

Types of Workers

Students, Apprentices, and Learners



Introduction

There are special WSIB rules for dealing with claims for students, apprentices, and learners. In the beginning, these claims often look like typical claims. However, it is often the case that additional information is required about the special nature of many workplace arrangements.

This Q & A provides information about indicators that suggest a special work arrangement may be in place, and how to handle claims for individuals in such work arrangements. The information provided applies to claims adjudicated under the *Workplace Safety and Insurance Act* (WSIA), which became law on January 1, 1998. For complete information, refer to the policies identified throughout the Q & A, and s.16 of Ontario Regulation 175/98 of the WSIA.

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Introduction

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This Q & A provides information about indicators that suggest a special work arrangement may be in place, and how to handle claims for individuals in such work arrangements. The information provided applies to claims adjudicated under the *Workplace Safety and Insurance Act* (WSIA), which became law on January 1, 1998. For complete information, refer to the policies identified throughout the Q & A, and s.16 of Ontario Regulation 175/98 of the WSIA.

What are indicators of special claims?

The following may indicate that the claim is for a student, apprentice or a learner, and that further investigation of the workplace arrangement is required.

- work education agreement is submitted with Form 7 (*Employer's Report of Injury/Disease*)
- employer has checked student, unpaid/trainee, or registered apprentice in section G-1 of the Form 7
- Form 7 refers to a training program, or mentions the involvement of a training agency/ government ministry
- individual is not receiving any wages
- individual was to be with the employer for a very limited time period
- individual is a young worker, 15-24 (doesn't exclude older students, apprentices, learners, etc.).

Why is it important to properly classify workers?

- The classification of a worker has considerable impact on the types of programs that may be offered by the WSIB and the calculation of wage loss benefits.
 - i.e., A Labour Market Re-entry (LMR) program may not be offered to a “worker” who was earning minimum wage and is still capable of earning minimum wage despite the injury, but a “student” earning minimum wage while attending school may be entitled to LMR services based on an established career path.
- It is important not to just accept the employer's classification of the worker but to make appropriate inquiries to confirm the proper WSIB classification.
 - i.e., A high school student involved in a co-op program may be reported by the employer as a student but is actually a learner with different rules for calculating average earnings.
 - i.e., A participant in a government job-creation program may be reported by the employer as a “worker” but is actually a learner.

How do I classify types of workers?

The following chart provides a starting point for classifying types of workers. Further details are provided below.

Workers	Students	Apprentices	Learners
<ul style="list-style-type: none"> • not attending school • paid employment 	<ul style="list-style-type: none"> • attending school • paid employment (i.e., part time, summer) 	<ul style="list-style-type: none"> • attending school • registered in an apprenticeship program • paid during work period with an employer 	<ul style="list-style-type: none"> • placed with an employer by a training agency to gain work skills and experience • unpaid, or nominal pay such as training allowance or social assistance

Note: If an individual is involved in more than one workplace, classification is determined by the place of injury.

WORKERS

Definition

Who is a “worker”?

- Not attending school or involved in an apprenticeship.
- Entered into a contract of service under which they agree to work for an employer, on a full or part-time basis, in return for wages/salary.

Coverage

Are all “workers” covered by the WSIB?

- No, only those who have a contract of service with an employer whose business is covered under the WSIA either compulsorily, or has registered for coverage by application.

Calculating Earnings

How are initial pre-injury average earnings calculated for workers?

- Based on actual earnings from all employers at time of injury (see Policy 18-02-02, Determining Short-term Average Earnings, Policy 18-02-05 Determining Average Earnings – Concurrent Employment).

When are initial pre-injury average earnings adjusted for workers?

- Pre-injury average earnings are adjusted to long-term average earnings and paid beginning the 13th week of loss of earnings (LOE) benefits, if the decision-maker determines that it is unfair to continue paying LOE based on short-term average earnings (see Policy 18-02-03, Determining Long Term Average Earnings – Workers in Permanent Employment, Policy 18-02-04, Determining Long Term Average Earnings – Workers in Non-Permanent Employment, Policy 18-02-05 Determining Average Earnings – Concurrent Employment).

Paying LOE Benefits

When are loss of earnings (LOE) benefits payable?

- If the injury prevents a worker from returning to pre-accident or modified work, the worker is entitled to full or partial LOE benefits (see Policy 18-03-02, Payment of LOE Benefits).

How are LOE benefits calculated?

- $LOE \text{ benefits} = 85\% \times [\text{pre-injury net average earnings (NAE)} - \text{post-injury NAE}]$.

LMR Services

Are workers entitled to LMR services?

- Yes, if an LMR assessment indicates the worker needs assistance to re-enter the labour market and restore pre-injury average earnings to the greatest extent possible (see Policy 19-03-02, LMR Assessments).

STUDENTS

Definition

Who is a student?

- Pursuing formal education on a full-time or part-time basis (doesn't include learners or apprentices).
- Employed by an employer for the purposes of the employer's industry, and receiving wages under a contract of service.

