

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

**Program Policy Background Paper
Medical Aid – General Principles**

Date: October 2009

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1. PURPOSE OF THIS PAPER

The purpose of this discussion paper is to provide stakeholders with background information and an overview of the proposed new program policy, “Medical Aid - General Principles”. This program policy topic is the third of three foundational, principle-based, program policy topics on the 2009 Program Policy Agenda. The other two program policies are “General Entitlement – Arising Out of and in the Course of Employment” and “General Entitlement – Occupational Disease”. The proposed “Medical Aid – General Principles” program policy is intended to clarify and communicate the general principles the WCB considers in the delivery of medical aid to injured workers.

This paper kicks off Stage 2 consultation on this program policy topic. Stage 1 consultation took place at the November 26th 2008 Program Policy Summit. The input received from stakeholders during Stage 1 consultation was considered by the WCB and informed the development of this proposed program policy. In support of the 2008 Program Policy Summit, a paper titled “Issues Clarification Paper: Medical Aid – General Principles” was prepared. To view the paper and other background information related to the 2008 Program Policy Summit, go to the Policy tab at www.wcb.ns.ca.

Prior to finalizing this proposed program policy, the WCB would like to hear stakeholders’ views. The Board of Directors will consider the input received and determine whether revisions are required to the draft program policy before making a final decision.

DEADLINE FOR COMMENTS: December 4, 2009

Please review the background paper and draft program policy, and provide your written feedback to:

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This paper is also available at www.wcb.ns.ca under News & Events.

2. PROGRAM POLICY INTENT AND RATIONALE

Based on the analysis of stakeholder input during the development of the 2009 Program Policy Agenda, it has been determined there are gaps in our existing program policy framework related to the theme of entitlement and general principles. Addressing these program policy gaps will better position the WCB to successfully respond, in the future, to more complex adjudicative program policy topics. One of the gaps identified was the lack of a program policy for “Medical Aid – General Principles”. The development of this program policy is important because:

- It supports clarity and transparency in decision making. Medical aid decisions are the most frequent type of decision made by the WCB and currently there is no program policy that outlines the general principles the WCB considers in the delivery of medical aid to injured workers.
- It will lay the foundation necessary to address more specific medical aid issues identified by stakeholders, such as opioids.

This “Medical Aid – General Principles” program policy will articulate the principles that guide decision-making for the delivery of medical aid. The purpose of this program policy is not to change, expand or limit the legal rules governing the delivery of medical aid but rather to improve transparency and accountability regarding the general principles the WCB considers in determining the timeliest, most appropriate and cost-effective manner to deliver medical aid to injured workers.

3. MEDICAL AID – GENERAL PRINCIPLES

(a) Introduction

The WCB has chosen to take a high level approach in developing this program policy. The proposed program policy will articulate the general principles considered in the delivery of medical aid to injured workers who have a compensable injury. This program policy is intended to supplement the existing *Policy 2.3.1R – Provision of Health Care Services*, which is considered when determining entitlement to medical aid services. See Appendix E for full wording of Policy 2.3.1R.

In addition to *Policy 2.3.1R*, there are a number of WCB program policies which provide criteria to consider for making decisions regarding specific medical aid (i.e. eyeglasses, clothing allowance and prescription drugs). This proposed program policy, and the accompanying paper, do not discuss any specific medical aid topics. Rather, the proposed program policy and paper provide the over-arching, high-level principles that guide decision-making regarding the delivery of all medical aid.

We recognize that concerns have been raised regarding the implementation of our direct access to physiotherapy program. These concerns are being addressed separately through a stakeholder working group. The working group will be comprised of four individuals representing labour, injured worker, and small and large employers. Overall, the role of the stakeholder working group is to offer the WCB insights, observations, and input about potential program enhancements.

This medical aid – general principles program policy is intended to provide direction to WCB staff who determine the necessity, character and sufficiency of medical aid. In addition, the program policy will advise injured workers, employers, service providers and other stakeholders of the WCB’s guiding principles related to the delivery of medical aid.

(b) Relevant Legislative Provisions

Medical aid is defined by section 2(r) of the Workers' Compensation Act (the *Act*) as including (i) any health care service, product or device that may be authorized by the Board and is provided to a worker as a result of a compensable injury, including those forms and reports required by the Board respecting the aid or services, and (ii) reasonable expenses, authorized by the Board, incurred by a worker in order to obtain medical aid. This means that medical aid includes not only health care services, products and devices but also any expenses incurred to obtain the health care (i.e. medical aid travel).

