

Part:	Employer Assessments		
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Optional Coverage For Municipal Or First Nation Officials

GENERAL INFORMATION

The *Workers' Compensation Act* S.Y. 2008 (the "*Act*") may be extended to provide the protection and benefits of the workers' compensation system for certain persons who are not automatically workers under the *Act*. This is done upon the Yukon Workers' Compensation Health and Safety Board's (YWCHSB) acceptance of an employer's application for optional coverage.

Once granted, optional coverage is then extended:

- a. to the employer and to the worker for immunity from civil suits resulting from workplace injuries; and
- b. to the worker for the comprehensive benefits provided by the workers' compensation system as established by the *Act* and relevant policies.

PURPOSE

This policy establishes the conditions of optional coverage that will be in effect for an elected official of a municipal council or an elected or appointed official of a First Nation, deemed as their workers under this policy.

DEFINITIONS

- 1. Actual Proven Earnings:** earnings that have been substantiated through the provision of evidence that is acceptable to the YWCHSB.
- 2. Average Weekly Earnings:** earnings that shall be calculated based on any sources of earnings over any period of time that the YWCHSB considers fair and just, up to the maximum wage rate established for the year.
- 3. Employer:** includes a municipality or First Nation deemed by the YWCHSB to be an employer under section 3 of the *Act*.
- 4. Maximum Wage Rate:** the maximum wage rate for the year in which the optional coverage is purchased.
- 5. Optional Coverage:** coverage that is available to individuals who are not automatically covered by the *Act*. The YWCHSB deems, upon approval of an application for optional coverage, an 'employer' and a 'worker' for the purposes of extending the protection and benefits of the *Act* to these persons.
- 6. Worker:** includes a person deemed by the YWCHSB to be a worker.

For the purposes of this policy, this includes persons under subsections 5(3) and 5(4) of the *Act*:

- a) elected officials of a municipal council; and,
- b) elected or appointed officials of a First Nation.

POLICY STATEMENT

1. Application Requirements

The application for optional coverage must be made by the employer in writing and signed on the prescribed application form in accordance with the conditions in place at the time.

The employer must have written consent of the individual being covered and this consent must be provided to the YWCHSB at the time of application.

The applicant will be informed of the conditions of their coverage at the time of purchase. A copy of the optional coverage purchased and its terms and conditions will be provided to the employer and worker(s).

2. Minimum Assessment and Coverage Amount

An employer may purchase optional coverage for a worker up to the maximum wage rate for the year. The minimum assessment fee that applies to all purchases of optional coverage is set by Order of the Board of Directors.

Optional coverage should closely reflect the average weekly earnings of the worker, as loss of earnings benefits will be calculated on the lesser of actual proven earnings or the policy coverage amount elected.

3. Loss of Earnings Benefits

In the case of a work-related injury resulting in a time loss claim, the YWCHSB must confirm:

- a. that optional coverage was purchased;
- b. the level of coverage; and
- c. that the work-related injury occurred during the period that optional coverage was in effect.

A worker is entitled to compensation in an amount equal to 75 per cent (75%) of his or her loss of earnings from all employment covered by the *Act*, up to 75 per cent (75%) of the maximum wage rate for the year.

YWCHSB policy, "Loss of Earnings Benefits" shall apply to the calculation of loss of earnings benefits for regular employment earnings, and YWCHSB policy, "Minimum Compensation" also applies. The optional coverage amount elected will not preclude the inclusion of other earnings from other employment source(s) that are being assessed as workers' compensation premiums.

When a portion of the earnings is received from a sole-proprietorship, the determination of earnings as defined in YWCHSB policy, "Optional Coverage for Sole Proprietors, Partners or Employers" will be applied.

4. General Conditions for Optional Coverage

a) Conditions of Coverage

Maintaining valid coverage is subject to the following conditions:

- i) submission of an appropriate form (e.g. application or renewal form) that is legible, signed and dated;
- ii) compliance with the conditions established by the YWCHSB for optional coverage;
- iii) provision of all the information required to administer this policy;
- iv) good standing of the account;
- v) prompt advisement to the YWCHSB of any changes that may affect coverage;
- and
- vi) compliance with the *Act*.

If an application for optional coverage is not accepted, the employer will be advised and provided with the reasons as to why coverage cannot be extended.

