

Client Services Procedure Manual

Procedure: 104.00
Subject: Out of Province Coverage

104.01 Introduction

Under Section 51 of Workplace Health, Safety and Compensation Act (the Act), coverage may be extended to a worker of an employer in Newfoundland and Labrador while performing work outside the Province. This procedure explains the conditions that are considered by WorkplaceNL in determining whether Out of Province Coverage (OPC) will be extended.

104.02 Coverage Guidelines

Generally, the following factors are considered in order for coverage to be extended to a worker who is required to work both in and out of the province of Newfoundland and Labrador:

1. The employer conducts business that has a substantial connection to an industry in the Province

The employer, registered with WorkplaceNL, has a base of operations in Newfoundland and Labrador and does not have a permanent place of business in the other jurisdiction. A substantial connection to an industry in the province exists when an employer operates a place of business in Newfoundland and Labrador and performs its core business activities here; such as the production of products or the rendering of services in Newfoundland and Labrador. The fact that the employer is located in the province does not by itself constitute a substantial connection to the province.

2. The usual place of employment of the worker is in the Province

The worker will have worked within the province of Newfoundland and Labrador, for the employer with a substantial connection to the province, prior to (i.e. immediately before) being temporarily relocated outside the province by the same employer. Once the work outside the province is completed, the worker returns to Newfoundland and Labrador to continue to work for the employer.

The worker remains on the payroll of the employer in Newfoundland and Labrador while employed outside of the province and assessments must be paid on those wages.

Coverage will not be extended for workers who have been hired solely for the purpose of completing work outside the province of Newfoundland and Labrador.

3. The worker and/or his/her dependents are not entitled to compensation under the law of the place where the workplace injury occurs

A worker, who is covered under a mandatory workers' compensation program in a jurisdiction outside of Newfoundland and Labrador where the work is being performed, is not also entitled to coverage under the Act.

4. The type of work conducted by the employer outside the Province is also conducted by the employer in the province of Newfoundland and Labrador

An employer whose staff performs work outside the province also conducts the same type of operations in the province on an ongoing basis. In addition, the employer normally continues to employ persons in the province while a worker is temporarily employed outside the province.

Cases outside of these guidelines will be considered on an individual basis.

104.03 Immunity from Suit Protection

Even though WorkplaceNL may extend compensation coverage to workers of Newfoundland and Labrador employers working outside of this jurisdiction, the “immunity from suit” protection provided by the Act is only valid within Newfoundland and Labrador. If the jurisdiction where a worker is working permits legal action for workplace injuries, the worker may elect to take legal action, rather than accepting workers’ compensation benefits.

Both employers and workers are subject to the laws of the jurisdiction where work is performed. Therefore it is important for employers to consult with the workers’ compensation authorities, if applicable, in the jurisdiction where the worker is sent. Employers must determine if registration is required in that jurisdiction and whether or not “immunity from suit” protection is available. In the event that the jurisdiction outside of Newfoundland and Labrador does not grant “immunity from suit” protection, it is recommended that general liability insurance be purchased.

104.04 Interjurisdictional Agreement

Employers operating in more than one Canadian jurisdiction may be subject to the Interjurisdictional Agreement on Workers’ Compensation. The Association of Workers’ Compensation Boards of Canada (AWCBC) has an agreement in place to avoid duplicate assessments for employers whose workers are employed in more than one jurisdiction and to aid injured workers in claiming and receiving workers’ compensation benefits.

Under this agreement, Newfoundland and Labrador employers who are required to register and pay assessments to other Canadian workers’ compensation boards are permitted to offset these assessable earnings when they report to WorkplaceNL.

104.05 Requests for Out of Province Coverage

In order to confirm the conditions for coverage, as outlined in Section 104.02 – Coverage Guidelines, the employer is to provide WorkplaceNL with a written request for out of province coverage, which must include the following information:

- employer name;
- employer firm number;
- worker(s) name(s);

- worker(s) place of residence;
- the duration of the work outside the province (start and end date); and
- the place where the work will be performed (e.g. city, province or state and country).

The written request containing the above information can be faxed to WorkplaceNL at 709.778.1110; or telephone inquiries can be directed to the Assessment Analyst at 709.778.1033, or toll free 1.800.563.9000, ext. 1033.

Reference: Workplace Health, Safety and Compensation Commission Act, Sections 2(j) (z), 19, and 51

Amendment History

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