AWCBC INTERJURISDICTIONAL AGREEMENT COMMITTEE

Best Practice Guide

To the Interjurisdictional Agreement

Written by Kate Marshall (WCB PEI) and Rhonda Dean (WCB AB)
***All updates since 2015 provided by Rhonda Dean (WCB AB)**
Rewritten in Entirety May 2021 by Rhonda Dean
Version 3.4 (May 5, 2023)

*All items in red are awaiting approval at the next AWCBC meeting.

To assist Boards in reimbursing claim costs to another jurisdiction and requesting reimbursement of claim costs from another jurisdiction. Standardizing the information required to execute cost reimbursement and simplifying associated processes.

Change History

Version	Date	Section	Description of Change
2.1	March 28, 2014	3.5	Changes to reflect 2014 Maximum Annual Earnings Added change history section
2.2	April 3, 2014	3.6	Request from NL to amend/update their section of 3.6
2.3	May 15, 2015	2.4 3.1 3.2 3.4 3.6 3.7 3.8 4.2 6.1.2 6.1.4 7.1	Industry groups added to reflect addition of busing to AAP 2014 Resolution added 2014 Resolution added re: file documentation 2013 Resolution added Added reference to dollar for dollar agreement between AB and YK Added 2014 note re: WSIB Employer Registration section added 2014 Resolution added re: file documentation 2014 Resolution added re: reimbursement overpayments Added reference to section 3.8 2014 Resolution added re: no authority to appeal adjudication decisions Removed module related to statistics and reformatted document numbering Removed draft watermark
2.4	May 27, 2015	1.2	Updated Jurisdictional Cost Reimbursement Contact list
2.5	June 23, 2015		Changes to reflect 2015 Maximum Annual Earnings
2.6	May 18 &19, 2016	1.2 2.4	Updated Jurisdictional Cost Reimbursement Contact list Section 12: Alternative Assessment Procedure- Further clarification
2.7	May 17 & 18, 2017	Table 1.2 1.3 2.1	Update/Clarify Table of Contents Updated Jurisdictional Cost Reimbursement Contact Lists Jurisdictional Benefits in Kind Contact List Section 6: Benefits in Kind (New 2.1)

		2.3	Section 8: Aggravation or Worsening of a Disability-Case Study Added (2.2.1)
		2.4	Section 9: General Cost Reimbursement-Clarification added to Section 9.5
		2.5	Section 12: Alternative Assessment Procedure-Further Clarification and 2Case
		3.4	Studies added
		3.5	Third Party Action-Case Study Added (3.4.1)
			Changes to reflect 2016/2017 Maximum
		3.7	Annual Earnings
		5.2.	Cost Relief-3 Case Studies Added
			Case Study Added
2.8	May 10, 2018	Table	Updated Table of Contents
		1.2	Updated Jurisdictional Cost Reimbursement Contact Lists
		2.1	Section 3: Application
		2.1.1	Section 3.1-Agreement Application
		2.1.2	Section 3.2-Agreement Not Applicable
		2.2	Section 4: Election
		2.3	Benefits in Kind-2.3.1-2.3.5
		2.3.6	Section 15: Appeals Relating to BIK
		2.3.6.1	Section 15 Enquiries to Aid Appeals
		2.3.6.2	Section 15-Complaint to Administering Board
		2.5.1	Section 8-Case Study-Resolution Added
			Case Study 1-Mandatory Participation in AAP-
			Case Study 2-Cost Relief Vs Entitlement
		2.6.6.1	Capitalization Case Study 1 (2010 Meeting)
		2.6.6.2	Capitalization Case Study 2
		3.5	Update to Max Annual Earnings Chart 2018
		3.6	Added All Dollar for Dollar Agreements
		3.7.2	Case Study-Non Registered Employer Vs
		3.7.3	Employer that should have been registered-
		3.9	Overpayment Clarification
		3.9.1	Case Study Overpayment
		5.1.4	Resolution Expanded to include ON position
			Case Study-Employer Charging and
		5.1.4	Implications-Resolution Added
			Appeal Requests
			Case Study
		5.2.2.5	Section 15-Appeal Requests
		6.2	Case Study-Appeals
		8	Other Agreements
		8.1	GECA and impact on IJA
		8.1.1	Case Study-GECA

		8.2	CANUS Agreement
		8.3	MARS Agreement
		Appendix	Chart-Min. Requirement to Establish Claim
		Appendix	Chart-Consent Requirements for Disclosure of Information-Different Scenarios
2.9	May 10, 2019	Table	Updated Table of Contents
		1.2	Updated Jurisdictional Contact Lists
		2.2.2	Case Study 2011-Right of Election and Form Requirement
		2.2.3	Case Study 2012-Right of Re-Election
		2.2.4	Case Study 2018-Right of Re-Election/Claim Denial
		2.2.5	Case Study 2018-Election for Fatality Claims and Notification to Respective Jurisdictions
		2.2.6	Case Study 2018-Double Compensation and Overpayment Recovery
		2.3	Section 6.2 Refund by Adjudicating Board-Added translation services responsibility
		2.4	Section 7: Occupational Disease-Added Section 7.9-Costs must exceed $5000
		2.4	Section 7.11-Existing Agreement between SK and AB Added-Hearing Loss *Added reference to Appendix G & H
		2.4	Section 7.12-No Election-Added reference to Appendix G
		2.7	Participation in the AAP-Section 12.3 Clarification on mandatory participation added and Notification of AAP Participation
		2.7.1	2008 Case Study-AAP-Cost Transfer due to Negligence
		2.7.3	2015 Case Study-Mandatory Participation in the AAP-ON position on backdating added to resolution
		2.7.4	2018 Case Study-Inconsistent AAP Application-Added Resolution
		2.7.5	2018 Case Study Added-AAP Transfer of Assessments-Added Resolution
		3.1	Module 3: Section 9-Added risks associated with no right of election and best practice to obtain signed right of election
		3.5	Update to Max Annual Earnings Chart 2018-Added footnote and 2019 Earnings
		3.7	Cost Relief-Added NS and ON positions

		3.7	Cost Relief-Responsibility of IJA Coordinator to keep front line staff informed re: cost relief process for IJA claims
		5.2.1	2008 Case Study-Jurisdictional Differences in a Non-registered VS Employer who "should have been registered"-Added ON position on backdating
		5.2.2	2010 Case Study-Clarification on Application of IJA/AAP with 2 different employers charged-Final Resolution Added
		5.2.4	2011 Case Study-Right of Re-Election and Reimbursement-Resolutions Added
		5.2.5	2012 Case Study-Employer Charging and Impact on Reimbursement-No AAP Participation-Added further resolutions from 2014 and 2017
		5.2.6	2012 Case Study-AAP-Reimbursement for Personal Coverage/Independent Operator Claims-Moved
		5.2.8	2018 Case Study-Right of Re-Election, Claim Denial and Reimbursement-Resolutions added
		5.2.9	2018 Case Study-IJA Reimbursement for Airline Industry-Resolution Added
		5.2.10	2018 Case Study-IJA Reimbursement and Progressive Injuries-Resolution Added
		8.1.1	2017 Case Study-GECA-Added "Out of Province Legislation" to title
		8.1.2	2019 Case Study-GECA (No resolution added)
		8.3	Added excerpt from MARS implementation guidelines
		8.3.1	2019 Case Study-MARS (No resolution added)
		AppendixE	Added Explanation to Footnote to Chart
		AppendixG	Added Interjurisdictional Hearing Loss Chart
		AppendixH	Added Jurisdictional Review for Long Latency Occupational Disease Claims Chart
3.0	May 3,2021	Entire Doc	*Updated May 10, 2019 (V2.9) from red to black approved from meeting minutes 2019
		Table	Updated Table of Contents
		Schedules	Updated Schedule Table of Contents
		1.1	Expanded on Purpose of Guide
		1.2	Updated Interjurisdictional Cost Reimbursement Contact Lists and moved to Schedule A (Eliminated 1.2)

