

## BRITISH COLUMBIA EMERGENCY SERVICES VOLUNTEERS INJURY, DISABILITY, ACCIDENTAL DEATH, LIABILITY AND GENERAL INSURANCE COVERAGE

The issue of Worker's Compensation Board (WCB) coverage, liability protection and the Good Samaritan Act applicability for emergency services volunteers arise repeatedly. The following is intended to supplement the information contained in the pamphlet "WCB, Insurance and Liability Protection for PEP Volunteers".

### Injury, Disability and Accidental Death

#### Worker's Compensation Board (WCB)

The Federal and Provincial Governments have an agreement entitled "An Agreement Providing for Sharing the Cost of Compensation In Respect of the Injury Or Death of Emergency Services Workers". It basically states that the Federal Government will pay 75% and the Province will pay 25% of the authorized claims for injured or killed "Emergency Service Workers".

An "Emergency Services Worker (ESW)" is defined as any person who has volunteered for Emergency Services Work and has registered with the Provincial Emergency Services Coordinator (PEP) (one of the reasons we are so adamant about people signing in on a task). The agreement also outlines that "Emergency Service Work" means, there is no compensation and the work is authorized by PEP.

WCB advises that it is the responsibility of PEP to designate who its "employees" are for the purposes of the agreement. PEP has said that persons, who are part of the "public service lifeline", including search and rescue volunteers, are Emergency Service Workers and thus, employees for purposes of "WCB" coverage.

**NOTE:** While we tend to gloss over the fact, the agreement does in fact state that a Provincial Emergency Service Coordinator (PESC) can be either the minister (Director PEP) or a local authority (para 2.08.06). This means that ESWs at the municipal level are also covered when engaged in emergency services work.

The agreement also states that the Workers Compensation Board decides whether or not the "accident occurred out of and in the course of Emergency Services Work" and that any payments are made based "in accordance with the provision's of the Worker's Compensation Act". If they deem that the injury, death or illness meet the guidelines, their compensation and claim criteria are then used. These are the same guidelines that

are used in any workplace within the province. The main requirement is that the injury, death or illness must have both "arisen out of the employment" and "in the course of the employment".

When there is no income history related to the "employment", as is the case with PEP volunteers, the Board will use the earnings in the workers ordinary employment for their calculations. (There are criteria for calculating income for casual and part-time workers). For Emergency Services Workers who are unemployed and have no history of earnings, section 66.34 states: "earnings are fixed by the Board at a figure not less than \$25.00 per week or more than the maximum under the Act". The maximum recognized earnings that will be used for the calculations, as of 2002 are \$59,600.

A critical factor to ensure prompt coverage is that any reports of injury or death are mentioned in the ECC log immediately, and the paperwork (WCB Form7) is submitted to the Regional manager as soon as practicable.

## **Accidental Death and Dismemberment /Weekly Indemnity**

The Accidental Death and Dismemberment, Weekly Indemnity policy covers volunteers for accidental death, or for any injury and/or disability they might suffer while performing their authorized duties on behalf of the Province. The insurer will pay a principal sum to an insured volunteer's beneficiary if the volunteer suffers accidental death: the insurer will pay the principal sum, or a lesser amount, to the insured volunteer if he or she suffers accidental dismemberment or injury. It will also pay weekly indemnity benefits to an injured volunteer, the amount of these benefits depending on the extent of the injury and whether or not the volunteer was gainfully employed at the time of the accident. The insurer will also reimburse the injured volunteer for out-of-pocket expenses. There are guidelines outlined in the policy.

***NOTE: In respect of PEP, we subscribe to the provincial AD&D coverage only for those individuals who fall outside WCB coverage, i.e. the unemployable, retirees, stay-at-home parents. AD&D is NOT in addition but rather in place of WCB coverage***

Coverage is available to authorized volunteers while and in consequence of performing authorized duties on behalf of the Province of British Columbia while under the direction and control of the Province. Coverage is provided as follows:

- Accidental Death and Dismemberment:

The principal sum of \$40,000 is payable as a result of an accidental death and in the case of an accidental dismemberment or injury, the principal sum, or a lesser amount depending on the injury, is payable.

