

Chapter: Employer Assessments

Legislative authority: section 136

Prevention statement

Preventing injuries is one of the most important responsibilities in the workplace. The Workers' Safety and Compensation Act (the 'Act') establishes the responsibilities of all workplace parties to work together to ensure the physical and psychological health and safety of workers. When injuries do occur, workers and employers must continue to work together to facilitate an injured worker's early and safe return to health and work.

Purpose

This policy provides information on how costs are transferred when negligence has been determined.

Definitions

board means the Workers' Safety and Compensation Board

employer means every association, corporation, individual, partnership, person, society or unincorporated organization or other body having in their service one or more workers in an industry and as further defined in section 77 of the Act

negligence means a breach of either duty of care or standard of care that has caused injury or death

worker means a person who performs work or services for an employer under a contract of service or apprenticeship, written, or oral, express or implied and as further defined in section 77 of the Act

Policy statement

1. General

If a worker's work-related injury results (in whole or in part) from the negligence of an employer who is not the employer of the injured worker or from the negligence of a worker of that employer:

- a. the board may charge the costs of any claim to the experience account of that employer;
- and

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- b. if the employer is in a separate class or sub-class of industry from the injured worker's employer, the board may charge the costs of any claim to the class or sub-class in which that employer is included, in proportion to the degree of negligence that the board attributes to the employer or the employer's worker.

Upon the request of the injured worker's employer or where deemed appropriate by the board, the board will determine whether there was negligence on behalf of another employer or worker of that employer. Although the board will attempt to identify cases where there is the potential for applying this provision, the primary responsibility rests with the injured worker's employer to request a determination. Requests from the injured worker's employer must be made in writing within 24 months of the date of the injury.

Where more than one employer (including the injured worker's employer) is found to be negligent in a particular case, the past and future injury costs of the claim will be apportioned among the negligent employers' experience accounts based on degree of negligence.

Where the board is satisfied that the injury or death of a worker is due to the negligence of more than one employer and degrees of negligence cannot be determined, the costs of the injury will be charged equally to the experience accounts of the employers involved.

History

GN-07 Negligence Cost Transfer, effective January 1, 2016, revoked July 1, 2022

GN-07 Negligence Cost Transfer, effective July 1, 2008, revoked January 1, 2016

GC-15 Negligence Cost Transfer, effective January 1, 2008, revoked July 1, 2008