		1.3	Updated Jurisdictional Benefits in Kind Contact Lists and moved to Schedule B (Eliminated 1.3)
		2.1	Application moved Application to 2.2
		2.2	Election moved to Module 3
		2.2.1	Right of Election-Case Study moved to 3.5.1
		2.2.2	Right of Election Case Study moved 3.5.2
		2.2.3	Right of Election Case Study renamed and moved to 3.5.3
		2.2.4	Right of Election Case Study moved to 3.5.4
		2.2.5	Right of Election Case Study moved to 3.5.5
		2.2.6	Right of Election Case Study moved to 3.5.6
		2.3	Benefits in Kind moved to new Module 4
		2.4	Occupational Disease moved to new Module 5
		2.4	Noise Induced Hearing Loss Agreement moved to new Module 12.1
		2.5	Aggravation or Worsening of a Disability moved to new Module 6
		2.5.1	Case Study moved to Module 6.6.1
		2.6	General Cost Reimbursement moved to new Module 7
		2.6.1	Case Study moved to 7.6.6
		2.6.2	Case Study renamed, rewritten (removed identifiers) and moved to 7.6.7
		2.7	AAP Moved to Module 9
		2.7.1	AAP Case Study rewritten and moved to 9.6.1
		2.7.2	AAP Case Study moved to 9.6.2
		2.7.3	AAP Case Study moved to 9.6.4
		2.7.4	AAP Case Study renamed (removed identifiers), rewritten and moved to 9.6.5
		2.7.5	AAP Case Study rewritten and moved to 9.6.3
		New Mod 2	**New-INTENT AND APPLICATION OF IJA**
		New 2.1	Module 2-Intent of Agreement added
		New 2.2	Agreement Application added
		New 2.3	Guiding Principles (Intent/Application), #1-#9 added
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		3.1	Communication prior to requesting reimbursement, moved to Module 7, 7.5.1
		3.2	Required information for making a request for reimbursement, moved to 7.5.2
		3.3	Required Information when Denying a or Reimbursing a Request moved to 7.5.3

		3.4	Third Party Action moved to 7.3.6
		3.4.1	Third Party Case Study renamed and moved to 7.6.7
		3.5	Chart-Jurisdictional Compensation Rates for Loss of Earnings moved to Schedule P
		3.6	Chart-Jurisdictional Constraints in Reimbursing a Request moved to Schedule Q
		3.7	Cost Relief moved to 7.3.7
		3.7.1	Cost Relief Case Study moved to 7.6.8
		3.7.2	Cost Relief Case Study moved to 7.6.9
		3.8	Employer Registration moved to 7.3.3
		3.9	Overpayment Clarification moved to 7.3.10
		3.9.1	Overpayment Case Study renamed and moved to 7.6.11
		New Mod 3	**New-RIGHT OF ELECTION**
		New 3.1	Right of Election-Guiding Principles, #1-#5 added
		New 3.2	Right of Election-Key Considerations, #1-7 added
		New 3.3	Right of Election-Best Practices, #1-4 Added
		New 3.4	Right of Election-Process, #1-8
		New 3.5	Right of Election-Case studies
		New 3.5.1	Right of Election Case Study (previously 2.2.1)
		New 3.5.2	Right of Election Case Study (previously 2.2.2)
		New 3.5.3	Right of Election Case Study (previously 2.2.3)
		New 3.5.4	Right of Election Case Study (previously 2.2.4)
		New 3.5.5	Right of Election Case Study (previously 2.2.5)
		New 3.5.6	Right of Election Case Study (previously 2.2.6)
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		Module 4	AAP-Cost Reimbursement, moved to Module 9.5
		4.1	AAP-Communication prior to requesting reimbursement, moved to 9.5.1
		4.2	AAP-Required information for invoicing an Assessing Board, moved to 9.5.1
		4.3	AAP-Required information when paying or denying an invoice from an Assessing Board, moved to 9.5.2 and 9.5.3
		4.3.1	AAP-Invoice denied, moved to 9.5.3
		4.3.2	AAP-Invoice payment approved, moved to 9.5.2
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		New Mod 4	New-BENEFITS IN KIND
		New 4.1	Benefits in Kind Definitions
		New 4.2	Benefits in Kind-Guiding Principles, #1-5
		New 4.3	Benefits in Kind-Key Considerations, #1-8
		New 4.4	Benefits in Kind-Best Practices, #1-8
		New 4.5	Benefits in Kind-Process, #1-12
		New 4.6	Benefits in Kind-Case Studies
		New 4.6.1	Benefits in Kind-Case Study-New from 2018
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		Module 5	Troubleshooting-Renamed and moved to Module 8, Limitations on Readjudication
		5.1.1	Troubleshooting, Full vs Ltd Reimbursement, moved to 8.1 and 8.2
		5.1.2	Troubleshooting, Re-Adjudication, moved to 8.2, 8.3, & 8.4
		5.1.3	Disputed IJA Application, moved to 8.6 & 8.7
		5.2.1	AAP-Case Study moved to 9.6.8
		5.2.2	AAP-Case Study moved to 9.6.9
		5.2.3	AAP-Case study moved 9.6.10
		5.2.4	Right of Election-Case Study moved to 3.5.7
		5.2.5	Employer Charging-Case Study moved to 7.6.5
		5.2.6	AAP-Personal Coverage-Case Study moved to 9.6.11
		5.2.7	Employer Charging-Case Study renamed and moved to 7.6.12
		5.2.8	Right of Re-Election-Case Study moved to 7.6.4
		5.2.9	Airline-Case Study-moved to 7.6.2
		5.2.10	Progressive Injuries-Case Study moved to 7.6.1
		New Mod 5	New-OCCUPATIONAL DISEASE (OD)
		New 5.1	Occupational Disease Definitions
		New 5.2	OD-Guiding Principles, #1-12
		New 5.3	OD-Key Considerations, #1-8
		New 5.4	OD-Best Practices, #1-7
		New 5.5	OD-Process, #1-8
		New 5.6	OD-Case Studies (All New)
		New 5.6.1	OD-Case Study
		New 5.6.2	OD-Case Study
		New 5.6.3	OD-Case Study
		New 5.6.4	OD-Case Study
		New 5.6.5	OD-Case Study
		New 5.6.6	OD-Case Study

