

Bill 30 overview



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Legislation in place as of January 1/18:

- Updated cost-of-living adjustment (COLA) calculation.
- Enhanced retirement benefits.
- New lump-sum fatality benefit.
- Enhanced grant requirements for safety associations.

Bill 30 overview

Legislation that took effect April 1/18 expands presumptions for:

- Myocardial infarction (heart attack) to paramedics.
- PTSD to include correctional officers and emergency dispatchers.
- Traumatic psychological injury claims for all workers.

Bill 30 overview

Legislation that took effect September 1/18:

- The window for appeal extends to two years.
- Cap for maximum compensable earnings has been removed.
- Enhanced benefits for severely injured young workers.
- Enhanced benefits for all surviving spouses.

Interim Relief



Interim relief

- Interim relief is **financial support** provided to both workers and employers during the review or appeal process. This includes:
 - The lesser of, the workers gross annual earnings or the minimum wage for the year. (approx. \$31,200 for 2019)
 - Suspending invoices related to the disputed amounts for employers.
- Decision for interim relief can be made by the **DRDRB** or the **Appeals Commission (AC)**.

Interim relief

Interim relief may be available if:

- The decision under review or appeal concerns an amount of \$500 or greater (premium impact or wage loss amount).
- There is an arguable case.
- It will only be available in **exceptional circumstances** where **financial hardship** is demonstrated.

When the appeal is finalized

Workers

- **If the worker is not successful**, the interim relief ends and **WCB will not recover the interim benefit amount** (employer not charged).
- **If the worker is successful**, the value of the interim relief will be deducted from the arrears owing to the worker.

Employers

- The employer's account will be reconciled based on the final decision.

Employment Health Benefits



Employment Health Benefits

- **Employers are required to continue to pay health benefit contributions** when a worker is absent from work due to a work injury for up to one year following the date of accident.
- **If your worker was paying into the benefit plan before** the injury they must also continue to pay into the plan.
- Workers are entitled to the same health benefits as they had on the date of accident. This can include coverage for dependents.
- Section 88.2(8)

Employment Health Benefits

Health care benefits may include:

- Dental
- vision care
- medications
- hospital services
- health services (e.g., Nursing care, hearing aids, dressings, foot orthotics, etc.)
- Paramedical services (e.g., Chiro, massage therapy, physio, etc.)

Not included: Wellness account benefits, other benefits (e.g., Over-the-counter medications, pensions, life and travel insurance, etc.)

Employment Health Benefits

- If your worker makes contributions, you must provide them a process to continue to do so.
- **If the worker decides not to continue** then they will not be covered for ongoing health benefits.
- **If the employer choose not to continue making contributions**, WCB will reimburse the worker for expenses incurred and charge those expenses directly to your account.
- The employer may also be **penalized up to the equivalent of one year's** contributions to the injured worker's employment health benefits.

Employment Health Benefits

If the worker **is terminated** you still need to provide health benefits as long as:

- They were entitled to benefits at time of accident and
- They have work restrictions preventing them from performing date of accident work and
- They continue to pay their portion, if applicable and
- The termination is within 1 year following the date of accident.

If the worker **voluntarily ends their employment**, you are no longer required to provide health benefits.

Obligation to Reinstate



Obligation to Reinstate

- If your injured worker has been an employee with your company for 12+ months, **you must bring the worker back** after a workplace injury.
- This legislation does not apply to certain workers (e.g., some deemed workers, volunteers).
- You must accommodate **unless it impacts your ability to run your business (undue hardship)**.

What is continuous employment?

- Hired 12 months or more before the date of accident.
- Temporary stops in employment do not break the employment relationship:
 - Strikes and lock-outs.
 - Sabbaticals, sick leaves, maternity and parental leaves, employer approved leaves and vacation.
 - Layoffs of less than three months with a mutual agreement that worker will return to work, or union hall's hiring process.
 - Instances when the employer continued to pay the worker.

Obligation to Reinstate

Your responsibilities:

- You must bring your employees back to their **date-of-accident job** (or alternate employment with the same earnings) when they are fit for full duties.
- **Suitable work** must be offered when your employees are fit for modified work.