Coverage

Are all students covered by the WSIB?

- No, only those who have a contract of service with an employer whose business is covered under the WSIA either compulsorily, or has registered for coverage by application.
- Coverage is provided during the paid employment work, but not during classroom courses. (**Exception:** There is WSIB coverage for accidents that occur while injured workers are involved in WSIB sponsored training programs, see Policy 14-05-03, Second Injury and Enhancement Fund.)

Calculating Earnings

How are initial pre-injury average earnings calculated for students?

- Based on actual earnings from all employers at time of injury (see Policy 18-02-08, Determining Average Earnings – Exceptional Cases, and Policy 18-02-05, Determining Average Earnings – Concurrent Employment).
- If an individual is involved in more than one workplace under different circumstances (i.e., as a student and as a learner), the method to determine average earnings is based on the place of injury.
- **Example:** A student employed part-time by McDonald's was also involved in another workplace as a learner through a high school co-op program. If the injury occurred at McDonald's, the individual would be classified as a student and the rules for calculating average earnings for students would be followed, taking into account any income from McDonald's and the co-op program.

When are initial pre-injury average earnings adjusted for students?

- Initial pre-injury average earnings are adjusted if the student is unable to complete his/her pre-injury education program, or any other educational program, as a result of the injury. The adjustment is calculated prospectively from the point in time when the student would have completed his/her education if the injury had not occurred.
- In any other cases (i.e., worker pursues alternate education program), initial pre-injury average earnings are adjusted prospectively from the point in time when the student has ended his/her education.

How are initial pre-injury average earnings adjusted for students?

- Initial pre-injury average earnings are adjusted based on the wages connected to the student's anticipated career path.
- Many factors should be considered when determining the student's anticipated career path and likely future employment. Enrolment in, or acceptance from a specific educational and/or training program is one variable to be considered. The WSIB must also consider the

student’s level of education (i.e., number of years already completed in a program), and his/her aptitude and skills at the time of the injury.

- The WSIB should conduct an LMR type assessment (i.e., review report cards, pre-injury activities) if further information is required to determine if the stated career path would have been attainable based on pre-accident aptitude/skills.

Example: Student injured during part-time job, while enrolled in program to become a police officer.

Impact of Injury	How are initial pre-injury average earnings calculated?	When are initial pre-injury average earnings adjusted?	How are initial pre-injury average earnings adjusted?
<ul style="list-style-type: none"> • Serious injury prevents student from pursuing any further education. 	<ul style="list-style-type: none"> • Based on actual earnings from all employers at the time of injury. 	<ul style="list-style-type: none"> • Prospectively from the date the education would have been completed. 	<ul style="list-style-type: none"> • Based on the wages of a police officer.
<ul style="list-style-type: none"> • Moderate injury causes student to pursue alternate education program. 	<ul style="list-style-type: none"> • Based on actual earnings from all employers at the time of injury. 	<ul style="list-style-type: none"> • Prospectively from the date the alternate education program is completed. 	<ul style="list-style-type: none"> • Based on the wages of a police officer
<ul style="list-style-type: none"> • Moderate injury but student completes police training program as scheduled. 	<ul style="list-style-type: none"> • Based on actual earnings from all employers at the time of injury. 	<ul style="list-style-type: none"> • No adjustment. 	<ul style="list-style-type: none"> • No adjustment.

Paying LOE Benefits

When are loss of earnings (LOE) benefits payable?

- If the injury prevents a student from returning to work and to school, the student is entitled to full LOE benefits (see Policy 18-03-02, Payment of LOE Benefits).

How are initial LOE benefits calculated?

- $LOE\ benefits = 85\% \times [pre\text{-}injury\ net\ average\ earnings\ (NAE) - actual\ post\text{-}injury\ NAE]$.

What happens to LOE benefits when the student returns to school?

Summer/temporary job

- LOE benefits are discontinued when the student returns to school if the employment was only temporary in nature (i.e., a summer job, or a paid work term for co-op secondary students).
- Consideration should only be given to paying further LOE benefits if the student had a prior pattern of obtaining part-time employment during the school term, and the injury prevents him/her from performing such work (LOE benefits would be based on the hours and wages typically associated with the prior pattern of school term employment).

Part-time job

- LOE benefits continue when a student is in school if the job was a part-time job that was normally performed during the school term, and the injury continues to prevent the student from working.
- LOE benefits are discontinued when the student is in school and is able to return to regular or modified work at no wage loss.

What happens to LOE benefits when the injury has a temporary impact on the student's education?

Summer/temporary job

- LOE benefits may continue after the scheduled end of the work period (i.e., end of the summer school break, end of the paid co-op work term) if
 - a. the student has been unable to return to work,
 - b. the injury temporarily prevents the student from returning to school, and
 - c. the student is co-operating in health care measures recommended by the attending health care professional and approved by the WSIB (see Policy 18-03-02, Payment of LOE Benefits).

