

WORK SAFE. FOR LIFE.
WORKERS' COMPENSATION BOARD OF NOVA SCOTIA

**Program Policy Background Paper
Minor Policy Revisions – Housekeeping Changes**

Date: October 2009

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1. BACKGROUND

Effective June 1, 2009, the Worker’s Compensation Board (WCB) has changed the way we work with workplaces, driven by our commitment to prevent injury and help those who are injured return to the job in a safe and timely manner. Services from the WCB are now delivered based on the size of a workplace, and the particular needs of the people in it. As part of the process to make this happen, we have reorganized our staff into new and existing positions, and have changed the names and structure of some of our departments.

In light of this organizational change, we have undertaken a review of WCB program policies to determine if any policies require minor revisions to reflect the new organizational structure.

2. PROGRAM POLICY ISSUE

The program policy review identified 11 existing program policies which currently contain reference to positions or departments that are no longer accurate under the WCB’s new organizational structure. One reference change is as a result of a governance review undertaken by the Board of Directors in 2008/09 which prompted renaming the Board’s working committees.

In an effort to keep the program policies up to date, small housekeeping changes to the policies are needed to reflect the WCB’s new organizational structure. Note, these minor revisions will not change the intent of any of the 11 program policies; rather the purpose of the revisions is to replace inaccurate position and department references with the appropriate references.

3. PROPOSED POLICY REVISIONS

Minor policy revisions are proposed for the 11 program policies identified as having inaccurate references to WCB position and departments. The following provides an overview of the specific changes required for each program policy:

Policy	Proposed change
Policy 2.1.6 – Attendant Allowance Policy 2.2.3 – Home Breathing Machines Policy 2.2.5 - Treatment: Pain Clinic Policy 2.2.6 - Home Oxygen Therapy Policy 2.2.7 - Portable Home Oxygen Therapy	▪ change from “Medical Department” to “Health & Extended Benefits Department”
Policy 4.1.2 - Extent of Vocational Rehabilitation Services	▪ change from “Vocational Rehabilitation Department” to “Service Delivery Departments”
Policy 4.2.4R5 – Workers’ Travel Expenses for	▪ change from “Vocational

Vocational Rehabilitation	
Policy 8.1.3R1 – Appeals and Referral to a Hearing Officer	<ul style="list-style-type: none"> ▪ change from “Claims department, the Medical department, the Vocational Rehabilitation department, the Assessment Services department” to “Service Delivery departments”
Policy 8.1.7R - Reconsiderations Pursuant to s. 185(2) Where a Final Decision of the Board Addressing an Issue Has Been Rendered	<ul style="list-style-type: none"> ▪ change from “Client Services or the Assessment Services Department” to “Service Delivery Departments”
Policy 9.7.1 - Write-Off of Uncollectable Accounts	<ul style="list-style-type: none"> ▪ change from “Supervisor of Collections” to “Manager, Field Services and Collections” ▪ change from “Director of Assessment Services” to “Director, Service Delivery – Workplaces” ▪ change from “Executive Director, Finance & Administration” to “Chief Financial Officer”
Policy 10.3.9 – Procurement Policy	<ul style="list-style-type: none"> ▪ change from “January 26, 2001” to “September 1, 2005” ▪ change from “Audit & Finance” to “Audit & Risk Oversight” ▪ change from “Procurement Branch of the Department of Transportation” to “Procurement Services of the Department of Economic Development” ▪ change from “Minister of Transportation & Public Works” to “Minister of Economic Development” ▪ add reference to the Province’s Executive Council and to the Finance & Investment Committee of the Workers’ Compensation Board of NS ▪ remove reference to Province of Nova Scotia web site

Please see Appendix A for the full wording of the proposed 11 draft policies.

4. CONSULTATION

The WCB would like to hear stakeholders' views on the proposed minor policy changes. The Board of Directors will consider the input received from stakeholders before making a final decision.