It is the responsibility of the employer to ensure that the person(s) covered by optional coverage is aware of the conditions of coverage along with any changes to the coverage extended to him or her.

b) Coverage Period

The coverage period, its expiration date and coverage renewal requirements, will form part of the conditions of the optional coverage sold to the employer. The coverage cannot exceed a period of 12 months.

5. Payment of Assessment Premiums

The YWCHSB may require the employer to pay in advance all or part of the optional coverage assessment premiums payable under section 67 of the *Act*.

Prepayment will be required in cases including, but not limited to:

- a. newly registered employers who have been in operation in Yukon for less than one season;
- b. employers that request a letter of clearance upon registration; or
- c. employers whose coverage has been cancelled and have requested re-instatement. The employer may be required to pay a portion or full assessment premiums up front.

For employers who have had an account established with the YWCHSB for a period longer than one season, a periodic payment schedule may be worked out.

6. Cancellation of Optional Coverage

Cancellation of optional coverage shall occur when an employer ceases operations, a person ceases to be a 'worker,' or the optional coverage period expires, whichever is earlier.

To cancel optional coverage before the end of the coverage period, the employer must advise the YWCHSB in writing. All cancellations are subject to the minimum assessment fee and are effective the date cancellation is requested or is received by the YWCHSB, whichever is later.

When optional coverage is cancelled, the cancellation will be confirmed to the employer and worker in writing.

When a person covered by optional coverage is receiving compensation, the YWCHSB does not automatically cancel the optional coverage. It is the employer's responsibility to notify the YWCHSB if cancellation of coverage is desired.

Cancellations cannot be pre-dated nor will there be a refund issued when a worker is in receipt of compensation. All cancellations are subject to the minimum assessment premium rate established by Order of the Board of Directors.

7. Revocation of Coverage

Optional coverage for a person deemed a worker may be revoked by the YWCHSB. Circumstances of revocation may include, but are not limited to when:

- a. an employer fails to pay the assessment premiums;
- b. an employer fails to provide information required by the YWCHSB; or
- c. an employer's account is not in good standing.

When optional coverage is revoked by the YWCHSB, the employer will be notified when practicable. The YWCHSB will take reasonable steps to locate the employer in order to communicate the revocation. The worker will be notified in every instance.

There will be no refund issued when a person is in receipt of compensation. All cancellations are subject to the minimum assessment premium rate established by Order of the Board of Directors.

8. Change in Status

After the approval of an application for optional coverage, a deemed 'worker' may have a change in status. If an individual is no longer eligible for optional coverage because he or she is no longer a 'worker' of the employer who made the application, optional coverage is cancelled from the date of the status change.

It is the responsibility of the employer to notify the YWCHSB of any change in status. Assessment refunds will be subject to the minimum assessment fee and based on the date the notification was received by the YWCHSB.

When employing individuals who are automatically defined as workers under the *Act* (not those individuals eligible for optional coverage), coverage is compulsory under the *Act*. The employer must notify the YWCHSB with a statement and estimate of earnings within 10 days of hiring a worker under subsection 78(1) and section 80 of the *Act*.

9. Right of Action

Individuals with optional coverage lose certain rights of action. Those considering optional coverage may wish to consult a lawyer to evaluate whether optional coverage will benefit them.

APPLICATION

This policy applies to the YWCHSB, municipal employers who apply for optional coverage and elected municipal officials deemed to be workers under subsection 5(3) of the *Act*. It also applies to First Nations employers who apply for optional coverage and elected or appointed First Nation officials deemed to be workers under subsection 5(4) of the *Act*.

ACT REFERENCES

Sections 5, 22, 67, 78, and 80

POLICY REFERENCES

EA-04, "Optional Coverage for Sole Proprietors, Partners or Employers"

EL-01, "Loss of Earnings Benefits"

EL-02, "Minimum Compensation"

HISTORY

AS-18-03, "Optional Coverage for Municipal or First Nation Officials", effective January 1, 2007, revoked July 1, 2008.

AS-18, "Optional Coverage", effective October 1st, 1995, revoked January 1, 2007.

AS-18, "Optional Coverage," effective August 29, 1995.

AS-18, "Optional Coverage," effective January 2, 1993.
