

Practice Directive #48

Retirement Benefits

Date: July 16, 2002

BACKGROUND

Effective June 30, 2002, the *Workers Compensation Act* ("Act") was amended by Bill 49, the *Workers Compensation Amendment Act, 2002*. As a result, the Panel of Administrators approved amendments to the Board's policies concerning the duration of permanent disability benefits and the implementation of a retirement benefit.

EFFECTIVE DATE

This policy applies to injuries occurring on or after June 30, 2002 and to a worker whose permanent disability first occurred on or after June 30, 2002. Please see Practice Directive #38A, *Effective Date & Transition Rules* and Practice Directive #38B, *Recurrences*.

LAW

Section 23.2 of the Act provides:

- (1) *This section applies to a worker who is receiving periodic payments under section 22(1) or 23(1) or (3)*
- (2) *The Board must set aside, at the time a periodic payment is made to a worker, an amount that*
 - (a) *is equal to 5% of the periodic payment, and*
 - (b) *is in addition to the periodic payment.*

POLICY

Rehabilitation Services & Claims Manual ("RSCM") Volume II, Policy items #116.00 and #116.10 provide that a worker who is in receipt of a permanent disability award is entitled to have an amount set aside by the Board toward a retirement benefit ("RB"). The worker will be paid the RB following the conclusion of his permanent disability award at age 65 or on the date the Board is satisfied the worker would have retired if after age 65.

Adjudicative Guidelines

Commencing the effective date of the permanent disability periodic payment awarded under section 22(1), 23(1) or 23(3) of the *Act*, the Board will set aside an amount equal to 5% of each monthly permanent disability award payment. This amount will be in addition to the permanent disability award to which the worker is entitled. For example, if a worker is entitled to a permanent disability award of \$100.00 per month, the Board will set aside an additional \$5.00 per month towards the retirement benefit.

The worker may also voluntarily contribute between 1% and 5% of the permanent disability award into the retirement fund. Therefore, if a worker elects to contribute 5% toward his or her retirement benefit on a total of \$100.00 per month, the worker will receive a permanent disability award payment of \$95.00, and \$5.00 will be set aside.

At the same time as the worker is notified of his or her permanent periodic disability entitlement, an "Application for Voluntary Contributions" and a "Designation of Beneficiary" form will be mailed to the worker, along with the decision letter. A designated beneficiary is a person chosen by the worker to receive, in the event of the worker's death prior to age 65, the total amount contained in the retirement benefit fund.

The worker's completion of the Contribution form, or the Beneficiary form, is discretionary. If the worker does not designate a beneficiary and dies before reaching age 65, any accumulated retirement benefits will be paid to the worker's estate.

If the worker elects to make voluntary contributions, the Voluntary Contribution form must be completed, signed and returned to the Pension Department. Section 23.2(8) of the *Act* provides that the worker may only once make application to contribute an additional amount of between 1% and 5% of his or her permanent disability award into the retirement benefit fund. The worker may only once revoke this application. Once a worker has chosen an amount between 1% and 5%, the worker may not change the percentage of contribution.

Deductions from Permanent Disability Awards

If deductions are being made from the periodic disability benefit, for example, CPP disability benefits, FMEP, etc., the retirement benefit contributed by the Board is calculated with respect to the full monthly permanent disability award amount, prior to any deductions. The value of any worker contribution is also calculated on the full amount of the permanent disability award.

Annual Retirement Benefit Statement

An annual statement concerning the retirement benefit will be provided to the worker outlining the status of the benefit as of the end of each calendar year.

The statement will include the amounts set aside by the Board in the prior year, the amounts contributed by the worker in the prior year and the accumulated investment income. The statement will also include the date on which the worker is entitled to the retirement benefit, and the name of any designated beneficiary.

Payment of Retirement Benefits

If the worker dies before age 65, the retirement benefit will be paid as soon as practicable to the named beneficiary or to the worker's estate. In all other cases, the retirement benefit will be paid on the later of,

- the date the worker reaches age 65, or
- the date the Board determines the worker would retire after age 65

On reaching the above-determined date, the worker will receive the total of the accrued retirement benefit and accumulated investment income as a lump sum award.

If the Board is unable to locate the worker when the retirement benefit is due, the account will be considered to be dormant.

Cash Awards/Commutations

If a worker is entitled to a cash award, the value of the Board's contribution toward the retirement benefit will also be paid to the worker as a lump sum. If a worker is entitled to a commutation of his or her permanent disability award, the future value of the Board's contribution to the retirement benefit will also be commuted.

Any retirement benefit amounts set aside up to the date of commutation will be "vested" and paid to the worker in a lump sum when the worker reaches age 65 or deemed age of retirement.