If you would like to comment on the draft policies, please provide your feedback by December 4, 2009 to:

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APPENDIX A – DRAFT PROGRAM POLICIES (strikethroughs reflect proposed changes)

Policy 2.1.6R - Attendant Allowance

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Attendant Allowance

Section: Health Care

Subsection: Workers' Expenses

Policy Statement

1. This allowance is usually paid where a worker suffers 100% Permanent Medical Impairment, but in some instances may be payable in other cases where a worker is, either temporarily or permanently, unable to perform necessary personal care as a result of a work injury.

Guidelines

1. The allowance is approved and paid after direct consultation with the ~~Medical Department~~ **Health & Extended Benefits Department**. In certain claims, special medical reports may be required.
2. In general, the allowance is based upon the severity of the compensable medical impairment of the worker. Basically, the allowance is to assist claimants regarding mobility, self-care and any "in house" treatment that is required for the compensable condition.
3. The allowance may be paid directly to the injured worker, to the worker's spouse or to another attendant.

Application

This Policy applies to all decisions made on or after February 1, 1996.

References

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), Section [103](#).

Policy 2.2.3R - Home Breathing Machines

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Home Breathing Machines

Section: Health Care

Subsection: Services/Treatments

Policy Statement

1. The Board accepts responsibility for purchasing home breathing machines for clients with occupational lung diseases and under Section [35](#) of the Act, when the following criteria are met.

1.1 These machines will only be accepted by the Board if they are recommended by a recognized Respiriologist.

1.2 These machines will only be purchased for the treatment of obstructive lung disease and not for restrictive lung disease or for a diffusion defect.

1.3 In cases where the obstructive lung disease is only partly compensable, it will have to be ascertained if a significant degree of the airway obstruction is occupational before the Board will accept responsibility (this will be ascertained after a full review of all facts, etc.)

1.4 These machines will be supplied on a loan basis only and will be returned to the Board when their use is completed.

1.5 This is to be authorized by the ~~Medical Department~~ **Health & Extended Benefits Department**.

Application

This Policy applies to all decisions made on or after February 1, 1996.

References

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), Section [102](#).
Policy [2.2.6](#), [2.2.7](#)

Policy 2.2.5R - Treatment: Pain Clinic

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Treatment: Pain Clinic

Section: Health Care

Subsection: Services/Treatments

Policy Statement

1. Treatment at the Victoria General Hospital Pain Clinic will be accepted under the following criteria.

1.1 Treatment at the Pain Clinic will not be accepted without prior authorization from this Board.

1.2 The initial period of treatment will consist of four visits and one re-assessment, which is to be completed within three months. This will not include the initial assessment (maximum of two sessions).

1.3 An additional two-month period may be granted upon request from the Pain Clinic to the Board's ~~Medical Department~~ **Health & Extended Benefits Department**, in which there should be evidence and information to indicate that such further treatment will be of significant and lasting benefit to the client.

1.4 Requests for repeat referrals to the Pain Clinic will be handled in the same way as the initial referral after a minimum period of three months has elapsed.

Application

This Policy applies to all decisions made on or after February 1, 1996.

References

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), Section [102](#).

Policy 2.2.6R - Home Oxygen Therapy

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Home Oxygen Therapy

Section: Health Care

Subsection: Services/Treatments

Policy Statement

1. Home oxygen therapy will be provided for clients with occupational lung diseases and under Section [35](#) of the Act, when the following criteria are met.

1.1 This treatment must be recommended by a qualified chest specialist.

1.2 The medical criteria for such use are properly documented.

1.3 This is to be authorized by the ~~Medical Department~~ **Health & Extended Benefits Department**.

Application

This Policy applies to all decisions made on or after February 1, 1996.

References

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), Section [102](#).
Policy [2.2.3](#), [2.2.7](#)

Policy 2.2.7R - Portable Home Oxygen Therapy

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Portable Home Oxygen Therapy

Section: Health Care

Subsection: Services/Treatments

Policy Statement

1. Portable home oxygen therapy will be provided for clients with occupational lung diseases and under Section [35](#) of the Act, when the following criteria are met.

