

POLICY NUMBER: POL-11

**Chapter
CLAIMS**

**Subject:
SELF-EMPLOYMENT PROGRAM**

**Effective Date:
November 8, 1994**

**Last Update:
July 25, 2017**

PURPOSE STATEMENT:

The purpose of the policy is to explain how the Workers Compensation Board determines eligibility for a self-employment program and to outline the assistance provided if accepted.

REFERENCE:

Workers Compensation Act R.S.P.E.I.1988, Cap. W-7.1, Sections 18 (11), 40(4), 51(1).

DEFINITION:

In this policy:

“Extended wage loss benefits” means wage loss benefits payable to a worker from the later of (i) the date which the Board determines that the worker has an impairment, and (ii) the date on which the worker completes vocational or occupational rehabilitation, where the worker is engaged in such rehabilitation on or after the date the Board determines the worker has an impairment.

“Loss of earning capacity” means the difference between the worker’s net average earnings before the accident, and the net average amount the Workers Compensation Board determines the worker is capable of earning after the accident.

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“Settlement” means a one-time lump sum payment to support self-employment in lieu of any or all present and future wage loss benefits.

“Temporary wage loss benefits” means wage loss benefits payable to a worker prior to the date on which extended wage loss benefits, if any, become payable.

POLICY:

Eligibility Criteria

1. A worker must be eligible for vocational rehabilitation as per the Vocational Rehabilitation policy (POL-117).
2. The Workers Compensation Board may approve the Self-Employment Program as a vocational rehabilitation option only when:
 - All other Vocational Rehabilitation programs have been explored and are determined by the Workers Compensation Board, to be unsuitable;
 - The worker is functionally able to perform the work related to the proposed business plan;
 - The worker has transferrable skills related to the identified type of work;
 - The plan is cost effective as determined by the Workers Compensation Board;
 - There is a significant likelihood of success for the business;
 - The worker is in receipt of Temporary Wage Loss benefits; and
 - It is agreed upon by the worker and the Workers Compensation Board that any potential loss of earnings will be significantly offset or eliminated by the business.
3. A worker who is in receipt of extended wage loss benefits is not eligible for the Self-Employment Program.

Financial Support for Self-Employment

4. A worker who is approved for the Self-Employment Program will be awarded a one-time payment of up to a maximum of \$60,000.

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5. A worker must sign a settlement agreement at the time of approval for the Self-Employment Program. The settlement agreement requires the signature of the Chief Executive Officer.
6. A worker agrees the settlement amount received to support self-employment is in lieu of any and all present and future wage loss benefits payable to the worker by the Workers Compensation Board in respect of the workplace accident.

Legal Advice

7. The worker, at their own expense, must consult a lawyer for advice prior to signing a settlement agreement with the Workers Compensation Board. The worker must provide written confirmation of having received such advice to the Workers Compensation Board.

The confirmation must state that the worker understands and agrees to all of the terms set out in the settlement agreement.

Business Costs

8. The worker is expected to make a financial contribution to the business. This may consist of capital or equivalent business related assets needed for the success of the business.

The value of the contribution must be identified in the business plan.

9. The worker is responsible to pay for all costs associated with the business including, but not limited to:
 - Legal fees;
 - Licensing; and
 - Liability insurance.
10. An independent third party business consulting firm, approved by the Workers Compensation Board, shall assist the worker with the development of the business plan.

The Workers Compensation Board will pay a consulting fee to a maximum of \$2000.00

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11. The business must be registered in the worker's name or incorporated with the worker as principal shareholder.

Entitlement to Wage Loss Benefits

12. The provisions of the settlement agreement shall prevent the worker from receiving wage loss benefits for the same workplace injury or a recurrence of that injury.
 13. The provisions of the settlement agreement do not prevent the worker from receiving wage loss benefits, as approved by the Workers Compensation Board, for a new workplace injury that results in a loss of earning capacity.
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HISTORY:

July 25, 2017 - Amended to provide clarification on eligibility, settlement agreements and responsibility for business costs, and to increase the fee payable for business consulting services.

September 25, 2008 - The policy was updated as a result of the 60 month policy review process. The policy has been amended to clarify that approval may be considered as an option for a worker only when all other Vocational Rehabilitation programs have been explored and are determined to be unsuitable. In addition, a worker who is in receipt of extended wage loss benefits is not eligible for the Self-Employment Program.

October 24, 2002 - Clarified permanent disability award to include both permanent total and partial disability award, modified signing authorities for approval and edited text for spelling and terminology errors.

April 19, 2001 - Replaces Self Employment Program Policy & Practice dated November 8, 1994.

Board of Directors Approval Date: November 8, 1994