

Policy Amendment Proposal

- Amendment to CL-26 "Hearing Loss"

APPLICATION

This policy applies to all workers who apply for workers' compensation benefits related to hearing loss, who have a work-related hearing loss and are either requesting hearing instruments, a re-calculation of their Permanent Impairment Award or a determination of a future hearing loss compensation claim.

SECTION REFERENCE

Section 3 of the *Workers' Compensation Act* R.S.Y. 2002 (*the Act*) states that a worker who suffers a work-related disability is entitled to compensation.

Section 34 of *the Act* provides that a worker who suffers a work-related permanent impairment is entitled to a permanent impairment award as determined by the Yukon Workers' Compensation Health and Safety Board (YWCHSB).

Section 42(1) of *the Act* provides that the YWCHSB may provide a worker with any medical aid, including services, devices, or equipment, necessary to grant relief from a work-related disability.

Section 44 of *the Act* provides that the YWCHSB may provide a worker, as a result of a work-related disability, assistance to reduce or remove the effect of a handicap, or in the activities of daily living.

RESPONSIBILITIES

Employers have a responsibility under the *Occupational Health and Safety (OH&S) Regulations* to take appropriate measures to reduce noise intensity to approved levels, or to isolate their workers from the noise. In situations where this is not possible, workers must wear personal hearing protection which will effectively protect hearing. It is an employer's responsibility to initiate and maintain hearing conservation measures; it is a worker's obligation to participate in hearing conservation measures.

DEFINITIONS

- (a) Sensorineural Hearing Loss: means damage to the cochlea (organ of hearing) or the auditory nerve.

- (b) Conductive Hearing Loss: means problems in the “mechanical” part of the ear, (external ear canal or middle ear) which blocks the conduction of sound.
- (c) Noise Induced Hearing Loss: means sensorineural hearing loss, which arises from exposure to excessive levels of sound over a long period of time.
- (d) Traumatic Hearing Loss: means hearing loss that can be attributed to a specific event, such as an explosion or blast, blow to the head, head/skull injury or chemical or other materials entering the ear.
- (e) Tinnitus: means a subjective experience where the perception of sound (such a ringing, buzzing or hissing) occurs in the absence of acoustic stimuli.
- (f) Presbycusis: is hearing loss associated with the aging process. It is a gradual process that results in a sensorineural hearing loss over time.

ENTITLEMENT TO COMPENSATION

Hearing loss shall be compensable if it arises out of and during in the course of Yukon employment.

A compensable hearing loss shall be proportionally attributed to the present employer’s experience account and the Fund. For example, if a worker has 20 years of noise exposure in Yukon workplaces, but only two years with the current employer, the current employer’s experience account would be charged with 10% of the cost of the hearing loss claim. The remaining 90% would be shared by all industries through the collective liability principles applied in the assessment rate setting process (in a manner similar to how other system-wide costs, such as the cost of the Workers’ Compensation Appeal Tribunal, are distributed amongst Yukon industries).

1. Noise Induced Hearing Loss

Noise Induced Hearing Loss is sensorineural in nature and can be attributed to exposure to excess levels of noise. It occurs over a period of time and exposure is cumulative. Noise induced hearing loss is preventable and does not worsen once noise exposure ends. It has a characteristic pattern, first affecting hearing thresholds in the 3000Hz-6000Hz range with some recovery at 8000Hz. This notched pattern can spread over time with continued exposed to hazardous levels of sound.

Hearing loss entitlement decisions will be based on:

- (a) *the noise exposure meeting compensable levels* – a verified work history must be provided. Actual or estimated noise level readings from one or more of the workplaces must indicate that the worker has been exposed to

hazardous noise levels. Noise levels will be considered hazardous where there is evidence of:

- i. continuous noise exposure in the Yukon for two years or more, at eight hours per day at 85dB (A), or a threshold limit value with a 3dB(A) exchange rate for levels other than 85dB(A); or
 - ii. intermittent noise exposure in the Yukon for a five year period at eight hours per day at 85 dB(A), or a threshold limit value with a 3dB(A) exchange rate for levels other than 85dB(A).
- (b) *the presence of a hearing loss* – as indicated by an audiometric assessment that has been performed by a licensed/certified Audiologist or Hearing Instrument Practitioner under the supervision of an audiologist, using reporting requirements established by YWCHSB. Hearing loss is considered to be present when hearing thresholds averaged at 1,000, 2,000, 3,000 and 4,000Hz, in each ear separately are 25 dB HL or more in each ear, and the pattern of hearing loss is characteristic of ‘Noise Induced Hearing Loss’.
- (c) *the length of time since employment exposure to hazardous noise* – noise induced hearing loss stops progressing once exposure to hazardous noise ends. Claims for compensation will not be considered if more than two years have passed since employment exposure to hazardous noise - unless:
- i. a screening audiogram was performed at the time of termination of exposure and is now available, or
 - ii. a full audiological assessment was performed within two years of the employment with exposure to hazardous noise and is now available.