1.1 The need for this treatment is directly related to the client's compensable condition.

1.2 The treatment is recommended by a qualified chest specialist.

1.3 Individuals being considered for such treatment must be considered to be reasonably active and that with the use of this particular type of oxygen therapy they are able to get out of the house and engage in a moderate amount of outside activity.

1.4 This is to be authorized by the ~~Medical Department~~ **Health & Extended Benefits Department**.

Application

This Policy applies to all decisions made on or after February 1, 1996.

References

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), Section [102](#).
Policy [2.2.3](#), [2.2.6](#)

Policy 4.1.2R - Extent of Vocational Rehabilitation Services

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Extent of Vocational Rehabilitation Services

Section: Vocational Rehabilitation

Subsection: Entitlement to VR Services

Policy Statement

1. The extent of Vocational Rehabilitation (VR) services to be offered will be determined by:

- a) the Hierarchy of Objectives (opportunities for re-employment) - see Policy [4.1.3](#);
- b) the client's transferable skills;
- c) the client's capacity for employment;
- d) the client's wishes; and
- e) the estimated cost of the VR program.

2. Where appropriate, VR services may consist of a review or assessment by the ~~Vocational Rehabilitation Department~~ **Service Delivery Departments** conducted in an attempt to determine eligibility for, appropriateness, or extent, of further VR intervention.

Application

This Policy applies to all decisions made on or after February 1, 1996.

References

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), Section [112](#).

Policy 4.2.4R6 – Workers’ Travel Expenses for Vocational Rehabilitation

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Workers’ Travel Expenses for Vocational Rehabilitation

Section: Vocational Rehabilitation

Subsection: Vocational Rehabilitation Program Expenses

Policy Statement

1. General

Where participation in a vocational rehabilitation program or service requires a worker to travel, the Workers’ Compensation Board may reimburse the worker for travel expenses in accordance with the provisions of this policy.

All travel must be pre-authorized by the ~~Vocational Rehabilitation Counsellor~~
Case Manager.

Travel reimbursement for a worker will be based on the costs associated with the most economical and appropriate means of transportation available.

2. Travel

Where participation in a vocational rehabilitation program or service requires a worker to travel, the Workers’ Compensation Board may reimburse the worker for mileage in excess of the worker’s travel distance to his/her regular pre-injury workplace.

A reimbursement for mileage will be determined by calculating the difference between the distance a worker travelled to his/her regular pre-injury workplace and the distance he/she is required to travel to access his/her vocational rehabilitation program or service.

A worker may use his/her own vehicle for transportation purposes to access vocational rehabilitation programs and services, if it is the most economical and reasonable means of transportation and has been pre-authorized by the Board. Authorized vehicle use will be reimbursed at the rate of 40.92 c/km.

Where an alternate mode of transport is considered to be more appropriate and economically viable, it will be supported by the Workers’ Compensation Board. The worker will be reimbursed in accordance with the method described above except in circumstances where it is more economically practical to pay actual costs based on receipts.

Future travel rates will be adjusted, on a go-forward basis, following notification

3. Living Allowance

A ~~Vocational Rehabilitation Counsellor~~ **Case Manager** may authorize a living allowance if it is determined appropriate, in the discretion of the Board, for a worker to relocate and maintain a second residence for the duration of his/her vocational rehabilitation program. Specifically, if the worker must maintain a home while being trained and residing in another location, room and board expenses to a maximum of \$750/month (reimbursement based on receipts) may be reimbursed by the Workers' Compensation Board. The living allowance is considered to include the costs of rent, basic utilities, meals and travel expenses.

4. Other Travel Expenses

When a ~~Vocational Rehabilitation Counsellor~~ **Case Manager** pre-authorizes use of a personal vehicle, the Workers' Compensation Board will reimburse actual parking, toll bridge and toll highway expenses (based on receipts) incurred during implementation of a Vocational Rehabilitation Plan.

