 Yukon Workers' Compensation Health and Safety Board	<b>Part:</b>	<b>Earnings Loss</b>	
	<b>Board Approval:</b>	<i>Original Signed by Chair</i>	<b>Effective Date:</b> <b>July 1, 2008</b>
	<b>Number:</b>	<b>EL-03</b>	<b>Last Revised:</b>
	<b>Board Order:</b>		<b>Review Date:</b>

## PAYMENT OF INTEREST ON COMPENSATION BENEFITS

### GENERAL INFORMATION

The *Workers' Compensation Act* S.Y. 2008 (the "Act") requires that where compensation is payable, the decision-maker, hearing officer, or the Workers' Compensation Appeal Tribunal (Tribunal) shall order that interest be paid on such compensation in accordance with a Yukon Workers' Compensation Health and Safety Board (YWCHSB) policy and the YWCHSB shall pay such interest.

It is recognized that the support and engagement of employers and service providers is an integral part of ensuring quick and effective adjudication of claims so that interest payments will not be necessary.

### PURPOSE

This policy provides direction to the YWCHSB on the payment of interest on compensation benefits.

### POLICY STATEMENT

#### 1. Interest Payments on Compensation Benefits

Interest shall be paid on compensation benefits where the adjudication of a claim for a worker was delayed due to circumstances that are under the control of the YWCHSB. Subject to paragraph 5 (Exclusions), the date of receipt of the Worker's Report of Injury/Illness shall be used as the commencement date for the claim.

Delays not under the control of the YWCHSB are those caused by workers and service providers in support of a claim for compensation benefits.

#### 2. Eligibility for Interest on Compensation Benefits

Interest will be paid on compensation benefits for a worker, where the worker's injury was incurred after March 31, 2000.

### 3. Interest Rate

The rate of interest to be applied to compensation benefits shall be the rate, as established by subsection 35(1) of the *Judicature Act*, that was in effect the month prior to the month of the commencement date of the injured worker's claim as noted in paragraph 1 (Interest Payments on Compensation Benefits).

Simple interest will be used to determine the interest payable. (See Appendix A).

### 4. Application

Interest is payable on compensation benefits that have direct monetary implications to the injured worker. Compensation benefits that shall be considered for interest payments include:

- a) compensation for loss of earnings;
- b) modified average weekly earnings;
- c) compensation for spouses;
- d) benefits for dependent children;
- e) equivalent to spousal compensation;
- f) benefits for other dependents.

Interest will also be paid in those instances where an injured worker incurs out of pocket expenses for services that are directly attributable to their work-related injury that would have been paid by the YWCHSB had the claim been accepted as part of the adjudication process. These expenses shall include reimbursement for medical services, travel and training that are supported by receipts and would have been considered by the YWCHSB to be eligible and reasonable expenses.

When new evidence is received that changes the diagnosis of a condition and such evidence should have been known or investigated at the time of the initial adjudication, any resulting change to compensation benefits shall be subject to the payment of interest.

Interest entitlement will commence 31 calendar days following the date of receipt of the Worker's Report of Injury/Illness.

An example of the interest payment calculation methodology is noted in Appendix A of this policy.

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Chair

## 5. Exclusions

Interest payments shall not be paid on compensation benefits in those instances where the delay was beyond the control of the YWCHSB.

By way of illustration, the YWCHSB would not be responsible for interest payments on compensation benefits including but not limited to the following instances:

- a) delays that occur in reporting work-related injuries by the worker and service providers (from the date of injury to the receipt of the Worker's Report of Injury/Illness);
- b) changes to compensation benefits resulting from evidence submitted based on advanced medical technology that was not reasonably available at the time of the initial adjudication; or
- c) awards for permanent impairment.

## 6. Miscellaneous

- a) Interest Expenditures

Interest on compensation benefits will be calculated separately.

The cost of interest payments on compensation benefits awarded under this policy will be charged against the Benefit Liability Fund.

- b) Employers – No Impact

The employer of the worker will not incur any costs to their experience rating account as a result of the payment of interest on compensation benefits.

- c) Overpayment and Recovery

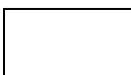
The *Act* provides that where the YWCHSB pays compensation to which a person is not entitled, such amount may be recovered from the person. The amount will include any interest that may have been paid. See YWCHSB policy, "Recovery of Overpaid Compensation".

- d) Retroactivity

This policy will apply retroactively to April 1, 2000.

## APPLICATION

This policy applies to the Board of Directors, President/CEO and staff of the YWCHSB, to the Tribunal, and to employers and workers covered by the *Act*.

  
Chair

## **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 an unintended result, the YWCHSB will decide the case based on YWCHSB policy, "Merits and Justice of the Case". Such a decision will be considered for that specific case only and will not be precedent setting.

## **APPEALS**

Appeals made by the YWCHSB under this policy can be appealed directly in writing to the hearing officer of the YWCHSB in accordance with subsection 53(1) of the *Act*. Notice of the appeal must be filed within 24 months of the date of the decision by the YWCHSB, in accordance with section 52 of the *Act*.

## **ACT REFERENCES**

Sections 31, 52 and 53  
*Judicature Act*, R.S.Y. 2002, Section 35(1)

## **POLICY REFENCES**

EL-04, "Recovery of Overpaid Compensation"  
EN-02, "Merits and Justice of the Case"

## **HISTORY**

CL-52, "Payment of Interest on Compensation Benefits", effective April 1, 2000,  
revoked July 1, 2008.

  
Chair

## Appendix A

A decision-maker shall calculate interest payments by converting the applicable interest rate to a daily interest equivalent. The daily interest factor shall be applied to the compensation benefit owing, multiplied by the number of days that exceed the 30-day claims processing period. Simple interest will be used to calculate the amount of interest owed. Simple Interest is the method of computing interest on a principal sum where the interest rate is applied only to the original principal amount.

**Example:**

*The YWCHSB receives a Worker's Report of Injury/Illness on January 1, 2007. An adjudication decision denying compensation benefits is issued on January 28, 2007. The decision is appealed. The appeal decision issued on January 2, 2008 determines compensation is payable in the amount of \$50,000 plus interest.*

Calculation of interest payable:

Interest rate in effect the month prior to the month of the commencement date of the worker's claim (date of receipt of the worker's report of injury/illness) = December 1, 2007 is 7.5%.

Number of days for application of interest – 335 days

Note: The number of days from the commencement date (date of receipt of the worker's report of injury/illness) to appeal decision is 365 days (January 1, 2007 – January 1, 2008). The 30-day claim processing period is deducted from the total number of days. (365-30=335)

335 (days) x .0002055 (daily rate equivalent) x \$50,000.  
The worker is owed \$50,000 plus \$3441.78 interest