

**Operational
Policy**

Section

Non-Economic Loss (NEL) (Accidents from 1990)

Subject

Calculating NEL Benefits

Policy

To calculate NEL benefits, the WSIB

- identifies the base amount and age adjustment factor for the year the worker reached maximum medical recovery (MMR), see 11-01-05, Determining Permanent Impairment
- adjusts the base amount according to the worker's age at the time of the accident, and
- multiplies the new base amount by the permanent impairment rating to get the NEL benefit.

Purpose

The purpose of this policy is to set out how NEL benefits are calculated.

Guidelines

Single impairments

In most claims, a worker receives a NEL benefit for one permanent impairment resulting from an injury/disease. To calculate a NEL benefit for workers with a single impairment, the WSIB follows the 3 steps described below.

Step 1.

Identify the correct base amount and the age adjustment factor for the year the worker reached MMR, see 18-01-02, Benefit Dollar Amounts - Accidents from 1998 and 18-01-03, Benefit Dollar Amounts - Accidents before 1998.

Example

David's accident occurred in 2016, and he reached MMR in 2017. The base amount for workers whose MMR date is in 2017 is \$59,095.26, and the adjustment factor is \$1,313.71.

Step 2.

Adjust the base amount according to the worker's age at the time of the accident.

If the worker was under 45 when the accident occurred, the WSIB increases the base amount by the adjustment factor for each year the worker was under 45, up to a maximum of 20 years.

Example

David was 30 when his accident happened, i.e., 15 years under 45. As a result the WSIB increases the base amount of \$59,095.26 by the adjustment factor of \$1,313.71 x 15, to get the new base amount.

$$\$59,095.26 + \$19,705.65 = \$78,800.91 \text{ (new base amount)}$$

If the worker was over 45 when the accident occurred, the WSIB decreases the base amount by the adjustment factor for each year over 45, up to a maximum of 20 years.

**Operational
Policy**

Section
Non-Economic Loss (NEL) (Accidents from 1990)

Subject
Calculating NEL Benefits

Example

If David had been 60 when his accident happened, i.e., 15 years over 45, the WSIB would have decreased the base amount of \$59,095.26 by the adjustment factor of \$1,313.71 x 15 to get the new base amount.

$$\$59,095.26 - \$19,705.65 = \$39,389.61 \text{ (new base amount)}$$

Step 3.

Determine the value of the NEL benefit.

The WSIB multiplies the new base amount by the worker's permanent impairment rating, see 18-05-03, Determining the Degree of Permanent Impairment.

Example

If David's permanent impairment is rated at 10%, his NEL benefit is

$$\$78,800.91 \times 10\% = \$7,880.09 \text{ (NEL benefit for 30 year old David)}$$

or

$$\$39,389.61 \times 10\% = \$3,938.96 \text{ (NEL benefit for 60 year old David)}$$

Multiple impairments

In some cases, workers receive a NEL benefit for more than one permanent impairment resulting from the same injury/disease. The WSIB rates each body part, system, or function and then **combines** these values using the prescribed rating schedule.

Example

A 35 year old worker injured his lower back and knee and reached MMR in 2017. His lower back is rated at 12%, his knee at 6%. The WSIB combines these values, using the prescribed CVC chart.

This results in a 17% NEL.

$$\begin{array}{rcccc} \$59,095.26 & + & (10 \times \$1,313.71) & \times & 17\% & = & \$12,279.50 \\ \text{base amount} & & \text{age adjustment} & & \text{rating} & & \text{value of NEL} \end{array}$$

Payment options

NEL benefits may be paid monthly or as a lump sum depending on whether the benefit is under or over the threshold, and in some cases, on the payment option selected by the worker.

NEL threshold

The NEL benefit threshold is set annually. The NEL threshold for each worker is based on the year the worker reaches MMR. For a complete list of the NEL benefit threshold amounts to date, see 18-01-02, Benefit Dollar Amounts - Accidents from 1998 and 18-01-03, Benefit Dollar Amounts - Accidents before 1998.

**Operational
Policy**Section
Non-Economic Loss (NEL) (Accidents from 1990)Subject
Calculating NEL Benefits

NEL Amount	Payment Option
NEL benefits at or under the threshold	Automatically paid as a lump sum
NEL benefits over the threshold	Automatically paid as a lump sum after 30 days unless the worker elects to have the benefit paid monthly

Election

Workers who are eligible to elect a monthly NEL benefit payable for life have 30 days from the date of the decision letter to make the election. This election is irrevocable. This time frame applies to both initial NEL benefit determination decisions and NEL benefit redetermination decisions.

Exceptions

If the worker is entitled to make a payment election but is mentally or physically unable to do so, the individuals identified in 15-01-07, Guardians for Workers/Survivors can make the election on behalf of the worker, but they must do so within the allowed time.

A seriously ill worker, through a power of attorney, may appoint an individual(s) to act on his or her behalf. An individual(s) duly appointed in this manner can make the payment election for the worker, but must do so within the time allowed.

Monthly NEL benefit and annual indexing

On January 1 every year, the WSIB indexes ongoing monthly NEL payments by applying the indexing factor to the amount payable, see 18-01-14, Annual Indexing.

Payment in cases of death

If the worker dies before the NEL benefit is paid, the WSIB pays the lump sum benefit to the estate. If the NEL benefit is already being paid monthly or the worker has elected the monthly payment option, the WSIB pays the worker's estate the monthly payments up to the 1st of the month after the worker's date of death.

In some cases, the deceased worker's dependents may be entitled to survivors' benefits, see 20-01-02, Survivors - Definitions and Application Dates.

Redeterminations

Workers may apply to have their NEL benefits reviewed if their work-related impairment(s) significantly deteriorates, see 18-05-09, NEL Redeterminations.

Application date

This policy applies to all decisions made for entitlement periods on or after January 1, 2018, for accidents on or after January 2, 1990.

**Operational
Policy**

Section
Non-Economic Loss (NEL) (Accidents from 1990)

Subject
Calculating NEL Benefits

Policy review schedule

This policy will be reviewed within one year of the application date.

Document history

This document replaces 18-05-04 dated January 2, 2015.

This document was previously published as:

18-05-04 dated October 1, 2011

18-05-04 dated July 18, 2008

18-05-04 dated October 12, 2004

18-05-04 dated June 15, 1999

6.3* dated January 1, 1998

05-06-01* dated July 25, 1997.

* These documents were replaced by 18-05-04 dated June 15, 1999.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended

Sections 46, 47, 49, 52, 106, 111

O. Reg. 175/98

Section 18

Workers' Compensation Act, R.S.O. 1990, as amended

Sections 42

R.R.O. 1990, Reg. 1102

Section 15

Minute

Board of Directors

#5(g), June 30, 1999, Page 6174

Administrative

#8, December 11, 2017, Page 551