

Issues Clarification Paper:
Medical Aid – General Principles

October 24, 2008

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1. PURPOSE

This paper is intended to help readers understand the current environment related to the topic of general principles for medical aid. Responses to this paper will assist the Workers' Compensation Board (WCB) to clarify areas of concern, understand the scope of the issue, and ensure all issues are considered. The WCB requires a comprehensive understanding of both employer and worker concerns around general principles for medical aid in order to determine the best approach to addressing this topic.

2. BACKGROUND

Each year, the WCB makes thousands of medical aid decisions that determine whether a worker is entitled to specific medical aid as a result of their workplace injury. In fact, medical aid decisions are the most frequent type of decision made by the WCB and impact almost all injured workers, whether they lose time from work due to their injury or not. Unlike earnings loss benefits which cease at age 65, medical aid is payable for the life of the worker as long as the medical aid is required as a result of the compensable injury.

The *Workers' Compensation Act* (the *Act*) states that the WCB may provide a worker with any medical aid it considers *necessary* or *expedient* as a result of the compensable injury¹. According to the *Act*, medical aid includes 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 injury². This can include payment for prescriptions, physiotherapy, doctor visits, hospital stays, travel to and from health care services, prosthetic limbs, etc.

Currently, the WCB does not have a program policy or publically available guideline that communicates to injured workers, employers, service providers and stakeholders how the WCB determines if a health care service, product or device is necessary or expedient as a result of the workplace injury. While the WCB has a Provision of Health Care Services policy (Policy 2.3.1R – see Appendix B) that provides some general guidelines for approval of medical aid, it does not establish clear principles to guide decision-making or clearly communicate to stakeholders our decision-making approach.

The WCB does have some policies that outline the criteria for determining entitlement to specific types of medical aid such as workers' travel expenses for health care, clothing allowance, attendant allowance, eyeglasses, prescription drugs and home breathing machines.

3. THE ISSUES

¹ The *Act*, S. 102(1).

² The *Act*, S. 2(r).

The following are the key points, problems, or opportunities identified to date that the WCB believes should be considered when determining the best approach to addressing the topic of general principles for medical aid:

1. Medical aid decisions are the most frequent decisions made by the WCB and impact almost all injured workers. Clearly communicating the principles used in making these decisions will improve the transparency and accountability of the decision making process for injured workers, employers, service providers and stakeholders generally.

When a worker is injured on the job, they should not wonder “Will my prescriptions be covered by the WCB?”. While the WCB believes its medical aid decision making is sound, the absence of clearly communicated general principles that are used in making medical aid decisions may contribute to confusion and misunderstanding about how the WCB makes these decisions. Clarifying and communicating the WCB’s approach to decisions with respect to medical aid will help injured workers and employers understand the factors that are considered in determining whether specific medical aid is covered by the WCB. In addition, clarifying the approach to medical aid will improve the transparency of this decision making process by providing injured workers, employers, health care providers, and other stakeholders with the information needed to understand the decision making framework used by the WCB, enable informed participation, as well as the provision of the right service at the right time to achieve the right outcome.

2. Stakeholders have identified concerns and issues linked to the need for clear and transparent adjudicative principles for determining entitlement to medical aid.

During the 2009 Program Policy Agenda Setting Process stakeholders raised a number of issues/concerns that fall under the general umbrella of the provision of medical aid (i.e. use of opioids in treatment of soft tissue injuries, access to private health care and injuries during treatment). These issues indicate a lack of common understanding and agreement on how the WCB determines appropriate medical aid. For instance, injured workers and employers may question how the WCB determines whether the medical aid required is as a result of a workplace injury. Further, the issue raised by injured workers regarding injury during treatments indicates a need to clarify the WCB’s commitment to quality care, how we follow standards and treatment guidelines, and the use of licensed and accredited service providers.

3. Clarifying and communicating the WCB’s general approach to decision making with respect to medical aid would act as a foundation for future work on more specific medical aid topics.

Clarifying and communicating the WCB’s approach to decisions making with respect to medical aid will lay the foundation necessary to address some of the more specific medical aid issues identified by stakeholders such as treatment using opioids, the use

of private health care to reduce wait times, and injury during rehabilitation. In addition, clarifying medical aid principles may simplify future work on more specific medical aid topics by establishing a common basis on which principles related to decisions on these more specific medical aid issues can be built.

