

**Operational
Policy**

Section
Average Earnings

Subject
Calculating Net Average Earnings

Policy

The WSIB applies probable income deductions to a worker's average earnings to arrive at the net average earnings (NAE) required to determine the amount of benefits payable.

Purpose

The purpose of this policy is to outline how the WSIB determines the amount of a worker's NAE prior to determining the amount of benefits payable.

Guidelines

Prior to determining NAE, the WSIB calculates a worker's average earnings in accordance with the Average Earnings policies in the "Benefit Payments" section of the Operational Policy Manual.

Once average earnings are calculated, the WSIB determines NAE by deducting from the worker's average earnings the probable

- income tax
- Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) premiums, and
- employment insurance (EI) premiums payable by the worker.

The above probable deductions are applied to the worker's average earnings to arrive at NAE for the purpose of determining the amount of WSIB benefits payable; the probable deduction amounts are not actually remitted to the federal government.

NOTE

On January 1 every year, the WSIB establishes a schedule of NAE for all levels of earnings up to the statutory maximum which reflects current rates for income tax, EI premiums, and CPP/QPP premiums in accordance with s.55 of the *Workplace Safety and Insurance Act, 1997* (WSIA). The published schedule is conclusive and final.

Escalated average earnings

If the earnings year is different than the year from which the benefit is payable, the average earnings are updated prior to determining NAE to protect them against the effects of inflation. This is called escalation and is done by applying the appropriate indexing factor to the average earnings for each indexing date between the earnings date and the date from which the benefit is payable. The applicable indexing factor for each indexing date can be found in 18-01-02, Benefit Dollar Amounts - Accidents from 1998.

Probable income tax

The WSIB calculates the probable income tax payable by using the net exemption code (NEC) the worker files with the employer. The employer indicates the code when reporting an accident to the WSIB, see 15-01-02, Employers' Initial Accident-Reporting Obligations.

If an individual has purchased optional insurance, the WSIB uses the NEC the individual submitted to the Canada Revenue Agency (CRA) on his or her income tax statement.

Workers who do not have income tax deducted at the source are considered single workers with no dependants (NEC 01) unless documentation demonstrating otherwise is submitted.

Exempt workers

Workers who are not required to pay income tax (e.g., those individuals who do not pay income tax as a result of s. 87 of the *Indian Act*) do not have probable income tax deducted from their average earnings when determining NAE.

NEC updates

The WSIB may update the NEC and redetermine the NAE of any worker if

- the worker's NEC has changed, or
- an incorrect NEC was reported at the time of the accident or recurrence of loss of earnings.

NEC changes

If a worker's NEC changes, the new NEC is applicable as of January 1 of the following year. For example, if a worker's NEC changed in October 2017, the new NEC would be applicable from January 1, 2018 onward.

To update the NEC, CRA documentation validating the change must be submitted for the relevant years (e.g., new TD-1 form, option 'C' printout).

Incorrect NEC reported

If an incorrect NEC was reported at the time of the accident or recurrence of loss of earnings, the NEC may be updated retroactive to the date from which the benefit was payable.

NEC changes and recurrence of loss of earnings

If a worker's NEC changes and the worker experiences a recurrence of loss of earnings before January 1, the WSIB calculates the average earnings in accordance with 18-02-06, Determining Average Earnings - Recurrences and uses the new NEC to determine NAE. The WSIB does not wait until January 1 of the following year to apply the new NEC.

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Probable CPP/QPP premiums payable

The WSIB uses the CPP/QPP premium rates established by the Government of Canada. Probable CPP/QPP premiums are deducted from the earnings of all workers except

- those who have applied for and who receive a CPP/QPP retirement pension, or
- workers who have reached age 65.

Probable EI premiums

The WSIB uses the EI premium rates established by the Government of Canada. Probable EI premiums are deducted from the earnings of all workers except

- those aged 65 or older who are exempted from paying EI premiums by the *Employment Insurance Act*, and
- optional insurance holders who do not pay EI premiums because the *Employment Insurance Act* prohibits them from participating in the EI plan.

Statutory maximum

A worker's average earnings are subject to the statutory maximum amount of average earnings, which is 175 per cent of the average industrial wage (AIW) for Ontario. If the worker's average earnings exceed this amount, they are deemed to be 175 per cent of AIW. The maximum amount of average earnings for each accident year can be found in 18-01-02, Benefit Dollar Amounts - Accidents from 1998.

Statutory minimum

Depending on a worker's NAE, benefits may be based on a minimum amount rather than NAE. For information about how the minimum applies in the case of loss of earnings (LOE) benefits, see 18-03-02, Payment and Reviewing LOE Benefits (Prior to Final Review). For information about how the minimum applies in the case of periodic payments for survivors, see 20-03-04, Spouse with No Children, 20-03-06, Spouse with One or More Children, and 20-03-10, Children and No Spouse.

Application date

This policy applies to all decisions made for entitlement periods on or after January 1, 2018, for accidents on or after January 1, 1998.

Document history

This document replaces 18-02-07 dated January 2, 2013.

Previously this document was published as:

- 18-02-07 dated October 12, 2004
- 18-02-07 dated December 1, 2002
- 18-02-07 dated May 23, 2000
- 18-02-07 dated June 15, 1999

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4.2 dated January 1, 1998.

References

Legislative authority

Workplace Safety and Insurance Act, 1997, as amended
Sections 12.2(1), 21, 43, 53, 54, 55

Minute

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