

This adjudicative advice document can only be applied to decisions made, with respect to wage loss entitlement periods prior to July 1, 2007, for all accidents.

Adjudicative Advice

Calculating LOE/FEL – Minimum Wage

Effective February 1, 2004, the minimum wage in Ontario increased from \$6.85/hour to \$7.15/hour. The minimum wage in Ontario will increase every year until Feb. 1, 2007 when it will be \$8.00/hour. The chart indicates the yearly increases.

Effective Date	Minimum Wage Rate
February 1, 2004	\$ 7.15 / hr.
February 1, 2005	\$ 7.45 / hr.
February 1, 2006	\$ 7.75 / hr.
February 1, 2007	\$ 8.00 / hr.

In January 2004 the potential application of these wage rates on projected earnings decisions was considered within the Operations Cluster and discussions occurred with Benefits Policy. A communication was issued providing direction on when it would be most appropriate to use the escalating minimum wage rates. The notice was shared and discussed at the Claims Quality Loop. This document represents a confirmation of the principles indicated in the earlier communication.

The following direction should be considered by decision-makers in all situations where the projected earnings of a worker in the SEB are determined to be ‘minimum wage’.

Determining an LOE/FEL (other than the final review of LOE or FEL). If it is determined the worker’s projected earning capacity is equal to ‘minimum wage’ the decision-maker should use the current minimum wage at the time of the decision to calculate the wage loss benefit.

Determining the final LOE or FEL (R2). If the award will be fixed (locked in) for six or more years, and the worker’s projected earnings capacity is deemed to be entry level/‘minimum wage’, the decision-maker should use the 2007 minimum wage of \$8.00/hr. in calculating the wage loss benefit. As the projection covers many years it is felt this appropriately represents what the worker is most likely to earn.

If the worker is employed in the SEB identified job at the final review, the projected earnings are based on the actual earnings (Reviewing LOE Benefits 18-03-03 & Reviewing FEL Benefits 18-04-14) even if the wage is at the existing minimum rate.

Material change review. When conducting a material change review, if it is determined that the worker was previously deemed at minimum wage, an adjustment can be done to reflect the new minimum wage in effect as of the date of the review. Any adjustment can only be applied prospectively.

The Operations Cluster through the Claims Quality Loop may re-visit this direction if additional changes are made to the Ontario minimum wage schedule.

Claims Quality Loop

October 2004

Notice: This document is intended to assist WSIB decision-makers in reaching consistent decisions in similar fact situations and to supplement applicable WSIB policies and guidelines as set out in the Operational Policy Manual (OPM). This document is **not a policy** and in the event of a conflict between this document and an OPM policy or guideline, the decision-maker will rely on the latter.