		Module 6	Module 6-Appeals moved to Module 10
		6.1	Requests for Appeals moved to 10.1
		6.2	Appeal-Case Study moved to 10.5.1
		New Mod 6	**New-AGGRAVATION OR WORSENING OF A DISABILITY**
		New 6.1	Agg or Worsen of Disab-Definitions
		New6.2	Agg or Worsen of Disab-Guiding Principles, #1-4
		New 6.3	Agg or Worsen of Disab-Key Considerations, #1-5
		New 6.4	Agg or Worsen of Disab-Best Practices, #1-2
		New 6.5	Agg or Worsen of Disab-Process, #1-7
		New 6.6	Agg or Worsen of Disab-Case Study
		New 6.6.1	Agg or Worsen of Disab-Case Study
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		Module 7	Module 7-Dispute Resolution moved to Module 11
		7.1	Dispute Resolution-Principles, moved to 11.3
		7.2	Dispute Resolution-Process, moved to 11.6
		7.3	Dispute Resolution-Exclusive Jurisdiction, moved to 11.3
		7.4	Dispute Resolution-Goal of Dispute Resolution, moved to 11.5
		7.5	Dispute Resolution, Referral to IJA Coordinator, moved to 11.3 and 11.6
		7.5.1	Dispute Resolution, Information for Mediators, moved 11.5 and 11.6
		7.5.2	Dispute Resolution, Recommendations, moved to11.3, 11.4 and 11.5
		7.5.3	Dispute Resolution, Cost Shared, moved to 11.3 and 11.4
		7.6	Dispute Resolution, Pursuing Consensual Arbitration, moved to #11.6
		7.7	Dispute Resolution-Principle of Good Faith, moved to 11.3 and 11.5
		7.8	Dispute Resolution-Timeframe, moved to #11.5
		New Mod 7	**New-General Cost Reimbursement Guidelines**
		New 7.1	Cost Reimbursement-Definitions
		New 7.2	Cost Reimbursement-Guiding Principles, #1-17
		New 7.3.1	Cost Reimbursement-Key Considerations-General, #1-5

		New 7.3.2	Cost Reimbursement-Key Considerations-Right of Election, #6-8
		New 7.3.3	Cost Reimbursement-Key Considerations-Employer Registration/Contact, #9-11
		New 7.3.4	Cost Reimbursement-Key Considerations-Pension, #12-13
		New 7.3.5	Cost Reimbursement-Key Considerations-Limitations/Frequency, #14-17
		New 7.3.6	Cost Reimbursement-Key Considerations-Third Party Action, #18-21
		New 7.3.7	Cost Reimbursement-Key Considerations-Cost Relief, #22-30
		New 7.3.8	Cost Reimbursement-Key Considerations-Overpayment Clarification, #31-34
		New 7.4	Cost Reimbursement-Best Practices, #1-22
		New 7.5	Cost Reimbursement-Process
		New 7.5.1	Cost Reimbursement-Process-Communication Prior to requesting reimbursement, #1-7
		New 7.5.2	Cost Reimbursement-Process-Requesting Reimbursement, #1-11
		New 7.5.3	Cost Reimbursement-Process-Full Reimbursement, Denial of Reimbursement or Partial Reimbursement, #1-7
		New 7.5.3.1	Cost Reimbursement-Process-Full Reimbursement, #8
		New 7.5.3.2	Cost Reimbursement-Process-Denial of Reimbursement, #9-10
		New 7.5.3.3	Cost Reimbursement-Process-Partial Reimbursement, #11
		New 7.6	Cost Reimbursement-Case Studies
		New 7.6.1	Cost Reimbursement-Case Study-Progressive Injuries (previously 5.2.10)
		New 7.6.2	Cost Reimbursement-Case Study-Airline Claims (previously 5.2.9)
		New 7.6.3	Cost Reimbursement-Case Study-Right of Re-Election & Reimbursement (previously 5.2.4)
		New 7.6.4	Cost Reimbursement-Case Study-Right of Re-Election, Claim Denial &Reimbursement (previously 5.2.8)
		New 7.6.5	Cost Reimbursement-Case Study-Employer Charging and impact on Reimbursement (previously 5.2.5)
		New 7.6.6	Cost Reimbursement-Case Study-Capitalization Capitalization (previously 2.6.1)

		New 7.6.7	Cost Reimbursement-Case Study-Reimbursement Limitation on Capitalized Costs (previously 2.6.2)
		New 7.6.8	Cost Reimbursement-Case Study-Third Party Action (previously 3.41)
		New 7.6.9	Cost Reimbursement-Case Study-Cost Relief-Inappropriate Application (previously 3.7.1)
		New 7.6.10	Cost Reimbursement-Case Study-Cost Relief vs Entitlement (previously 3.7.2)
		New 7.6.11	Cost Reimbursement-Case-Study-Collecting Overpayments on Reimbursement (previously 3.9.1)
		New 7.6.12	Cost Reimbursement-Case Study-Employer Charging Errors and Refund Implications (previously 5.2.7)
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		Module 8	Other Agreements moved to Module 12
		8.1	GECA moved to 12.2
		8.1.1	GECA Case Study moved to 12.2.2
		8.1.2	GECA-Case Study moved to 12.2.3
		8.2	CANUS moved to 12.3
		8.3	MARS moved to 12.4
		8.3.1	MARS-Case Study moved to 12.4.1
		New Mod 8	**New-Limitations on Readjudication**
		New 8.1	Introduction
		New 8.2	Interpretation of Section 9.2
		New 8.3	Categories of Readjudication (previously 5.1.2)
		New8.4	Case Scenarios Readjudication (previously 5.1.2)
		8.4.1-8.4.14	Case Scenarios (previously 5.1.12)
		New 8.6	Jurisdictional Constraints
		New 8.7	Disputed IJA Application (previously 5.1.3)
		New8.7	Disputed IJA Application-Case Scenarios (previously 5.1.3)
		8.7.1-8.7.5	Disputed IJA-Case Scenarios-8.7.1-8.7.5 (previously 5.1.3)
		New 8.8	Dispute Resolution
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		New Mod 9	**NEW-Alternative Assessment Procedure**
		New 9.1	AAP Definitions (Previously 2.7)
		New 9.2	AAP-Guiding Principles, #1-19
		New 9.3	AAP-Key Consideration, #1-26
		New 9.4	AAP-Best Practices, #1-15

