



This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the *Workers Compensation Act* and the *Rehabilitation Services and Claims Manual, Volumes I and II* for purposes of interpretation and application of the law.

Updated: September 2016

LONG TERM WAGE RATE

When are wage rate decisions made?

If a work-related injury or disease disables you from working, WorkSafeBC must pay you wage loss benefits.

In most cases, for the first ten weeks, your wage loss benefits will be based on your earnings just before the injury, minus estimated deductions for Income Tax, Employment Insurance, and Canada Pension Plan. This is the short-term wage rate. In most cases, the rate is 90% of your net earnings.

If you are disabled for more than ten weeks, WorkSafeBC must set a long term wage rate. The long term wage rate will apply to all further wage-replacement benefits on your claim. This includes temporary wage loss benefits and permanent disability awards, and also may include vocational rehabilitation benefits.

How important are wage decisions?

Very, very important. If WorkSafeBC sets your wage rate too low, every benefit based on that wage rate will also be too low. This could affect you for decades to come.

How does WorkSafeBC set the Long Term Wage Rate?

The *Workers Compensation Act* says that the long-term wage rate is generally based on your earnings in the 12 month period just before the date of injury. Therefore, if you did not work all of the past 12 months, or your wages varied during the year, your long term wage rate may be less than your short term wage rate.

As with the short term wage rate, the long term wage rate is based on your earnings just before the injury, minus estimated deductions for Income Tax, Employment Insurance, and Canada Pension Plan. In most cases, the rate is 90% of your net earnings.

What does WorkSafeBC count as earnings?

Earnings include your wages and salary. If you have more than one job, earnings and salaries of all your jobs should be included. Earnings may also include:

For more information:
Website: www.labour.gov.bc.ca/wab



Lower Mainland/Fraser Valley/Kootenays: 1-800-663-4261
Northern & Central Interior: 1-800-663-6695
Vancouver Island: 1-800-661-4066

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1. Extraordinary or irregular wage payments such as commissions, piecework, bonuses, tips and regular overtime. Statutory holiday payments or vacation allowances can also be included in setting the wage rate on a claim.
2. Room and Board. The dollar value of room and board can be included in average earnings, unless you continue to receive room and board while you are disabled from work.
3. Employment Insurance Payments. Employment Insurance will only be included in average earnings if there is independent proof that you received those benefits due to your employment in an occupation or industry that results in recurring seasonal or temporary interruptions of employment.

Any portion of the wages you received as a charge for rental of your own equipment is excluded from average earnings. If your earnings include payment for business expenses or costs associated with equipment, WorkSafeBC will average your earnings using only the labour component. This is the portion of the earnings that remains after deductions for business expenses and costs associated with equipment.

There are additional and more detailed rules governing the calculation of wage rates for self-employed workers such as owner-operators and fishers.

What if I was with my employer for less than 12 months prior to my injury?

If you had a permanent job but were injured before you had worked for a full 12 months with your employer, WorkSafeBC can use the 12-month earnings of a similar worker with your employer, or with another employer in the same region. If WorkSafeBC cannot determine the earnings of a similarly-situated worker, it will use a regional class average to determine the long term wage rate.

What if my earnings would have increased once I completed training?

If you are an apprentice, learner or a trainee in an employer sponsored training program, WorkSafeBC should use the greater of (a), your 12 month earnings, or (b), your rate of earnings, just prior your injury (the same as your short term wage rate).

Unlike long term wage rates of most workers, this long term rate will apply only to temporary benefits. If your injury results in a permanent disability, WorkSafeBC should set a third wage rate on which to base your permanent disability award. This wage rate should be based on the salary of a new qualified person in your trade or occupation who works for your employer, or if there is no such person, an employer in the same region as you worked.

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What if my 12 month earnings don't fairly reflect my true earning capacity for other reasons?

Sometimes a worker's earnings over the 12 months leading up to his or her injury are unusually low, and don't fairly reflect the worker's true earning capacity. There are a number of exceptions to the 12 month rule. These include:

Prior WorkSafeBC claims

If you received wage loss or vocational allowances from WorkSafeBC in the 12 month period, the 12 month rule should not be applied. Instead, WorkSafeBC may use a longer or shorter period of time to average the earnings, and exclude the periods of time in which you received wage loss compensation.

Unusual Changes in the Pattern of Employment

Where you had a regular pattern of employment, but the earnings in the 12 month period do not reflect your historical earnings because of significant unusual or irregular disruption in the pattern of employment, the 12 month rule should not be applied.

Examples of such changes include reduced income due to non-work related injuries or illness, education leave, or maternity/paternity leave. If you lost a lot of time from work and that the lost time was unusual for you, WorkSafeBC can use a longer or shorter period of time to average your earnings, and exclude the period of the disruption from the average earnings period.

Reduced career options for young people and students

If you can show that your injury reduced or excluded your future career options, WorkSafeBC may instead look at what your future earnings would likely have been. This policy usually applies only to students and young workers under the age of 25. In such cases, the Board may determine long-term earnings on the basis of a qualified person in the occupation you intended to enter.

Other situations

WorkSafeBC has Exceptional circumstances may apply to:

- recent entrants or re-entrants to the labour forces,
- new immigrants, and
- workers who received a fixed pay increase part-way through the 12 month period preceding their injuries.

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As WorkSafeBC has discretion in determining if an exception should be made, it is impossible to predict every situation in which the 12 month rule may be waived.

What if I disagree with the decision?

A WorkSafeBC officer makes the long term wage rate review decision. If you have concerns, you should first speak to the officer and make sure WorkSafeBC has all your earnings information.

If you do not agree with the WorkSafeBC decision, you have the right to request a review. You must request a review within **90 days**. If you disagree with the Review Division decision, you have **30 days** to file an appeal to the Workers' Compensation Appeal Tribunal.