## **Merits and Justice**

It is important to consider Policy EN-22 Merits and Justice when making a decision under this policy.

**Reference:** Workplace Health, Safety and Compensation Act, 2022, Sections 7, 20, 63, 64, 72, 74, 83, and 92  
Policy EN-22 Merits and Justice

## **Amendment History**

Original Effective Date 1999 06 01

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