

# LOSS OF EARNINGS BENEFITS

## What Are Loss of Earnings (LOE) Benefits?

Loss of earnings (LOE) are the benefits that the Workplace Safety and Insurance Board (WSIB) pays to you in place of the income you lost as a result of your work-related injury.

## When Are You Eligible for LOE Benefits?

You are eligible for LOE benefits if you have a loss of earnings as a result of a work-related injury beyond the day of the injury. If you have suffered a wage loss due to a work-related injury then you, your employer and/or your doctor should file a claim with WSIB. See OWA Fact Sheet 3 called “Filing A Claim”.

## How Much Are LOE Benefits?

Full LOE benefits are 85% of your **net average earnings** (NAE) before your injury. WSIB also pays partial LOE benefits that may be any part of the full benefits. Your LOE benefits may change if WSIB recalculates your NAE after **12 weeks** of benefits. For an explanation of how WSIB arrives at your NAE, including how and when it is recalculated, see OWA Fact Sheet 8 called “Average Earnings”. If you receive a disability pension from the Canada Pension Plan, some or all of this income may be deducted from your LOE benefits. See OWA Fact Sheet 40 called “Interaction Between CPP-D and WSIB Benefits”.

## What Do You Have to Do to Continue Receiving Full LOE Benefits?

To continue receiving full LOE benefits, you must experience a full loss of earnings and cooperate in:

- early and safe return to work activities (see OWA Fact Sheet 10 called “Early and Safe Return to Work”),
- health care and treatment prescribed by your treating doctor (or other health care professional) and approved by WSIB and, if necessary
- labour market re-entry assessments or plans (see OWA Fact Sheet 12 called “Labour Market Re-entry”).

WSIB can **reduce** or **take away** your benefits while you are **not cooperating**. See OWA Fact Sheet 6 called “Duty to Co-operate”.

## What Happens If Your Medical or Work Situation Changes?

If there is a change in your medical condition, your treatment, your income from any source, or your status at work, **you must notify WSIB within ten days of the change**. These types of changes are called “material change in circumstances” and WSIB may reduce or take away your LOE benefits if these changes are not reported on time. If you are unsure whether something is a material change in circumstances, you should inform WSIB anyway. See OWA Fact Sheet 7 called “Material Change in Circumstances”.

## What Happens to Your LOE Benefits If You Return to Work?

If you return to work while you are still suffering a work related impairment and are paid less than what you earned before your injury, the amount of LOE benefits will be 85% of the difference between what you earned before your injury and what you are earning after your injury. LOE benefits are paid until the earliest of, the day you recover from your work related injury, the day you no longer suffer a wage loss due to your injury, the day you turn 65, or 2 years after the date of injury if you were injured at age 63 or older. If you return to work and suffer a recurrence of your work-related injury, are laid off or fired because of the injury, you may be entitled to full LOE benefits again.

## How Does Labour Market Re-entry Affect Your LOE Benefits?

If you are participating in a labour market re-entry (LMR) assessment or plan, you will get full LOE benefits as long you continue to cooperate.

After the LMR plan has ended or if no LMR plan was required, the amount of your LOE benefits will be based on the earnings that WSIB determines you are able to earn in the jobs that are suitable and available for you. See OWA Fact Sheet 12 called “Labour Market Re-entry”.

## How Often May WSIB Review Your LOE Benefits?

WSIB may review your LOE benefits once each year, or whenever there is a material change in circumstances. WSIB will contact you prior to a review and you should provide any information requested about your income and medical condition. WSIB will only change your LOE benefits when there is a significant change in your earnings or the earnings that WSIB has determined you are able to earn, usually a 10% change or more, up or down. WSIB usually cannot review your LOE benefits after **72 months (six years)** following the injury.

There are some exceptional circumstances where WSIB may conduct a further LOE review beyond **72 months (six years)**. See OWA Fact Sheet 9(b) called “Loss of Earnings (LOE): Reviews After the 72 Month Final Review”.

## Election for Older Workers

If WSIB decides you are entitled to LOE benefits when you are age 55 or older, you may be entitled to have your LOE benefits stay the same until age 65 without further WSIB reviews. To be entitled to elect the option of no further WSIB reviews, you must also have completed your LMR plan and have reached your maximum medical recovery, which means your medical condition is not likely to change. WSIB should advise you in writing of the option to choose whether your LOE benefits will be reviewed each year. You must notify WSIB within **30 days** if you choose **not** to have your LOE benefits reviewed each year.

If WSIB does not send you written notice of this election, you can notify WSIB in writing that you do not want your LOE benefits reviewed each year. You must do this within **30 days** from the date on which you reach maximum medical recovery or complete your LMR plan, whichever is later. Your LOE benefits will then continue at the same rate until age 65. Once you choose **not** to have your LOE benefits reviewed on a yearly basis and advise WSIB of your decision, you **cannot** change your mind at a later time. If you are interested in this option, you should get help from a qualified representative.

## Can You Appeal a WSIB Decision on LOE Benefits?

Yes. You can object to any decision that affects your LOE benefits. Generally, you must object within **six months** of the date of the decision. However, if your LOE benefits are affected because of a decision about your early and safe return to work or labour market re-entry, you must object within **30 days** of the date of the decision. If you are unsure which time limit applies, speak to a qualified representative immediately.

### 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*

