

# WORKPLACE INSURANCE: THE BASICS

## What Is Workplace Insurance?

The workplace insurance system was established by the Government of Ontario to pay for health care and partial lost wages if you are injured at work. You may receive benefits and services from the Workplace Safety and Insurance Board (WSIB) after a work-related injury if you work in an industry that is covered by the *Workplace Safety and Insurance Act, 1997* (WSIA). You must meet all the conditions set out in that law.

If you are covered by the WSIA, you cannot sue your employer in court for your injuries. Workplace insurance is a “no-fault” system. This means you can get workplace insurance benefits without proving that your employer was to blame. Even if you think that the accident at work was your own fault, you are still entitled to benefits and services from WSIB in almost all cases.

## What Can WSIB Do for You?

This depends on when you were injured. From 1915 until the end of 1997, benefits for workplace injuries were paid under one version or another of the *Workers’ Compensation Act* (WCA). The government has changed (amended) the WCA many times over the years. Each time the WCA changed, workers injured **after** the date of the change were covered by the new rules. Workers injured before that date were still covered under some of the old rules. The WSIA repealed and replaced the WCA as of January 1, 1998.

## Workers Injured on or After January 1, 1998

You may receive the following benefits and services from WSIB:

- **Wages on Day of Injury** - Your employer pays your usual wages and benefits for this day.
- **Loss of Earnings (LOE) Benefits** - WSIB pays you 85% of your net earnings loss from the day after your injury until you are no longer impaired or until you no longer suffer a wage loss (or until WSIB believes you should no longer be suffering a wage loss). You can receive LOE benefits until the age of 65, unless you were 63 or older at the time of your injury. If you were age 63 or older, you can receive LOE benefits for up to two years after the accident. See OWA Fact Sheet 9 called “Loss of Earnings Benefits”.
- **Retirement Benefits** - If you are under the age of 64 at the time of your injury and receive LOE benefits for more than 12 consecutive months, you will receive a retirement benefit at age 65. WSIB pays this monthly benefit from amounts set aside as a percentage of your LOE benefits.
- **Return to Work** - You and your employer must co-operate in your return to work or to some suitable job with the employer. If you do not return to work with your employer, WSIB may assist you in preparing to re-enter the labour market. See OWA Fact Sheets 10 and 12 called “Early and Safe Return to Work” and “Labour Market Re-entry”.
- **Re-employment** – The WSIA may obligate your employer to offer you re-employment after your injury. Not all employers have this obligation and not all workers qualify. There are also time limits involved. If your employer does not offer to re-employ you after an injury, speak to a qualified representative as soon as possible. See OWA Fact Sheet 11 called “Re-Employment”.

- **Health Care** – WSIB will pay for health care that is necessary and appropriate as a result of your injury. For serious injuries, this may include the services of an attendant to assist with your daily living activities, changes to your home to enable you to live independently, or other measures to improve your quality of life.
- **Non-Economic Loss (NEL) Award** - A NEL award is meant to compensate you for losses other than wages, such as pain and suffering. The amount of the NEL award is determined after a medical examination by an impartial doctor who is not employed by WSIB. WSIB pays smaller NEL awards as a lump sum. Larger NEL awards are paid monthly, unless you choose to receive a lump sum. See OWA Fact Sheet 13 called “Non-economic Loss Awards”.
- **Employment Benefits** - If you continue with contributions to your regular employment benefits, such as a dental or pension plan, your employer also must continue to make contributions to these benefits for the first year that you are off work because of your injury.

Some of the different types of benefits that WSIB pays to workers injured before 1998 are listed below. Speak with a qualified representative about the benefits and services that may be available in your case.

### **Workers Injured Between January 2, 1990 and December 31, 1997**

- **Future Economic Loss (FEL) Award** - A FEL award pays you in part for lost earnings. The amount is 90% of the difference between what you earned before your injury and what you earn, or what WSIB believes you can earn after the injury. It is normally paid monthly. The amount of the FEL will usually be reviewed whenever you report a “material change in circumstances” to WSIB, however, the reward may be reviewed at other times as well. These reviews usually stop five years after the first decision about the amount of your FEL. When you turn 65, your FEL payments will stop and you will receive a retirement pension based on amounts that were set aside each month by WSIB in a separate fund. See OWA Fact Sheet 21 called “Future Economic Loss Awards”.

### **Workers Injured Prior to January 2, 1990**

- **Permanent Disability Pensions** - If you were injured before January 2, 1990 and are suffering a permanent disability as a result of your injury, you may be entitled to a lifetime monthly pension as compensation for your loss of earning capacity. The amount of this pension is determined through a medical examination performed by a WSIB doctor. See OWA Fact Sheets 22 and 23 called “Pension Re-Assessments” and “Pension Commutations”.
- **Pension Supplements** - Since a permanent disability pension is based only on a medical exam, it may not fully repay you for your lost earnings. In some cases WSIB will add an extra amount called a supplement to your pension, to partly make up the difference.

#### **IMPORTANT INFORMATION**

There are time limits for appealing WSIB decisions. If you wish to appeal a decision, contact a qualified representative as soon as possible. For more information on time limits, see OWA Fact Sheets 24 and 25 called “Appealing to WSIB” and “Appealing to WSIAT”.

**This Fact Sheet contains general information only. It is not a legal document. To see what the law says, you should look at the Workplace Safety and Insurance Act and WSIB policies. If you require help and do not have a union to assist you, contact the Office of the Worker Adviser:**

- Our toll free telephone number is 1-800-435-8980 (English) or 1-800-661-6365 (French)
- or visit our website at: <http://www.owa.gov.on.ca>

*Cette feuille-info est aussi disponible en français*

