
Board Directive	COVID-19 Response – Benefits When a Return to Work (RTW) Plan is Interrupted (ADM POL 03/2020)
Effective Date	March 18, 2020
Application	Applies to injured workers whose RTW has been interrupted due to the COVID-19 state of emergency layoffs.
Purpose	To provide workers with temporary full earnings loss benefits who are not eligible through current policy, POL 02/2018, Benefits – Return to Work (RTW) Interrupted during the COVID-19 situation.

BACKGROUND

1. A worker must (Section 51 of *The Workers' Compensation Act, 2013*):
 - a. Take all reasonable action to reduce earnings loss resulting from an injury, and
 - b. Co-operate with the WCB in the development of a RTW plan.
2. An employer must co-operate with the WCB and the worker to achieve the worker's early and safe return to work (Section 53).
3. The WCB may terminate or reduce payment to a worker where the worker's loss of earnings is not related to the effects of the injury (Section 101).
4. *The Saskatchewan Employment Act* provides guidelines for job protection and an employer's duty to accommodate an injured worker's return to work.
5. *The Emergency Planning Act* establishes the authority of provincial and local authorities to declare that an emergency exists in all of or any part of Saskatchewan or municipality (Sections 17 and 20(1)).
6. In light of the COVID-19 pandemic, the Government of Saskatchewan declared a provincial state of emergency on March 18, 2020. This has led to business shutdowns or reduced services, both of which have resulted in significant layoffs, including for workers participating in a RTW for their work-related injury.
7. POL and PRO 02/2018, Benefits – Return to Work (RTW) Interrupted establishes guidelines for determine earnings loss benefits if a worker's RTW is interrupted because of a layoff, strike, lockout, termination, weather or state of emergency. The policy directs that benefits will not be reinstated for injured workers who are on a RTW with no earnings loss that is interrupted by a state of emergency.

POLICY

1. Applying POL 02/2018, Benefits – Return to Work (RTW) Interrupted, during the COVID-19 state of emergency would create inequity among workers who are at the same stage of

recovering from their work injury and returning to employment (i.e., at the same level of disability from the work injury).

2. Therefore, entitlement to earnings loss benefits for a worker whose RTW has been interrupted due to COVID-19 situations (i.e., business shutdowns, layoffs) will be determined based on the workers' remaining disability and restrictions because of their work injury.
3. When determining the status of a worker's recovery in situations where their RTW has been interrupted due to COVID-19, Operations staff will consider information such as, but not limited to:
 - a. Original expected recovery date.
 - b. Multidisciplinary assessments.
 - c. Available medical reports and/or treatment.
 - d. Permanent restrictions.
 - e. Stage of RTW when it was interrupted (i.e., percentage of RTW completed).
 - f. And any other relevant information.
4. In these situations, Operations staff will determine whether it is more likely than not that the worker:
 - a. Is not fully recovered from the work injury (i.e., remains disabled) and is entitled to continue receiving earnings loss benefits, or
 - b. Has, or should have, recovered from their work injury despite the interruption and is not entitled to earnings loss benefits.
5. Workers whose RTW was interrupted because of a layoff due to COVID-19 will receive earnings loss benefits until:
 - a. The worker is considered recovered from their work injury and it no longer affects their ability to return to pre-injury duties that would eliminate all earnings loss, or
 - b. The worker is able to resume the RTW with their employer (i.e., the employer is able to rehire workforce who were laid off due to COVID-19).
6. Each situation will be determined on a case by case basis. Operations staff will document decisions made regarding the worker's RTW and if earnings loss benefits will end.
7. In situations where it is determined the worker is capable of pre-injury duties and earnings loss benefits will end, Operations staff will encourage the worker to review the various federal and provincial support available to help workers affected by COVID-19 (saskatchewan.ca).
8. An employer will receive cost relief for earnings loss benefits paid to a worker whose RTW has been interrupted due to the COVID-19 state of emergency (i.e., layoff).
 - a. Cost relief will be applied starting the day the worker's RTW was interrupted (i.e., first day of layoff, treatment interrupted).
 - b. POL 11/2017, Second Injury and Re-employment Reserve, will apply.

9. If a worker was receiving long term earnings loss benefits (i.e., due to permanent restrictions) at the time of a layoff due to the state of emergency, the worker will continue to receive the same level of long-term earnings loss benefits that they were receiving prior to the layoff.

Effective Date	March 18, 2020 Effective until a worker whose RTW was interrupted because of a layoff due to COVID-19 is: <ul style="list-style-type: none"> • Considered recovered from their work injury and it no longer affects their ability to return to pre-injury duties that would eliminate all earnings loss, or • The worker is able to resume the RTW with their employer (i.e., the employer is able to rehire workforce who were laid off due to COVID-19).
Approved Date	April 20, 2020
Legislative Authority	<i>The Workers' Compensation Act, 2013</i> Sections 19, 26, 47(1), 51, 53, 68(1), 101 <i>The Saskatchewan Employment Act</i> <i>The Emergency Planning Act</i>
Document History	(1) New ADM policy to respond to situations arising out of the COVID-19 pandemic and Saskatchewan's state of emergency declared on March 18, 2020.
Complements	POL 02/2018 Benefits – Return to Work (RTW) Interrupted PRO 02/2018 Benefits – Return to Work (RTW) Interrupted POL 08/96 Return to Work Plans POL 17/2010 Termination of Compensation Benefits – Notice



Gordon Dobrowolsky
Chairperson



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Board Member



Garry Hamblin
Board Member