



YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD

SUBJECT: ASSESSMENTS

POLICY NO.:AS-18-03

BOARD APPROVAL:

APPROVAL DATE: May 16, 2006

BOARD ORDER NO.:

EFFECTIVE DATE: January 1, 2007

POLICY STATEMENT

POLICY: **OPTIONAL COVERAGE FOR MUNICIPAL OR FIRST NATION OFFICIALS**

Application

This policy applies to the Yukon Workers' Compensation Health and Safety Board ('the board'); a municipal employer that applies for optional coverage; and, their elected officials who are deemed to be a 'worker' under subsection 4(3) of the *Workers' Compensation Act*, R.S.Y. 2002 ('the Act'). It also applies to a First Nations employer that applies for optional coverage and their elected or appointed officials who are deemed to be a 'worker' under subsection 4(4) of the Act.

Section Reference

Subsections 4(3) and 4(4) of the Act provide the board with the authority to deem persons not automatically covered under the Act to be 'workers' of a municipality or First Nation. Application for optional coverage is made by the municipality or First Nation, and despite any other provisions in the Act, is subject to any conditions established by the board.

Subsection 36(1) of the Act provides that loss of earnings benefits will be paid in an amount of seventy-five per cent (75%) of the worker's loss of earnings from all sources of earnings as authorized under the Act and defined in this policy.

Objective

The objective of this policy is to establish the conditions of optional coverage that will be in effect for an elected official of a municipal council or an elected or appointed official of a First Nation, deemed as their workers under this policy.

General Information

The Act may be extended to provide the protection and benefits of the workers' compensation system for certain persons who are not automatically workers under the Act. This is done upon the board's acceptance of an employer's application for optional coverage.

Once granted, optional coverage is then extended:

- i) to the employer and to the worker for immunity from civil suits resulting from workplace disabilities; and,
- ii) to the worker for the comprehensive benefits provided by the workers' compensation system as established by the Act and relevant policies.

Policy Statement

A. Definitions

(a) **Actual Proven Earnings**

Actual proven earnings are earnings that have been substantiated through the provision of evidence that is acceptable to the board.

(b) **Average Weekly Earnings**

Average weekly earnings are earnings that shall be calculated based on any sources of earnings over any period of time that the board considers fair and just, up to the maximum wage rate established for the year.

(c) **Employer**

An employer includes a municipality or First Nations deemed by the board to be an employer under subsection 117(1) of the Act.

(d) **Maximum Wage Rate**

The maximum wage rate for the year in which the optional coverage is purchased.

(e) **Optional Coverage**

Optional coverage is available to individuals who are not automatically covered by the Act. The board deems, upon approval of an application for optional coverage, an 'employer' and a 'worker' for the purposes of extending the protection and benefits of the Act to these persons.

- (f) Worker
Worker includes a person deemed by the board to be a worker.

For the purposes of this policy, this includes persons under subsection 4(3) and 4(4) of the Act:

- (i) elected officials of a municipal council; and
- (ii) elected or appointed officials of a First Nation.

B. Application Requirements

The application for optional coverage must be made by the employer in writing and signed on the prescribed application form in accordance with the conditions in place at the time.

The employer must have written consent of the individual being covered and this consent must be provided to the board at the time of application.

The applicant will be informed of the conditions of their coverage at the time of purchase. A copy of the policy will be provided to the employer and worker(s).

C. Minimum Assessment and Coverage Amount

An employer may purchase optional coverage for a worker, up to the maximum wage rate for the year. The minimum assessment fee that applies to all purchases of optional coverage is set by board order.

Optional coverage should closely reflect the average weekly earnings of the worker, as loss of earnings benefits will be calculated on the lesser of actual proven earnings or the policy coverage amount elected.

D. Loss of Earnings Benefits

In the case of a work-related disability resulting in a time loss claim, the board must confirm:

- (i) that optional coverage was purchased;
- (ii) the level of coverage; and
- (iii) that the work-related disability occurred during the period that optional coverage was in effect.

A worker is entitled to compensation in an amount equal to seventy five percent (75%) of his or her loss of earnings from all employment covered by the Act, up to the maximum wage rate for the year.

Policy CL-35, "Loss of Earnings Benefits" shall apply to the calculation of loss of earnings benefits for regular employment earnings, and minimum

compensation, if applicable. The policy coverage amount elected will not preclude the inclusion of other earnings from other employment source(s) that is being assessed worker's compensation premiums.