Timelines

A fitness to return to work should not be unexpected with good communication.

The claim owner will notify the employer of a fitness for work and the employer is expected to:

- Offer pre-accident job with no restrictions **within a day.**
- If temporary accommodation is required, then offer modified work **within three days.**
- If permanent accommodation is required, then WCB will work with you and the worker to **negotiate a timeframe.**

Collective Agreements

- **The reinstatement terms of the Workers' Compensation Act prevail** over the collective agreement.
- **The only exception** is that it does not displace the seniority provisions.
- Employers are to offer employment within the collective agreement first.
- If obligation cannot be met, then they must consider opportunities outside the collective agreement, including opportunities contained in other collective agreements.

Responsibilities

Both employers and workers must:

- Contact each other after an accident and maintain communication throughout the recovery.
- Participate in the establishment of modified duties.
- Provide information to WCB about the return to work and notify claim owner of any dispute or disagreements regarding the return to work.
- Do other things prescribed by WCB to support a safe return to work.

Duration of Obligation

- There is **no set limit** on an employer's obligation.
- Normally doesn't last beyond the end date of a **contract or project**, but is dependent on whether the worker could reasonably be expected to return on another contract or project.
- Employers obligation ends if a worker declines an offer that is deemed suitable by WCB or voluntarily ends employment.

Obligation to Reinstate and Termination

- When an employee returns to work and is terminated within six months or while still on benefits (e.g., receiving a wage top-up), WCB will **presume the employer did not meet** their obligation.
- The employer can **ask for their obligation to be reviewed**, but must prove (with evidence) the termination was not related to the accident.
 - This includes employees who return to regular work duties with no restrictions.
 - The employer may be found to have **not met their obligation after six months** if the termination was due to the work injury/ illness.

Undue Hardship

- Undue hardship is when an employer cannot sustain the economic, efficiency costs or the accommodation. It is more than inconvenience.
- WCB's jurisdiction only applies to workplace accommodation required for compensable work injuries.
- Unless there are unusual and compelling circumstances, WCB would not consider hardship to arise where the worker is fit for full duties within six weeks.

Assessing undue hardship

WCB may consider any or all of the following:

- Employer size and available resources.
- Financial costs.
- Disruption of operations.
- Interchangeability of workforce and facilities.
- Health and safety concerns.
- Morale problems of other employees due to the accommodation.
- Substantial interference with the rights of others.

Undue Hardship

- Employers are required to provide supporting evidence to demonstrate a hardship.
- If undue hardship is approved then no penalties will be applied and the claim will continue as per normal process.
- Employers have the right to request a review of the decision or appeal through normal WCB processes.
- WCB will notify the **Human Rights Commission** when dealing with a worker/employer dispute.

Impact for non-compliance

- If an employer has not met their obligation to reinstate, Claims Audit may levy a penalty of **up to** 100% of the worker's average net earnings for a year before the accident.
 - The penalty may be paid to the worker.
- An additional penalty may be assessed if the employer fails to cooperate in the process.
- If a worker doesn't cooperate, their compensation may be reduced or suspended until they agree to cooperate.

OTR Resolution of Disputes

- You are required to consider **all options** that would accommodate the injured worker without undue hardship
- Both you and your worker are responsible for notifying WCB if there are any disputes about the obligation (e.g., termination).
- WCB has 60 days to resolve the dispute and may mediate if needed (unless the notification occurs more than three months after termination).

Additional changes to legislation

Fair Practices Office December 1, 2018.

- It is independent of WCB and accountable to the Minister of Labour.
- It serves as an ombudsman-type function for Alberta's workers' compensation system.
- It will conduct regular quality assurance audits of the system and issue public reports of its findings.
- The Office of the Appeals Advisor (OAA) has moved over to become part of the Fair Practices Office.
- www.fpoalberta.ca

Stay informed

Bill 30 seminars are occurring at no charge throughout the year.

WCB's website is updated regularly and includes:

- A timeline for all of the changes.
- Links to fact sheets and policies.
- A place to sign up to receive email and policy updates from WCB.

www.wcb.ab.ca/2018updates

Questions?

