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Section

Special Cases (Worker Coverage)

Subject

Coverage for Unpaid Trainees

Law

s.69

A "**placement host**" is a person with whom a training agency places a trainee to give the trainee work skills and experience.

A "**training agency**" is

- a person who is registered under the *Private Career Colleges Act* to operate a private career college
- an educational institution, or
- a person, partnership, organization, trade union or other entity that arranges vocational training or provides vocational services.

Training agencies placing trainees with placement hosts may elect to have the trainees considered workers of the training agency during the placement. Only a training agency in an industry included in Schedule 1 or 2, however, may make such an election.

When the WSIB receives notice of a training agency's election, the following rules apply to all trainees placed with a placement host. (These rules do not apply to trainees who receive wages from the placement host.)

1. The placement host is not the employer of the trainees for purposes of the *Workplace Safety and Insurance Act* (WSIA). The placement host, however, remains the employer of the trainees for purposes of s.28 ("Rights of Action").
2. The training agency is the employer of the trainees for purposes of the WSIA.
3. The trainees are learners employed by the training agency.

The training agency may revoke an election by providing the WSIB with written notice of the revocation. The revocation takes effect 120 days after the WSIB receives the notice.

Policy

A placement host that is in a compulsory covered industry (listed in Schedule 1 or Schedule 2 of the WSIA) or has application coverage must provide the unpaid trainee with WSIB coverage. It is the placement host (the employer) that is expected to pay workplace insurance costs, unless

- the WSIB allows the training agency to deem itself the trainee's employer, or
- the training program is government-funded for WSIB costs. (The placement host must contact the training agency, if one is involved, and the relevant government body to find out which programs cover WSIB costs. This verification is important because some government-funded programs may be discontinued in subsequent years.)

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Guidelines

A trainee is an unpaid learner placed by a training agency to gain practical work experience with a placement host. Some trainees, however, may be paid under the Ontario Works Program (see below).

A trainee may be covered for the placement portion of a training program, but is not covered for the classroom portion of a program carried out on a training agency's premises.

A trainee who sustains a work-related injury or disease while on placement is entitled to WSIB benefits as a worker, if

- the employer of the trainee (either the training agency or the placement host) is covered under the WSIA, or
- the training program is government-funded for WSIB costs.

For detailed definitions of "unpaid trainee" and "learner", see 12-04-04, Individuals on Unpaid Training Placements.

Placement host as employer

Normally, a placement host who is covered under the Act either compulsorily or by application, is considered the employer of a trainee during placement training and is responsible for WSIB premiums and any claims costs.

However, the placement host is not responsible for WSIB insurance costs if

- the training agency has elected to be considered the employer of the trainee during the placement, or
- the training is provided through a government-funded program.

NOTE

For government-funded programs, the placement host continues to be the employer for purposes of the WSIA.

Training agency as employer by election

Compulsorily covered agency

A compulsorily covered training agency may choose to relieve the placement host of its responsibilities under the WSIA by electing to become the employer of its trainees. The election process requires that the training agency submit a written request to the WSIB.

Non-compulsorily covered agency

A non-compulsorily covered training agency not registered with the WSIB is required to apply for coverage for all of its workers before it can elect to be considered the employer of the trainees.

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The election request and the application for insurance coverage must be submitted to the WSIB **simultaneously**.

A training agency with no workers other than its trainees must request Schedule 1 application coverage for its trainees at the same time that it elects to be considered the employer of its trainees — that is, the requests must be made simultaneously. (Such a training agency is not required to obtain optional insurance, e.g., for its owners, partners or executive officers.)

For guidelines governing non-compulsorily covered employers who apply for insurance coverage, see 12-01-02, Employer by Application.

Effect of election

When a training agency elects to be the employer of its trainees

- the training agency becomes responsible for the related premiums and accident costs, and
- the placement host is no longer responsible for these costs.

The training agency becomes the deemed employer effective the date the WSIB receives the election request.

Cancellation of coverage

When a training agency terminates coverage for a trainee, the placement host becomes the employer responsible for the trainee on placement.

The timing of, and restrictions on, the cancellation of application coverage or deemed employer status may affect the date a trainee's coverage with the training agency stops. See 12-01-02, Employer by Application for policy on the cancellation of application coverage.