		New 9.5	AAP-Process
		New 9.5.1	AAP-Process-Requesting Reimbursement, #1-14
		New 9.5.2	AAP-Process-Issuing Full Reimbursement, #1-10
		New 9.5.3	AAP-Process-Denying Reimbursement, #1-3
		New 9.6	AAP-Case Studies
		New 9.6.1	AAP-Case Study-Cost Transfer due to Negligence (previously 2.7.1)
		New 9.6.2	AAP-Case Study-Application outside of Canada (previously 2.7.2)
		New9.6.3	AAP-Case Study-Reimbursement/Transfer of Assessment (NEW)
		New 9.6.4	AAP-Case Study-Mandatory Participation (previously 2.7.3)
		New 9.6.5	AAP-Case Study-Participation Not Accepted in All Jurisdictions (previous 2.7
		New 9.6.6	AAP-Case Study-Not Accepted in All Jurisdictions (New)
		New9.6.7	AAP-Case Study-Not Accepted as an Included Industry (New)
		New 9.6.8	AAP-Case Study-Non-Registered vs “Should have” Registered (previously 5.2.1)
		New 9.6.9	AAP-Case Study-Clarification on Applic with 2 diff emp charged (previously 5.2.2)
		New 9.6.10	AAP-Case Study-Different Employer Charging and Impacts on Reimbursement (previously 5.2.3)
		New 9.6.11	AAP-Case Study-Reimbursement for Personal Coverage (previously 5.2.6)
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		New Mod 10	**New-Appeals** (previously Module 6)
		New 10.1	Appeals-Guiding Principles, #1-3
		New 10.2	Appeals-Key Considerations, #1-5
		New 10.3	Appeals-Best Practices, #1-3
		New 10.4	Appeals-Process. #1-5
		New 10.5	Appeals-Case Studies
		New 10.5.1	Appeals-Cost Relief Appeal (previously 3.7.1)
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		New Mod 11	**New-Dispute Resolution** (previously Module 7)
		New 11.1	Dispute Resolution-Introduction
		New 11.2	Dispute Resolution-Guiding Principles, #1-14
		New 11.3	Dispute Resolution-Key Considerations, #1-7

		New 11.4	Dispute Resolution-Best Practices, #1-7
		New 11.5	Dispute Resolution-Process, #1-9
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		New Mod 12	**New-Other Agreements** (previously Module 8)
		New12.1	Noise Induced Hearing Loss Agreement (previously 7.11)
		New 12.2	Other Agreements-GECA (previously 8.1)
		New 12.2.1	Other Agreements-Case Study (previously 8.1.1)
		New 12.2.2	Other Agreements-Case Study (previously 8.1.2)
		New 12.3	Other Agreements-CANUS (previously 8.2)
		New 12.4	Other Agreements-MARS (previously 8.3)
		New 12.4.1	Other Agreements-Case Study-MARS (previously 8.3.1)
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		SCHEDULES	**NEW-Schedules**
		A	Jurisdictional Cost Reimbursement Contact List (previously 1.2)
		B	Jurisdictional Benefits in Kind Contact List (previously 1.2)
		C	Template Letter-Right of Election for Out of Province Accidents (New)
		D	Template Form-AB Right of Election-for Out of Province Accidents (New)
		E	Template Letter-Right of Election for In-Province Accidents (New)
		F	Template Form-AB Right of Election for In-Province Accidents (New)
		G	Template Form-Right of Election-Appendix B of the IJA)-(New)
		H	Template Form-AB-Employer Confirmation of Interjurisdictional Accounts (New)
		I	Template Letter-Communication Prior to Reimbursement Request, Modified (previously Appendix A)
		J	Chart-Minimum Requirements to Establish a Claim (previously Appendix E)
		K	Template Letter-Interjurisdictional Employer Notice (New)
		L	Chart-Jurisdictional Information for Long Latency OD Claims (previously Appendix H)

		M	Template Letter-Request for Reimbursement (IJA or AAP), modified (previously Appendix B)
		N	Chart-Consent Requirement for Disclosure of Information for Different Scenarios (previously Appendix F)
		O	Template Letter-Full, Denial or Partial Reimbursement-IJA or AAP (previously Appendix C)
		P	Chart-Jurisdictional Maximum Compensation Rate for Loss of Earnings (previously 3.5)
		Q	Chart-Jurisdictional Constraints in Reimbursing a Request (previously 3.6)
		R	Form-Application for the AAP-Appendix D of the IJA-(New)
		S	Template Form-AAP Request for Transfer of Appendix-Appendix C of the IJA (previously Appendix D)
		T	Template Letter-Participation Update in the AAP-1rst letter (New)
		U	Template Letter-Reminder to Update Participation in the AAP-2nd letter (New)
		V	Template Letter-Final Notice to Update Participation in the AAP-3rd letter (New)
		W	Template Letter-Termination of Participation in the AAP-4th letter (New)
		X	Chart-Interjurisdictional Hearing Chart-2008 (previously Appendix G)
3.1	November 5, 2021	3.2	Right of Election-Key Considerations-#2-Added different beneficiaries for fatalities
		3.4	Right of Election-Process-#4-Added AB mobile app right of election forms
		7.3.5	Cost Reimbursement-Key Considerations-Limitations/Frequency-#17-Added limitation of no more than 2 year invoicing
		7.3.7	Cost Reimbursement-Cost Relief-#22-Added Covid cost relief application
		7.4	Cost Reimbursement-Best Practice-#5-Added FTP sites for file exchange
		7.4	Cost Reimbursement-Best Practice-#19-Added invoices no more than every 90 days
		7.4	Cost Reimbursement-Best Practice-#21-Added invoices not to exceed 2 years.

		7.5.2	Cost Reimbursement-Process-Requesting Reimbursement-#11-Added review every 90 days for ongoing costs.
		7.5.3	Cost Reimbursement-Issuing Reimbursement-#2-Added RTE for Mobile app in AB
		7.5.3	Cost Reimbursement-Issuing reimbursement-#6-Added discretion for invoices over 2 years
		9.2	AAP-Guiding Principles #1-Added clarification on Trucking Labour supply and Airlines
		9.2	AAP-Guiding Principles #11-Added effective date of changes and jurisdictional authority
		9.2	AAP-Guiding Principles #15 Added clarification on $200 minimum threshold
		9.3	AAP-Key Considerations #11-Added effective date of changes and jurisdictional authority
		9.3	AAP-Key Considerations #26-Added clarification on $200 minimum threshold
		9.4	AAP-Best Practices-#12-Added effective date of changes and jurisdictional authority
		12.4	MARS Agreement-Added Section 10.01 of MARS Agreement
			Added Resolution from 2021 Meeting
3.2	March 22, 2022	Table	Update Table of Contents
		7.4	?13-Added case study reference 7.6.4
		7.6.4	?4-Added case study reference 3.5.3 & 3.5.4
		9.3	#20-Ontario's position added
		12.2.3	Updated Resolution
		12.4.1	Updated Resolution
		Schedule A	Contacts updated for MB, BC
		Schedule B	Contacts updated for MB, BC,
		Schedule J	Font size corrected
		Schedule L	WHSCC changed to WorkplaceNL
		Schedule P	Max Earnings for 2022 added for all jurisdictions
		Schedule Q	WHSCC changed to WorkplaceNL
		Schedule Q	Update to Section 147 (2) of BC
		Schedule Q	$ for $ Agreement with NL and PEI Added
		Schedule Y	2004 Discussion Paper Added
		Schedule Z	2008 Memo-Disputed IJA Application-Added
		Schedule AA	2010 Memo-Review of Section 9-Added
		Schedule BB	2010 Training Guide-Dispute Resolution Best Practices-Added