Section 102 of the *Act* provides discretionary authority for the WCB to determine entitlement to medical aid. Specifically, Section 102 states "the Board may provide...any medical aid the Board considers necessary or expedient as a result of the injury". In making this determination, the WCB considers *Policy 2.3.1R – Provision of Health Care Services* and other medical aid policies which are applicable in specific circumstances. In providing the medical aid, the WCB has the authority to determine the necessity, character and sufficiency of the medical aid, as per Section 104 of the *Act*. This means the WCB determines the need for the medical aid, the type of medical aid and the extent to which the medical aid is required. In other words, it is the responsibility of the WCB to ensure that the medical aid is provided in a timely, appropriate and cost-effective manner. The proposed program policy discussed in this paper will outline the general principles that guide this decision-making.

(c) General Medical Aid Principles

In determining the timeliest, most appropriate and cost-effective manner to deliver medical aid, the WCB is guided by the following general principles:

- (a) The WCB uses only WCB-approved service providers to deliver medical aid services.

This principle conveys the WCB's commitment to ensuring that injured workers receive quality care and services from health care service providers. To ensure that service providers meet appropriate standards of care, the WCB will only authorize payments to WCB-approved service providers. These include those service providers the WCB recognizes as licensed or accredited to deliver health care services in Nova Scotia through provincial or national licensing agencies. However, if provincial or national licensing agencies do not exist for a particular service provider class, the WCB may approve the use of those service providers to deliver medical aid services to injured workers.

A complete list of WCB-approved service providers can be found in the Service Provider Directory on the WCB website under the "I am a Service Provider" tab.

- (b) The WCB promotes timely access to medical aid services.

This principle conveys the importance the WCB places on prompt access to appropriate services to aid the recovery of injured workers and to reduce the effects of the compensable injury.

Also encompassed within this principle is the WCB's approach to reducing health care wait times for injured workers. Through negotiations with the public health care system in Nova Scotia, the WCB has made significant strides in expanding our expedited surgeries program. This unique program allows the WCB to take advantage of unused surgical space within the public health care system for those injured workers waiting for day surgeries such as rotator cuff repairs and knee arthroscopies, and where unavailable, source surgery space out of province.

- (c) The WCB requires injured workers to co-operate in any medical aid treatment or service that promotes the worker's recovery.

This re-iterates the worker's responsibilities as per Section 84 of the *Act*, which states that the worker has a duty to co-operate in any medical aid or treatment that promotes the worker's recovery.

Also implicit under this principle is the employer's right to request that the worker submit to a medical examination. As per Section 85 of the *Act*, it is the worker's responsibility to comply with this request from the employer, if the WCB determines it is reasonable.

- (d) The WCB requires employers to provide transportation to an adequate health care facility to any worker that requires medical treatment following a workplace injury.

This re-iterates the employer's responsibilities as per Section 107 of the *Act*, which states that following a workplace injury, if necessary, employers must ensure that a worker receives transportation to a hospital or physician located within the area or within a reasonable distance of the place of injury, at the employer's cost.

- (e) The WCB supports injured workers in their initial choice of WCB-approved service provider.

This principle recognizes the right of injured workers to choose their health care service provider. To ensure that appropriate standards of care are met, the WCB requires that injured workers choose from those service providers that are on the WCB's list of approved service providers.

This principle does not mean that the worker can refuse to participate in a medical aid service that the WCB has determined is necessary or expedient to aid in the worker's recovery – this is the worker's obligation as outlined in principle (c) above. In addition, in certain circumstances (i.e. inter-disciplinary services), the choice of service provider may be limited due to specialized expertise/services. In these circumstances, it is important to recognize that there may not be an opportunity to provide the worker with a choice of service provider.

- (f) The WCB establishes the fees it pays for medical aid related services through negotiations with individual or groups of service providers or by adoption of service provider fee schedules, as appropriate.

The WCB has a fiscal responsibility to effectively manage the costs paid out of the Accident Fund. This principle conveys the WCB's commitment to ensuring that there is appropriate costing in place for the fees paid to WCB-approved service providers.

- (g) The WCB promotes appropriate prescription drug administration.

The WCB uses a drug formulary (i.e. a list of prescription drugs recommended in the treatment of specific injuries) whenever possible to determine which prescription drugs are appropriate for the type of compensable injury, the quantity of the prescription drug, and whether the WCB will pay for the prescription drug. Decision-making regarding entitlement to prescription drugs as medical aid is determined in accordance with *Policy 2.3.4R – Prescription Drugs*. See Appendix F for full wording of Policy 2.3.4R.

- (h) The WCB ensures the appropriate medical aid is provided in a cost-effective manner.

