

**COST RELIEF****1. STATEMENT OF POLICY**

Claim costs arising from a compensable accident or industrial (occupational) disease are charged to the accident employer's experience account. There are circumstances when the WCB may relieve the employer of all or part of the claim costs. The WCB will determine the appropriate distribution of the relieved costs. This policy sets out the circumstances when the claims costs charged to an employer's experience account are relieved and how the apportionment of costs is calculated.

2. AUTHORITIES

Nunavut <i>Workers' Compensation Act</i> :	Sections 14 & 59
NWT <i>Workers' Compensation Act</i> :	Sections 14 & 59

3. DEFINITIONS

Accident Fund:	“the fund established for the payment of compensation and other outlays and expenses approved under [these Acts]” (per ss. 1(1) of the <i>Workers' Compensation Acts</i>).
Cost Relief:	Transferring the cost or a portion of the cost of a claim from the experience record of the accident employer to another employer, jurisdiction or the Accident Fund.
Experience Account:	The sum of all assessments paid and claims costs charged to the account of an employer. An employer may have more than one experience account when operating in more than one class.
Pre-existing Condition/Impairment:	A pathological condition or impairment that pre-dates a work-related injury and is based on a confirmed diagnosis or medical judgement.

**COST RELIEF****PROVISIONS****A) Types of Cost Relief**

Cost relief may be provided to an employer's experience account if the following circumstances are evident:

a. Pre-Existing Conditions and Impairments

If a worker has a pre-existing condition/impairment that prolongs or worsens a work-related impairment, or a pre-existing impairment causes or contributes to an accident, cost relief may be provided. The effect of this relief will be to apportion the costs of the accident to the experience record of the Accident Fund as a whole, rather than the employer's individual experience account and subclass.

In a claim where the employee was symptom free at the time of the accident but there was a pre-existing condition, there is no limitation of benefits throughout the period of temporary disability.

Pre-existing conditions/impairments can be either *measurable* or *unmeasurable*:

- i) *Measurable*: amputation or loss of movement, where the pre-existing impairment was or could have been rated for permanent impairment; or
- ii) *Unmeasurable*: conditions such as diabetes, obesity, cardiac problems, and physical defects of the injured area such as previous injury, surgery, osteoarthritis, degenerative changes or congenital defects.

The WCB will extend benefits, including medical treatment, where it is determined that a pre-existing condition/disability affects the worker's recovery from a compensable injury. The presence of a condition/disability prior to the accident may, however, influence the extent of entitlement granted to an injured worker.

A worker's entitlement to compensation will end when his/her compensable injury returns to its pre-accident state or attains maximal medical recovery.

Some claims may be accepted for a "once only repair," as in the case of a worker with a pre-existing hernia where the hernia becomes strangulated as a result of a workplace incident. Accepting a claim on this basis recognizes that a

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compensable accident did occur, but the resulting treatment and period of disability were due, at least in part, to the pre-existing condition.

Application

In regards to pre-existing conditions, this policy will be applied when:

- there is a direct relation between a worker's underlying condition and the degree of impairment due to the accident, and
- due to an underlying condition/impairment a worker's treatment and recuperation are prolonged; and/or
- due to the underlying condition/impairment, a worker is left with an increased degree of residual impairment beyond that usually associated with the injury.

A worker is not given permanent disability benefits for a pre-existing condition/impairment. The presence of a pre-existing condition/impairment is reflected in a permanent disability award when the degree of residual impairment is increased by the underlying condition.

b. Interjurisdictional Claims

Cost relief will be awarded if the claim is an interjurisdictional one, and all or part of the costs of the claim can be charged to another province or territory.

c. Industrial (Occupational) Disease

Cost relief will be awarded if the claim is for an industrial (occupational) disease, where a portion of the contributing exposure occurred with a different employer.

d. Third Party Actions

When it appears to the WCB that a worker has been injured or killed through the negligence of a third party, and a claim has been filed, the costs of the claim will be charged as follows:

- a) 50% to the experience account of the employer/subclass; and
- b) 50% to the Accident Fund as a whole.

**COST RELIEF****e. Negligence**

If a worker has been injured or killed because of the negligence of another employer or his/her worker, costs of the claim may be included in the experience account of that employer.

B) Calculating Cost Relief**Employer Cost Relief**

The decision to grant an employer cost relief is not influenced in any way by limitations placed on the worker's entitlement to compensation benefits.

The WCB considers the following factors in determining the amount of cost relief to apply to an employer's experience account.