Part-time job

- LOE benefits continue if the student is unable to return to the part-time job, and the injury temporarily prevents the student from returning to school.
- LOE benefits are discontinued when the student is able to return to regular or modified work at no wage loss, even if the injury temporarily prevents the student from returning to school.

What happens to LOE benefits when the injury permanently prevents any further education?

- LOE benefits continue to be paid (even after the scheduled end of summer/temporary jobs) if the injury permanently prevents the student from pursuing the anticipated career path or any other educational program (i.e., including formal labour market re-entry (LMR) training).
- The WSIB determines the wages the student is able to earn after the accident, if any, in an appropriate direct-entry SEB (i.e., with no formal LMR training).
- LOE benefits are then paid based on the difference between the initial pre-injury net average earnings and the post-injury wages the student is able to earn, if any, in the identified SEB.
- LOE benefits are reviewed again at the point in time when the student would have completed his/her education if the injury had not occurred. From that point, LOE benefits are paid prospectively based on the difference between the average earnings of someone employed in the student's anticipated career path (adjusted pre-injury net average earnings) and the wages the student is able to earn, if any, in the SEB (deemed post-injury net average earnings).

What happens to LOE benefits if the student has to pursue an alternate career path due to the injury (i.e., LMR services)?

- If the student is able to pursue an alternate education program compatible with the injury, LOE benefits are paid based on the difference between the initial pre-injury net average earnings and the wages the student earns during the new education program (actual post-injury net average earnings).
- Payment of LOE benefits is reviewed again at the completion of the alternate education program. At that time, LOE benefits are paid prospectively based on the difference, if any,

between the average earnings of the pre-injury career path (adjusted pre-injury net average earnings) and the wages the student is able to earn in the alternate career path (deemed post-injury net average earnings based on the SEB).

LMR Services

Are students entitled to LMR services?

- Yes, if an LMR assessment indicates the student requires assistance to re-enter the labour market and approximate to the greatest extent possible the average earnings of the pre-injury career path (adjusted pre-injury net average earnings). These would normally be cases where the injury requires the student to change to a new educational program based on the SEB identified by the WSIB. (see Policy 19-03-02, LMR Assessments)
- The WSIB pays for the cost of the new educational program required to achieve the identified SEB.

SUMMARY: CALCULATION OF LOE BENEFITS FOR STUDENTS

Initial LOE benefits	85% x (initial pre-injury net average earnings (NAE) – actual post-injury NAE)
LOE benefits when injury prevents any further education	<p>a. before the date the pre-injury education program would have been completed 85% x (initial pre-injury NAE – deemed post-injury NAE based on SEB)</p> <p>b. after the date the pre-injury education program would have been completed 85% x (adjusted pre-injury NAE – deemed post injury NAE based on SEB)</p>
LOE benefits when worker pursues alternate education program	<p>a. during the alternate education program 85% x (initial pre-injury NAE – actual post-injury NAE)</p> <p>b. after the date the alternate education program is completed 85% x (adjusted pre-injury NAE – deemed post-injury NAE based on SEB)</p>

APPRENTICES

Definition

Who is an apprentice?

- Registered under the Trades Qualification and Apprenticeship Act (specified construction trades) or the Apprenticeship and Certification Act (all other trades).
- Signed a contract of apprenticeship for training and instruction in a trade, through or from an employer (see Policy 12-04-13, Apprentices).
- Includes high school students participating in the Ontario Youth Apprenticeship Program (see Policy 12-04-07, Students in Work Education Programs).

Coverage

Are all apprentices covered by the WSIB?

- No, only those who have a contract of apprenticeship with an employer whose business is covered under the WSIA either compulsorily, or by registering for coverage by application (see Policy 12-04-13, Apprentices).
- Coverage is provided during the work placement but not during classroom courses.
- The provincial government pays for the cost of coverage for participants in the Ontario Youth Apprenticeship Program.

Calculating Earnings

How are pre-injury average earnings calculated for apprentices?

- Based on the average earnings of a typical journeyman employed by the employer at the time of the accident and in the same trade as the apprentice, even if it is higher than the apprentice's actual wages (see Policy 18-02-08, Determining Average Earnings – Exceptional Cases, Policy 18-02-05, Determining Average Earnings – Concurrent Employment).
- If the employment pattern of a typical journeyman employed by the employer is non-permanent (i.e., seasonal employment pattern), wages and hours worked at the time of the accident may not be an accurate reflection of the journeyman's average earnings. Consideration should be given to calculating the initial average earnings based on the wages earned by a journeyman in the 24 months prior to the injury to better reflect the journeyman's actual average earnings. (Note: Policy 18-02-04, Determining Long-Term Average Earnings: Workers in Non-permanent Employment, contains guidelines for calculating average earnings over 24 months. While this policy does not apply to apprentices, some guidance can be obtained from the information regarding non-earning periods to be excluded from the calculation period.)
- If an individual is involved in more than one workplace under different circumstances, the method to determine average earnings is based on the place of injury.