5. Meal Allowance

A meal allowance may be provided to workers who must be away from their home over a meal period in order to attend pre-authorized worker meetings, assessments or physical rehabilitation programs. Coverage of meals must be pre-authorized by the ~~Vocational Rehabilitation Counsellor~~ **Case Manager**. If pre-authorized a per diem amount of \$38.00 (including gratuities) may be paid, comprised of:

Breakfast	\$6.00
Lunch	\$12.00
Dinner	<u>\$20.00</u>
Total	\$38.00

Future meal allowance rates will be adjusted, on a go-forward basis, following notification from the Director of Human Resources that the rates for Workers' Compensation Board employees have increased; and

Rates will not be retroactive; and

Future rates will be effective on the "Effective Date" specified in the revised policy.

6. Accommodations – Public and Private

When necessary, workers may be provided with overnight accommodations, pre-

7. Employment Incentives Program

A worker participating in the Employment Incentives Program is not eligible for travel reimbursement.

Application

This Policy applies to travel on or after April 1, 2009. This policy replaces predecessor policy 4.2.4R5.

References

Workers' Compensation Act (Chapter 10, Acts of 1994 – 95), Section 112.

Policy 8.1.3R2 - Appeals and Referral to a Hearing Officer

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Appeals and Referral to a Hearing Officer

Section: Internal Appeals

Subsection: Internal Appeals Process

Definitions

- a) "appellant" means the participant who has filed the Notice of Appeal;
- b) "decision" means a decision that would, if not reconsidered or appealed, have effect as a final decision of the Workers' Compensation Board;
- c) "new evidence" includes documents, reports, and oral evidence;
- d) "participant means
 - i) in the case of a decision respecting compensation, the Worker and the Worker's employer; or
 - ii) in respect of an assessment or a collection decision, the Employer
- e) "regular mail" includes courier delivery;
- f) "staff member" means a member of the staff of the ~~Claims department, the Medical department, the Vocational Rehabilitation department, the Assessment Services department~~ **Service Delivery departments** of the Workers' Compensation Board, or any person exercising the authority of a member of those departments.

Policy Statement

1. 1.1 Any participant may appeal a decision made pursuant to section 185 to a Hearing Officer. For the purposes of an appeal before a Hearing Officer, the participants are those defined in Section [197\(4\)](#) of the Act, and Policy [8.1.4R](#).

1.2 All participants shall be deemed to have been notified of a decision made pursuant to section [185](#)

- a) on the day the participant is actually notified in writing; or
 - b) five business days after the Workers' Compensation Board has posted, by regular mail, notice of the decision to the participant,
- whichever is sooner.

1.3 (a) A participant intending to appeal a reconsideration decision made pursuant to section [196](#) shall

- i) deliver personally to the Workers' Compensation Board;
- ii) post, regular mail; or
- iii) transmit by facsimile or electronic mail

a fully completed Notice of Appeal in the Form attached to this policy no later than 30 days after the date referred to in paragraph 1.2, the proof of which shall rest with the participant.

(b) In order to satisfy the requirement for submitting a Notice of Appeal within the time limit prescribed in subsection (a) above, the Notice must contain all of the following information:

1. The name of the appellant;
2. The address of the appellant;
3. The claim number of the appellant;
4. The name and address of the appellant's employer at the time of the accident;
5. The date of the reconsideration decision, and the name of the staff member who conducted the reconsideration rendered the decision;
6. An identification and discussion of the error alleged to have been made in the reconsideration decision;
7. Copies of any new evidence which supports the appeal, including a written explanation of how each piece of new evidence supports the appellant's argument;
8. Any written argument the appellant wishes the Board to consider;
9. Where the appellant wishes to have witnesses present evidence at an oral hearing, a list of the witnesses and a brief summary of the evidence they will be presenting; and
10. Where applicable, an application for an oral hearing.

(c) Where written submissions or evidence are forwarded by the requester after the 30-day time limit has expired, the Hearing Officer may consider the reasons for the late filing of the information and may, based on the reasons given, make a decision on whether the information will be considered in the appeal.

(d) Where appropriate, where the Board has not received the information required by subsection (b) within the 30 day time limit, the appeal shall not be carried out,

and the staff members's decision shall be the final decision of the Board.