In all claims for compensation, section 10(1) of the Act applies. “A claim for compensation must be made in a form acceptable to the board within 12 months of the date the disability arose”.

2. Traumatic Hearing Loss

Traumatic Hearing Loss can be attributed to a specific event, such as an explosion, head/skull injury, or chemicals or other foreign substances entering the ear canal which occurred during employment in the Yukon. The nature of the hearing loss can be sensorineural or conductive, or a combination of both.

Hearing loss entitlement decisions will be based on:

- (a) a documented report of the incident; and

- (b) the presence of a hearing loss - an audiometric assessment that has been performed by a licensed/certified Audiologist or hearing instrument practitioner under the supervision of an audiologist (using reporting requirements established by YWCHSB). Hearing loss must be evaluated by averaging the four speech frequencies, in each ear separately, and the loss must be 25 dB HL or more in either ear.

3. **Other**

Some chemicals have a synergistic or ototoxic effect on hearing (meaning they cause or exacerbate damage to the organ of hearing). These chemicals are defined by the American Conference of Governmental Industrial Hygienists (ACGIH). The pattern of hearing loss is most typically a high frequency hearing loss, but may not have the “notched” pattern described as characteristic of noise induced hearing loss. Exposure to chemicals known or suspected to have synergistic or toxic effects will be adjudicated based on individual merits

PERMANENT IMPAIRMENT AWARD

Hearing Loss

The minimum average hearing loss required for a Permanent Impairment Award shall be 25 decibels total hearing loss in either ear calculated using the average of four test frequency levels of 1,000, 2,000, 3,000 and 4,000 Hertz. Permanent Impairment Awards shall be assessed according to the current edition of the “Guides to the Evaluation of Permanent Impairment” set by the American Medical Association (except that the average will be based on the frequencies mentioned above instead of the stated 500, 1000, 2000, 3000 Hz.). There shall be no correction for presbycusis. If there is documentation of a pre-existing hearing loss, then only the work-related hearing loss will be compensable. Permanent Impairment Awards from other jurisdictions for hearing loss will be taken into account when determining entitlement.

Noise induced hearing loss does not progress when noise exposure ends. Permanent Impairment Award adjustments will only be made in the event the hearing loss progresses due to the worker continuing to be exposed to hazardous levels of occupational noise.

Tinnitus

A worker may receive an additional permanent impairment award if they are suffering from tinnitus resulting from a compensable hearing loss. Claims for tinnitus will be considered where:

- a) a claim has been accepted for occupational hearing loss;

- b) the tinnitus was reported by the audiologist, hearing instrument practitioner or physician;
- c) is considered to be severe and persistent; and
- d) has been present constantly for two or more years.

HEARING AIDS AND ASSISTIVE LISTENING DEVICES

Where the YWCHSB has established that the hearing loss results from a work-related injury, the YWCHSB will pay the cost of necessary health care services and hearing devices.

Hearing Aids and Assistive Listening Devices will be provided when recommended by a certified/licensed audiologist or hearing instrument practitioner under the supervision of an audiologist. The cost of hearing aids and Assistive Listening Devices will be paid to a maximum amount as determined by the Board of Directors. Fees for service will be paid according to the Fee Structure as determined by the Board of Directors. Reimbursement to the Health Care Provider will be arranged after a copy of the original manufacturer's invoice is received.

Replacement of hearing aids will be approved when necessary but shall not be provided more than once every four years. Hearing aid replacement is considered based on electro-acoustic, medical, or occupational needs. Reasons for replacement must be provided by the service provider to the board in order to obtain approval for replacement.

EXCEPTIONAL CIRCUMSTANCES



In cases where the individual circumstances of a case are such that the provisions of this policy cannot be applied, or to do so would lead to unfair or unintended results, the Board will decide the case based on its individual merits and justice. Such a decision will be considered for that specific case only and will not be precedent setting.

IMPLEMENTATION


Where the hazardous noise exposure ended prior to January 1, 2006 without an audiogram obtained at that time, the YWCHSB will continue to consider such cases on an individual basis. This will apply for a period of two years from the effective date of this policy.

REFERENCES

Workers' Compensation Health and Safety Board:

-  Permanent Impairment Policy Statement
-  Rehabilitation Policy Statement

Occupational Health and Safety Act and Regulations:

-  General Safety Regulations