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Merits and Justice

Law

~~The WSIB shall make its decision based upon the merits and justice of a case and is not bound by legal precedent.~~

Policy

~~Merits and justice~~

Every decision made by the WSIB must be based on the merits and justice of the case, which means decision-makers must take into account:

- all facts and circumstances relating to the case
- the relevant WSIB policy or policies, and
- ~~the relevant provision or provisions of the *Workplace Safety and Insurance Act, 1997* (WSIA) or the *Workers' Compensation Act, Revised Statutes of Ontario 1990* (WCA), (the Act).~~

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The WSIB is not bound by legal precedent.

By applying relevant legislative and policy provisions to similar situations, decision-makers ensure that:

- similar cases are adjudicated in a similar manner
- each participant in the system is treated fairly, and
- the decision-making process is consistent and reliable.

Purpose

The purpose of this policy is to outline how the WSIB makes decisions based on the merits and justice of a case.

Guidelines

Scope of authority

The obligation to decide each case on the basis of merits and justice does **not** authorize a decision-maker to disregard the relevant provisions of the [WSIA](#), [WCA](#)~~Act~~ or WSIB policies. The [WSIA](#), [WCA](#)~~Act~~ and the policies must be taken into consideration, and cannot be ignored if they apply to a particular case.

Facts and circumstances

Decision-makers rely on employers, workers, and health care practitioners to report relevant information, but ensure that all information necessary to make a decision is on file.

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Role of the [WSIA or WCAAct](#)

The WSIB is responsible for administering and implementing the [WSIA and WCAAct](#). If there are specific directions within the [WSIA or WCAAct](#) that are relevant to the facts and circumstances of the case, decision-makers are legally bound to follow them with no exceptions. ~~For example, loss of earnings is to be compensated at 85 [per cent](#)% of net average earnings for accidents on or after January 1, 1998.~~

Role of policy

The WSIB develops policies when the [WSIA or WCAAct](#) is silent or ambiguous, or when it permits a number of possible interpretations.

Within each policy, the WSIB creates a framework that directs the way decision-makers should act when certain facts and circumstances come before them. If such situations arise, the relevant policies must be followed unless there are exceptional circumstances as described in ["Exceptions to relevant policies"](#). ~~below.~~

Applying policies

After gathering all the facts pertaining to each case, the decision-maker interprets the information, determines if there are any relevant provisions of the [WSIA, WCAAct](#) or policies, and weighs all of the evidence before making a decision.

To identify a relevant policy, a decision-maker must first consider whether the case falls within the application date of the policy [and whether the transitional provisions, if any, apply.](#) ~~For example, (e.g., 17-06-05, Personal Care [Attendants and Allowance](#), applies to all decisions made on or after [September 21, 2026, for accidents on or after September 21, 2026, and includes transitional provisions for accidents prior to September 21, 2026.](#) ~~June 1, 2001).~~~~

The decision-maker then determines if the facts of the case fall within the framework established by the policy.

If the facts of the case pertain to one or more policies, the decision-maker must apply each of those policies when making a decision.

Exceptions to relevant policies

There may be rare cases where the application of a relevant policy would lead to an absurd or unfair result that the WSIB never intended. Therefore, a decision-maker may depart from a policy if it can be shown that the case has exceptional circumstances that justify doing so.

The decision-maker must clearly identify the exceptional circumstances and explain in the decision why the relevant policy is not applicable.

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Merits and Justice**No relevant policies**

If a decision-maker finds that the facts of the case are not covered by existing policy, the case must be decided on its particular facts, in accordance with the general provisions of the [WSIA or WCA Act](#). The decision-maker cannot disregard the relevant provisions of the [WSIA or WCA Act](#).

Decisions related to occupational disease

When determining entitlement to a disease claim, a decision-maker considers the worker's clinical condition and exposure at work, the up-to-date clinical and scientific information, any pertinent non-occupational factors, and all of the relevant policies.

Application date

This policy applies to all decisions made on or after [September 21, 2026](#) ~~March 1, 2001~~, for all accidents.

Document [history](#) ~~History~~

This document replaces 11-01-03 dated [October 12, 2004](#) ~~April 6, 2001~~.

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References**Legislative [authority](#) ~~Authority~~**

Workplace Safety and Insurance Act, 1997, ~~as amended~~
Section 119(1)

Workers' Compensation Act, [Revised Statutes of Ontario](#) ~~R.S.O.~~ 1990, ~~as amended~~
Section 73(1)



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