

# WCB response regarding the treatment of foster care payments in relation to WCB claims



July 19, 2000

Dear Ms. Anger:

Thank you for your letter, dated July 5, 2000, regarding the treatment of foster care payments in relation to WCB claims.

You inquire whether foster care payments may be considered as income under WCB legislation. As well, you ask:

*"In the event that a foster parent employed outside the home sustains an injury in their work environment and a WCB claim results, will such a claim be affected monetarily as a result of being a named party on an [FCHA] Agreement entered into with the Ministry for the care of children. And if so, what portion of the funds received would be deemed income and how would such an amount be arrived at?"*

Please be advised that the Board takes the position that money received from the provincial government by foster parents who provide care in their own home is not considered earnings. In such cases, the Board's practice has been to consider that foster parents are not workers under the *Workers Compensation Act* ('Act'). However, these individuals may apply for Personal Option Protection as "independent operators" under Section 2(2) of the Act.

If a foster parent who provides care in his or her own home is injured while working outside the home in other employment, the fact that he or she signed the FCHA Agreement described in your letter would have no bearing on entitlement. As with any other claim, the Board Officer would examine the circumstances of the injury to determine whether the injury arose out of and in the course of employment, in accordance with Section 5(1) of the *Act*. In such a situation, if the Board Officer determined that the foster parent was a worker at the time of the injury, foster care payments would not be considered in the calculation of average earnings--which are normally composed of wages or salary (as per *Rehabilitation Services & Claims Manual* Policy Item #71.00).

Two points of caution:

First, some 'foster parents' may in fact be running a business of looking after children. In these cases, they should have WCB coverage for any employees and they may elect WCB coverage for themselves (i.e. coverage is voluntary for owners of unincorporated businesses).

Second, if this type of parent is injured in other employment, then his or her "fostering" activities and income (regardless of whether registered with WCB or not) will need to be reported to the WCB office handling the case.

I hope that this information satisfies your concerns.

Yours truly,