
Law

s.83(1)

The Board may establish experience and merit rating programs to encourage employers to reduce injuries and occupational diseases and to encourage workers' return to work.

s.83(2)

The Board may establish the method for determining the frequency of work injuries and accident costs of an employer.

s.83(3)

The Board shall increase or decrease the amount of an employer's premiums based upon the frequency of work injuries or the accident costs or both.

Policy

The WSIB adjusts CAD-7 refunds or surcharges as required for

- a decision affecting accident frequency
- an increase or decrease in benefits already paid
- a court judgement, or
- a retroactive adjustment to classification or insurable earnings.

The WSIB adjusts the refund or surcharge for a given review year if

- there is a WSIB error relating to a decision (for example, partial relief under the Second Injury and Enhancement Fund (SIEF)) involving the review year, that does not fall under any of the above circumstances, and
- the WSIB is aware of the error before December 31 of the second year following the review year.

When the WSIB adjusts prior refunds or surcharges it uses up-to-date cost data, frequency counts, and premium amounts for all award years affecting the refunds or surcharges in question.

For all other circumstances/decisions, the WSIB does not adjust prior CAD-7 refunds or surcharges.

Guidelines

General

For a description of the construction industry plan (CAD-7), see 13-02-06, Construction Industry Plan CAD-7.

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In CAD-7 the review year includes cost and frequency information from 2 years. For example, the 2000 review year refers to years 2000 and 1999.

The WSIB records costs based on the year in which benefits are paid (the award year). Injury frequency is recorded based on the year in which the injury occurs (the accident year).

The WSIB calculates the CAD-7 refund or surcharge for a review year in the fall of the following year. The refund or surcharge is based on

- costs recorded in the review year on claims from 5 prior award years, and
- the injury frequency over the two years included in the review year.

To be included in the calculation of a refund or surcharge for the review year,

- revisions to cost data must be recorded on or before December 31st of the review year, and
- revisions to frequency data must be recorded on or before the end of the month before the fall issue of refunds and surcharges.

For details on how cost relief affects experience rating, see 14-05-03 Second Injury and Enhancement Fund (SIEF).

WSIB errors

WSIB errors are defined as clerical (i.e., typographical), data processing (i.e., computer generated), or omission (i.e., failure to process or act upon a decision).

Example 1: Partial SIEF relief–WSIB error

In August 1999, the WSIB grants partial SIEF relief on a 1999 claim. Because of a WSIB error the costs are not transferred to SIEF by December 31, 1999. As a result, the revised cost data is not available for the refund or surcharge calculation for the 1999 review year to be issued in the fall of 2000.

NOTE

These guidelines on WSIB errors do not apply to decisions listed under "Unlimited cost-related adjustments" and "Retroactive adjustments" below. The guidelines in those sections apply whether there is a WSIB error or not.

Refund or surcharge not yet issued

If a WSIB error relating to a decision, e.g., partial SIEF relief, is identified before the refund or surcharge for a given review year is issued, the WSIB revises the cost data for the review year, as in the following scenario resulting from the example above.

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Scenario

In February 2000, the employer notifies the WSIB of the omission error and the WSIB transfers the costs to SIEF. Because the notification arrives before the fall issue date, the WSIB revises the 1999 award year data by reducing the costs on the claim according to the degree of SIEF relief. This revision is included in the 1999 review year calculations when the WSIB issues the refunds and surcharges for 1999 in the fall of 2000.

Refund or surcharge already issued

The WSIB adjusts a refund or surcharge that has already been issued only if it is aware of the error before December 31st of the second year following the review year.

In Example 1 above, the deadline for the 1999 review year would be December 31, 2001. The following scenarios, based on that example, describe what would occur if the employer notifies the WSIB before and after the deadline.

Scenario A - Notifies WSIB before the deadline

In November 2001, the employer notifies the WSIB of the omission error and the WSIB transfers the costs to SIEF. Because the notification arrives before the deadline for adjusting the refund or surcharge for the 1999 review year, the WSIB revises the 1999 award year data by reducing the costs on the claim according to the degree of SIEF relief, and adjusts the refund or surcharge for the 1999 review year.

Also, the notification has arrived after the issue of refunds and surcharges for the 2000 review year. Therefore, if there are costs on the claim in 2000, the WSIB revises the 2000 award year data and adjusts the 2000 refund or surcharge. If there are costs on the claim in 2001, the 2001 award year data is revised.

Scenario B - Notifies WSIB after the deadline

In February 2003, the employer notifies the WSIB of the omission error and the WSIB transfers the costs to SIEF. Because the notification arrives after the deadline for adjusting the refund or surcharge for the 1999 and 2000 review years, the WSIB does not adjust the refunds or surcharges for these years.

To capture the new SIEF data for the first eligible review year, the WSIB may, at the employer's request, revise the data for the 2001 and 2002 award years by reducing any costs on the claim according to the degree of SIEF relief, and adjust the refund or surcharge for the 2001 review year.

The revision is included in the 2002 review year calculations when the WSIB issues refunds and surcharges for 2002 in the fall of 2003. If there are costs on the claim in 2003, the 2003 award year data is revised.

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Scenario C - Notifies WSIB after last review year and deadline

The employer notifies the WSIB of the omission error in February 2007, and the WSIB transfers the costs to SIEF. The last review year to include costs awarded on a 1999 claim is the year 2003. The deadline for adjusting the 2004 review year refund or surcharge because of WSIB error is December 31, 2006. Because the notification arrives after the deadline, the WSIB makes no adjustment.

