



# Loss of Earnings (LOE) Benefits

(for work accidents on or after January 1, 1998)

**WSIAT**

Information  
Sheet No.1

## More Information About LOE

### Ontario Workplace Tribunals Library

- [www.owtlibrary.on.ca](http://www.owtlibrary.on.ca)
- [owtl@wsiat.ca](mailto:owtl@wsiat.ca)
- TTY: 711 Relay Services
- 505 University Ave., 7th Floor,  
Toronto, ON M5G 2P2
- Open from 8:30 a.m. to 4:30  
p.m., Monday to Friday, except  
statutory holidays unless other  
times posted

### Legislation

#### *Workplace Safety and Insurance Act, 1997, SO 1997*

- Sections 40, 41, and 43

#### WSIB Operational Policy:

- 18-03-02, "Payment and  
Reviewing LOE Benefits (Prior to  
Final Review)"
- 19-02-07, "RTW Overview and  
Key Concepts"
- 18-03-06, "Final LOE  
Benefit Review"

## What are Loss of Earnings benefits?

Loss of Earnings benefits replace income lost when a work-related injury or illness prevents a worker from working. WSIB will pay up to 85% of the difference between a worker's pre-injury and current earnings.

## When are Loss of Earnings benefits paid?

Loss of Earnings benefits are paid when a work-related injury or illness causes a worker to be unable to work, or causes a worker to earn less than they did before the injury.

## Loss of Earnings benefits continue until:

- The worker no longer has a wage loss that is caused by the work-related injury or illness.
- The worker isn't working, but a suitable occupation at no wage loss was identified for the worker.
- The worker is no longer impaired by the work-related injury or illness.
- The worker turns 65.
- If the worker was 63 or older when they were injured, up to 2 years after the injury date.

## When are Loss of Earnings benefits reviewed?

- Loss of Earnings benefits can be reviewed every year or when there is a material change in circumstances, up to 72 months after the injury date.
- Reviews after 72 months only occur in certain circumstances, such as when the work-related injury or illness significantly deteriorates.

# Preparing for a Hearing About Loss of Earnings Benefits

The WSIAT will decide if a worker is eligible for Loss of Earnings benefits. Benefits may be partial or full, and may be for a specific duration, or ongoing. Be prepared to answer questions and identify helpful documents.

## Questions That May Be Asked

### Job-related Questions:

- What were the worker's job duties and hours of work before the injury or illness?
- Did the worker return to work?
- What were the worker's job duties and hours of work after returning to work?
- Did the employer offer the worker modified duties?
- Are there any non-work-related events or factors that affect the worker's ability to work?

### Income-related Questions:

- At the time of the accident, was the worker full-time? Part-time? Contract? Seasonal? Student?"
- Is post-accident income different from pre-accident income?
- Did the worker have any other sources of income pre-accident?
- Did the worker retire early, and if so, why?

### Health-related Questions:

- What are the worker's functional abilities and restrictions?
- Which medical reports comment on functional abilities, restrictions, and ability to work?
- Has the worker fully recovered? Does the worker have permanent impairments?
- How suitable were any offered duties for the worker's functional abilities and restrictions?
- Does the worker have other health conditions that affect their ability to work?

## Documents That May Be Asked About

### Job-related Papers:

- Job description
- Physical Demands Analysis
- Ergonomic and Vocational assessments
- Offers of modified work
- Descriptions of modified duties

### Income-related Papers:

- Paystubs from before and after the accident
- Income tax returns for before and after the accident
- Record of employment
- Letter of termination
- Retirement records

### Health-related Papers:

- Medical reports and clinical notes with comments about worker's functional abilities, restrictions, accommodation needs, or ability to work.
- Functional Ability Forms