

## Operational Policy

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Section  
General

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Subject  
**Redirected Benefit Payments**

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## Policy

The WSIB redirects a worker's benefit payments if it:

- has received and approved an assignment of benefits
- is obligated to honour the garnishment of benefits, or
- receives notice that the employer is paying advances, [see-refer to 18-01-11](#), Compensation Advances by Employer.

## Exception

The *Workplace Safety and Insurance Act, 1997* (WSIA) requires the WSIB to honour family support or maintenance orders. If a family support or maintenance order, including a Support Deduction Order, is received by the WSIB, benefits must be diverted as directed by the Family Responsibility Office, [see-refer to 18-01-07](#), Automatic Deduction for Family Support.

## Purpose

The purpose of this policy is to outline when the WSIB will approve requests to redirect benefit payments.

## Guidelines

In this policy:

- References to **workers** apply equally to **survivors** unless otherwise stated.
- Benefits which **can** be redirected include all types of income replacement benefits, as well as all benefits intended to compensate a worker for permanent disability or impairment, plus any allowable interest.
- Benefits which **cannot** be redirected include payments to workers for health care or return-to-work services.
- The words assigned, garnished, charged or attached **do not include** employer advances, but **do include**:
  - an assignment
  - an attachment
  - a charge
  - a garnishment
  - a direction to pay
  - a Support Deduction Order
  - a Requirement to Pay notice submitted by Canada Revenue Agency (CRA) under authority of federal legislation, such as the *Income Tax Act* or the *Excise Tax Act*, and
  - a CRA Demand on Third Party garnishment submitted by CRA.

For more information on employer advances, [see-refer to 18-01-11](#), Compensation Advances by Employer.

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**Definitions**

**Assignment** - a written and signed contract by which a person gives up all rights to the property specified in the assignment in favour of a third party. The wording of the assignment is specific and must be followed. To be in compliance with the *Conveyancing and Law of Property Act*, all assignments must have a start date from which they are effective.

**CRA Demand on Third Party** - a type of garnishment in favour of CRA.

**Direction to pay** - a written request to redirect a payment to someone other than the person who is entitled to the payment.

**Garnishment** - a court order for payments to be redirected from one person to another. An attachment or charge is usually the same as a garnishment.

**Support Deduction Order** - a type of garnishment in favour of the worker's spouse, children or other dependants which is enforced through the Family Responsibility Office.

**Requirement to Pay notice** - a type of garnishment in favour of CRA.

**Assignments****Assignments approved**

The WSIB generally approves assignments to the following types of agencies, if they advance funds to workers waiting for WSIB benefit payments:

- employment insurance (EI) authorities such as the federal government department responsible for employment and social development;
- automobile or disability insurance providers, and
- social service agencies.

**Assignments not approved**

Other than the assignments listed ~~above~~, the WSIB does not approve assignments for:

- legal fees
- mortgage or rent accounts
- employers' contributions to workers' employment benefits, and/or
- debts owing to representatives or agents.

As well the WSIB does not honour assignments for amounts in excess of the benefits payable, or for periods when the worker is not entitled to receive benefits.

**Terms of assignment**

The WSIB **must** carefully examine the exact wording of assignment documents to ensure any payments being redirected come within, and are based upon, the explicit terms in the

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assignment form. (All assignments, except motor vehicle accident (MVA) assignments, should be sent to the WSIB decision-maker assigned to the claim. MVA assignments should be sent to Legal Services.)

**Time-frame of assignment**

All assignments must have a start date, i.e., a date from which the assignment is effective. In no case can benefits for any period prior to an assignment's start date be redirected.

It is not necessary for an assignment to have an end date, but if it does, no benefits can be redirected for any period subsequent to the end date of the assignment.

Whether an assignment contains an end date or not, it is not valid for any period of lost time, such as a recurrence, which occurs after a return to work which follows the original period of lost time. To redirect payments for such a period, a new assignment form is required.