Where there is a choice in the type of medical aid that is appropriate, the WCB will ensure that the most cost-effective type of medical aid is provided. For example, if the WCB determines that a lift chair is required due to the fact that the compensable injury has decreased the worker's ability to rise from a seated position, the WCB will provide the worker with the most cost effective lift chair that provides the ability to transfer him/her from a seating to a standing position.

4. PROPOSED PROGRAM POLICY APPROACH

The WCB proposes a new program policy that will identify and communicate the principles the WCB considers in making decisions regarding the delivery of medical aid. Please see Appendix A for a copy of the proposed program policy.

The intent of the program policy is not to change, expand, or limit the existing criteria used in making medical aid decisions, but rather to improve transparency and accountability regarding the general principles the WCB considers in determining the timeliest, most appropriate and cost-effective manner to deliver medical aid to injured workers.

The principles outlined in this program policy are not new and are currently considered by WCB decision makers when making decisions regarding the delivery of medical aid. The following is a high-level overview of the proposed new program policy.

Preamble and Definitions

The Preamble section of the proposed program policy establishes the purpose of the policy and provides context for the policy statements that follow. The WCB has chosen

to include the definition of “medical aid” in the draft policy because it is important to understanding the scope of the policy.

Policy Statement

Section 1 - General: Outlines the WCB’s legislative authority for medical aid and states the WCB’s overarching medical aid responsibilities.

Section 2 - General principles in the delivery of medical aid: This section communicates the basic principles that guide the delivery of medical aid. These principles are not new and are not specific to any one form of medical aid. This section simply communicates them in a transparent way so WCB staff, workers, employers, and WCB service providers are able to easily access the information.

Application

This is a standard section in WCB program policies that determine when, and to what, the program policy will apply. This section directs that the program policy will apply to all new claims for medical aid compensation after a date to be determined by the WCB Board of Directors, who have the final authority to approve program policy.

References

This standard section in WCB program policies states the sections of the *Act* from which the WCB gains its authority to make program policy and as well as the sections specific to the content of the policy.

5. PROVIDING YOUR COMMENTS

We would like to hear your comments on this proposed program policy and the information presented in this paper. In particular, we encourage you to consider whether there **are any recommended changes you would like considered in finalizing the proposed program policy, “Medical Aid – General Principles”**. Comments received will assist the WCB in ensuring that all issues are considered in the development of this program policy.

You may provide comments by e-mail to Janet Rutherford at janet.rutherford@wcb.gov.ns.ca, or by mail at:

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Workers’ Compensation Board of Nova Scotia
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The deadline for comments is **December 4, 2009**

APPENDIX A – DRAFT PROGRAM POLICY

DRAFT PROGRAM POLICY	NUMBER: 2.3.5
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Effective Date: to be inserted	Topic:	Medical Aid – General Principles
Date Issued: to be inserted	Section:	Health Care
Date Approved by Board of Directors: to be inserted	Subsection:	General

Preamble

The purpose of this program policy is to describe the general principles the *Workers’ Compensation Board* (the “WCB”) considers in the delivery of medical aid to injured workers who have been caused a personal injury as the result of a workplace accident.

Definitions

"medical aid", as defined in Section 2(r) of the *Workers’ Compensation Act* (the “Act”), includes

- (i) any health care service, product or device that may be authorized by the Board and is provided to a worker as a result of a compensable injury, including those forms and reports required by the Board respecting the aid or services, and
- (ii) reasonable expenses, authorized by the Board, incurred by a worker in order to obtain medical aid.

Policy Statement

1.

General

In accordance with Section 102 of the *Act*, the WCB may provide any medical aid the WCB considers necessary or expedient as a result of the compensable injury. In making this determination, the WCB considers *Policy 2.3.1R – Provision of Health Care Services* and other medical aid policies which are applicable in specific circumstances.

In providing medical aid, the WCB is responsible to determine the necessity, character and sufficiency of medical aid, as per Section 104 of the *Act*. This means the WCB determines the need for medical aid; the type of medical aid; and the extent to which medical aid is required.

Once the WCB has determined an entitlement to medical aid, it is the responsibility of the WCB to ensure that the medical aid is provided in a timely, appropriate and cost-effective manner.

2.

General principles in the delivery of medical aid

In determining the timeliest, most appropriate and cost-effective manner to deliver the medical aid, the WCB generally considers, but is not limited to, the following principles.

- a) The WCB uses only WCB-approved service providers to deliver medical aid services.

