

LABOUR PROGRAM

Guide to Accident Compensation for Federal Offenders



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Guide to Accident Compensation for Federal Offenders

If, while serving a federal sentence, you are disabled, or suffer an aggravation of an existing disability, as a result of an injury that occurred while you were participating in an approved program of Correctional Service Canada (for example, during a work activity or training course), you may be entitled to receive benefits similar to workers' compensation. Benefits may also be payable in respect of a disability resulting from an occupational disease attributable to your participation in an approved program.

The compensation benefits consist of the cost of medical care and a monthly or lump sum disability payment. The amount awarded reflects the degree of disability remaining after you are released. Payments are made only after you are released from the penitentiary on full parole, on statutory release or on the expiration of your sentence. You may also be eligible to receive benefits while on day parole if you are employed on a full time basis by someone other than Correctional Service Canada.

In the case of an accident-related death, benefits are available to qualifying dependants.

This guide should help you understand how the program works, and how it may apply to you. The following are answers to some of the most commonly-asked questions.

NOTE: The present document consists of a brief summary of the rules in effect at the time of its publication. As the legislation is continuously being updated, the sole purpose of the following information is to serve as a guide to the persons concerned and, under no circumstances, should be considered as legislative enactment. For the official legislation, please refer to the provisions of the *Corrections and Conditional Release Regulations* relating to compensation for death or disability.

1. What should I do if I have an accident?

- a) Immediately inform your supervisor who will obtain medical or hospital treatment for you.
- b) Verify whether Correctional Service Canada prepared a report or has in its possession a report of the circumstances of your accident. If they do not, send them (for example, the Warden or the Director of the District Parole Office) the following information within three months of the date of the accident:
 - i) the place and date of the incident;
 - ii) a full description of the incident; and,
 - iii) the names and addresses of all known witnesses.
- c) If, after reading this guide, you wish to submit a claim for compensation, ensure that it is submitted before you are first released on full parole, on statutory release or on the expiration of your sentence.

2. Do I qualify for compensation benefits?

Yes, *if*

- a) your accident or occupational disease occurred while you were taking part in an approved program. The term 'approved program' means:
 - i) any work activity sponsored, approved or permitted by Correctional Service Canada, or any other activity required by Correctional Service Canada, excluding any recreational or social activity;
 - ii) any extra duties imposed pursuant to a disciplinary offence;
 - iii) any training course approved by Correctional Service Canada; and,
 - iv) any transportation that is arranged for or provided by Correctional Service Canada in connection with the above;

and also, if

- b) Correctional Service Canada prepared or received a written report of the circumstances of your accident within three months of the date of accident; and
- c) you submitted a claim before you were first released on full parole, on statutory release or on the expiration of your sentence; and
- d) your disability continues after you were first released on full parole, on statutory release or on the expiration of your sentence.

No, if

- e) your accident or occupational disease occurred while you were taking part in a social or recreational activity or in any other activity not included in the above definition of 'approved program'; or
- f) your injury healed before you were first released on full parole, on statutory release or on the expiration of your sentence; or
- g) your injury was intentionally self-inflicted or is attributable to improper or criminal conduct; or
- h) you are working and injured while on day parole, a Work Release Program, or on a temporary absence pass and you are covered under another compensation program (for example, a provincial workers' compensation program); or
- i) you failed to seek available medical care, refused recommended medical treatment or refused to submit to a disability assessment; or
- j) three months have passed since the occurrence of your accident and Correctional Service Canada does not have a written report on its circumstances; or
- k) you did not submit your claim before you were first released on full parole, on statutory release or on the expiration of your sentence; or
- l) you did not obtain Correctional Service Canada's approval for residing outside Canada unless:

- i) you were removed from Canada pursuant to a removal order, or left Canada pursuant to a departure notice, made under the *Immigration Act*;
- ii) you were deported from Canada pursuant to the *Immigration Act* as that Act read prior to April 10, 1978; or
- iii) you were transferred outside Canada under the *Transfer of Offenders Act*.

NOTE: The time limits for reporting an accident and submitting a claim may be extended when the delay is due to circumstances beyond your control and will not impede Correctional Service Canada's ability to investigate the claim. However, the time limit for submitting a claim may only be extended for a period not exceeding two years after the occurrence of the incident which gave rise to your claim.

3. How is a claim made?

Obtain an application for compensation from the Supervisor of Institutional Services or the responsible institutional official or, if on day parole and residing in a community residential centre, from the Superintendent or director of the centre. If you are unable to obtain a form, write or call the Federal Workers' Compensation Service, Human Resources Development Canada, and provide the following information:

- your name and F.P.S. number;
- an explanation of the incident (including the place and date of its occurrence); and
- a description of the injury and the nature and location of any medical treatment you received.

(If a dependant or a foster-parent is submitting the claim, the names and addresses of all dependants of the deceased inmate must also be included.)

NOTE: You may exercise your right to consult independent legal counsel, at your expense, for advice or to make representations in respect of your claim.

4. When should I submit my claim?

Your claim should be submitted to the Federal Workers' Compensation Service as soon as possible. In order to ensure that it qualifies for consideration, your claim should, however, be submitted before you are first released on full parole, on statutory release or on the expiration of your sentence.