When are pre-injury average earnings adjusted for apprentices?

- Once established, the average earnings remain the same for the life of the claim, with no adjustment (see Policy 18-02-08, Determining Average Earnings – Exceptional Cases).

Paying LOE Benefits

When are loss of earnings (LOE) benefits payable?

- If the injury prevents an apprentice from returning to the work portion of the apprenticeship, the apprentice is entitled to full LOE benefits (see Policy 18-03-02, Payment of LOE Benefits).

How are initial LOE benefits calculated?

- LOE benefits = 85% x (pre-injury net average earnings (NAE) – actual post-injury NAE).

What happens to LOE benefits when the apprentice returns to the school segment of the apprenticeship?

- LOE benefits are discontinued when the apprentice returns to school.

What happens to LOE benefits when the injury has a temporary impact on the school segment of the apprenticeship?

- LOE benefits may continue after the scheduled end of the work portion of the apprenticeship if
 - a. the injury continues to prevent the apprentice from returning to the work portion of apprenticeship,
 - b. the injury temporarily prevents the apprentice from returning to school, and
 - c. the apprentice is co-operating in health care measures recommended by the attending health care professional and approved by the WSIB (see Policy 18-03-02, Payment of LOE benefits).

What happens to LOE benefits if the injury permanently prevents completion of the apprenticeship or any other education?

- LOE benefits continue to be paid (even after the scheduled end of the work portion) if the injury permanently prevents the apprentice from completing the apprenticeship or any other educational program (i.e., including any formal labour market re-entry (LMR) training).
- The WSIB determines the wages the apprentice is able to earn, if any, in an appropriate direct entry SEB (i.e., with no formal LMR training).
- LOE benefits are then paid based on the difference between the average earnings for the pre-injury apprenticeship (pre-injury net average earnings based on the journeyman's rate) and the wages the apprentice is able to earn, if any, in the identified SEB (deemed post-injury net average earnings based on the SEB).

What happens if the apprentice has to pursue an alternate career path due to the injury (i.e., LMR services)?

- If the apprentice is able to return to school to pursue an alternate career path (SEB) compatible with the injury, LOE benefits are paid based on the difference between the average earnings calculated for the pre-injury apprenticeship (pre-injury net average earnings based on the journeyman's rate) and the wages earned during the new education program (actual post-injury net average earnings).
- Payment of LOE benefits is reviewed again at the completion of the alternate education program. At that time, LOE benefits would be paid prospectively based on the difference, if any, between the average wages for the pre-injury apprenticeship (pre-injury net average earnings based on the journeyman's rate) and the wages the apprentice is able to earn in the alternate career (deemed post-injury net average earnings based on the SEB).

LMR Services

Are apprentices entitled to LMR services?

- Yes, if an LMR assessment indicates the apprentice needs assistance to re-enter the labour market and approximate the average earnings of a journeyman to the greatest extent possible. These would normally be cases where the injury requires the apprentice to change to a new educational program based on the SEB identified by the WSIB (see Policy 19-03-02, LMR Assessments).
- The WSIB pays for the cost of the new educational program required to achieve the identified SEB.

SUMMARY: CALCULATION OF LOE BENEFITS FOR APPRENTICES

Initial LOE benefits	85% x (initial pre-injury net average earnings (NAE) – actual post-injury NAE)
LOE benefits when injury prevents completion of the pre-injury apprenticeship or any other education program	<p>a. before the date the pre-injury apprenticeship would have been completed 85% x (pre-injury NAE – deemed post-injury NAE based on SEB)</p> <p>b. after the date the pre-injury apprenticeship would have been completed 85% x (pre-injury NAE – deemed post injury NAE based on SEB)</p>
LOE benefits when apprentice pursues an alternate education program	<p>a. during the alternate education program 85% x (pre-injury NAE – actual post-injury NAE)</p> <p>b. after the date the alternate education program is completed 85% x (pre-injury NAE – deemed post-injury NAE based on SEB)</p>

LEARNERS

Definition

Who is a learner?

- Placed by a training agency with an employer (placement host) to obtain work skills and experience (see Policy 12-04-04, Individuals On Unpaid Training Placements).
- Participates, however minimally, in the employer's activities (i.e., includes job shadowing).
- Not paid by the employer (i.e., not under a contract of service or apprenticeship). Additional information about payment is provided below.
- **Note:** Individuals who arrange unpaid training placements on their own, with no training agency involvement, are generally considered to be volunteers, not learners. While volunteers are not generally covered by the WSIB, they may be entitled to take legal action against the employer in the event of an injury.

Who qualifies as a training agency?

- A person who is registered under the Private Career Colleges Act to operate a private career college.
- an educational institution.
- a person, partnership, organization, trade union or other entity that arranges vocational training or provides vocational services.

