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WORKER ADVISER

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AVERAGE EARNINGS

(For Workers Injured On or After October 1, 1999. If you were injured before this date and disagree with the amount of your average earnings as determined by WSIB, you should speak to a qualified representative.)

What Are Average Earnings?

The amount of benefits paid to you by the Workplace Safety and Insurance Board (WSIB) depends on how much money you were making at the time of your injury. The amount you were making when you were injured is called your average earnings. WSIB calculates average earnings in two ways: 1) short-term average earnings, and 2) long-term average earnings.

What Are Short-Term Average Earnings?

Your short-term average earnings are what you were being paid at the time of your injury. If, however, your earnings were different from day to day (for example, you were paid only commission), then WSIB will average the total earnings in the **four weeks** prior to your injury to calculate your short-term average earnings. WSIB uses your short-term average earnings to calculate your loss of earnings (LOE) benefits for the **first twelve weeks** that you receive LOE benefits. For more information please see OWA Fact Sheet 9 called “Loss of Earnings Benefits”.

What Are Long-Term Average Earnings?

Your benefits after the **12th week** of your claim are based on your long-term average earnings. If you were working at a regular permanent job at the time of your injury, your long-term average earnings will usually be the same as your short-term average earnings. Either you or your employer can ask WSIB to recalculate your average earnings after **12 weeks** if you believe continuation of your benefits at the current level would be unfair. An example of when WSIB might agree to recalculate your average earnings might be if you had overtime or bonus earnings that changed from week to week, in which case these earnings would not have been included in your short-term average earnings.

If your employment was non-permanent (meaning you were hired only for a certain amount of time) or irregular (for example, seasonal work, workers paid only on commission, or temporary agency workers), then WSIB will always recalculate your average earnings after **12 weeks**.

If you were working at a job that was both regular (52 weeks a year without any pattern of lay-offs) and permanent (no set date for the job to end) when you were injured, your long-term average earnings will be the average of your weekly earnings over the **12 months** before your injury. If you were working at a non-permanent or irregular job when you were injured, your long-term average earnings will usually be based on your earnings over the **two years** before your injury.

How Do Your Average Earnings Affect the Amount of Your Benefits?

After calculating your average earnings, WSIB subtracts the amount you would pay in income tax, Canada Pension Plan contributions, and Employment Insurance premiums to arrive at your Net Average Earnings (NAE) at the time of your accident. Your LOE benefits are 85% of the difference between your NAE and the amount that you are earning (or what WSIB believes you could earn if working at a job suitable for your injury) after the accident.

WSIB sets a maximum amount for average earnings each year. Your average earnings cannot be more than the maximum amount set by WSIB. If you were severely injured, your long-term average earnings would not be less than 75% of your short-term average earnings. WSIB will review your pre-accident average earnings each year and make the necessary changes to protect against inflation.

What If You Have More Than One Job When You Are Injured?

In order to receive benefits, the employer you were working for at the time of your accident must be covered by the *Workplace Safety and Insurance Act, 1997*. Your average earnings will be based on the earnings from all your employers, as long as you worked for them during the **four weeks** prior to the accident. If you were self-employed, these earnings would only be included in your average earnings if you had purchased optional insurance from WSIB.

What If You Return to Work But the Injury Comes Back?

If you return to work but are unable to continue working because the same injury comes back, your average earnings will be based on either your earnings at the time of the accident or your earnings at your latest job, whichever is higher.

What If You Received Payments That Were Not Hourly or Weekly Wages?

<u>Types of Payments</u>	Included in Short-term Average Earnings	Included in Long-term Average Earnings
(This is not a complete list. WSIB may place more conditions on when and how these payments are included in average earnings.)		
Mandatory Overtime (worked as part of a contract, collective agreement, or regularly scheduled work hours)	Yes	Yes
Regular Voluntary Overtime	Yes	Yes
Irregular Voluntary Overtime	No	Yes
Commissions	Yes	Yes
Tips (if included in earnings for income tax purposes)	Yes	Yes
Production Bonuses (daily, weekly, or monthly)	Yes	Yes
Production Bonuses (quarterly or yearly, or irregular)	No	Yes
Employment Insurance (EI) benefits (for lay-off or shortage of work)	No	Yes
EI benefits (for maternity/paternity or sickness leave)	No	No
EI benefits (for federal job creation/job sharing programs)	Yes	Yes
Room & Board that are part of earnings, but not repayment of special expenses	Yes	Yes
Holiday Pay that must be paid by law or under a contract	Yes	Yes
Vacation Pay as a percentage of base pay with each pay cheque	Yes	Yes
Lump Sum Vacation Pay		
a) up to the amount that must be paid by law or under a contract	a) No	a) Yes
b) above the amount that must be paid by law or under a contract	b) No	b) No

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