3.3	February 7, 2023	4.3	#7 Clarification provided
		4.4	#5 Clarification provided
		4.5	#4 Clarification provided
		4.6.1	Case Study-Resolution added from 2022
		5.1	Update Occupational Disease to include jurisdiction's policies being silent on exposure consideration from other jurisdictions
		7.3.5	Update to COVID-19 and payment of invoice submissions.
		7.5.3	#6, added COVID-19 considerations when reimbursing invoice requests
		7.6.1	Case Study-Added clarification on repetitive strain injuries that can be considered
		9.2	1.Included Industries-Clarification provided on Drivers for Hire
		9.2	11. Clarification provided on backdating effective date of AAP, not all jurisdictions in agreement
		9.3	2. Included Industries-Clarification provided on Drivers for Hire.
		12.4.2	Added Case Study-MARS agreement Equivalent
		Schedule BB	Corrected Date to 2011
		Schedule CC	MARS Agreement 2016-09-23
		Schedule DD	MARS Implementation Guidelines 2019
3.4	May 5, 2023	12.4.2	Update to Case Study Title
		4.5	Process-Further clarification provided
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		Schedule A	Update to Ontario Contacts
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Module 1: Introduction

1.1 Purpose of the Guide:

The purpose of the guide is to provide practical information to assist jurisdictions in understanding and applying the concepts outlined in the Interjurisdictional Agreement (also referred to as the Agreement or the IJA) in a consistent manner. The guide aims to standardize the information required to execute the principles of the Interjurisdictional Agreement and simplify the associated processes. This guide will also identify best practices that have been developed to promote consistent application of the Interjurisdictional Agreement and facilitate cooperation amongst all jurisdictions.

This guide covers key sections of the Interjurisdictional Agreement which are broken down into modules and include the intent and limits of participation, right of election, provision of benefits in kind, occupational diseases, aggravation/worsening of a disability, details regarding cost reimbursement, limitations on readjudication, workings of the Alternate Assessment Procedure, jurisdiction for appeals, dispute resolution process, and identification of other applicable agreements.

Where applicable, each module will be broken down into key definitions, specific guiding principles, key considerations, agreed upon best practices and processes to follow, along with related case studies to assist in illustrating the specific scenarios that could arise.

The guide is intended to be used as a resource but, by no means meant to replace specific training for staff. All jurisdictions are still responsible for creating their own procedures and related training manual for administration of the Interjurisdictional Agreement by their operations staff.

This guide should be used in conjunction with the Protocols, Practices and Procedures (PPP) guide, which provides a summary of specific resolutions made on all topics discussed at the AWCBC IJA meetings, typically hosted on an annual basis. The specific discussions of these resolutions are always found in the meeting minutes, which are housed on the AWCBC IJA website. Reference can also be made to Schedules A and B for a list of contacts that can always be used as an additional resource.

Module 2: Intent and Application of the Interjurisdictional Agreement

The original spirit and intent of the Interjurisdictional Agreement is the overriding principle rather than a focus on the literal interpretation of each individual word/term in the agreement. The interpretation of the Interjurisdictional Agreement continues to evolve and therefore, requires a collaborative and consultative approach to its interpretation.

2.1 Intent of the Agreement (Section 1.2 of the IJA):

The intent of the Interjurisdictional Agreement is to ensure that:

- Employers are not paying double assessments for the same worker in more than one jurisdiction.
- Workers are not denied compensation benefits when more than one jurisdiction is involved (except in accordance with applicable Statutory Authority and Board policy).
- Jurisdictions are able to assist another jurisdiction by providing mutual aid and cooperation in the delivery of benefits and services to injured workers.
- Jurisdictions are able to administer and resolve interjurisdictional issues/disputes in an effective, efficient and timely manner.

2.2 Agreement Application (Section 3 of the IJA):

The Interjurisdictional Agreement clearly outlines the workers it applies to and the type of employers who are exempt from participation. These guiding principles are described below:

2.3 Guiding Principles (Section 3.1 and 3.2 of the IJA):

1. The Agreement applies to any beneficiary entitled to benefits arising out of injury, death, or occupational disease, by virtue of the Statutory Authority of the Board that adjudicated the claim, who temporarily or permanently transfers his/her residence to a jurisdiction of an Administering Board and requires benefits in kind and/or administrative services (Section 3.1 a) of the IJA).

2. The Agreement applies to a worker who is suffering from an occupational disease resulting in employment exposure in more than one jurisdiction (Section 3.1 b) of the IJA).

3. The Agreement applies to an employer whose workers are covered under the Statutory Authority of more than one jurisdiction (Section 3.1 c) of the IJA).

4. The Agreement does not apply to employers engaged in industries or occupations that are excluded from the Statutory Authority/policy in the jurisdiction where their work is performed (Section 3.2 a) of the IJA).

5. The Agreement does not apply to those employers with fewer workers than are required for coverage in the jurisdiction in which work is being performed (Section 3.2 b) of the IJA).

6. The Agreement does not apply to any employment covered by the *Government Employees Compensation Act* (GECA). (Section 3.2 c) of the IJA).

7. The Agreement does not apply where coverage may only be obtained by application in the jurisdiction where the work is performed, unless coverage is in force in both the jurisdiction of residence or usual employment and the one in which the work is performed (Section 3.2 d) of the IJA).

8. The Agreement does not apply where there is personal coverage for working employers, directors, and executive officers of a corporation, partners in a partnership, proprietors, or independent operators *unless* coverage is in force in both the jurisdiction or residence or usual employment and the one in which the work is performed (Section 3.2 e) of the IJA).

9. The Agreement does not apply to employers who are classified as self-insurers or as being individually liable for the entire cost of all injuries to their workers under the Statutory Authority of both the jurisdiction of residence or usual employment and the jurisdiction where the work is undertaken (Section 3.2 f) of the IJA).

Module 3: Right of Election

3.1 Guiding Principles (Section 4.1 of the IJA):

1. Where there is entitlement to benefits in more than one jurisdiction, the beneficiary is required by the Adjudicating Board to elect not to claim from other jurisdictions if the claim is accepted (Section 4.1 of the IJA).

2. All jurisdictions are required to ensure that their workers are properly advised of their right of election in more than one jurisdiction. Jurisdictions are not to inform workers of benefits they may be entitled to in other jurisdictions, but simply of their potential right of election in another jurisdiction (PPP, Workers' Rights-2013).

3. All jurisdictions are to work collaboratively to ensure that no worker goes without remedy or is denied compensation, except where Statutory Authority/Board policy applies (Section 1.2 b) and 1.4 of the IJA).

4. Workers/beneficiaries are not eligible to receive compensation benefits for the same date of accident from two separate jurisdictions.

5. The Adjudicating Board is required to advise all other jurisdictions, where the claim could be made, of the election, adjudication and disposition of the claim (Section 4.1 of the IJA).

3.2 Key Considerations:

1. When considering whether right of election may exist for another jurisdiction, it is important to recognize that not all jurisdictions have the same legislation for out of province accidents. For example, some jurisdictions will allow right of election for an out of province accident even when the worker does not reside in the home jurisdiction, providing that the majority of the work is done in the home jurisdiction. When in doubt, it is always important to err on the side of caution and obtain a signed right of election.