Types of payments received by learners

Can individuals receive some form of payment during their placement and still be considered a learner rather than a “worker”?

- Yes, but the source of payments is usually from training allowances, social assistance benefits, insurance benefits, and/or employment insurance benefits.
- Payment is not usually received from the employer in the form of wages for work performed during the placement (see exceptions under 'Government job creation and back-to-work programs' below).

Government job creation and back-to-work programs

What should I know about government job creation and back-to-work programs?

- A multitude of job creation and back-to-work programs have been created by the federal, provincial, and municipal governments, and it is often difficult to classify the participants.
- These programs often operate quite differently from the usual training placements. The participants may be paid wages by the employer for work performed during the placement, and there may not be any classroom training or connection to a training agency prior to the placement.
- As government programs may change or be discontinued over the years, it is important to ensure up-to-date information is obtained. Some of the more common programs include:
 1. Job Connect (call the Ontario Ministry of Training, Colleges and Universities hotline at 1-800-387-5656)
 2. Ontario Works (call the Ontario Ministry of Community and Social Services at 1-416-325-5666)
 3. Federal Employment Programs (www.youth.gc.ca) or 1-800-827-0263.

Are participants in government job creation and back-to-work programs still considered learners?

A separate policy has been developed for the Ontario Works program confirming the participants are learners (see Policy 12-04-06, Coverage for Ontario Works Participants). For all other job creation and back-to-work programs, the following are indicators that participants in these programs could still be considered learners:

- Program placement is designed to give participant an opportunity to obtain work skills and experience.
- There is a set start and end date for placement (not like an open-ended contract of service).
- Government ministry is involved in arranging the placement (directly or has asked a training agency to oversee the placements).
- Government ministry is providing WSIB coverage for the placement.
- Funds for the wages paid to participants come from the government through wage subsidies or grants to the employer, or payments directly to the participant (information about funding can be obtained by reviewing the work education agreement if one has been submitted with the Form 7, requesting information from the employer, or contacting the program directly).

Coverage

Are all learners covered by the WSIB?

- No, coverage varies between placements (See chart below outlining coverage for placements).
- If there is WSIB coverage, it only extends to the work placement and not to classroom activities (see Policy 12-04-04, Individuals on Unpaid Training Placements, Policy 12-04-05, Coverage for Unpaid Trainees, and Policy 12-04-07, Students in Work Education Programs).

How do I determine who is paying WSIB coverage for the placements?

- Review the “work education agreement” if one has been submitted with the Form 7. These forms are typically used by Job Connect, Ministry of Education high school co-op programs, and college/university training placements. These forms are used to set up the details of the placement and WSIB coverage before the placement begins, and should provide the adjudicator with all the necessary information.
- Contact the WSIB at 1-800-387-0080 to determine if the ministry or training agency has requested coverage for the placement.
- Contact the program directly.

When is there coverage for learners?

Placement	WSIB Coverage
#1. Ministry of Education High school co-op programs	<ul style="list-style-type: none"> • There is WSIB coverage whether or not the placement employer is compulsorily covered, has requested coverage by application under the WSIA or has no WSIB coverage. Ministry of Education is responsible for the cost of WSIB coverage.
#2. Ministry of Training, Colleges and Universities (MTCU) placements	<ul style="list-style-type: none"> • There is only WSIB coverage when the placement employer is compulsorily covered or has requested coverage by application under the WSIA. MTCU is responsible for the cost of WSIB coverage. • There is no WSIB coverage when the placement employer has no WSIB coverage. MTCU may arrange private insurance for these learners.
#3. Government job creation or back to work programs	<ul style="list-style-type: none"> • Coverage under this category varies with no general rule to be followed. Coverage information for each program should be verified before proceeding. • i.e., Job Connect is a MTCU program and coverage is provided as under #2. • i.e., Ontario Works is a Ministry of Community and Social Services program and coverage is only provided if the placement employer is compulsorily covered or has requested coverage by application under the WSIA.
#4. Non-government training agency placements (i.e., private vocational rehabilitation agencies)	<ul style="list-style-type: none"> • If the training agency makes arrangements to pay for the cost of WSIB coverage, the learners are covered whether or not the placement employer is compulsorily covered, has requested coverage by application under the WSIA, or has no WSIB coverage. Training agencies can only provide WSIB coverage for learners if they also provide coverage for their own employees under Schedule 1 or 2. • If the training agency does not provide WSIB coverage, the learners are only covered if the placement employer is compulsorily covered or has requested coverage by application under the WSIA. The placement employer is responsible for the cost of WSIB coverage in these cases. • There is no WSIB coverage when the placement employer has no WSIB coverage and the training agency has not elected to provide WSIB coverage.

Calculating Earnings

How are initial pre-injury average earnings calculated for learners?

Initial pre-injury average earnings are based on:

- actual income at the time of injury (training allowances, social assistance, insurance benefits, funds from employer, wages from concurrent employment), or
- earnings to be received from an accepted job offer, scheduled to start after placement, or
- Ontario minimum wage, if no actual income.