Unlimited cost-related adjustments

The WSIB adjusts CAD-7 refunds or surcharges as far back as required under the following circumstances

- a decision affecting frequency, including
 - 100% SIEF relief
 - a change of accident date
 - a claim amalgamation, or
 - a decision on the eligibility of a claim for experience rating, i.e., a disease is or is not a long-latency occupational disease
- an increase or decrease in benefits already paid, including
 - reversal of entitlement, and
 - miscalculation of benefit amounts
- court judgements, or data revisions generated by a judgement.

Example 2: 100% SIEF relief

In June 2001, the WSIB grants 100% SIEF relief on a 1997 claim and transfers the costs to SIEF. The WSIB adjusts the refunds or surcharges for the 1997 and 1998 review years, taking into account the decrease in frequency and costs removed because of the 100% relief. If any costs are removed because of the 100% relief in 1999, the refund or surcharge for the 1999 review year is also adjusted.

The WSIB's refund or surcharge calculation for the 2000 review year takes into account costs removed on the claim in the 1997 to 2000 award years. Costs on the claim recorded up to the time of transfer (June 2001) are removed from the 2001 award year.

Example 3: Change of accident date

In June 2001, the WSIB changes the accident date on a claim from 1998 to 1996. The WSIB adjusts the refund or surcharge issued for the 1998 and 1999 review years because of the decrease in frequency. It also adjusts the refund or surcharge issued for the 1996 and 1997 review years because of the increase in frequency. The award years to which costs are allocated are not affected by the change of date.

Example 4: Claim amalgamation

In June 2001, the WSIB amalgamates a 1998 claim with a 1996 claim. The WSIB adjusts the refund or surcharge issued for the 1998 and 1999 review years because of the decrease in

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frequency. The award years to which costs are allocated are not affected by the removal of the 1998 claim.

Example 5: Reversal of entitlement

In June 2001, the WSIB reverses entitlement to some of the benefits on a 1991 claim. The WSIB adjusts the refund or surcharge for any review year from 1991 to 1996 where the calculation of the refund or surcharge includes costs affected by the reversal of entitlement.

Retroactive adjustments

The WSIB adjusts CAD-7 refunds or surcharges in accordance with its policy on retroactive adjustments. Retroactive adjustments to non-compliance charges or interest amounts do not affect the calculation of CAD-7 refunds and surcharges.

NOTE

See 14-02-06, Employer Premium Adjustments for adjustments on or after July 1, 2000.

Example 6: Premium adjustment

In November 2001, after the fall refunds and surcharges are issued, the WSIB makes a retroactive adjustment of insurable earnings resulting in a premium adjustment for the years 1999 and 2000. The WSIB adjusts the refunds or surcharges for the 1999 and 2000 review years.

Lack of full disclosure

If the employer does not disclose necessary information to the WSIB, the WSIB may, at its discretion, make a retroactive debit adjustment for up to 5 years. In such cases, the WSIB adjusts all prior CAD-7 refunds or surcharges affected by the retroactive adjustment.

Example 7: Lack of full disclosure

In April 2001, the WSIB discovers that an employer did not disclose information about a business change in 1996 that would have caused a reclassification of the employer's operation and a higher premium. The WSIB retroactively adjusts the reconciled premiums for the years 1996, 1997, 1998, 1999, and 2000, and adjusts the CAD-7 refunds or surcharges for the 1996, 1997, 1998, and 1999 review years.

Unlimited retroactive adjustments

The WSIB adjusts CAD-7 refunds or surcharges as far back as required by the retroactive adjustment in the following cases

- adjustments recommended by the WSIB's Regulatory Services, or the Legal Branch, for an offence or a fraudulent act, and
- adjustments to provisionally calculated premiums levied when the WSIB does not receive the year-end reconciliation.

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Current data for adjustments

When the WSIB adjusts prior refunds or surcharges in accordance with these guidelines, it takes into account any revisions that have been made to the cost, frequency, or premium data in the interim.

No adjustments

For any circumstances/decisions not governed by the above guidelines (e.g., partial SIEF relief without WSIB error), the WSIB does not adjust prior CAD-7 refunds or surcharges.

The costs transferred to SIEF are removed from the costs for the award year in which the decision to transfer is made. No adjustments are made to refunds or surcharges already issued, as illustrated in the following examples.

Example 8: Partial SIEF – no error

In December 1999, after the issue of refunds or surcharges for the 1998 review year, the WSIB grants partial SIEF relief on a 1997 claim and transfers the costs to SIEF.

No adjustments are made to the refunds or surcharges for the 1997 and 1998 review years. The costs transferred to SIEF are part of the calculation of the refund or surcharge for the 1999 review year (because they've been transferred from the 1997 claim).

Example 9: Partial SIEF – no error and claim older than five years

In August 1999, the WSIB grants partial SIEF relief on a 1993 claim and transfers the costs to SIEF. No adjustments are made to refunds or surcharges for the 1993 to 1998 review years. The costs transferred to SIEF are not part of the calculation of the refund or surcharge for the 1999 review year because the claim is more than five years old.

Employers' responsibilities

The WSIB makes adjustments on its own account when it is aware of the situations described in the above guidelines. However, it is the employer's responsibility to ensure that any request for adjustment meets the requirements of these guidelines.

Application date

This policy applies to all decisions made on or after January 1, 2001.

Document History

This document replaces 13-02-05 dated October 12, 2004.

References**Legislative Authority**

Workplace Safety and Insurance Act, 1997, as amended

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