

2007

WCB facts

Workers Compensation Board of Manitoba

COVERAGE FOR CONTRACT WORKERS IN THE COURIER/TRUCKING INDUSTRY

The Workers Compensation Board provides coverage and benefits for contract walkers, cyclists and owner/operators in the courier/trucking industry.

Who is considered to be an owner/operator?

The WCB considers you to be an owner/operator if you provide a vehicle registered under your name, for business purposes in the courier/trucking industry. There are two categories of owner/operators:

1. **Couriers:** Includes owner/operators whose gross vehicle weight does not exceed 9,070 kilograms. This category also includes walkers and cyclists.
2. **Cartage Trucking:** Includes owner/operators whose gross vehicle weight exceeds 9,070 kilograms. It involves both intra-city (short-haul, within the city) and inter-city (long-haul, long distance) trucking.

Who is considered to be the employer in the courier/trucking industry?

The WCB considers the employer to be the person or firm that contracts with the public. The employer is responsible for the payment of WCB premiums and coverage for contract walkers, cyclists and owner/operators. The employer is also responsible for all drivers hired by the owner/operators.

**COVERAGE FOR CONTRACT WORKERS
IN THE COURIER/TRUCKING INDUSTRY
PAGE 2**

What can I expect from the WCB if I get hurt at work?

If you are injured and your claim for workers compensation is accepted, you may be eligible for the following:

- wage loss benefits
- medical aid expenses such as hospital costs, prescribed medication, physiotherapy, prosthetic devices, etc.
- payment for some losses of personal property
- benefits for dependants in the case of a fatal injury
- assistance to help you return to work
- vocational rehabilitation services
- if travel is required for proper treatment, transportation and living allowances may be authorized
- a permanent partial impairment award.

How are wage loss benefits calculated for owner/operators that are deemed to be workers of another firm?

Once your claim is accepted, the following steps determine what wage loss benefits you will be paid by the WCB for the first 12 weeks of your claim, or up to the date you return to work, whichever is sooner.

An initial benefit rate is calculated:

Gross Contract Earnings X Labour Percentage = Gross Wages

- gross contract earnings are earnings reported by your employer, before deductions for items such as radio rental, bad debts, bonding cargo, uniforms, administrative fees, vehicle decals, etc.

**COVERAGE FOR CONTRACT WORKERS
IN THE COURIER/TRUCKING INDUSTRY
PAGE 3**

- we will deduct company commissions and/or wages paid to other workers from gross contract earnings before applying the labour percentage.

If you disagree with the amount of gross contract earnings reported by your employer, please contact your adjudicator or case manager. You may be asked to provide information to verify your gross contract earnings such as earnings records and receipts.

- gross wages represent the portion of the gross contract earnings that are considered to be your wages.

The gross wages (calculated above) are divided by 52 weeks to arrive at a weekly gross amount.

From the weekly gross wages, we deduct the probable amount you would expect to pay for income tax, Canada Pension Plan contributions and if applicable Employment Insurance. The result is your net loss of earnings.

The deduction for probable income tax is based on your dependency status – specifically, whether you are single, married or in a common law relationship, whether or not your spouse works and the number of children and/or infirm dependants you claim on your income tax return.

We also take child-care expenses, child support payments and/or spousal support payments into account when calculating the probable income tax. This information is important for the calculation of your benefits and must agree with the information you report to Canada Revenue Agency.

You are paid at 90% of the net amount calculated above, less a deduction for the probable tax benefit you realize because of the tax-free status of WCB benefits.

**COVERAGE FOR CONTRACT WORKERS
IN THE COURIER/TRUCKING INDUSTRY
PAGE 4**

For injuries on or after January 1, 2006, your benefits will be paid at 100% net sheltered if your earnings before the injury are less than or equal to the minimum annual earnings established by the WCB. The minimum annual earnings for 2007 are \$16,640. If you have no other income, you will be paid this amount for the first 12 weeks of your claim.

The following example assumes the injured worker is single with no dependants:

Gross contract earnings reported by your employer	\$100,000.00
Less wages paid to workers	<u>- 5,000.00</u>
Adjusted gross contract earnings	\$95,000.00
Multiplied by applicable labour percentage	<u>X 25%</u>
Gross wages for benefit entitlement purposes - Annual =	\$23,750.00
	<u>÷ 52</u>
Gross wages for benefit entitlement purposes – Weekly	\$456.73
Less: Probable Income Tax	(72.60)
Probable CPP	(19.20)
Probable Employment Insurance, if applicable	<u>(0.00)</u>
Net loss of earnings – Weekly	\$365.19
	<u>X 90%</u>
90% of net loss of earnings – Weekly	\$328.67
Less: Amount for probable tax benefit	<u>(10.84)</u>
Net Weekly Benefit assuming no other income	<u>\$317.83</u>

**COVERAGE FOR CONTRACT WORKERS
IN THE COURIER/TRUCKING INDUSTRY
PAGE 5**

What is the labour percentage and how is it determined?