2. When considering whether right of election exists in another jurisdiction (for either in-province or out-of-province accidents), it is important to recognize that consideration should not be limited by whether the employer has an active account with the worker's jurisdiction of residency, but rather whether the employer was required to have an account at the time of the worker's injury. There are many circumstances where it may appear that the worker does not have the ability to elect with another jurisdiction as the employer has no active account, but upon further review it is determined that the employer was required to register (i.e. have coverage) with another jurisdiction, but failed to do so.

In cases of a fatality, there are circumstances where there may be more than one beneficiary in two different jurisdictions (i.e. common law spouse in one jurisdiction vs legal guardian of children in another jurisdiction). Therefore, it is possible to have two accepted claims in different jurisdictions, providing there is no duplication of benefits (PPP-Fatalities, Election/Designation of Different Beneficiaries, 2021; Also refer to Case Study 3.5.8)

3. Workers who have their claim accepted/benefits paid without a signed right of election may have the ability to re-elect with another jurisdiction as they are seen to not have been properly informed of their rights. Some jurisdictions will not interpret the tacit election as a valid election (PPP- Reimbursement Protocols-Re-Election, 2019).

4. Each jurisdiction has the authority to accept a claim without a signed right of election, however, it then assumes the risk of possible duplication of benefits and no reimbursement from the accident jurisdiction, by doing so (PPP- Election-Form Requirement, 2017 & 2018). Please refer to PPP for details when applicable reimbursement without a signed right of election can occur (Reimbursement Protocols, Election Form, 2017).

5. In circumstances where a worker receive compensation from two separate jurisdictions for the same accident, jurisdictions are encouraged to work collectively and negotiate an amicable solution to all parties (PPP-Double Compensation-2000 & 2018).

6. Re-election is permitted with another jurisdiction when the worker's claim is denied by the original jurisdiction with whom the worker initially elected. The worker is considered to have removed his/her right of appeal (with the initial jurisdiction) once they sign the election with the second jurisdiction.

7. In cases of re-election, reimbursement can still be applicable from the original jurisdiction despite the fact that it originally denied the claim (providing the worker was in fact injured in the original jurisdiction and all other provisions of Section 9 are met). Please refer to the case study in Module 3: Right of Election, 3.5.4, Right of Re-Election and Claim Denial (2018 AWCBC Meeting) for further details.

3.3 Best Practices:

1. There is a contractual duty to obtain a signed right of election form (as outlined in Section 4.1 of the IJA). Regardless whether there is a duty to obtain an election under a jurisdiction's governing legislation, each jurisdiction is to administer claims so they work in harmony within the spirit and intent of the IJA (PPP-Election-Form Requirement, 2010).

2. The best practice remains to obtain a signed right of election any time there is suggestion of another involved jurisdiction (i.e. worker's residence is in a different jurisdiction than the location of accident).

3. A signed right of election is essential *prior* to proceeding with acceptance of a claim in order to prevent possible double compensation, re-election and reimbursement issues in the future.

4. Upon receipt of the worker's signed right of election, the Adjudicating Board is to promptly advise all applicable jurisdictions.

3.4 Process:

1. The Adjudicating Board will begin by confirming employer charging. Next steps will include determination of where the worker is injured, where he/she resides, in what jurisdiction they are usually employed and/or have a substantial connection to.

2. If the worker is injured outside of the Adjudicating Board, then apply the section (s) of Statutory Authority governing out of province accidents and offer right of election, if applicable. It is important to note that some jurisdictions allow right of election for workers who do not reside in the Adjudicating Board's jurisdiction. Send out applicable letters/forms advising of the worker's right of election (sample letter/forms in Schedules C, D and G).

3. If the worker is injured in the Adjudicating Board, but resides elsewhere, it is possible that the worker may be able to elect in his/her jurisdiction of residency. Right of election in the jurisdiction of residency would only be applicable, providing the employer has a valid account or is expected to have an account. If it is determined that the employer has or is required to have a valid account in the jurisdiction of residency of the worker, appropriate letters/forms outlining right of election can be sent to the injured worker (Refer to sample letter/forms in Schedule E, F and G).

If it is determined that the employer is not expected to have an account in the jurisdiction of residency of the worker, right of election would not be available to the worker. The Adjudicating Board can have the employer complete a form similar to the one in Schedule H.

4. Once the signed right of election form is received*, send the appropriate documentation and letter to the other applicable jurisdiction (s). (Refer to Schedule I for sample letter regarding communication prior to reimbursement request or transfer of assessment request. The chart in Schedule J also outlines the minimum requirement of each jurisdiction to establish a claim.)

   ***Please Note**: The Alberta WCB introduced a mobile app where workers are able to sign valid electronic right of elections for out of province accidents/out of province workers. The app does not include a witness signature, but as a result of other identity verifications, the validity of the form was not jeopardized. All jurisdictions have provided written confirmation that these election forms will be accepted based on the modifications noted above.

5. Proceed with adjudication for acceptance of the claim after receipt of election has been completed.

6. Once the Adjudicating Board accepts the claim, they are to provide the employer with written notice of a possible request for reimbursement request, once costs exceed $1000 (under Section 9.5 and 9.9 of the IJA) and the impact on their account in the adjudicating jurisdiction, once the Reimbursing Board accepts responsibility. The employer should also be advised that cost relief considerations will be handled by the Reimbursing Board (Refer to Schedule K for a sample letter).

7. If no right of election exists or the injured worker chooses not to elect with the Adjudicating jurisdiction, the Adjudicating Board is to advise the other applicable jurisdictions accordingly (Sample letter can be referenced in Schedule I, Option 1 or Option 2 and reference to the Chart in Schedule J which outlines the minimum requirement of each jurisdiction to establish a claim.)

8. If the injured worker's claim with an Adjudicating jurisdiction has been denied, there is the possibility that the worker would have the ability to re-elect with another jurisdiction. Further investigation would need to occur with the Adjudicating jurisdiction to determine whether the claim was ever accepted, whether right of election was denied and/or whether the worker was simply denied further benefits based on non-compliance, aggravation acceptance ended, or some other factors. When reviewing for re-election, consideration would also need to be given as to whether there was any pending appeal. If

considered appropriate, a jurisdiction may proceed with offering and obtaining signed right of election.

3.5 Case Studies-Right of Election:

The following is a list of case studies that help illustrate some of the practical situations that can arise and agreed upon resolutions based on the guiding principles and best practices identified in this module.

They have been broken down into the following:

3.5.1 Workers with No Right of Election (2010 AWCBC Meeting):

Fact Scenario:

- A trucking company establishes an account with Jurisdiction A for their travels from that province into the USA. They do not participate in the Alternative Assessment Procedure.
- Worker is injured in the USA (not a jurisdiction of Canada).
- Injured worker is a resident of Jurisdiction B.
- The worker may have travelled through Jurisdiction C, but it is unclear whether he had a substantial work connection there or could claim there.
- Jurisdiction A declines right of election indicating that the worker did not have a substantial connection to working in their jurisdiction.
- Jurisdiction B also declines right of election indicating that the employer was not required to have an account as it was required to have more than 3 workers in their province, which it did not.
- If a substantial work connection was established with Jurisdiction C, then the worker would have been able to elect with Jurisdiction C, with the expectation that the employer pay premiums to Jurisdiction C as at the time of the accident, the employer did not have an account. It was noted that if the worker was an independent operator, he would not have been able to elect in Jurisdiction C.