When a portion of the earnings are received from a sole-proprietorship, the determination of earnings as defined in policy AS-18-02, "Optional Coverage for Sole Proprietors, Partners and Non-Incorporated Employers" will be applied.

E. General Conditions For Optional Coverage

Conditions of Coverage

Maintaining valid coverage is subject to the following conditions:

- (i) submission of an appropriate form (e.g. application or renewal form) that is legible, signed and dated;
- (ii) compliance with the conditions established by the board for optional coverage;
- (iii) provision of all the information required to administer this policy;
- (iv) good standing of the account;
- (v) prompt advisement to the board of any changes that may affect coverage; and
- (vi) compliance with the Act.

If an application for optional coverage is not accepted, the employer will be advised and provided with the reasons as to why coverage cannot be extended.

It is the responsibility of the employer to ensure that the person(s) covered by optional coverage are aware of the conditions of coverage along with any changes to the coverage extended to him or her.

Coverage Period

The coverage period, its expiration date and policy renewal requirements will form a part of the conditions of the policy sold to the employer. The coverage cannot exceed a period of twelve (12) months.

F. Payment of Assessment Premiums

The board may require the employer to pay in advance, all or part of the optional coverage assessment premiums payable under section 65 of the Act.

Prepayment will be required in cases including, but not limited to:

- (i) newly registered employers who have been in operation in the Yukon for less than one season;

- (ii) employers that request a letter of clearance upon registration; or
- (iii) employers whose coverage has been cancelled and have requested re-instatement. The employer may be required to pay a portion or full assessment premiums up front.

For employers who have had an account established with the board for a period longer than one season, a periodic payment schedule may be worked out.

G. Cancellation of Optional Coverage

Cancellation of optional coverage shall occur when an employer ceases operations, a person ceases to be a 'worker', or the optional coverage period expires, whichever is earlier.

To cancel optional coverage before the end of the coverage period, the employer must advise the board in writing. All cancellations are subject to the minimum assessment fee and are effective the date cancellation is requested or is received by the board, whichever is later.

When optional coverage is cancelled, the cancellation will be confirmed to the employer and worker in writing.

When a person covered by optional coverage is receiving compensation, the board does not automatically cancel the optional coverage. It is the employer's responsibility to notify the board if cancellation of coverage is desired.

Cancellations cannot be pre-dated nor will there be a refund issued when a worker is in receipt of compensation. All cancellations are subject to the minimum assessment premium rate established by board order.

H. Revocation of Coverage

Optional coverage for a person deemed a worker may be revoked by the board. Circumstances of revocation may include, but are not limited to when:

- (i) an employer fails to pay the assessment premiums;
- (ii) an employer fails to provide information required by the board; or
- (iii) an employer's account is not in good standing.

When optional coverage is revoked by the board, the employer will be notified when practicable. The board will take reasonable steps to locate the employer in order to communicate the revocation. The worker will be notified in every instance.

There will be no refund issued when a person is in receipt of compensation. All cancellations are subject to the minimum assessment premium rate established by board order.

I. Change in Status

After the approval of an application for optional coverage, a deemed 'worker' may have a change in status. If an individual is no longer eligible for optional coverage because they are no longer a 'worker' of the employer who made the application, optional coverage is cancelled from the date of the status change.

It is the responsibility of the employer to notify the board of any change in status. Assessment refunds will be subject to the minimum assessment fee and based on the date of notification received by the board.

When employing individuals who are automatically defined as workers under the Act (not those individuals eligible for optional coverage), coverage is compulsory under the Act. The employer must notify the board with a statement and estimate of earnings within 10 days of hiring a worker under subsections 76(1) and 78 of the Act.

J. Right of Action

Individuals with optional coverage lose certain rights of action. Those considering optional coverage may wish to consult a lawyer to evaluate whether optional coverage will benefit them.

References

AS-20, Payments of Assessments
CL-35, Loss of Earnings Benefits
CL-40, Disability
CL-42, Arising Out of and in the Course of Employment
GC-08, Definition of a Worker
Minimum Compensation Board Order

History

1. Policy Statement Optional Coverage, effective October 1st, 1995.
2. Policy Statement Optional Coverage, effective August 29, 1995.
3. Policy Statement Optional Coverage, effective January 2, 1993.