5. Where do I send my claim?

To the following address:

Federal Workers' Compensation Service
Human Resources Development Canada
Ottawa, Ontario
K1A 0J2

Tel.: (819) 953-8001

6. How long does it take to process my claim?

The time required to process a claim depends on the seriousness of the injury and length of your sentence. All medical and other relevant information must first be received by the Federal Workers' Compensation Service before they can prepare a disability assessment and Correctional Service Canada can render a decision concerning the payment of compensation. This procedure can take anywhere from several months to several years.

As previously mentioned, compensation is paid only after you are released on full parole, on statutory release or on the expiration of your sentence. You may also be eligible to receive benefits while on day parole if you are employed on a full-time basis by someone other than Correctional Service Canada.

7. How is the amount of compensation determined?

A monthly pension is determined on the basis of the degree (percentage) of permanent disability you suffered as a result of your injury (according to the disability rating schedule and policy in use for this purpose) or the degree of impairment of earning capacity resulting from your disability.

8. How much will I receive?

The monthly pension payable is based on the degree of permanent disability, or impairment of earning capacity, multiplied by the monthly wage adopted by this compensation program. However, the monthly pension cannot exceed 75% of this monthly wage, nor exceed the amount which could be paid under the *Government Employees Compensation Act* if compensation were paid under that Act.

In the event a lump sum payment is awarded to you, instead of a monthly pension, the monthly pension will be capitalized in accordance with the actuarial table used for this purpose. Consequently, the lump sum amount will be affected by your age at the time you are eligible to receive the payment.

9. When will I receive compensation?

Benefits will be paid as soon as possible after you are first released from the penitentiary on full parole, on statutory release or on the expiration of your sentence. You may also be eligible to receive benefits while on day parole if you are employed on a full-time basis by someone other than Correctional Service Canada. Before payments start, you must sign a form which releases Her Majesty in Right of Canada from all future claims, law suits or actions arising from your accident.

10. How long will I receive compensation?

You will receive monthly payments from the date of your release, for life, or until the injury causing your disability heals or until a lump sum amount is paid.

11. When can a lump sum payment be paid instead of a monthly pension?

When the total amount of compensation payable is established at \$10,000 or less, the payment of a lump sum, instead of a monthly pension, may be authorized. Where the total amount of compensation is more than \$10,000, a lump sum payment may, in some circumstances, be authorized six months after your release from custody on full parole, on statutory release or on the expiration of your sentence. You will be informed of the procedures for requesting the lump sum payment and the criteria for its authorization at the time you are advised of the approval of the payment of a permanent monthly pension.

12. Can the monthly payments be stopped?

Yes, if

- a) you are imprisoned again; or
- b) the injury causing your disability heals; or
- c) you refuse to submit to a disability assessment; or
- d) a lump sum amount is paid; or
- e) you did not obtain Correctional Service Canada's approval for residing outside Canada unless:
 - i) you were removed from Canada pursuant to a removal order, or left Canada pursuant to a departure notice, made under the *Immigration Act*;
 - ii) you were deported from Canada pursuant to the *Immigration Act* as that Act read prior to April 10, 1978; or
 - iii) you were transferred outside Canada under the *Transfer of Offenders Act*.

13. What happens if my claim is denied or I find the settlement unsatisfactory?

You may appeal the decision by submitting, in writing, the reasons for your dissatisfaction to the Assistant Commissioner, Corporate Services (340 Laurier Avenue West, Ottawa, Ontario, K1A 0P9). In

addition, you may exercise your right to consult independent legal counsel, at your expense, for advice or to make representations on your behalf.

14. What if I need additional medical treatment?

The cost of reasonably necessary medical care that is required for your disability will be part of your compensation benefits after your release from custody, other than on day parole.

15. What if I need job retraining?

Benefits cannot be authorized for the purpose of vocational rehabilitation. However, therapeutic and work-related training and rehabilitation services that are reasonably necessary to diagnose, cure or give relief may be authorized to allow for a more comfortable performance of your usual occupation.

16. Can I sue someone for my disability?

By reason of the *Crown Liability and Proceedings Act*, you cannot sue Her Majesty in Right of Canada (including Correctional Service Canada or the Solicitor General of Canada) or one of its employees, officers or agents when compensation is or may be authorized under the compensation program. However, any other person or company that could be held liable for your injuries or death may be sued.

Should you or your dependants choose to sue someone other than Her Majesty in Right of Canada, compensation payments under the compensation program will be withheld until the final disposition of the action.

17. What happens if the accident causes death?

If an offender dies as the result of an accident, his or her surviving spouse (including a common-law spouse in certain cases) or surviving dependent children shall submit a claim within three months of the death. Where the death is attributable to an offender's participation in an approved program, specified amounts may be paid for transporting the body and for its burial or cremation. In addition, compensation benefits may be paid to the offender's

dependent children, and to his or her spouse or to the children's foster parents.

18. What if I need additional information?

Contact the Federal Workers' Compensation Service, Human Resources Development Canada at (819) 953-8001.