

 Yukon Workers' Compensation Health and Safety Board	Part:	Return to Work and Rehabilitation		
	Board Approval:		Effective Date:	July 1, 2012
	Number:	RE-11	Last Revised:	
	Board Order:		Review Date:	

VOCATIONAL AND ACADEMIC ASSISTANCE FOR SURVIVING SPOUSE

When referencing any of the return to work policies (RE-01 to RE-13), it is important to recognize the responsibilities of the employer and worker within the context of the complete return to work process. Therefore, the whole return to work model must be considered in its entirety and not only the specific guidelines under an individual policy.

GENERAL INFORMATION

Where compensation is payable to a surviving spouse under Part 7 of the *Workers' Compensation Act* S.Y. 2008 (the "Act") as a result of the death of a worker, the Yukon Workers' Compensation Health and Safety Board (YWCHSB) may provide, where it considers advisable, counseling services, academic and vocational training or retraining to a surviving dependent spouse. Participation by surviving spouses is voluntary.

PURPOSE

The intent of this policy is to minimize the impact of the death of the worker by assisting the spouse. The goal is to maximize the employability or earning capacity of the spouse. This assistance is in addition to compensation benefits provided under sections 43 and 46 of the *Act*.

DEFINITIONS

- 1. Spouse as defined in section 3 of the Act:** means the person who, at the date of the worker's death, cohabitated with the worker, and
 - a) to whom the worker is legally married; or
 - b) with whom the worker cohabitated as a couple for at least 12 months immediately before the death of the worker.

- 2. Vocational Assessment:** takes into account the surviving spouse's aptitudes, skills, interests, culture and gender, labour market opportunities, age, income and employment profile to determine whether the surviving spouse needs additional

skills, training or education in order to work and earn the deceased worker's compensation benefits level had the worker survived, taking into account any spousal or dependent benefits arising from the work-related death of the worker (see YWCHSB policy RE-10, "Vocational Rehabilitation").

PREVENTION

Preventing workplace injuries is the responsibility of everyone in the workplace. Where a worker has died as a result of a workplace incident, the surviving spouse may benefit from vocational training to reduce the impact of the spousal loss.

POLICY STATEMENT

If a surviving dependent spouse is eligible for compensation benefits under Part 7 of the *Act*, he/she are eligible to request vocational or academic assistance. Requests should be made within one year of the death of the worker. Any requests received after that time would not necessarily be denied, but YWCHSB would be less likely to conclude that the training or academic upgrading was needed as a result of the death of the worker.

The first step in determining the need for vocational rehabilitation assistance is a vocational assessment. A surviving spouse may be eligible for a vocational assessment where, at the time of or as a result of the worker's work-related death, the spouse is unemployed, under-employed, unemployable or financially disadvantaged. The goal is to restore the surviving spouse's household income to the pre-fatality level, taking into account the maximum compensable benefit ceiling.

If the vocational assessment determines that the spouse may be eligible for a vocational rehabilitation plan and/or employment readiness program, such decisions will be made using YWCHSB policies, "Vocational Rehabilitation" and "Employment Readiness".

APPLICATION

This policy applies to work-related fatalities that took place on or after July 1, 2008.

EXCEPTIONAL CIRCUMSTANCES

In situations where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or unintended result, YWCHSB will decide the case based on YWCHSB policy EN-02,


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“Merits and Justice of the Case”. Such a decision will be considered for that specific case only and will not be precedent setting.

APPEALS

Decisions made by YWCHSB under this policy can be appealed directly in writing to the hearing officer of YWCHSB in accordance with subsection 53(1) of the *Act*, or any decision made under subsection 14(2) of the *Act* may be appealed directly to the Workers’ Compensation Appeal Tribunal (WCAT).

Notice of the appeal must be filed within 24 months of the date of the decision by YWCHSB, in accordance with section 52 of the *Act*.

ACT REFERENCES

Sections 43, 46, 47, 52 and 53

POLICY REFERENCES

RE-10, “Vocational Rehabilitation”

RE-12, “Employment Readiness”

EN-02, “Merits and Justice of the Case”

HISTORY

RE-11, “Vocational and Academic Assistance for Surviving Spouse” effective July 1, 2008; revoked July 1, 2012

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