**Date WSIB receives an assignment**

If benefits have already been paid in a claim when an assignment is received, the WSIB cannot redirect payment for any period prior to the date the assignment was received. If all or part of the assigned WSIB benefits have not been paid when the assignment is received, the WSIB must divert the funds or a portion of the funds specified in the assignment before making the benefit payment.

**Example 1**

If the assignment says - "I assign WSIB benefits in relation to the period from June 1 to July 1" - the benefits from that period are what may be paid to the third party. If the June 1 to July 1 benefits were already paid when the WSIB received the notice of assignment, the WSIB cannot redirect the payment. If only a portion of those benefits were paid when the assignment is received, the unpaid remainder, up to July 1, can still be redirected.

**Example 2**

If the assignment says - "I assign WSIB benefits from June 1" - and the assignment is received during a period after June 1 when the worker is still receiving or entitled to benefits, the payment can be redirected for any unpaid period **after** June 1, as long as there has not been an intervening return to work date. The WSIB contacts the agency involved to obtain the total net amount of the assignment.

**Information required on assignment form**

The agency notifying the WSIB of an assignment must provide it in writing before the WSIB can grant approval.

The agency may use any written form of assignment as long as it contains the following:

- WSIB claim number

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- worker's name
- worker's signature
- net amount, rate, or type of benefit to be assigned
- date from which the assignment is effective, and
- agency's full address, phone number, and the name of an agency contact.

If **any** of the information listed ~~above~~ is missing, the WSIB contacts the agency to obtain the missing information, and specifies a date by which the information is required.

### Withdrawing the assignment

Once the WSIB has approved an assignment, the worker **cannot** withdraw the assignment. The WSIB can withdraw the assignment only at the written request of the agency to which the assignment was made.

### EI assignments

A worker may apply for and receive EI benefits from the federal government, while waiting to receive WSIB benefits.

The federal government pays the worker EI benefits based on the worker's **gross** earnings. The federal government sets aside some of this amount as an income tax contribution to CRA.

The worker signs the federal government assignment form to repay the EI benefits if and when WSIB benefits are allowed.

After receiving the assignment form, the WSIB repays the federal government the net amount of the EI benefits, based on either:

- 75% of the worker's gross average earnings (applies to claims with accident dates before April 1, 1985)
- 90% of the worker's net average earnings (applies to claims with accident dates on or after April 1, 1985 to December 31, 1997), or
- 85% of the worker's net average earnings (applies to accident dates on or after January 1, 1998).

The worker is responsible for repaying the federal government the difference between the net and gross amounts of the EI benefits. The worker may recover this amount from CRA by filing an income tax return.

### Incarcerated workers' assignments

An incarcerated (imprisoned or confined) worker may assign WSIB benefits to a spouse, or other dependant, or to provide bail, [see-refer to 15-06-06, Incarcerated Workers](#).

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**Redirected Benefit Payments****Motor vehicle accident (MVA) assignments**

Under the *Insurance Act*, if a worker is injured in an MVA, and it is unclear whether WSIB benefits or automobile accident benefits are payable, the worker is entitled to claim benefits from the automobile insurance provider pending a decision by the WSIB.

To do so, the worker is required by the automobile insurance provider to assign benefits which the worker may receive from the WSIB.

The parties to an assignment arising out of an MVA must use an Assignment of Workplace Safety & Insurance Benefits form when assigning benefits.

**Directions to pay**

The WSIB does not approve directions to pay sent to the WSIB by lawyers or by other representatives.

**Garnishments**

All garnishments, including Support Deduction Orders and Requirement to Pay notices, must be sent to Legal Services.

**Garnishments honoured**

The WSIB must honour garnishment notices for:

- Support Deduction Orders for family support or maintenance, [see-refer to 18-01-07](#), Automatic Deduction for Family Support
- Requirement to Pay notices submitted by CRA, and
- Demand on Third Party garnishments submitted by CRA.

**Garnishments not honoured**

The WSIB does not honour garnishment notices for the payment of debts related to:

- legal fees
- claims by business or personal creditors, or
- claims by judgment creditors.

