

**Operational
Policy**

Section

Future Economic Loss (FEL) (Accidents from 1990-1997)

Subject

Calculating FEL for Students, Learners, and Apprentices

Policy

The average earnings used to calculate Future Economic Loss (FEL) benefits for students, learners, and apprentices are different than for most workers. For students and learners, the earnings may be based on what could be earned upon completion of their education or training. For apprentices, the earnings are based on a journey person's wages.

Purpose

The purpose of this policy is to outline the earnings used to calculate FEL benefits for students, learners, and apprentices.

Guidelines

Students

If the impairment of a student worker is likely to be permanent, the student's average earnings for the purpose of determining a FEL benefit are based on the full-time regular earnings of the job the student would eventually have had if the injury did not occur.

If the student worker's career and educational plans are relatively clear at the time of injury/disease, the WSIB calculates the pre-injury average earnings based on an estimation of what the worker's earnings would be at the start of the career. For example, if a worker was engaged in formal training for a particular trade, the earnings are what the worker would earn as a full-time regular worker in that trade.

If, because of the worker's relative youth, no career goal has been established, the WSIB calculates the worker's average earnings using the average industrial wage for Ontario for the year in which the injury occurred. That figure may be adjusted upward if, despite the absence of specific career goals, the worker's education, aptitudes, and skills at the time of the injury/disease indicate that the worker may have been likely to earn more than the average industrial wage when in regular full-time work.

The average industrial wage for Ontario for a year is the amount calculated under s. 54(2) of the *Workplace Safety and Insurance Act* (the Act).

Learners

If the impairment of a learner is likely to be permanent, the learner's average earnings, for the purpose of determining a FEL, are the starting salary with the accident employer of the job for which the learner was training when injured.

If the accident employer no longer has this job, the WSIB uses the starting salary of this job with other employers in the same locality.

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If the job does not exist in the locality, the WSIB uses the closest similar job. In this case, the WSIB must consider the level of education, aptitude, and skills the learner is likely to have at the completion of the training or probationary period.

Temporary disability

For information about calculating average earnings for students and learners with temporary disabilities, see 18-06-01, Calculating Temporary Total Disability Benefits (Accidents between 1985 and 1998).

Apprentices

The pre-injury average earnings used in the FEL determination for apprentices are calculated as in 18-06-01, Calculating Temporary Total Disability Benefits (Accidents between 1985 and 1998).

Application date

The policy on students applies to all FEL decisions made on or after January 1, 2023, for accidents from January 2, 1990 to December 31, 1997.

The policy on learners applies to all FEL decisions made on or after January 1, 2023, for all accidents from December 16, 1993 to December 31, 1997.

Document history

This document replaces 18-04-10 dated February 1, 2018.

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18-04-10 dated October 12, 2004

18-04-10 dated June 15, 1999

7.9 dated January 1, 1998

05-05-13 dated July 29, 1994.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended
Sections 54(2), 102

Workers' Compensation Act, R.S.O. 1990, as amended
Section 43

O. Reg. 899/93

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Minute

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#3, December 19, 2022, page 607

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#7(a)(ii), September 7, 1990, Page 5393

#18, August 27, 1993, Page 5688