

Issue 9b: Economic Loss Payment

Entitlement After Age of Retirement (age 65)

Applies to dates of accident from

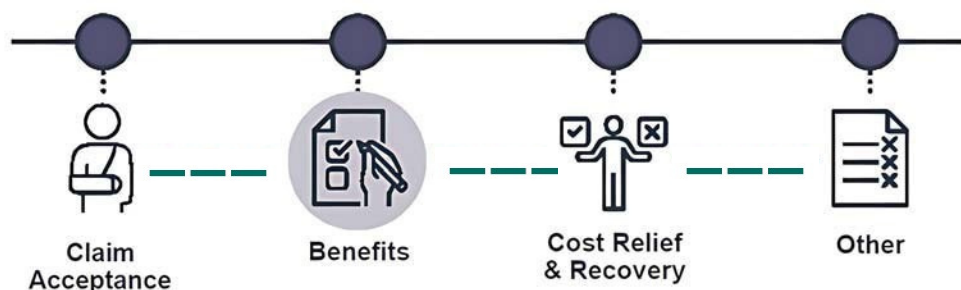
January 1, 1995 to December 31, 2017



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How does retirement affect an economic loss payment?

A worker's economic loss payment (ELP) is reduced when they reach the age of retirement (65). A worker may get an unreduced ELP after retirement age if they show they would have continued working past that age.



When is a worker entitled to an unreduced Economic Loss Payment after the age of retirement?

- A worker's ELP is reduced when they reach retirement age, which the policy states is age 65
- A worker may get an unreduced ELP when they provide some independent evidence that they would have continued working past age 65

What question does the panel ask to decide the appeal?

- Is there sufficient and satisfactory evidence, including some independent evidence, that the worker intended to work after age 65 and would have continued to do so if not for the compensable accident?

What types of evidence are commonly used to answer the question?

- The policy requires some independent evidence. Independent evidence must not come from the worker or their spouse/partner, and typically should be from before the work accident
- Examples of independent evidence in the policy are as follows:
 - Confirmation from the worker's accident employer, union or other independent employment source that the worker planned to work after age 65 and employment was available
 - Continued employment after age 65 at the same level and earnings as before age 65
 - Continued employment after age 65 at reduced earnings, when it is clear that the further reduction is due to a deterioration of the compensable work restrictions and not a personal choice of semi-retirement
- Additional examples of the type of evidence considered are as follows:
 - Evidence of a debt taken on pre-accident, that requires payment past the age of retirement
 - An employment contract that was based on an understanding that the worker would work past the age of retirement
- Other factors, such as normal retirement age for workers in the same pre-accident occupation, are also considered

Resources

Legislation:

Workers' Compensation Act, RSA 2000, c W-15

WCB Policy:

04-04, Part II, Application 4

Sample Decisions:

2023-0145

2024-0122

