Policy

The WSIB may make premium or premium rate adjustments to an employer's account when:

- an employer notifies the WSIB of a premium issue requiring an adjustment, or
- the WSIB identifies the need for an adjustment.

Both premium rates and premiums owed or assessed may be adjusted.

Purpose

The purpose of this policy is to outline the circumstances under which the WSIB adjusts the premiums billed, payable or previously paid by employers. ~~Most adjustments are limited to January 1 of the third prior year, with some exceptions.~~

Guidelines

Definitions

Premium adjustments refer to the following:

- the WSIB's retroactive adjustment of a premium that has been assessed by the WSIB, and/or
- the WSIB's adjustment of an employer's future premiums owed, and/or
- the WSIB's application of billable premiums to an employer~~, and/or~~.
  ~~the WSIB's adjustment of an employer's premium rate, which may affect retroactive, current and future premiums payable.~~

Premium rate adjustments refer to the following:

- the WSIB's adjustment of an employer's premium rate, which may affect retroactive, current and future premiums payable.

Current year: the earlier of the current calendar year~~,~~ or the year of the notification date~~,~~ if they are different.

Second prior year: the calendar year two years before the current year.

Third prior year: the calendar year three years before the current year.

Any prior year: means the WSIB may go back an unlimited number of years to make adjustments to an employer's account.

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

Application of adjustments

The WSIB may apply premium and premium rate adjustments to the current year, ~~three~~ two prior years, or, in limited cases, three prior years or any prior year, to ensure that an employer's premium rate is calculated appropriately and/or that correct premiums have been paid. Adjustments may be initiated at the employer's request, or by the WSIB.

In cases where an adjustment is made, the WSIB uses the most up-to-date information available (e.g., up-to-date claim costs, claim count, insurable earnings etc.), subject to any applicable rules included in policy.

The WSIB may make debit or credit adjustments, unless otherwise stated.

~~Classification and eligibility for multiple premium rates~~Current year adjustments

In the event of a correction or change to the following items, the WSIB may make ~~debit or credit~~ adjustments to the employer's account back to **January 1~~st~~ of the current year**:

- a change to an employer's account results in the addition, deletion or change of a ~~6~~six-digit North American Industry Classification System (NAICS) code (i.e., a classification change)~~.~~
- a change in eligibility for multiple premium rates~~.~~
- a change in associated employer status, or
- a change in eligibility for non-profit organization status.

Correction or revision requiring adjustment

In the event of a correction or revision to the following items, the WSIB may make ~~debit or credit~~ premium adjustments only (not premium rate adjustments) to employer accounts back to **January 1 of the ~~third~~ second prior year**:

- ~~interest charges~~
- ~~change in predominant class, including any predominant class changes resulting from a change in insurable earnings~~
- ~~change in associated employer status~~
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- non-compliance penalties
- insurable earnings
- insurable earnings transfers from one employer to another
- status decisions for executive officers and contractors (~~see~~ refer to **Note ~~NOTE~~ below** for details)
- optional insurance, or
- ~~claim count and/or claim costs due to a WSIB error~~
- earnings of non-registered employers.

Note~~OTE~~
A credit premium adjustment to an employer's account may only be made if a prior status decision by the WSIB under ~~12-02-01, Workers and Independent Operators~~12-02-01, Workers and Independent Operators is overturned. In such cases, the WSIB may make a credit premium adjustment back to the date of the prior status decision.

Decision affecting predominant class

In the event of a change in predominant class, including any predominant class changes resulting from a change in insurable earnings, the WSIB may make premium and premium rate adjustments to employer accounts back to **January 1 of the second prior year**.

In cases where there is a change in insurable earnings on an account that is currently closed, the predominant class is not reassessed based on that change unless the employer currently has other open accounts that are also impacted by that change.

Decision affecting claim count or claim costs

In the event of a correction or revision to claim count and/or claim costs due to a WSIB error, the WSIB may make premium and premium rate adjustments to employer accounts back to **January 1 of the second prior year**.

The WSIB may make ~~premium credit~~ premium and premium rate adjustments ~~only~~ to an employer's account back to **January 1 of the ~~third~~ second prior year** on a decision affecting claim count or claim costs, under the following circumstances:

- second injury enhancement fund (SIEF) relief
- a change of accident date
- a claim amalgamation, or
- reversal of entitlement to a claim.

Transfer of costs

The WSIB may make ~~**Premium credit and debit**~~ premium and premium rate adjustments ~~may also be made~~ to an employer's account back to **January 1 of the ~~third~~ second prior year** when a transfer of costs is authorized according to 14-05-01, Transfer of Costs. In these cases, the employer who is approved for cost relief will receive a credit on their account, and the employer receiving the costs will have a debit adjustment applied to their account.