- the duration of the exposure causing an industrial (occupational) disease,
- the medical significance of the pre-existing condition/impairment, and
- the severity of the accident.

a) Permanent Medical Impairment (PMI)

The WCB Medical Advisor will determine the degree of Permanent Medical Impairment (PMI) of a worker's pre-existing condition/impairment and may reduce the total recommended PMI Rating by this amount.

If the worker's pre-existing condition/impairment is not measurable, the WCB Medical Advisor will estimate the degree of pre-existing condition/impairment.

If the worker's non-compensable condition, combined with a compensable injury, increases the overall impairment, the Medical Advisor may apply an enhancement factor to increase the amount of the permanent medical impairment.

In such cases, cost relief in the amount of the enhancement factor may be applied to the employer's experience account. The employer will be responsible for costs as a result of the compensable injury, and the balance (enhancement factor) will be assumed by the Accident Fund.

The Medical Advisor will use the NWT and Nunavut Permanent Impairment Rating Guide.

**COST RELIEF****b) Full Relief**

No claim costs are charged to the experience account of an employer where:

- a) a non-work related, pre-existing condition/impairment is the cause of the work-related injury, e.g., epileptic seizure causes a fall from a scaffold.
- b) wearing a prosthesis or orthosis causes the accident.
- c) a claimant has been placed with an employer, or is participating in a WCB program, and:
 - i) sustains an accident during a training on-the-job program,
 - ii) sustains an extension of the original disability through a minor accident, or
 - iii) sustains an accident in a trade school or other type of formal training facility;
- d) a claimant is participating in a WCB-approved training or assessment program and his/her work-related condition is the sole cause of an accident to another worker of the sponsoring employer.

When a worker is injured in another jurisdiction and has the right to claim either in that jurisdiction or the NWT/Nunavut, the cost of the claim will be billed to the other jurisdiction. Should the injured worker elect to claim in the NWT/Nunavut, the employer's experience account in the NWT/Nunavut will not reflect this cost.

c) Partial Relief

Where a worker suffers from an industrial (occupational) disease, and the contributing exposures originated with more than one employer, the accident employer is considered to be the accident employer. Cost relief, expressed as a percentage of the total duration of exposure, will be applied to the accident employer.

Where a worker's pre-existing impairment contributes to a compensable accident, cost relief may be applied to the employer's experience account for part of the claim costs.

The WCB considers two factors in determining partial relief in the case of a worker with a pre-existing condition/impairment that prolongs treatment and recovery or increases the permanent partial disability:

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- the medical significance of the condition/impairment at the time of the accident; and
- the severity of the accident.

The medical significance of a condition/impairment is assessed to the extent that it makes the worker liable to develop an impairment of greater severity than a normal person.

The severity of an accident is evaluated in terms of the accident particulars:

- *Minor*: expected to cause no injury or minor disabling injury
- *Moderate*: expected to cause disabling injury
- *Major*: expected to cause serious disability with probable permanent impairment

These two factors are assessed as minor, moderate or major, as follows:

Medical Significance of Pre-Existing Condition/Impairment	Severity of Accident	Percentage of Cost Relief (%)
Minor	Minor	50
	Moderate	25
	Major	0
Moderate	Minor	75
	Moderate	50
	Major	25
Major	Minor	90-100
	Moderate	75
	Major	50

4. REFERENCES

Policy 03.03	Arising Out of and During the Course of Employment
Policy 04.09	Non Work-Related Conditions
Policy 05.01	Vocational Rehabilitation
Policy 05.02	Vocational Rehabilitation: Re-Employment Programs

**COST RELIEF****5. HISTORY**

Policy 04.10 (01/08/31)	Cost Relief & Pre-Existing Conditions
Policy 04.10 (99/10/20)	Cost Relief & Pre-Existing Conditions
Policy 04.10 (99/04/01)	Cost Relief & Pre-Existing Conditions
Policy 04.10 (98/11/18)	Cost Relief
Policy 04.10 (97-02-19)	Cost Relief
Policy 04.10 (96-01-01)	Cost Relief
Policy 04.10 (01/01/96)	Cost Relief
Policy 20-01-33 (94/11/18)	Cost Relief
Policy 20-02-22 (93/09/10)	Secondary Conditions - From Compensable Disability
Policy 20-02-18 (81/12)	Adjudication: Pre-existing Conditions
Policy 20-26-01 (81/12)	Second Injury and Enhancement Fund

 Chairperson