The WCB has a duty to the injured worker to ensure that service providers meet appropriate standards of care. Accordingly, the WCB authorizes payments to only WCB-approved service providers. WCB-approved service providers include those that the WCB recognizes as licensed or accredited to deliver health care services in Nova Scotia through provincial or national licensing agencies. If provincial or national licensing agencies do not exist for a particular service provider class, the WCB may approve the use of those service providers to deliver medical aid services to injured workers.

- b) The WCB promotes timely access to medical aid services.

Prompt access to appropriate treatment and services is important to aid the recovery of injured workers and to reduce the effects of the compensable injury. Where appropriate, the WCB may arrange for an injured worker to receive treatment or services in another location if local sources of services are unavailable, or delayed.

- c) The WCB requires injured workers to co-operate in any medical aid service that promotes the worker's recovery.

This principle reflects Section 84 of the *Act*, which states that the worker has a duty to co-operate in any medical aid or treatment that promotes the worker's recovery and provides the authority for the WCB to suspend, reduce or terminate compensation where the worker fails to co-operate.

- d) The WCB requires employers to provide transportation to an adequate health care facility to any worker in their employment that requires medical treatment following a workplace injury.

This principle reflects Section 107 of the *Act*, which states that if necessary, following a workplace injury, employers must provide a worker with immediate and appropriate transportation to a hospital or a physician located within the area or within a reasonable distance of the place of injury, at the employer's expense.

- e) The WCB supports injured workers in their initial choice of WCB-approved service provider.

The injured worker has a right to choose their health care provider, from among those that are WCB-approved and qualified to deliver the medical aid. The WCB may limit the number of visits to health care providers to what is appropriate for the injured worker's compensable condition.

When authorizing appointments with WCB-approved health care providers, the WCB considers the condition of the injured worker, waiting times, and distance to be traveled for the appointment or treatment. All such decisions are consistent with the principles

of ensuring care is timely, appropriate and cost-effective.

- f) The WCB establishes the fees it pays for medical aid related services through negotiation with individual WCB-approved service providers or WCB-approved service provider groups or by adoption of service provider fee schedules, as appropriate.

The WCB negotiates fees with:

- i. Physicians;
- ii. Physiotherapists;
- iii. Interdisciplinary Providers; and
- iv. Any other WCB-approved service provider, as required.

The WCB may also set a schedule of fees or charges payable for medical aid for any WCB-approved service provider or group of service providers.

- g) The WCB promotes appropriate prescription drug administration.

In accordance with *Policy 2.3.4R – Prescription Drugs*, the WCB uses a formulary (i.e. a list of prescription drugs recommended in the treatment of specific injuries) whenever possible to determine which prescription drugs are appropriate for the type of compensable injury, the quantity of the prescription drug, and whether the WCB will pay for the prescription drug.

- h) The WCB ensures the appropriate medical aid is provided in a cost-effective manner.

The WCB has a responsibility to mitigate costs to the workers' compensation system where appropriate. Where there is a choice in the type of medical aid that is appropriate, the WCB will ensure that the most cost-effective type of medical aid is provided.

Application

This program policy applies to all decisions made on or after (date to be determined).

References

Workers' Compensation Act (Chapter 10, Acts of 1994-95), Sections 2 (r), 102, and 104.

APPENDIX B - CURRENT MEDICAL AID PROGRAM POLICIES

Workers' Travel Expenses for Health Care [2.1.1R7](#)
Clothing Allowance [2.1.5R2](#)
Attendant Allowance [2.1.6](#)
Eyeglasses [2.1.7R](#)
Loss of Personal Items [2.1.8](#)
Spinal Fusion – Second Opinion [2.2.1R](#)
Fee Schedule – Second Opinion Spinal Surgery [2.2.2](#)
Home Breathing Machines [2.2.3](#)
Chemonucleolysis [2.2.4](#)
Treatment: Pain Clinic [2.2.5](#)
Home Oxygen Therapy [2.2.6](#)
Portable Home Oxygen Therapy [2.2.7](#)
Epidural Analgesia and Paravertebral Blocks [2.2.8R](#)
Provision of Health Care Services [2.3.1R](#)
Hospital Admissions: Semi-Private [2.3.2](#)
Double Doctoring - Prescriptions [2.3.3](#)
Prescription Drugs [2.3.4R](#)

APPENDIX C - STAKEHOLDER FEEDBACK

On November 26th, 2008 the WCB held a Program Policy Summit to gather feedback from stakeholders on the program policy topics approved by the WCB Board of Directors for 2009. Prior to the Program Policy Summit, WCB key stakeholders were mailed issue identification papers on each of the three topics (including a paper on the program policy topic “Medical Aid – General Principles”) and the papers were posted to the WCB website. At a high level, the WCB received the following feedback from stakeholders:

- *Act* intended for workers' to receive benefits in a timely manner but they aren't – have to go through a lengthy appeal process to get benefits they are entitled to receive.
- Decision-makers need to be educated on intent/purpose of the *Act* (problems in the decision-making process).
- Physicians need to be able to provide supporting rationale for why they are recommending a certain treatment.
- Don't restrict access to public domain; want to provide the best, quickest, and most efficient method of getting worker better.
- Concerned with supporting “private services”. Support the current approach used by the WCB of using public system (i.e. expedited surgeries at the Aberdeen Hospital). If we have to use private in the interim, we should sit down with government to see if we can help with staffing issues in public healthcare system to get our work done. The private sector is stealing staff from the public system and if we support the private clinics it may increase this trend and reduce the options such as the Aberdeen.
- Family physician too emotionally involved to make professional decision. Need to have objective information to get to the appropriate decision.
- Quality of physiotherapists - Not all physiotherapists are equal. Rural physiotherapists may not get ongoing training that is offered in the city.
- Quality of practitioners and the WCB's commitment to quality care.

The WCB has considered this feedback in the development of the draft program policy, and believes that the program policy clarifies the general principles that guide the delivery of medical aid. The intent of the policy is to clarify and communicate the general principles considered in adjudication to determine how the medical aid will be delivered. The draft program policy is not intended to change, expand or limit the legal rules governing the provision of medical aid.

APPENDIX D: POLICY 2.3.1R – PROVISION OF HEALTH CARE SERVICES

Effective Date: June 1, 2004

Date Issued: May 14, 2004

Date Approved by Board of Directors: May 13, 2004

Topic: Provision of Health Care Services

Section: Health Care

Subsection: General

Policy Statement

1. The WCB will assist in providing health care (services and treatments) by WCB-approved service providers to injured workers. Assistance is provided where the health care is:
 - (a) appropriate for the type of compensable injury, and
 - (b) consistent with standards of health care practices in Canada.
2. The WCB uses the following information to determine the most appropriate, effective and efficient health care for its clients:
 - a) recommendations from WCB-approved health care providers;
 - b) up-to-date scientific evidence about effective health care;
 - c) evidence-based guidelines developed by professional health organizations across Canada and the United States; and
 - d) standards developed by the WCB to ensure quality health care.
3. The WCB may obtain additional information and opinions, as needed, to determine the appropriateness of any type of health care.
4. The WCB will not pay for health care that is not considered appropriate as set out in this policy.

Application

This Policy applies to all decisions made on or after June 1st, 2004.

References

[Workers' Compensation Act](#) (Chapter 10, Acts of 1994 - 95), Sections 102, 104.

Executive Corporate Secretary

APPENDIX E: POLICY 2.3.4R – PRESCRIPTION DRUGS

Effective Date: June 1, 2004

Date Issued: May 14, 2004

Date Approved by Board of Directors: May 13, 2004

Topic: Prescription Drugs

Section: Health Care

Subsection: General

Policy Statement

1. The WCB will use a formulary (i.e. a list of prescription drugs recommended in the treatment of specific injuries) whenever possible to determine:
 - a) which prescription drugs are appropriate for the type of compensable injury;
 - b) the quantity of the prescription drug;
 - c) whether the WCB will pay for the prescription drugs.
2. In the cases where prescription drugs are not listed in the formulary, or if an alternative prescription drug is determined to be more appropriate:
 - a) the WCB will decide what is appropriate;
 - b) approval must be obtained from a WCB case worker on the advice of a medical advisor; and
 - c) decisions will be provided in writing to the injured worker and treating physician.
3. Prescription drugs must be prescribed by a physician, dentist or recognized health care provider who is authorized to do so under provincial legislation.
4. Medications that normally do not require a prescription, known as over-the-counter medication, will be covered if:
 - (a) they are appropriate for the type of compensable injury; and
 - (b) the health care provider writes a prescription.
5. Medications must be obtained from a provincially licensed pharmacy.
6. If a brand-name medication can be replaced with a generic medication, the WCB will pay the cost of the generic medication unless:
 - (a) it can be medically demonstrated that the brand-name medication is required; or
 - (b) the brand-name medication is available at a lower price.

Generic medication substitutes must be listed in the Nova Scotia Formulary issued by the Department of Health (www.gov.ns.ca/health/pharmacare/benefits_faq.htm#formulary).

7. This policy does not apply to other health care (services and treatment) covered by the WCB.

Application

This Policy applies to decisions made on or after June 1, 2004.

References

[Workers' Compensation Act](#) (Chapter 10, Acts of 1994 - 95), Sections 102 and 104.

Executive Corporate Secretary