Exceptions

Lack of full disclosure

At its discretion, where the WSIB is satisfied that there has been a lack of full disclosure in an employer's account on any premium or premium rate- related issue requiring a change or correction, the WSIB may make ~~premium~~ **debit** premium and premium rate adjustments only back to **January 1 of the third prior year** when employers:

- provide incomplete or inaccurate information to the WSIB~~, or~~
- otherwise delay, withhold, or fail to fully disclose relevant information~~, or~~
- fail to act on information provided to them by the WSIB that directly affects their premium, or
- declare themselves to be exempt- from compulsory coverage in construction under 'home renovation work' or 'partner or executive officer exemption' while performing construction work that is not eligible for the exemption.

~~Exceptions~~

Court judgment

The WSIB may make ~~premium debit or credit~~ premium and premium rate adjustments to an employer's account in **any prior year** when a court judgment affects claim costs or claim ~~frequency~~count.

Non-compliance

The WSIB may make ~~Debit~~ **debit** premium and premium rate adjustments only to an employer's account ~~occur for~~in **any prior year** if the WSIB has found employer non-compliance under the *Workplace Safety and Insurance Act, 1997*.

Non-compliance with accident reporting obligations, including claim suppression

The WSIB may make a **debit** premium and premium rate adjustment only to an employer's account in **any prior year** if it determines the employer has not complied with accident reporting obligations. In addition, as of January 1, 2018, **debit** premium and premium rate adjustments can be made if the WSIB has determined that the employer has contravened the prohibition against claim suppression.

Provisional premiums

The WSIB may make premium adjustments only (not premium rate adjustments) to an employer's account to correct provisional premiums in **any prior year** in which a provisional premium was issued.

Voluntary disclosure of non-compliant reporting

Registered employers who come forward voluntarily to disclose and correct previously under-reported insurable earnings are required to report and pay up to 12 months of premium adjustments retroactive from the date of disclosure.

The WSIB will:

- apply debit interest as outlined in 14-02-07, Employer Non-Compliance Interest and Charges, and
- refrain from investigating and laying applicable provincial offences charges.

Where an employer continues to under-report, the rules ~~under the~~in "Correction or revision requiring adjustment" ~~section of this policy~~ will be applied from the date of voluntary disclosure, enforcement proceedings may be taken, and interest may be applied. Subsequent instances of under-reporting by the employer will be subject to all relevant WSIB policies.

When the 12 month retroactive premium adjustment is not applicable

The 12 month retroactive premium adjustment for voluntary disclosure of under-reported insurable earnings is not applicable to employers who have been identified by the WSIB before their voluntary disclosure as the result of:

- WSIB's information exchange agreements with the Canada Revenue Agency or other authorities or administrations
- Stakeholder Compliance Services referrals
- audit notifications and discoveries
- Action Line referrals (anonymous telephone calls)
- revenue recovery activities
- decisions resulting from worker status reviews, or
- any other means of identification.

The 12 month retroactive premium adjustment is not applicable to employers who provide inaccurate or incomplete information at the time of their voluntary disclosure.

Employers requesting a premium or premium rate adjustment

Employers requesting a premium or premium rate adjustment must make their request to the WSIB. The WSIB may require that the request be submitted in writing. To make a request, employers should:

- clearly identify the ~~premium~~ issue requiring an adjustment, and
- specify their reasons for requesting the adjustment, e.g., why they believe there was a mistake made in the calculation of their premium, premium rate, their classification, claim count, claim costs or other charges applied to their account, etc.

WSIB-initiated adjustments

The WSIB may require an employer to submit information in writing when the WSIB identifies the requirement for a premium or premium rate adjustment.

Notification dates

For WSIB's audit area, the notification date for a premium or premium rate adjustment is the date of the audit visit, or the due date indicated on the Notice of Audit.

For the WSIB's other operating areas, the notification date for a premium or premium rate adjustment is the receipt date of a request from an employer or an employer representative with valid authorization, or the date of a site visit documented in the employer's file.

For referrals between operating areas, the notification date remains the date set by the originating area.

The notification date for a given employer's account sets the notification date for all other accounts within the employer's organization. The timelines for adjustments are based on the notification date.

Application date

This policy applies to all adjustments with a notification date on or after ~~April 1, 2023~~January 1, 2027.

Document history

This document replaces 14-02-06 dated- April 4, 2023~~January 2, 2020~~.

This document was previously published as:
14-02-06 dated January 2, 2020
14-02-06* dated February 3, 2014
13-02-07* dated July 15, 2011
13-02-05* dated January 3, 2007
14-02-06 dated January 2, 2013
14-02-06 dated November 3, 2008
14-02-06 dated October 29, 2007
14-02-06 dated January 3, 2007
14-02-06 dated January 3, 2006
14-02-06 dated October 12, 2004
14-02-06 dated August 18, 2000
08-01-09 dated June 04, 1997.
*documents were replaced by 14-02-06 dated January 2, 2020.

References

Legislative authority

Workplace Safety and Insurance Act, 1997~~, as amended~~
Sections 12, 12.2, 22.1, 30, 75(3), 77, 78, 81, 83, 84, 88(4), 96(2), 121, 155.1

Approval~~Minute~~
~~Administrative~~
~~#1, March 31, 2023, Page 611~~