



YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD

SUBJECT: _____ POLICY NO.: CS - 08
BOARD APPROVAL: *C. Klassen*
APPROVAL DATE: 94-11-09
BOARD ORDER NO.: _____
EFFECTIVE DATE: 94-11-09

POLICY STATEMENT

SECTION
REFERENCE: 12, 16, 23

POLICY: FITNESS FOR EMPLOYMENT
SUITABLE OCCUPATION
DEEMING

REVOKED

JAN 01 2007

Replaced by:
cs-08, effective
JAN, 01, 2007

GENERAL INFORMATION

Fitness for employment, suitable occupation and "deeming" fit within rehabilitation, and come into play when considering vocational rehabilitation. However, fitness for employment can stand on its own. A worker can be fit for employment without ever undergoing any form of rehabilitation.

All claims decisions are appealable to the Workers' Compensation Health and Safety Board.

POLICY

A. DEFINITIONS

1. FITNESS FOR EMPLOYMENT

Fitness for employment means a worker is medically capable of returning to work in a suitable occupation.

2. SUITABLE OCCUPATION

Suitable occupation means an occupation that a worker has the skills, education and physical ability to undertake, and which is reasonably available to the worker.

3. REASONABLY AVAILABLE

Reasonably available means that the occupation is obtainable, but that an actual job vacancy may not necessarily exist at the moment.

4. "DEEMING"

"Deeming" means the board's determination of a worker's earning capacity.

B. FITNESS FOR EMPLOYMENT

Fitness for employment shall be based on the medical evidence provided by the attending physician(s). The Claims Adjudicator shall assess the medical evidence to determine if a worker is fit for employment.

The assessment conducted to determine fitness for employment shall be tailored to the individual requirements of a worker. A functional capacity evaluation may be conducted to assess the physical abilities of a disabled worker when determining fitness for employment.

Each situation shall be determined on a case by case basis by the Rehabilitation Counsellor and may include a work-site assessment.

C. SUITABLE OCCUPATION

The Claims Adjudicator shall refer a worker to Client Services for assessment regarding suitable occupations. The Rehabilitation Counsellor shall evaluate and assess a worker for suitable occupations.

A vocational assessment may be done to assess and determine suitable occupations for a worker. The assessment may include, but not be limited to, the assessment of aptitude, academic achievement, vocational interest and transferable skills.

The assessment conducted by Client Services to determine a suitable occupation shall be tailored to the individual requirements of a worker. Each situation shall be determined on a case by case basis by the Rehabilitation Counsellor.

Suitable occupations shall be based on the following order of priority:

1. occupations in the Yukon first; and
2. occupations in the rest of Canada second.

Wage rates for suitable occupations shall be based on the following order of priority:

1. Yukon pay scales first;
2. if the occupation does not exist in the Yukon, the wage rate shall be based on the pay scale used in the rest of Canada.

The Rehabilitation Counsellor shall determine suitable occupations for a worker. Suitable occupations shall be based on the assessment of a worker's abilities in consultation with the worker.

D. "DEEMING"

"Deeming" shall occur when medical rehabilitation has progressed to the point that the worker is capable of safely performing the duties of either his/her pre-accident employment, modified employment or alternate employment.

"Deeming" shall also occur when no further medical or vocational rehabilitation plan is necessary or feasible.

Or when all of the following criteria are met:

1. no further intervention by the Workers' Compensation Health and Safety Board will assist a worker;
2. the worker's disability has stabilized;
3. every reasonable effort has been undertaken to assist a worker in his/her recovery and return to work;
4. the worker is assessed fit for employment;
5. an assessment has been considered to determine a worker's functional and/or vocational abilities;
6. suitable occupations have been identified;
7. the vocational rehabilitation plan is terminated; and
8. (1) the worker has a decreased earning capacity; or
(2) has failed to return to work; or
(3) is underemployed; or
(4) has a non-compensable illness which keeps the worker off work.

When a worker is "deemed", the Workers' Compensation Health and Safety Board shall demonstrate that a worker's estimated earning capacity in a suitable occupation is reasonable given current wage scales, and that the occupation for which a worker is deemed capable is reasonably available to the worker.

The Rehabilitation Counsellor shall determine a worker's earning level pursuant to suitable occupation. The Claims Branch shall be responsible for calculating the wage supplement when a worker is "deemed".

Each worker that has been "deemed" shall be reviewed annually by the Claims Branch to determine any changes in the worker's employment or earnings status which may affect the dollar amount at which a worker has been "deemed".

E. FITNESS FOR EMPLOYMENT/SUITABLE OCCUPATION/"DEEMING"

All claim files which have been registered for 30 calendar days, shall be reviewed to evaluate the appropriateness of "deeming", and shall be reviewed every 30 calendar days thereafter.

F. EXCEPTION CLAUSE

Exceptions to policy may be made by the Director of Claims Branch or the Director of Client Services. Exceptions shall be based on a cost/benefit analysis. Notification of any exception must be immediately provided to the President with reasons for the exception.

REFERENCES

Workers' Compensation Health and Safety Board:

Rehabilitation Policy Statement

Vocational Rehabilitation Policy Statement

Chronic Pain and Chronic Pain Syndrome Policy Statement

Pre-Existing Conditions Policy Statement

Suspension, Reduction and Termination of Compensation Policy Statement

Average Weekly Earnings Policy Statement