## Emergency Services Volunteers - Injury, Disability, Accidental Death And Liability Coverage

---

- Weekly Accident Indemnity:

Benefits are payable to injured insured persons who, as a result of an accident, received reduced remuneration from their regular, full time employment. Weekly benefit amounts are up to \$300 for temporary total disability (maximum 52 weeks), and \$150 for temporary partial disability (maximum 26 weeks). If the volunteer is not gainfully employed on a full time basis at the time of the accident, the benefits payable would be \$100 for temporary total disability (maximum 52 weeks), and \$50 for temporary partial disability (maximum 26 weeks).

- Accident Reimbursement Expense:

Expenses incurred by an injured volunteer for services such as hospital, ambulance, or nursing services or costs for prescription drugs, splints, crutches or other allowed costs to a limit of \$2,500.

This summary is intended only as a general outline as all of the above coverage is subject to policy terms and conditions. Further information is provided in Section 4.2, Appendix 1 of the Personnel Management Policies and Procedures Manual.

### NOTE

**Given that the maximum (\$59,600) benefit payable may not meet the expectations of “high income volunteer” supplementary death or disability insurance is recommended.**

## Liability Protection

### Exemption from Civil Liability

The *Emergency Program Act Part 4, Section 18* provides exemption from civil liability for persons, both employees and volunteers, when carrying out measures relating to emergencies and disasters and for which the person(s) was not negligent.

### General Liability Protection

The Commercial General Liability policy provides coverage both to the Province and to its volunteers. The policy insures both against third party legal liability resulting from claims due to **damage to the property of others**, and **bodily injury or personal injury**

(libel, slander, etc.) to third parties, accidentally caused, which arise from the authorized duties of the volunteers on behalf of the Province. The limit of liability on the policy is \$2 million per occurrence. The policy will also provide a defense and pay related defense costs.

### **Good Samaritan Act**

The Risk Management Branch advises that as long as the volunteer SAR or Highway Rescue responders are not receiving pay or expecting to receive pay for rendering emergency medical services or aid, they are NOT "employed expressly for the purpose" of rendering the medical services or aid. They advise that the phrase "employed expressly for the purpose" is interpreted in a manner that gives the word "employed" its ordinary meaning. In short, their opinion is that volunteer SAR and Highway Rescue responders are covered by the Good Samaritan Act.

### **Summary of Liability Coverage for Volunteers in Respect of Medical Acts**

If the volunteer is *not* a medical professional but is administering first aid treatment within the limitations of his/her training or knowledge.

- Covered under the Commercial General Liability Policy
- Exempt from civil liability under the Emergency Program Act
- Exempt from liability under the Good Samaritan Act

If the volunteer is a medical professional and does render medical treatment;

- Not covered under the CGL
- Exempt from civil liability under the Emergency Program Act
- May be exempt from liability under the Good Samaritan Act subject to an interpretation of the term "employed expressly for the purpose" as it pertained to the circumstances at the time of the incident that gave rise to the claim.

## **EXCEPTIONS**

**The exemption from civil liability provided under the Emergency Program Act s.18 does not extend to liability incurred outside of an approved task, likewise for the liability insurance provided by the province.**

**Volunteer societies are encouraged to ensure that they have both appropriate and adequate insurance coverage to protect both the society and its directors.**

**The National Ground SAR Insurance Program, developed with the assistance of Algoma Insurance Brokers and J&H Marsh & McLennan, provides General and Professional Liability plus optional "add-ons" for individual accidental death/dismemberment. Further optional "add-ons" are in development equipment, vehicles and buildings. Increased limits of coverage (up to \$5 million or \$10 Million) are also available.**

**The National Ground SAR Insurance Program is underwritten by Guardian Insurance and is available only through SARVAC or Algoma Insurance. You do not have to be a SARVAC member to apply nor does your unit have to be incorporated as a Society.**

## **General Insurance**

The Province does not provide general insurance coverage for vehicles, water craft or buildings therefore individuals and groups are encouraged to obtain appropriate insurance coverage.

The Province may provide reimbursement for the repair or replacement of personal property loss or damaged during an approved task. Reimbursement is normally limited the lesser of the repair or replacement cost or the amount of the insurance deductible in the case of vehicles and watercraft to a maximum of \$500. Individuals/groups are therefore encouraged to ensure they have adequate insurance coverage.