**CRA Requirement to Pay garnishments**

A worker's benefits are subject to garnishment by a **R**requirement to **P**pay notice issued by CRA for unpaid federal taxes, charges or penalties.

The amount of benefits which may be redirected to CRA is limited to:

- no more than 20% of the amount of periodic or lump sum income replacement benefits such as loss of earnings (LOE), future economic loss (FEL), FEL supplements, s.147(2) and (4) supplements under the *Workers' Compensation Act*, [Revised Statutes of Ontario 1990 \(WCA\)](#), temporary benefits, and/or

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- no more than 50% of the amount of periodic or lump sum benefits for non-economic loss (NEL), permanent disability, survivor or death benefits payable to the worker, the worker's estate or survivor(s).

**CRA demand on third party garnishments**

A worker's benefits are subject to garnishment by a demand on third party notice issued by CRA for reimbursement of unemployment or social services benefits unrelated to the worker's WSIB benefits.

The amount of benefits which may be directed to CRA is limited to no more than 30% of the amount of periodic or lump sum benefits (i.e., ~~loss of earnings (LOE), future economic loss (FEL)~~, FEL supplements, s.147(2) and (4) supplements under the ~~Workers' Compensation Act, R.S.O. 1990 WCA~~, temporary benefits, non-economic loss (NEL), permanent disability, survivor or death benefits payable to the worker, the worker's estate or survivor(s).

The percentages referred to [under "Garnishments" above](#) are to be calculated exclusive of any interest that may be payable.

**Multiple redirections**

If there are multiple requests for redirection of benefits in the same claim, Legal Services determines the order of priority.

**Benefit-related debt not created**

If the WSIB cannot reimburse all or part of the assignment, it does not create a benefit-related debt, [see refer to 18-01-04, Recovery of Benefit-Related Debts](#).

**Redirections from multiple benefit types**

More than one type of WSIB benefit payment (e.g., LOE **and** NEL) can be redirected under the authority of the same assignment, garnishment, Support Deduction Order, or Requirement to Pay notice.

As in any other case, the payment to be redirected must come within, and be based upon, the explicit terms in the assignment form.

**Example**

Elma starts receiving LOE benefits on February 9, 2000. On February 21, 2000 the WSIB receives a Requirement to Pay notice on file from CRA. The Requirement to Pay notice states that the sum of \$6,000 is owed to CRA and must be reimbursed out of WSIB benefits owing to the worker from February 21, 2000 to February 21, 2001. On April 15, 2000, Elma returns to work at no wage loss. On January 15, 2001 Elma is granted entitlement to a NEL benefit in the amount of \$9,000.

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Noting the limitations on CRA garnishments, the WSIB redirects 20% of Elma's LOE benefits from February 21, 2000 up to but not including April 15, 2000 when ~~she~~ [Elma](#) returned to work. After this redirection, \$5,000 remains owing to CRA.

When the claim is referred for NEL, the WSIB notes the Requirement to Pay notice on the NEL referral forms and redirects 50% of Elma's NEL payment to CRA. Therefore, \$4,500 is redirected to CRA from Elma's \$9,000 NEL payment.

**Application date**

This policy applies to all redirection notices received on or after ~~March 1, 2021~~ [December 5, 2024](#), for all accidents.

**Document ~~H~~history**

This document replaces 18-01-06 dated ~~February 15, 2013~~ [April 9, 2021](#).

This document was previously published as:

[18-01-06 dated February 15, 2013](#)

18-01-06 dated January 5, 2010

18-01-06 dated March 3, 2008

18-01-06 dated October 12, 2004

18-01-06 dated August 1, 2001

05-01-06 dated January 5, 1994.

**References****Legislative ~~A~~authority**

*Workplace Safety and Insurance Act, 1997*, ~~as amended~~

Sections 64, 65

*Workers' Compensation Act*, ~~R.S.O. Revised Statutes of Ontario 1990~~, ~~as amended~~

Sections 21, 48

**~~Minute~~[Approval](#)**

~~Administrative~~

~~#21, March 24, 2021, Page 587~~