A training agency may cancel its status as a trainee's deemed employer by providing written notice to the WSIB. The cancellation will take effect 120 days from the date the WSIB receives the written notice.

When a non-compulsorily covered training agency cancels coverage for both its regular workers and its trainees, coverage will be cancelled for its regular workers effective the last day of the month in which the WSIB receives a certified cheque for the full payment of the departure premium.

The cancellation of coverage for its trainees will take effect when the placement ends or when the 120-day period after notification ends, whichever happens first.

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The training agency that has a placement that continues beyond the date its application coverage ends for its regular workers is required

- to inform the WSIB that trainees continue to be on placement, and
- to provide coverage for the trainee even though its application coverage has ended.

A non-compulsorily covered training agency with trainees but no workers may simultaneously cancel both its application coverage and its status as the trainees' employer. The cancellations take effect 120 days after the date the WSIB receives written notice from the training agency.

Responsibility as the trainee's employer automatically reverts to the placement host if the trainee's placement continues beyond the 120-day period.

When a training agency ceases to exist, both its training placement coverage and its application coverage are cancelled by the WSIB on the date the business ends.

Employer obligations

For a trainee on a placement, the following employer obligations apply to:

- the placement host (by default), or
- the training agency (if it has elected to be considered the employer).

The employer is obligated to:

- report and pay premiums based on the required insurable earnings to cover the trainee, and
- report any work-related injuries/diseases sustained by the trainee.

Calculating insurable earnings

Employers of trainees on placements pay, for each trainee, premiums based on 35% of the maximum insurable earnings. (Maximum insurable earnings are set every year. See 18-01-02, Benefit Dollar Amounts (Accidents from 1998), for this year's maximum amount.)

These premiums are expressed as a fixed daily rate (rounded up).

Steps for calculating the premiums for each trainee

Step 1: (maximum insurable earnings X 35%) ÷ 260 workdays = daily rate

Step 2: days worked x daily rate = insurable earnings

Step 3: (insurable earnings x premium rate) ÷ 100 = premium

Government-funded programs

Government funding of some training programs relieves the training program's placement host of the obligation for payment of premiums and claims costs for a trainee. It is the placement host's responsibility to contact the training agency, if one is involved, and the relevant government body to determine whether the WSIB insurance costs are funded by the government. This verification is important because some government-funded programs may be discontinued in subsequent years.

HRSDC programs (federal)

Human Resources and Social Development Canada (HRSDC) funds the WSIB insurance costs for certain training participant programs. In these cases, therefore, the placement host is not obliged to pay premiums and is not responsible for any claims costs for these funded programs. HRSDC funds the insurance costs only if the placement host has either compulsory coverage or coverage by application with the WSIB.

HRSDC offers other training programs for which it does not fund the insurance costs. The placement host (or the training agency if it has elected to be the employer) is obligated to provide WSIB coverage to participants in these programs if the placement host (or elected employer) has either compulsory coverage or coverage by application with the WSIB.

Ministry-funded programs (provincial)

Government-sponsored programs are offered to trainees through various Ontario ministries, including the Ministry of Education (see 12-04-07, Students in Work Education Programs), the Ministry of Agriculture and Food, the Ministry of Community and Social Services, and the Ministry of Health and Long-term Care.

The placement host must contact the ministry involved to determine whether the insurance costs for the trainee placement are funded by the government or must be funded by the placement host.

Ontario Works Program (provincial)

Both unpaid and paid participants under the Ontario Works Program are entitled to WSIB insurance coverage if the placement host (or the elected employer) has either compulsory coverage or coverage by application with the WSIB.

The Ministry of Community and Social Services funds the WSIB insurance costs directly for Ontario Works' training participant programs but not for Ontario Works' other programs. This means that for most but not all programs, the placement host employer does not pay WSIB premiums and is not responsible for any claim costs for paid or unpaid trainees in the Ontario Works Program. The placement host is advised to contact the Ontario Works Program to verify who will be responsible for providing WSIB insurance. For more information about this program, see 12-04-06, Coverage for Ontario Works Participants.

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Application date

This policy applies to all decisions made on or after January 1, 2004.

Document history

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12-04-05 dated March 5, 2004

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended
Sections 2(1), 53(4), 69

O. Reg 175/98
Sections 15, 16, 17

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