The labour percentage is the portion of gross contract earnings considered to be eligible for wage loss benefits. The remainder of the gross income is considered to cover business expenses such as gas, insurance, vehicle maintenance, etc.

The WCB has a schedule for contract labour which sets out a standard labour percentage of the total contract or piecework price for various industries and types of equipment.

The designated labour percentages for the courier/trucking industry are:

- 100% if you are a walker or cyclist
- 65% if your vehicle's gross weight is 9,070 kilograms or less
- 50% if your vehicle's gross weight is more than 9,070 kilograms and the service provided is intra-city (short-haul, within the city)
- 25% if your vehicle's gross weight is more than 9,070 kilograms and the service provided is inter-city (long-haul, long distance.)

If your actual earnings are greater than the estimate obtained by using the labour percentages, you can request an average earnings review. Any increase to your benefit rate resulting from an average earnings review is retroactive to the date of the injury.

You may request a recalculation of pre-injury earnings if you feel that average or probable yearly earnings calculated on a net income basis are greater than gross contract earnings multiplied by the applicable labour percentages, and indicate a more accurate reflection of the actual loss of earnings. In this case, you would include the necessary information to support your request.

**COVERAGE FOR CONTRACT WORKERS
IN THE COURIER/TRUCKING INDUSTRY
PAGE 6**

Your adjusted labour percentages for these exceptions will be calculated as follows:

- net business income from your income tax returns and financial statements filed with Canada Revenue Agency
- plus non-cash expenses such as depreciation/Capital Cost Allowance, as reported on your tax returns
- the WCB may also add back to net business income the amount of personal expenses for the use of your home, that you allocated as being “due to business” on your tax return
- the total net income for benefit entitlement purposes is then divided by the gross contract earnings confirmed with Canada Revenue Agency
- this will result in an adjusted labour percentage to be used on your claim when calculating the appropriate gross wages.

Any increase to your benefit rate resulting from the average earnings review is effective retroactively to the date of the injury. Any decreases to the benefit rate resulting from the average earnings review is, effective at week # 13.

For example, if you think that 25% is not the appropriate labour percentage to use for your business, we would look at your net business income rather than your gross contract earnings to verify your net loss of earnings. For example, if your net business income was \$22,250 after a Capital Cost Allowance deduction of \$5,000 and a Business Use of Home Expense deduction of \$750, we would establish your income at \$28,000 as follows:

Net Business Income	\$22,250
Add Back: Capital Cost Allowance taken	+ 5,000
Add Back: Business Use of Home Expense taken	<u>+750</u>
Adjusted income for benefit entitlement purposes	\$28,000

**COVERAGE FOR CONTRACT WORKERS
IN THE COURIER/TRUCKING INDUSTRY
PAGE 7**

In this case, your wage loss benefits would be based on \$28,000 and we would raise your weekly wage loss benefits to \$370.01. This adjustment in your benefits would be **retroactive** to the date of your injury. We would also adjust the labour percentage used for your claim from 25% to 29%. ($\$28,000 / \$95,000$)

What happens if I am on benefits for more than 12 weeks?

If you are on benefits for more than 12 weeks, we will verify your average yearly earnings, if not already done, and **you must demonstrate a loss of earnings** due to your injury in order to continue to receive benefits. We will ask you to sign a document authorizing the WCB to obtain copies of your income tax returns for the past 1 – 2 years, or in some cases up to 5 years, from Canada Revenue Agency. The WCB will verify your gross contract average yearly earnings with information received from Canada Revenue Agency.

After 12 weeks, benefits will be paid based on your verified gross contract average earnings less company commissions and/or wages paid to other workers, and the information you provide on your post-injury business income.

If you have post-injury business income that continues, it will be used after 12 weeks to reduce your wage loss entitlement. Your post-injury business income will also be confirmed with Canada Revenue Agency. The WCB will use the same labour percentage to calculate post-injury income for benefit entitlement purposes as we used to calculate your pre-injury income. You must demonstrate a loss of earnings due to your injury to continue to receive wage loss benefits after 12 weeks.

If there is no loss of earnings after 12 weeks, no further wage loss benefits will be paid.

**COVERAGE FOR CONTRACT WORKERS
IN THE COURIER/TRUCKING INDUSTRY
PAGE 8**

Are wage loss benefits subject to revision?

All benefits are subject to revision on an ongoing basis, based on the receipt of new post-injury income and/or business operations information.

Further information...

For further information, contact Employer Services Division at 954-4505 or toll-free 1-800-362-3340. Fax 954-4900 or toll-free fax 1-866-245-0796.

This publication is provided for general information. For more specific information see *The Workers Compensation Act of Manitoba and Regulations* available through Statutory Publications by calling (204)-945-3101. WCB Policies are available by calling (204)-954-4655. These documents are also on the WCB website at www.wcb.mb.ca