

2006/02/21-04

THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA**RESOLUTION OF THE BOARD OF DIRECTORS****Re: Interest on Survivor Benefits****WHEREAS:**

Pursuant to section 82 of the *Workers Compensation Act*, RSBC 1996, Chapter 492 and amendments thereto ("*Act*"), the Board of Directors must set and revise as necessary the policies of the Board of Directors, including policies respecting compensation, assessment, rehabilitation, and occupational health and safety;

AND WHEREAS:

The *Act* provides for certain types of mandatory benefits that must be paid when an injury or fatality arises out of and in the course of employment. This includes the payment of wage loss benefits under sections 29 and 30, the payment of permanent disability benefits under sections 22 and 23, and the payment of compensation to the surviving dependants of deceased workers under section 17;

AND WHEREAS:

The policy regarding interest on retroactive payments of compensation is provided in policy item #50.00, *Interest*, of the *Rehabilitation Services and Claims Manual* ("*RS&CM*"). The policy provides that interest must be paid on retroactive payments in respect of a wage loss payment or a permanent disability lump sum payment that are the result of a blatant Board error;

AND WHEREAS:

Policy does not currently provide for interest payments on section 17 benefits to the surviving dependants of deceased workers in cases of blatant Board error;

THE BOARD OF DIRECTORS RESOLVES THAT:

1. Amendments to policy item #50.00 of the *RS&CM* Volume I, attached as Appendix "A", are approved and apply to all decisions, including appellate decisions, made on or after March 1, 2006.
2. Amendments to policy item #50.00 of the *RS&CM* Volume II, attached as Appendix "B", are approved and apply to all decisions, including appellate decisions, made on or after March 1, 2006.
3. This resolution is effective March 1, 2006.

DATED at Richmond, British Columbia, February 21, 2006.

By the Workers' Compensation Board

**DOUGLAS J. ENNS, CHAIR
BOARD OF DIRECTORS**

APPENDIX A
REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME I

#50.00 INTEREST

With respect to compensation matters, the *Act* provides express entitlement to interest only in the situations covered by sections 19(2)(c) and 258. In these situations, the Board will pay interest as provided for in the *Act* (see policy items #55.62 and #100.83).

The Board has discretion to pay interest in situations other than those expressly provided for in the *Act*. In these situations, interest may be paid subject to the following conditions:

- ~~The retroactive payment is to a worker or employer in respect of a wage-loss payment (provided under sections 29 and 30 of the *Act*), or a pension lump-sum payment (provided under sections 22 and 23 of the *Act*).~~
- **The retroactive payment is:**
 - **To a worker or employer in respect of a wage loss payment provided under sections 29 and 30 of the *Act*.**
 - **To a worker or employer in respect of a permanent disability lump sum payment provided under sections 22 and 23 of the *Act*.**
 - **To a dependant of a deceased worker in respect of a payment provided under section 17 of the *Act*.**
- It has been determined that there was a blatant Board error that necessitated the retroactive payment. For an error to be “blatant” it must be an obvious and overriding error. For example, the error must be one that had the Board officer known that he or she was making the error at the time, it would have caused the officer to change the course of reasoning and the outcome. A “blatant” error cannot be characterized as an understandable error based on misjudgment. Rather, it describes a glaring error that no reasonable person should make.
- Interest will be calculated from the first day of the month following the commencement date of the retroactive benefit and up to the end of the month preceding the decision date. Notwithstanding, in no case will interest accrue for a period greater than twenty years.

APPENDIX A
REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME I

In all cases where a decision to award interest is made, the Board will pay simple interest at a rate equal to the prime lending rate of the banker to the government (i.e., the CIBC). During the first 6 months of a year interest must be calculated at the interest rate as at January 1. During the last 6 months of a year interest must be calculated at the interest rate as at July 1.

For practical reasons, certain mathematical approximations may be used in the calculations.

The rate of interest provided in this policy will also be used in the calculation of overpayments as outlined in policy item #48.42.

EFFECTIVE DATE: **March 1, 2006**~~March 3, 2003 (as to reference to section 258)~~

APPLICATION: ~~Not applicable.~~**Applies to all decisions, including appellate decisions, made on or after March 1, 2006.**

APPENDIX B
REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II

#50.00 INTEREST

With respect to compensation matters, the *Act* provides express entitlement to interest only in the situations covered by sections 19(2)(c) and 258. In these situations, the Board will pay interest as provided for in the *Act* (see Item C8-61.10 and policy item #100.83).

The Board has discretion to pay interest in situations other than those expressly provided for in the *Act*. In these situations, interest may be paid subject to the following conditions:

- ~~The retroactive payment is to a worker or employer in respect of a wage loss payment (provided under sections 29 and 30 of the *Act*), or a permanent disability lump sum payment (provided under sections 22 and 23 of the *Act*).~~
- **The retroactive payment is:**
 - **To a worker or employer in respect of a wage loss payment provided under sections 29 and 30 of the *Act*.**
 - **To a worker or employer in respect of a permanent disability lump sum payment provided under sections 22 and 23 of the *Act*.**
 - **To a dependant of a deceased worker in respect of a payment provided under section 17 of the *Act*.**
- It has been determined that there was a blatant Board error that necessitated the retroactive payment. For an error to be “blatant” it must be an obvious and overriding error. For example, the error must be one that had the Board officer known that he or she was making the error at the time, it would have caused the officer to change the course of reasoning and the outcome. A “blatant” error cannot be characterized as an understandable error based on misjudgment. Rather, it describes a glaring error that no reasonable person should make.
- Interest will be calculated from the first day of the month following the commencement date of the retroactive benefit and up to the end of the month preceding the decision date. Notwithstanding, in no case will interest accrue for a period greater than twenty years.

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REHABILITATION SERVICES & CLAIMS MANUAL, VOLUME II

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For practical reasons, certain mathematical approximations may be used in the calculations.

The rate of interest provided in this policy will also be used in the calculation of overpayments as outlined in policy item #48.42.

EFFECTIVE DATE: **March 1, 2006**~~March 3, 2003 (as to reference to section 258)~~

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