2. 2.1 On receipt of the complete Notice of Appeal, the Workers' Compensation Board shall post by regular mail notification of the appeal and copies of the Notice of Appeal to every participant
- 2.2 Any participant other than the appellant may make a submission to the Workers' Compensation Board within 10 days of the participant receiving, or being deemed to receive, the notification of appeal.
- 2.3 The notification of appeal shall be deemed to have been received by every participant
 - a) on the day the participant is actually notified in writing; or
 - b) five business days after the Workers' Compensation Board has posted, by regular mail, notice of the notification of appeal to the participant,whichever is sooner.
3. 3.1 Where an application is made for an oral hearing, the Hearing Officer has the discretion to determine when an oral hearing is appropriate.
- 3.2 Where a Hearing Officer decides to hold an oral hearing, the Workers' Compensation Board shall send notification of the time and place of the hearing to every participant.
4. Where a Hearing Officer decides to conduct an appeal by way of oral hearing, and all participants agree to a hearing date, any cancellation or adjournment may result in the appeal proceeding by way of paper review on the date originally scheduled for the oral hearing.
5. 5.1 The decision of a Hearing Officer shall be rendered within 30 days of the oral hearing or paper review date, as the case may be.
- 5.2 If a Hearing Officer requires clarification of evidence presented at the oral hearing or paper review from an internal resource, the time limit for rendering decisions may be extended to a maximum of 40 days from the oral hearing or paper review date.
- 5.3 If a Hearing Officer requires clarification of evidence presented at the oral hearing or paper review from an external resource, the Chief Hearing Officer may extend the time limit prescribed by Section 197(8) where an injustice would otherwise result.
- 5.4 Where a Hearing Officer seeks clarification pursuant to subsection 5.2 or 5.3, the Hearing Officer shall provide to the participants a copy of the question(s) to be

clarified, and the responses from the resource.

5.5 Where copies of the response are provided to the participants pursuant to subsection 5.4, the participants may make written submissions related to the response to the Hearing Officer within seven (7) days of the participant receiving, or being deemed to receive, the copy of the response.

6. A Hearing Officer may render any decision that could have been rendered by a staff member.

7. 7.1 The decision of a Hearing Officer does not require the approval of the Board of Directors.

7.2 The decision of a Hearing Officer shall be the final decision of the Workers' Compensation Board.

8. An appeal to a Hearing Officer does not operate as a stay of proceedings in respect of the decision that is being appealed.

Application

This Policy applies to any decision by a staff member dated on or after April 16, 1999

References

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), Section [190](#) and Sections [197-202](#).

An Act to Amend Chapter 10 of the Acts of 1994-95, the Workers' Compensation Act (Chapter 1, Acts of 1999), Clause 26.

Policy 8.1.7R1 - Reconsiderations Pursuant to s. 185(2) Where a Final Decision of the Board Addressing an Issue Has Been Rendered

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Reconsiderations Pursuant to s. [185\(2\)](#) Where a Final Decision of the Board Addressing an Issue Has Been Rendered

Section: Internal Appeals

Subsection: Internal Appeals Process

Definitions

“Final decision of the Board” means

(a) a decision of a staff member if a Notice of Appeal is not filed with the Workers' Compensation Board within the prescribed time limits; or

(b) a decision of the Hearing Officer.

Policy Statement

1. 1.1 Subject to the review rules set out in Sections [71-73](#) of the Act, ~~Client Services or the Assessment Services Department~~ **Service Delivery Departments** (as appropriate) may reconsider any final decision of the Board when a Worker or Employer provides the Workers' Compensation Board with new evidence in support of the request for a reconsideration pursuant to Section [185\(2\)](#).

1.2 In order to conduct a s. [185\(2\)](#) reconsideration the new evidence must satisfy the following two criteria:

i) It must truly be new evidence. It must not be a reiteration of the evidence already on file, or a new argument based on the same evidence, or evidence which is inconsequential and therefore, even if accepted, would not impact on the Workers' Compensation Board's final decision; and

ii) the evidence could not have been presented by the worker or employer at the time the final decision was made.