Resolution:

- Employers should check with every jurisdiction's Board that workers travel through (In this case, Jurisdiction A and C) to determine appropriate coverage (2010 IJA Committee Meeting).
- At the time of establishing the account with Jurisdiction A, discussions should have occurred with the employer regarding the workers they employed to determine whether they would be able to elect with Jurisdiction A (i.e. based on residency, usual place of employment, etc).
- In addition, the employer should have been directed to Jurisdiction C to determine whether an account was required.

3.5.2 Right of Re-Election and Form Requirement (2011 AWCBC Meeting):

Fact Scenario:

- Worker was injured in Jurisdiction A.
- Injured worker is a resident of Jurisdiction B.
- Jurisdiction A adjudicates the claim and pays benefits to the worker, without a signed right of election as the worker was injured in their jurisdiction. Jurisdiction A did not have binding legislation to enforce a right of election for in-province injuries for out-of-province residents.
- Several months later, the worker indicated that he was unaware that he could file his claim in Jurisdiction B and subsequently requested benefits from Jurisdiction B.
- Jurisdiction B denies the worker's right of election on the grounds that the worker made a tacit election by filing with Jurisdiction A and that his claim was accepted, with compensation benefits paid and collected there.
- Jurisdiction B also pointed out that the six month time limit for filing a claim with Jurisdiction B had not been respected, which further supported their denial to offer the worker the right of election.
- The worker appealed the decision and Jurisdiction B's Court of Appeal confirmed that it was possible for a worker to "change his mind" and request benefits from the Jurisdiction B as he had never been formally offered or signed a right to elect by Jurisdiction A, regardless of the fact that his received compensation issued from Jurisdiction A. The absence of an election form signed by the worker from Jurisdiction A greatly influenced the judge's ruling.
- It was noted that it would have been much more difficult for the worker to argue that he had not been aware of his election options had he/she expressed his/her choice in writing by completing a right of election form.

Summary:

- If a Board adjudicates a claim and pays benefits to a worker (Jurisdiction A) without a signed right of election, some Boards (in this case, Jurisdiction B) are obligated to review and accept the worker's subsequent request for benefits from Jurisdiction B, regardless of whether they received benefits from Jurisdiction A.
- As a result of these recent decisions, Jurisdiction B revised their election form to now include a personalized letter which clearly outlines the available choices available to the worker encouraging him/her to seek information from the other jurisdiction, along with a summary of possible benefit entitlement if the worker claimed with Jurisdiction B.
- These decisions from the appeal body of Jurisdiction B certainly emphasize the importance of all jurisdictions to adequately inform workers of their potential right of election in other jurisdictions where there may be entitlement in more than one jurisdiction (e.g. where the injured workers reside in a different jurisdiction than where they were injured), in accordance with Section 4. 1 of the IJA, regardless whether there was supporting Statutory Authority.
- Another Board has added a clause to its election form/letter indicating that if the worker elects with their jurisdiction, they have the right to require the worker to travel back to their jurisdiction for medical exams regardless if the worker has moved to a different jurisdiction after the accident.

  This reinforces the best practice to obtain a completed right of election, to prevent potential issues from arising, which is in accordance with Section 4.1 of the Interjurisdictional Agreement.

3.5.3 Right of Re-Election and Claim Denial (2012 AWCBC Meeting):

Fact Scenario:

- Worker elects benefits from Jurisdiction A.
- Jurisdiction A denies the claim.

Questions and Resolution:

- What is status of worker's election?
  The worker's election in Jurisdiction A would be considered void, as if the worker never elected in Jurisdiction A, since they denied the worker's claim.

- Can the worker to elect in another jurisdiction?
  The worker **would** have the ability to elect in another jurisdiction as the right of election in Jurisdiction A is considered void.

3.5.4 Right of Re-Election and Claim Denial (2018 AWCBC Meeting): *Extension of Case Study 3.5.3 (2012 AWCBC Meeting)

Fact Scenario:

- Worker is injured in Jurisdiction A
- Worker is a resident of Jurisdiction B.
- Right of election was appropriately offered in both Jurisdictions A and B.
- Worker elects in Jurisdiction B, however, the claim is NOT accepted.
- Worker then requests election in Jurisdiction A, as claim was denied in Jurisdiction B.
- Jurisdiction A **denies** right of election as the worker was already offered and accepted right of election in Jurisdiction B. Jurisdiction A indicates that they have no Statutory Authority to allow for re-election once another jurisdiction has received and accepted right of election, regardless of claim denial.

Questions and Resolution:

- Is it appropriate for Jurisdiction A to deny worker's right of election despite having the claim already denied in Jurisdiction B?
  No, Jurisdiction A cannot deny right of election despite having the claim denied in Jurisdiction B as the election is considered void once denial occurs.

- Does the absence of Statutory Authority in Jurisdiction A prevent them from accepting the right of election after claim denial in Jurisdiction B as there are no concerns regarding any duplication of benefits?
  No, there is nothing preventing Jurisdiction A from accepting the right of election as there is no Statutory Authority which prohibits re-election. There are no concerns regarding duplication of benefits.

- Does Section 4.1 of the IJA permit the worker to elect in Jurisdiction A since his claim was not accepted in Jurisdiction B?
  Yes, Section 4.1 allows Jurisdiction A to offer right of election as the claim was not accepted in Jurisdiction B.

3.5.5 Election for Fatality Claims and Notification to Respective Jurisdictions (2018 AWCBC Meeting):

Fact Scenario:

- Worker is fatally killed in Jurisdiction A.
- Worker is a resident of Jurisdiction B.
- Jurisdiction B accepts the claim without a signed right of election. Benefits are issued to the dependent.

- A claim is established in Jurisdiction A with limited information.
- Jurisdiction A requests further information from Jurisdiction B in order to review and determine appropriate right of election to the dependent.
- Jurisdiction B refused to provide information to Jurisdiction A, indicating that they would be violating FOIP legislation. Furthermore, Jurisdiction B advised that they had already accepted the claim and issued benefits accordingly and felt that it was not a concern to Jurisdiction A.
- Jurisdiction A is unable to review and/or determine right of election based on limited information.

Questions and Resolution:

- Is it appropriate for Jurisdiction B to accept the claim without a signed right of election, under Section 4.1 of the IJA?
  Jurisdiction B can accept the claim without a signed right of election, however, this is not the recommended best practice.

- Is Jurisdiction B responsible to ensure that the dependent has the opportunity to review right of election options with Jurisdiction A, with or without a right of election signed?
  The best practice is to ensure that a worker/dependent is aware of all right of election options.

- Is it appropriate for Jurisdiction B to withhold information to Jurisdiction A, under the belief that they would be violating FOIP legislation?
  If there is concern regarding sharing of IJA claim information between jurisdictions, based on existing privacy legislation, it is recommended that Interjurisdictional Coordinators become involved to resolve the issue.