If an individual is involved in more than one workplace under different circumstances (i.e., as a learner and as a student), the method to determine average earnings is based on the place of injury (see Policy 18-02-08, Determining Average Earnings – Exceptional Cases, Policy 18-02-05 Determining Average Earnings – Concurrent Employment)

When are initial pre-injury average earnings adjusted for learners?

- Initial pre-injury average earnings are adjusted if the learner is unable to complete his/her pre-injury training program, or any other training program, as a result of the injury. The adjustment is calculated prospectively from the point in time when the learner would have completed his/her training program if the injury had not occurred.
- In any other cases (i.e., worker pursues alternate training program), average earnings are adjusted prospectively from the point in time when the learner has ended his/her training program.

How are initial pre-injury average earnings adjusted for learners?

- Initial pre-injury average earnings are adjusted based on the wages of another worker employed by the employer in the same field as the learner's training program (see Policy 18-02-08, Determining Average Earnings – Exceptional Cases)

See example on next page.

Example: Learner injured during training placement required as part of a nursing program.

Impact of Injury	How are initial pre-injury average earnings calculated?	When are initial pre-injury average earnings adjusted?	How are initial pre-injury average earnings adjusted?
Serious injury prevents learner from pursuing any other training program.	Based on actual earnings, wages to be received for an accepted job offer, or Ontario minimum wage (if no actual income).	Prospectively from the date the pre-injury training program would have been completed.	Based on the wages of a nurse.
Moderate injury causes learner to pursue alternate training program.	Based on actual earnings, wages to be received for an accepted job offer, or Ontario minimum wage (if no actual income).	Prospectively from the date the alternate training program is completed.	Based on the wages of a nurse.
Moderate injury but student completes nursing program as scheduled.	Based on actual earnings, wages to be received for an accepted job offer, or Ontario minimum wage (if no actual income).	No adjustment.	No adjustment.

Paying LOE Benefits

When are loss of earnings (LOE) benefits payable?

- If the injury prevents a learner from returning to the pre-injury training placement, the learner is entitled to full LOE benefits (see Policy 18-03-02, Payment of LOE Benefits and Policy 18-04-10).

How are initial LOE benefits calculated?

- LOE benefits = 85% x [pre-injury net average earnings (NAE) – actual post-injury NAE].

What happens to LOE benefits if the learner returns to the pre-injury training placement?

- Partial LOE benefits are paid if the learner returns to the pre-injury training placement at reduced hours.
- LOE benefits are discontinued when the learner returns to the pre-injury training placement at full hours.

What happens to LOE benefits if the learner's injury permanently prevents completion of the pre-injury training program or any other training program?

- LOE benefits continue to be paid (even after the scheduled end of the training placement) if the injury permanently prevents the learner from completing the pre-injury training program or any other educational program (i.e., including formal labour market re-entry (LMR) training).
- The WSIB determines the wages the learner is able to earn, if any, in an appropriate direct entry SEB (i.e., with no formal LMR training).
- LOE benefits are then paid based on the difference between the initial pre-injury net average earnings and the wages the learner is able to earn, if any, in the identified SEB (deemed post-injury net average earnings based on the SEB).
- LOE benefits are reviewed again at the point in time when the learner would have completed his/her pre-injury training program if the injury had not occurred. From that point, LOE benefits are paid prospectively based on the difference between the average earnings of someone employed by the employer in the same field as the learner's pre-injury training program (adjusted pre-injury net average earnings), and the wages the learner is able to earn, if any, in the identified SEB (deemed post-injury net average earnings based on the SEB).

What happens to LOE benefits if the learner has to pursue an alternate training program due to the injury (i.e., LMR services)?

- If the learner is able to pursue an alternate training program compatible with the injury, LOE benefits are paid based on the difference between the initial pre-injury net average earnings calculated for the pre-injury training program and the wages earned during the new training program (actual post-injury net average earnings).
- Payment of LOE benefits is reviewed again at the completion of the alternate training program. At that time, LOE benefits are paid prospectively based on the difference, if any, between the average earnings for someone employed in the same field as the learner's pre-injury training program (adjusted pre-injury net average earnings) and the wages the worker is able to earn in the alternate career (deemed post-injury net average earnings based on the SEB).

LMR Services

Are learners entitled to LMR services?

- Yes, if an LMR assessment indicates the learner needs assistance to re-enter the labour market and approximate to the greatest extent possible the average earnings of someone employed in the same field as his/her pre-injury training program. These would normally be cases where the injury requires the learner to change to a new training program based on the SEB identified by the WSIB (see Policy 19-03-02, LMR Assessments).
- The WSIB pays for the cost of the new training program required to achieve the identified SEB.

