

Operational
Policy

Section
Compliance

Subject
Offences and Penalties - Worker

Policy

It is an offence under the Workplace Safety and Insurance Act, 1997 (WSIA) to knowingly make a false or misleading statement to the WSIB in connection with any person's claim for benefits.

It is also an offence under the WSIA for a person to wilfully fail to inform the WSIB of a material change in circumstance in connection with his or her entitlement to benefits within ten days of the material change.

The WSIB takes all necessary action against a person who commits a claims-related offence. The WSIB also pursues the recovery of funds, equipment, and the value of services paid to individuals who claim benefits deceptively. Recovery measures used by the WSIB include charges under the WSIA or the *Criminal Code of Canada* (Criminal Code) and action in civil courts.

Purpose

The purpose of this policy is to set out worker offences, the action the WSIB takes when a worker commits or is suspected of committing an offence, and the penalties that may be imposed.

Guidelines

The following guidelines apply to anyone with an interest in a worker's claim. For purposes of these guidelines, the term "person" refers to a worker, spouse, or dependant.

NOTE

This policy should be read in conjunction with 22-01-05, Offences and Penalties - General.

Preliminary investigation

If a decision-maker suspects that a person has committed a claims-related offence, the decision-maker must immediately report the incident in detail to Regulatory Services, with recommendations for further management of the claim, see 22-01-05, Offences and Penalties - General, for more information.

To determine if a person has failed to inform the WSIB of a material change in circumstances, the decision-maker refers to 22-01-02, Material Change in Circumstances - Worker, and the decision-maker may also contact Regulatory Services for further guidance.

Action following preliminary investigation

Following a preliminary investigation, the decision-maker reviews the information obtained. If there is evidence of wrongdoing, the decision-maker refers the claim file and supporting documentation to Regulatory Services.

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A WSIB decision-maker reviews the person's entitlement to all benefits, and decides whether to terminate or reduce benefits or record a benefit-related debt. A decision-maker terminates an individual's benefits if the new information indicates that

- the person is not a "worker", "spouse", or "dependant" within the meaning of the WSIA
- the employer is not covered and is not required to be covered under the WSIA because its operations are not described in either Schedule 1 or Schedule 2
- the injury is not work-related
- there is no proof of an accident, or
- the diagnosis is not compatible with the accident or disablement history.

If the WSIB finds out that the worker is receiving temporary disability or loss of earnings (LOE) benefits while working at no wage loss, the decision-maker terminates the worker's benefits.

If the worker is working at a wage loss while claiming temporary total disability or full LOE benefits, the decision-maker reviews the worker's level of impairment. This review may result in a reduction or a termination of benefits.

In all situations, the WSIB tries to collect the benefit-related debt even though the claim has been referred to Regulatory Services, see 18-01-04, Recovery of Benefit-Related Debts.

Written notice

The decision-maker advises the person in writing of the reduction or termination of benefits.

Claim file management

If, following a preliminary investigation, the person still appears to be entitled to some benefits and services under the WSIA, despite the offence, the decision-maker continues to manage the claim while awaiting the findings and recommendations of Regulatory Services. However, the decision-maker consults with Regulatory Services before authorizing the payment of any other benefits or services.

If the worker submits a new claim while another claim is under investigation by Regulatory Services, the decision-maker carefully reviews entitlement in the new claim in light of the worker's history with Regulatory Services, and may refer the new claim to a claims investigator for a field investigation. The decision-maker consults with Regulatory Services before making any payment in the new claim.

Regulatory Services advises the decision-maker of any intended action regarding a claim.

Charges laid or civil action initiated

If charges are laid, or if civil action is recommended to Legal Services by Regulatory Services, the decision-maker consults with Regulatory Services regarding any conflicts. Then the decision-maker

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- reviews the person's entitlement to benefits and, in most circumstances, terminates the benefits/services (if this has not already been done)
- advises Regulatory Services of the extent of any benefit-related debt
- puts all future benefit entitlement, if any, towards reducing that debt.

Charges not laid or no civil action initiated

If charges are not laid, or if no civil action is recommended to Legal Services by Regulatory Services, the decision-maker

- reviews the person's entitlement to benefits
- confirms, amends, or revokes any previous decision regarding the person's benefits, and, if appropriate
- records a benefit-related debt.

Recovery of benefits and services

The WSIB is aggressive in recovering the equipment it provides, the value of services, and the funds paid to persons who claim benefits or services deceptively. The WSIB has the sole discretion to determine what action it will take in response to an offence or a possibly fraudulent activity.

When a person obtains benefits deceptively, the WSIB pursues recovery of the benefit-related debt, and does not suspend action to recover such amounts because of an appeal, the prosecution of an offence, the passing of a certain period of time, or for any other reason.

Accident costs

If a person is convicted of an offence, the WSIB relieves the employer of the accident costs associated with the improper portions of the claim unless the employer had a role in the offence.

For Schedule 1 employers, these costs are not included on the employer's accident cost statement or in the calculation of the employer's experience rating. Instead, the WSIB transfers these costs from the employer's accident cost record to the employer's rate group.

For Schedule 2 employers, the costs of benefits obtained deceptively are credited to the employer's account. Any unrecovered costs are charged to all Schedule 2 employers as part of their administrative rate.

Time limits

For s.149 offences that the WSIB becomes aware of from June 29, 1999 forward, there is no time limit for prosecuting a person under the WSIA.

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For fraud

A person who commits a **fraudulent act** may also be charged and prosecuted under the Criminal Code, where **no time limit** for bringing an action applies.

Application date

This policy applies to all incidents of suspected wrongdoing discovered by the WSIB as of February 15, 2013, subject to the guidelines for **Time limits**, for all claims.

Document history

This document replaces 22-01-07 dated March 3, 2008.

This document was previously published as:

22-01-07 dated October 12, 2004

11-02-04 dated May 24, 2002.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended
Sections 149 (1),(2), 157.1(2)

Minute

Administrative

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