2. When a request is made to reconsider a matter that is already the subject of a final decision of the Workers' Compensation Board, the Workers' Compensation Board shall determine the following issue(s) only:

a) whether the evidence presented satisfies the criteria for new evidence set out in subsection 1.2 above;

and, if so,

b) whether the new evidence presented to the Workers' Compensation Board is sufficient to persuade it to alter the final decision.

3. If these two issues are satisfied in the appellant's favour, the final decision on this issue is set aside, and the Workers' Compensation Board will implement the new decision of ~~Client Services or the Assessment Services Department~~ **the Service Delivery Department**.

4. An appeal of a Section [185\(2\)](#) reconsideration decision shall be specifically limited to the two issues set out in paragraph 2.

5. The discretion of the Board to reconsider a decision, order or ruling made by it, pursuant to Section [185\(2\)](#), is subject to the limitation on the Board's discretion to review compensation payable as a Permanent-Impairment Benefit, a Temporary Earnings-Replacement Benefit and an Extended Earnings-Replacement Benefit as set out in Sections [71-73](#) of the Act.

Application

This Policy applies to any decision by a staff member dated on or after April 16, 1999.

References

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), Sections [185\(2\)](#), [71-73](#).
An Act to Amend Chapter 10 of the Acts of 1994-95, the Workers' Compensation Act (Chapter 1, Acts of 1999), Clause 25.

Policy 9.7.1R - Write-off of Uncollectable Accounts

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Write-off of Uncollectable Accounts

Section: Assessments and Collections

Subsection: Collections

Policy Statement

1. When an account has been "suspended" and all reasonable attempts to collect the outstanding balance have proven unsuccessful, the outstanding balance shall be written off.

2. Should the circumstances change to allow for further collections or should the employer reactivate that account, the previous balance will be reinstated.

3. Authorization levels:

\$1 - \$100	Supervisor of Collections Manager, Field Services and Collections
\$101 - \$5,000	Director of Assessment Services Director, Service Delivery - Workplaces
\$5,001 - \$10,000	Executive Director, Finance & Administration Chief Financial Officer
over \$10,000	Chief Executive Officer

Application

This Policy applies to all decisions made on or after February 1, 1996.

References

Workers' Compensation Act (Chapter 10, Acts of 1994 - 95), Section [146](#).

POLICY 10.3.9R – Procurement Policy

Effective Date:

Date Issued:

Date Approved by Board of Directors:

Topic: Procurement Policy

Section: General Policies

Subsection: Administration

Policy Statement: 1. The Workers' Compensation Board (WCB) has a full procurement policy which defines the policies and procedures used to determine the method for procuring goods and services required at the WCB. The WCB's Procurement Policy follows the Province of Nova Scotia Policy on Government Procurement, dated ~~January 26, 2004~~ **September 1, 2005**, except in areas where terminology is different due to the nature of the organizational structure of the WCB.

- A quarterly report will be presented to the ~~Audit and Finance~~ **Audit & Risk Oversight** Committee outlining all procurement for the previous quarter, including copies of any Alternative Procurement Practices Approval forms.

- Reference to the following positions and Departments in the Provincial Policy should be replaced with those listed below:

Province	WCB
1. Deputy Minister	1. Chief Executive Officer
2. Procurement Branch Services of the Department of Transportation Economic Development	2. Administration Department of the Workers' Compensation Board of NS
3. Province's Corporate Financial Management System	3. In the WCB's Administrative records
4. (A) Minister of Transportation & Public Works Economic Development (B) Executive Council	4. (A) Audit & Finance Risk Oversight Committee of the Workers' Compensation Board of NS (B) Finance & Investment Committee of the Workers' Compensation Board of NS

2. A copy of the Provincial Procurement Policy is attached. ~~This document along with others is available at the Province of Nova Scotia's web site at www.gov.ns.ca/finance/tour (click on Policies).~~

Application: This Policy applies to all decisions made on or after October 12, 2001.

References: Workers' Compensation Act (Chapter 10, Acts of 1994-95, as amended), sections 151(1), 169 and 183(2).