SUMMARY: CALCULATION OF LOE BENEFITS FOR APPRENTICES

Initial LOE benefits	85% x (initial pre-injury net average earnings (NAE) – actual post-injury NAE)
LOE benefits when injury prevents completion of pre-injury training program or any other training programs	<p>a. before the date the pre-injury training program would have been completed 85% x (initial pre-injury NAE – deemed post-injury NAE based on SEB)</p> <p>b. after the date the pre-injury education program would have been completed 85% x (adjusted pre-injury NAE – deemed post injury NAE based on SEB)</p>
LOE benefits when learner pursues alternate training program	<p>a. during the alternate training program 85% x (initial pre-injury NAE – actual post-injury NAE)</p> <p>b. after the date the alternate education program is completed 85% x (adjusted pre-injury NAE – deemed post-injury NAE based on SEB)</p>

Types of Workers: SUMMARY | Students, Apprentices, and Learners

	Worker	Student	Apprentice	Learner
Definition	Not attending school. Paid employment.	Attending school. Paid employment (i.e., part time, summer).	Attending school. Registered in an apprenticeship program. Paid during period working with employer.	Placed with an employer by a training agency to gain work skills and experience. Unpaid or nominal pay such as training allowances, insurance benefits, social assistance etc.
Coverage (under WSIA)	Yes, when employer is covered, either compulsorily or has registered for coverage by application.	Yes, when employer is covered, either compulsorily or has registered for coverage by application. (No coverage while in classroom.)	Yes, when employer is covered, either compulsorily or has registered for coverage by application. (No coverage while in classroom.)	Coverage varies among training placements. See chart in Learners' section of the Q & A.
Calculating pre-injury average earnings	Based on actual earnings from all employers at time of injury.	Based on actual earnings from all employers at time of injury.	Based on average earnings of a journeyman employed in the same trade as the apprentice (even if it is higher than the apprentice's actual wages).	Based on: 1. actual income, or 2. earnings from accepted job offer to start after placement, or 3. Ontario minimum wage, if no actual income.
When are pre-injury average earnings adjusted?	Beginning the 13th week of LOE benefits.	If student unable to complete any education due to injury, adjust pre-injury average earnings when student would have completed pre-injury education program. If student is able to pursue alternate education, adjust pre-injury average earnings at end of the program.	Average earnings remain the same for the life of the claim, with no adjustment.	If learner unable to complete any training program due to injury, adjust pre-injury average earnings when learner would have completed pre-injury training program. If learner is able to pursue an alternate training program, adjust pre-injury average earnings at end of the program.

Types of Workers: SUMMARY | Students, Apprentices, and Learners

	Worker	Student	Apprentice	Learner
How are pre-injury average earnings adjusted?	Adjust to long-term average earnings if unfair to continue LOE based on short-term average earnings.	Use the average earnings of a worker employed in a job in which the student would likely be employed if the injury had not occurred (anticipated career path). These are the student's adjusted pre-injury average earnings .	Not applicable.	Use average earnings of another worker employed by the employer in the same field as the learner's training program. These are the learner's adjusted pre-injury average earnings .
Paying LOE Benefits LOE = 85% x (pre-injury net average earnings – post-injury net average earnings)	Yes, if injury prevents return to work. See Q & A for full explanation.	Yes, if injury prevents return to work and/or school. See Q & A for full explanation.	Yes, if injury prevents return to work and/or school. See Q & A for full explanation.	Yes, if injury prevents return to training program. See Q & A for full explanation.
Entitled to LMR Services	Yes, if need assistance to restore pre-injury average earnings.	Yes, if need assistance to earn adjusted pre-injury average earnings . These would normally be cases where the student will be required to change his/her educational program as a result of the injury.	Yes, if need assistance to earn journeyman's average earnings . These would normally be cases where the apprentice will be required to change his/her educational program as a result of the injury.	Yes, if need assistance to earn adjusted pre-injury average earnings . These would normally be cases where the learner will be required to change his/her training program as a result of the injury.

Types of Workers: SAMPLE SCENARIOS | Students, Apprentices, and Learners

Worker Types	Definition	Coverage	Calculating Pre-Injury Earnings	Adjusting Pre-Injury Earnings	Paying LOE Benefits	LMR Services
WORKER						
Scenario #1	Not attending school. Paid wages for working as a grocery store cashier.	Yes, grocery store is a compulsorily covered employer.	Based on actual income.	No adjustment. Short-term average earnings accurately reflect earnings.	Yes, as long as injury prevents return to work.	Yes, if need assistance to earn pre-injury average earnings.
Scenario #2	Not attending school. Paid wages for working as a receptionist at a mutual funds company.	No, mutual fund companies are only covered by application. No coverage requested by employer.	N/A	N/A	N/A	N/A

APPRENTICE						
Scenario #1	Plumbing apprentice paid wages while working with plumbing company.	Yes, plumbing company is a compulsorily covered employer.	Based on the wages of a journeyman plumber employed by the accident employer.	No adjustment.	Yes, as long as injury prevents return to the apprenticeship program. (See Q & A for full explanation.)	If unable to complete apprenticeship program due to the injury, determine what assistance required to enter labour force and earn wages similar to those of a plumber.

