

## Client Services Policy Manual

Policy Number: **RE-15**  
Subject: **Determining Suitable Employment and Earnings**  
Chapter: **Return to Work and Rehabilitation**

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### Policy Statement

WorkplaceNL determines suitable employment and earnings for a worker when deciding whether the worker requires a labour market re-entry plan.

Suitable employment is a category of jobs that are safe, suited to the worker's transferable skills, within the worker's functional abilities and aptitude, and will reduce or eliminate the loss of earnings resulting from the injury. Capacity to work and earn -- not the availability of employment opportunity -- is the relevant factor.

Earnings associated with suitable employment are based on either average entry wages, average wages, or actual wages for the suitable employment. WorkplaceNL shall rely on provincial wage rate information which establishes average entry and average wages.

### National Occupational Classification (NOC)

WorkplaceNL will use the National Occupational Classification as a tool to help identify suitable employment and earnings.

Developed by Employment and Immigration Canada in Cooperation with Statistics Canada, the National Occupational Classification is a comprehensive system that classifies and describes occupations in the Canadian labor market according to skill level and type. The National Occupational Classification is a three-level structure that consists of 26 major groups, 139 minor groups, and 522 unit groups. Each group has its own code.

#### Major group

A two-digit code is assigned to the major group level. The first digit identifies the skill type category and the second digit identifies the skill level category.

#### Minor group

The third digit, given to the minor group level, focuses specifically on the types of jobs suitable for workers with the identified skill type and skill level.

#### Unit group

The fourth digit, added at the unit group level, identifies specific jobs. The provincial wage rate information used by WorkplaceNL is based on wages gathered at this occupational level.

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### **Example:**

The National Occupational Classification code for Payroll Clerks is 1432, which can be broken down as follows:

Major Group = 14 Clerical Occupations

Minor Group = 143 Finance & Insurance Clerks

Unit Group = 1432 Payroll Clerks

Other National Occupational Classification's within this 143 minor group are, for example, General Office Clerks, Typists and Word Processing Operators, Records and File Clerks, and Receptionists and Switchboard Operators

Within the same National Occupational Classification (Unit group) there will be variations in physical and other demands from one job to the next (depending upon the needs of the specific workplace).

### **Determining Suitable Employment**

WorkplaceNL will determine suitable employment by identifying an appropriate major group and a minor group using the National Occupational Classification system. Once the major group is identified, the minor group is selected considering the worker's skill type, skill level, employment history, and transferable skills. While it is possible that a worker may be capable of suitable work in more than one minor group, the most appropriate is chosen based on the above considerations.

If the worker needs new skills, consideration is given to the worker's aptitudes and qualifications when determining an appropriate minor group.

Where factors other than the compensable injury are preventing the worker from participating in a reasonable and feasible labour market re-entry plan, the worker will, at a minimum, be considered capable of suitable employment within National Occupational Classification "labouring and elemental occupations" minor groups for the minimum wage. In such cases, there must be documented evidence to support the finding on the balance of probabilities that the injured worker is capable of performing in one or more of the occupations identified in the labouring and elemental minor group.

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### Determining Suitable Earnings

WorkplaceNL will adopt a flexible approach for determining estimated earning capacity which relies on the use of average entry wages, average wages, or actual wages, whichever is more equitable.

When determining the worker's entitlement at the completion of a labour market re-entry plan, earnings for workers whose plan involves acquiring a new skill set or entering a new field (changing major groups), will be based on the worker's pre-injury indexed earnings less the:

- average entry wages for the applicable minor group, or
- the worker's actual earnings if higher.

For workers whose labour market re-entry plan is designed to improve existing or transferable skills, benefit entitlement at the completion of the plan will be based on the worker's pre-injury indexed earnings less the:

- average wages for the applicable minor group, or
- the worker's actual earnings if higher.

### Suitable Employment and Earnings Application to Extended Earnings Loss Entitlement

Where a suitable employment and suitable earnings determination has been made under this policy, that determination will be applied, along with other related information, to establish any entitlement to Extended Earnings Loss benefits.

### Exceptional Circumstances

In cases where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice. Such a decision will be considered for that specific case only and will not be precedent setting.

**Reference:** *Workplace Health, Safety and Compensation Act* (the Act), Sections 19, 54, 55, 62, 73-75, and 89.2

### Amendment History

<i>Original Effective Date</i>	2001 11 01
<i>Revision #1</i>	2005 08 16