

# FUTURE ECONOMIC LOSS AWARDS

(For Accidents After January 1, 1990, but Before January 1, 1998)

## What Is a Future Economic Loss (FEL) Award?

A FEL award is a monthly payment from the Workplace Safety and Insurance Board (WSIB) that replaces, in part, lost future earnings due to a long-term workplace injury.

## When Can You Get a FEL Award?

You may be entitled to a FEL award if you were injured after January 1, 1990, but before January 1, 1998, and you have a permanent impairment or you were temporarily disabled for 12 continuous months. Where possible WSIB makes its decision whether to award FEL benefits:

- in the 12th consecutive month that a worker is temporarily disabled, or
- within one year after WSIB is notified of a worker's accident, if during that year WSIB determines that the worker is permanently impaired, or
- within 18 months after WSIB is notified of a worker's accident, if the worker's medical condition prevents a determination within the times stated above.

If a worker is not receiving compensation at the time of the usual determination dates, and entitlement to compensation is in dispute, these time limits may be extended.

## How Much Is a FEL Award?

If you are not working at the time of your FEL assessment, WSIB benefits will be based on the earnings that WSIB determines you are able to earn in the jobs that are suitable for you. WSIB calls this your suitable employment or business (SEB). Your FEL award will be 90% of the difference between what WSIB believes you can earn and the amount that you made before your injury. If you are working at a job WSIB believes is reasonable given your medical condition, your FEL award will be 90% of the difference between your actual wages and your wages before your injury. If you receive a 100% FEL award, your benefits will be fully indexed for inflation. In all other cases, your FEL benefits will only be partially indexed for inflation.

## What Else Does WSIB Consider When Deciding Your FEL Award?

When deciding the amount of your FEL award, WSIB should also consider:

- your personal and vocational characteristics (for example, an older worker may not be able to find work as easily as a younger worker, and a person who has worked for many years at the same job may have trouble adapting to a new job),
- your chance of being successful in an LMR program,
- the availability of suitable work in your local area,
- some or all of the money you receive from the Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) for your disability.

At the time WSIB decides or reviews your FEL award, you may choose to receive an amount equal to the full Old Age Security (OAS) pension instead of FEL benefits, if:

- you are at least 55 years of age when WSIB decides or reviews your FEL award,
- you have not returned to work, and
- WSIB believes you are unlikely to benefit from an LMR plan.

## When Can WSIB Review Your FEL Award?

- WSIB can review your FEL award every year or whenever you report a material change in circumstances. WSIB considers any change in your income, return to work status, or medical condition to be a material change that must be reported **within ten days** of the change occurring. For more information, see OWA Fact Sheet 7 called "Material Change in Circumstances".

- WSIB can review your FEL award when you continue to experience a wage loss after completing your early and safe return to work (ESRTW) program or LMR plan.
- WSIB can review your FEL award if your condition deteriorates to the point that your non-economic loss (NEL) benefits increase.
- WSIB will stop your FEL benefits if you are not permanently impaired.
- WSIB will conduct a final review of your FEL award after five years from when your FEL benefit is first awarded.
- FEL benefits end when you turn age 65.
- WSIB may change or stop payment of your FEL benefits after a review.

### **Will WSIB Review Your FEL Award After Five Years?**

Generally, WSIB cannot review your FEL award after the final **60-month (five-year)** review. There are some exceptions to this rule. See OWA Fact Sheet 21(b) called “Future Economic Loss (FEL): Reviews after the 60 Month Final Review”.

### **What Is a FEL Sustainability Benefit?**

You may get a FEL sustainability benefit if your earnings are the same or more after your work injury than before your work injury. You will only receive this benefit when it is uncertain whether your work-related condition will allow you to continue doing your job, or if you are participating in an ESRTW program or an LMR plan. For example, this would apply if your employer created a job suitable to your condition at no wage loss, but such a job may not exist with another employer, or else another employer would pay less than you earned before the accident. A FEL sustainability benefit is only one dollar (\$1) per year, but it allows WSIB to pay you a FEL supplement in the future, should you require more medical treatment or help returning to work.

### **When Are You Eligible for a FEL Supplement?**

If your FEL award is lower than your earnings before the injury and you are co-operating in a medical rehabilitation program, an ESRTW program, or an LMR assessment or plan, then WSIB may pay you a FEL supplement. A FEL supplement will be added to your FEL award so that, together, you will receive 90% of your net earnings before your injury.

### **What If You Disagree With the Amount of Your FEL Award?**

If you disagree with the amount of your FEL award you can object to the decision, first at the WSIB level and finally, you can appeal your case to the Workplace Safety and Insurance Appeals Tribunal (WSIAT). WSIB or WSIAT will decide your case based on your circumstances at the time of the initial decision. WSIB and WSIAT will not consider things that happened after that time.

## **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*

