

**Operational  
Policy**Section  
GeneralSubject  
**Employer Contributions to Worker Benefits**

## Policy

When an injured worker meets the relevant eligibility criteria set out in the *Workplace Safety and Insurance Act* or the *Workers' Compensation Act* (the Act), the employer is obliged to continue contributions for the worker's employment benefits for one year following the date of the injury.

The WSIB determines whether a specific employer has met the obligations of the section and, when appropriate, the WSIB levies a penalty against the employer for non-compliance.

## Guidelines

### Eligibility

The worker is considered an employee of the accident employer for one year after the date of injury.

If employers were contributing to their workers' employment benefits at the time of an injury, they must continue to contribute for up to one year after the injury for all work absences due to the injury. Also, workers continue to pay their contribution for employment benefits, if any, while they are absent from work. For information on determining the date of injury, see 11-01-04, *Determining the Date of Injury*.

### Work week

An employer making contributions to the worker's employment benefits according to hours worked, or as a percentage of the worker's net income, bases the contributions on the regular work week as defined in the collective agreement.

For workers not subject to a collective agreement, the work week is the average hours worked over the 4 weeks before the injury. If the 4-week period doesn't accurately reflect the hours worked, an objection may be made by either the worker or employer. The WSIB recalculates the work week based on the average hours worked by the worker for one year before the accident, or lesser period if the worker was employed less than one year.

## Employment benefits subject to employer's obligation

### Health care benefits

Health care includes medical, surgical, optometrical, and dental aid, the aid of drugless practitioners under the *Drugless Practitioners Act*, the aid of chiropractors under the *Chiropractic Act*, hospital and skilled nursing services, such artificial members and such appliances or apparatus as necessary, and their replacement or repair when necessary.

### Life insurance benefits

These are benefits paid by an insurer upon

- death

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- an event or contingency dependent on human life
- a fixed or determinable future time
- a term dependent on human life.

This includes

- accidental death insurance but not accident insurance
- disability insurance, and
- annuities.

Accidental death and disability insurance are only considered eligible employment benefits if they are purchased as part of a life insurance policy.

**Pension benefits**

These are plans organized and administered to provide pensions for employees, and include group registered retirement savings plans. Pension benefits do not include employee profit-sharing plans, deferred profit-sharing plans, or retiring allowances as defined by the *Income Tax Act*.

The plan must be registered under the *Pension Benefits Act*, and with the Canada Revenue Agency for taxation purposes.

**Contribution holidays**

Benefit plans sometimes have surplus funds which may result in a contribution holiday for either or both the employer or the worker. Payments made to a benefit plan from surplus funds on behalf of the employer or the worker are contributions made in respect of the worker.

**Multi-employer benefit plans**

These are plans covering employees of more than one employer, usually by agreement with a union or group of unions and usually offering a defined contribution plan converted to a defined benefit.

Employers participating in multi-employer benefit plans must continue contributions unless the plan provides

- that benefits continue to be available to a worker for absence from work because of a work-related injury in the first year after the injury
- that the employer is not obliged to make contributions, and
- the worker is not required to draw on benefit credits.

Beginning January 1, 1992, all multi-employer plans must provide benefits to workers who are absent from work due to a work-related injury, and neither the employer nor the worker are obliged to continue contributions during such period.

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For workers injured before January 2, 1992, the individual employer remains responsible for the continuation of employment benefit contributions if the worker continues to be absent from work due to the injury after January 2, 1992.

The employer's obligation to contribute continues for either the full 12-month period from the date of the injury, or to the date the worker returns to work, whichever comes first.

**Employment benefits not subject to employer obligation****Employment Insurance (EI)**

Since workers receiving compensation benefits have no insurable earnings under the *Employment Insurance Act*, neither workers nor their employers can contribute to EI.

**Canada Pension Plan (CPP)**

Under the *Canada Pension Plan Act*, CPP contributions can only be paid on taxable income. Since Ontario workers' compensation benefits are not taxable, neither employers nor workers may continue CPP contributions on compensation income.

**Emergency workers**

The regular employer of an injured **emergency worker** must continue contributions for employment benefits as if the worker was injured while working for the regular employer. The emergency employer reimburses the worker's regular employer. For more information about emergency workers, see 12-04-03, Emergency Workers.

**Vacation and sick credits**

Vacation and sick credits are not considered worker benefits for purposes of the Act.

**Penalties**

Workers may file complaints with the WSIB against accident employers who do not fulfill their obligation to continue benefit contributions. The maximum penalty for non-compliance is the sum of one year's employer contributions for all employment benefits on behalf of the worker. The WSIB levies the maximum penalty in most cases. Employers are also liable to workers for any loss suffered as a result of non-compliance.

The WSIB relieves the employer of up to a maximum of 50% of the usual penalty if the employer promptly corrects the failure to maintain employment benefits. An employer's failure to continue contributions for employment benefits in respect to each worker constitutes a single violation.

**Federal undertakings**

This policy applies to federal undertakings just as it does to all other employers.

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### **Application date**

This policy applies to decisions made on or after August 10, 1992, for accidents on or after January 2, 1990.

### **Document History**

This document replaces 18-01-12 dated October 12, 2004.

This document was previously published as:  
05-01-11 dated December 4, 1997.

## **References**

### **Legislative Authority**

*Workplace Safety and Insurance Act, 1997*, as amended  
Section 25

*Workers' Compensation Act, R.S.O. 1990*, as amended  
Section 7

### **Minute**

Administrative  
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