Workers and employers should have confidence that the WCB will be able to successfully face future challenges in adjudicating entitlement to medical aid. Clarifying the basic principles used for medical aid decision making will enable the WCB to respond more effectively to changes in our environment such as demographic shifts and scientific advancements (like nanotechnology) that may create new challenges in the area of medical aid decision making.

4. CURRENT PRACTICE

The WCB approves health care services and treatments when they are determined to be appropriate for the type of compensable injury and consistent with standards of health care practice in Canada. In order to determine the most appropriate and effective health care for injured workers, the WCB takes into consideration recommendations from WCB-approved health care providers, best practices from licensed professional health care associations and research, and internal standards developed by the WCB to ensure quality health care.

5. JURISDICTIONAL INFORMATION

Most jurisdictions in Canada have similar legislation regarding medical aid. Although the wording can be slightly different, all jurisdictions have a provision for medical aid stating that a worker who is entitled to compensation is entitled to any medical aid considered necessary as a result of a compensable injury.

Five of the ten Canadian jurisdictions (NS not included) have used program policy to clarify and communicate their approach to decision making with respect to medical aid. The policies provide an explanation of key medical aid principles and the types of factors considered when making medical aid decisions.

In the Atlantic provinces, NB has the most comprehensive general principles policy for medical aid. Some of the principles included in the NB policy are the following:

- Injured workers will receive quality care and services from health care providers;
- Promotion of the use of guidelines for medical recovery that have been shown, by scientific literature or experience, to be effective in the treatment of injury or industrial disease;
- Promotion of timely access to treatment and services, early and safe return to work as therapy, appropriate prescription drug administration; and
- A commitment to use only providers that have been licensed or accredited to deliver health care services.

6. PROVIDING YOUR COMMENTS

We are interested to hear your comments on the information presented in this paper. In particular, we encourage you to consider whether there **are any additional issues you would like to see addressed as the WCB considers the best approach to addressing the topic of general principles for medical aid.**

Comments may be provided to the WCB in two ways:

1. Stakeholder presentation at the WCB Policy Summit on November 26th, 2008

On November 26th, 2008 the WCB will be hosting a Policy Summit at the Westin Hotel from 1:00 – 4:00 pm. As part of the summit, stakeholders and interested parties will have an opportunity to make 5-10 minute presentations that identify and clarify their issues related to the three policy topics on the upcoming year's Program Policy Agenda including, "Medical Aid – General Principles". If you are interested in making a presentation at the WCB Policy Summit please contact Marcy Dalton at (902) 491-8904 or e-mail at marcy.dalton@wcb.gov.ns.ca by **November 12, 2008**. For more information on the WCB policy summit please go to the WCB website at www.wcb.ns.ca.

2. In writing by mail or e-mail

Alternatively, we encourage all stakeholders to share their issues and/or concerns related to the three policy topics on the upcoming year's Program Policy Agenda with the WCB in writing by **December 8, 2008**. This will ensure a full and accurate understanding of your issues by the WCB. Please provide written submissions to:

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APPENDIX A

Relevant Sections of the *Workers' Compensation Act*

Definition of Medical Aid

2 (r) "medical aid" 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.

Compensation for medical aid

102 (1) The Board may provide for any worker entitled to compensation pursuant to this Part, or any worker who would have been entitled to compensation had the worker suffered a loss of earnings equivalent to the amount determined pursuant to subsection 37(4), any medical aid the Board considers necessary or expedient as a result of the injury.

(2) The medical aid provided pursuant to subsection (1) shall be

- (a) furnished or arranged for by the Board as it may direct or approve;
- (b) subject to the supervision and control of the Board; and
- (c) paid for out of the Accident Fund.

(3) The Board may include the costs of providing medical aid in any amount charged to the employer or to the employer's class or subclass.

Exclusive jurisdiction of Board

104 All questions as to the necessity, character and sufficiency of any medical aid furnished shall be determined by the Board.

APPENDIX B - Policy 2.3.1R

POLICY

NUMBER 2.3.1R

Effective Date: June 1st, 2004

**Topic: Provision of Health
Care Services**

Date Issued: May 14, 2004

Section: Health Care

Date Approved by Board of Directors: May 13th, 2004

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