Types of Workers: SAMPLE SCENARIOS | Students, Apprentices, and Learners

Worker Types	Definition	Coverage	Calculating Pre-Injury Earnings	Adjusting Pre-Injury Earnings	Paying LOE Benefits	LMR Services
LEARNER						
Scenario #1	University places nursing student in unpaid hospital program to develop skills.	Yes, hospital is a compulsorily covered employer. (MTCU pays for WSIB coverage under their Schedule 2 account.)	Based on Ontario minimum wage.	<p>How: Adjust earnings based on wages of a nurse.</p> <p>When: If the learner is unable to complete any training programs due to the injury, adjust earnings when original education would have been completed.</p> <p>If the learner can pursue an alternate training program compatible with the injury, adjust earnings when program is completed.</p>	Yes, as long as injury prevents return to nursing course. (See Q & A for full explanation.)	If unable to complete the nursing course due to the injury, determine what assistance required to enter labour force and earn wages similar to those of a nurse.
Scenario #2	College places student in unpaid co-op program in a day care centre.	No, coverage is by application. Day care centre not registered with WSIB. (MTCU arranges private insurance to cover placement.)	N/A	N/A	N/A	N/A

Types of Workers: SAMPLE SCENARIOS | Students, Apprentices, and Learners

Worker Types	Definition	Coverage	Calculating Pre-Injury Earnings	Adjusting Pre-Injury Earnings	Paying LOE Benefits	LMR Services
LEARNER (continued)						
Scenario #3	Welfare recipient is paid wages to work as a retail store greeter under the Ontario Works program.	Yes, retail stores are compulsorily covered.	Based on actual income. Wages + (welfare – 50% wages)	No adjustment as there is no training program to be completed. Initial average earnings accurately reflect the loss of earnings.	Yes, as long as injury prevents return to work.	Yes, if the learner requires assistance to re-enter the labour force and earn pre-injury average earnings.
Scenario #4	Hair-styling school places a trainee in a hair salon to develop skills.	No, hair salon is “by application” industry, and has not registered with WSIB.	N/A	N/A	N/A	N/A
Scenario #5	High school co-op student placed with a veterinarian.	Yes, WSIB coverage for all high school co-op students is provided by the Ministry of Education even if the placement employer is not covered by the WSIB.	Based on Ontario minimum wage.	How: Adjust earnings based on wages of worker employed by employer in same field as learner’s training program. <ul style="list-style-type: none"> • If the learner is unable to complete any training programs due to the injury, adjust earnings when original program would have been completed. • If the learner can pursue alternate training program compatible with the injury, adjust earnings when program is completed. 	Yes, as long as injury prevents return to training program. (See Q & A for full explanation.)	If unable to complete training program, determine what assistance required to enter labour force and earn wages similar to those of a worker employed by employer in same field as the learner’s training program.

Types of Workers: SAMPLE SCENARIOS | Students, Apprentices, and Learners

Worker Types	Definition	Coverage	Calculating Pre-Injury Earnings	Adjusting Pre-Injury Earnings	Paying LOE Benefits	LMR Services
STUDENT						
High school	High school student paid wages for working part-time at McDonald's (has applied to university physiotherapy program).	Yes, McDonald's is a compulsorily covered employer.	Based on actual income.	<p>How: Adjust based on the wages connected to the student's career path. To determine the career path, WSIB considers factors such as acceptance into a program, (i.e., enrolled in physio course) as well as the student's level of education and aptitude/skills at the time of injury.</p> <p>When: If the student is unable to complete any education programs due to the injury, adjust earnings when original education would have been completed.</p> <p>If the student can pursue alternate education compatible with the injury, adjust earnings when program is completed.</p>	Yes, as long as injury prevents return to work and/or school. (See Q & A for full explanation.)	<p>Yes, if unable to proceed with the pre-injury career path due to the injury (i.e., career that would have been attainable based on pre-injury aptitude/skills).</p> <p>WSIB determines what assistance is required to enter labour force and earn wages similar to pre-injury career path. (e.g., physiotherapist)</p>

Types of Workers: SAMPLE SCENARIOS | Students, Apprentices, and Learners

Worker Types	Definition	Coverage	Calculating Pre-Injury Earnings	Adjusting Pre-Injury Earnings	Paying LOE Benefits	LMR Services
STUDENT (continued)						
University	Engineering student paid wages while working for design company during school work term (e.g., co-op program).	Yes, engineering design company is a compulsorily covered employer.	Based on actual income.	<p>How: Adjust based on wages of an engineer.</p> <p>When: If the student is unable to complete any education programs due to the injury, adjust earnings when original education would have been completed.</p>	Yes, as long as injury prevents return to work and/or school. (See Q & A for full explanation.)	If unable to complete engineering program due to the injury, determine what assistance required to enter labour force and earn wages similar to engineer wages.