3.5.6 Double Compensation and Overpayment Recovery (2018 AWCBC Meeting):

Fact Scenario:

- A worker received compensation from Jurisdiction A.
- However, the worker also received compensation from Jurisdiction B (either intentionally or unknowingly accepted/issued by the jurisdiction).
- Jurisdiction A indicated that they have Statutory Authority which prohibits a worker from receiving benefits from their jurisdiction and another jurisdiction. If duplication of compensation is confirmed, the worker is deemed to have forfeited their right to compensation and are required to repay the compensation paid to them. Jurisdiction A also indicated that it has the power to recover, as a debt, the amount of any compensation paid to a person that exceeds the amount to which he/she was entitled, with remedies including set-off.

Questions & Resolutions:

- Can Jurisdiction B assist Jurisdiction A in recovering the overpayment, by reducing the amount of compensation they are paying the worker and/or collecting the overpayment on their behalf?
  The majority of jurisdictions confirmed that they do not have the ability to direct workers to repay any compensation paid to them by another jurisdiction in error nor withhold entitlement to workers to offset the overpayment from another jurisdiction.

  Jurisdictions were encouraged to work together to come up with an amicable solution, if possible.

3.5.7 Election, Re-Election and Reimbursement (2019 AWCBC Meeting)

Fact Scenario:

- Worker is injured in Jurisdiction A (date of accident is November 2016).
- Worker is a resident of Jurisdiction B.
- The worker files a claim with Jurisdiction A who accepts the claim for a knee injury and issues benefits. No right of election form was sent and/or signed by the worker.
- Two months after the accident, Jurisdiction A advises the worker that the residual problems with his knee are not related to the accident of November 2016 and benefits are ended.
- The worker later files a claim with Jurisdiction B for the same November 2016 accident as Jurisdiction A limited compensation for the accident injury.
- Jurisdiction B reviews the information and denies the claim for the injury of November 2016.
- However, Jurisdiction B considers the worker's knee problems a relapse of a previous accident that occurred in 1989, *solely* in that Jurisdiction B.
- The worker submits an appeal of the decision made by Jurisdiction B.
- Jurisdiction B has advised that previous appeal body decisions have ruled that a "tacit" election (in this case from Jurisdiction A) is not considered a valid election and therefore, have allowed a worker to claim benefits with their jurisdiction (i.e. Jurisdiction B) despite the fact that the claim was initially accepted (and benefits paid) by Jurisdiction A.

Questions & Resolutions:

- Should Jurisdiction A have had the worker sign an election form?
  Yes, there was an obligation for Jurisdiction A to have a right of election signed as the worker may have had the possibility to elect in his home province (Jurisdiction B).

- Should Jurisdiction B have had the worker sign an election form?
  No, it was adjudicated as a relapse of a previous claim in Jurisdiction B only.

- If the objection/appeal is allowed in Jurisdiction B and the event of November 2016 is recognized as a work accident (and not a relapse of an event in 1989), can Jurisdiction B request reimbursement from Jurisdiction A knowing that no election form was sent by Jurisdiction B to Jurisdiction A?
  Yes. Jurisdiction B would not be at fault for failing to obtain a right of election in the beginning as based on the facts presented at the time, there was no indication that the worker was injured outside of their province. However, if Jurisdiction B is directed to accept the claim (based on appeal decision), they would still be able to have a **new** right of election signed by the worker as it would be a new decision and it would prevent the worker from pursuing any further appeals available in Jurisdiction A.

- If a request for reimbursement is sent to Jurisdiction A, would Jurisdiction A be justified in refusing to reimburse Jurisdiction B because it previously accepted the claim?
  No. Jurisdiction A failed to obtain a signed right of election before accepting and issuing benefits. Therefore, Jurisdiction A would be responsible for any further costs incurred by Jurisdiction B, where the worker was now pursuing his claim.

3.5.8 Election and Designation of Different Beneficiaries (2021 AWCBC Meeting):

Fact Scenario:

- A worker was fatally killed in Jurisdiction A.
- The worker resided in Jurisdiction B.
- The worker had a common law spouse and also had 2 children with a different partner (ex-wife).
- Jurisdiction A determined that the common law spouse did not meet the criterion required by the jurisdiction's supporting legislation and therefore, had no right of election. However, Jurisdiction B determined that the common law spouse was entitled to right of election, along with significant benefits for herself and a portion to the children.
- Jurisdiction A determined that the biological mother of the two children was the legal guardian and eligible for right of election on behalf of the two children. Jurisdiction B determined that the biological mother had no right of election with their jurisdiction.

- There was a significant difference in benefits to the children depending on where the right of election was filed (i.e. Jurisdiction A being significantly more).

Questions:

- Which right of election has precedence?
  In this case, there is no precedence as both the legal guardian and the common law spouse had entitlement in separate jurisdictions. However, to avoid duplication of benefits for the dependent children, their election can only be made in one jurisdiction.

- Would it be appropriate for Jurisdiction B to adjudicate the claim since both the children and the common law spouse would receive benefits from that jurisdiction?
  No, as noted above, if the right of election was filed in Jurisdiction B the dependent children would be entitled to significantly less than if filed with Jurisdiction A. In addition, the common law spouse would not be entitled to any benefits in Jurisdiction A. One beneficiary should not take precedence over another.

- If Jurisdiction B accepts the right of election, can they request reimbursement from Jurisdiction A, since this is where the accident occurred?
  Jurisdiction A can reimburse Jurisdiction B only for the entitlement of benefits permissible under its Statutory Authority, which would only be for the dependent children (if they had elected to claim with Jurisdiction B). As noted above, the common law spouse did not meet the Statutory Authority requirements to be offered right of election with Jurisdiction A.

Resolution:

Since there were two different beneficiaries, it was agreed that Jurisdiction A would accept right of election of the ex-wife for the dependent children and Jurisdiction B would accept the right of election from the common law spouse and only issue benefits to the common law spouse. By doing so, there would be no duplication of benefits received to beneficiaries.

Jurisdiction A would not be able to issue reimbursement to Jurisdiction B as the common law spouse was not entitled to benefits in Jurisdiction A. Since the accident occurred in Jurisdiction A and the costs of the claim were much higher in Jurisdiction A, it was agreed that the employer's firm experience would *only* be charged for the fatality claim in one jurisdiction, that is Jurisdiction A, in accordance with the Interjurisdictional Agreement. Jurisdiction B agreed to provide cost relief to the employer for all costs in their jurisdiction.

Module 4: Benefits in Kind

4.1 Benefits in Kind Definitions (Section 6 of the IJA):

Benefits in Kind
Benefits in Kind refer to financial assistance or services that are provided to one of the jurisdictions, for an injured worker (who has moved out of the jurisdiction of the Adjudicating Board), in the form of medical treatment (related services and expenses), vocational rehabilitation services and expenses, provision or repair of prosthetic appliances, and or other reasonable services (Section 2.1 g)of the IJA).

Administering Board
An Administering Board is a jurisdiction (other than the Adjudicating Board) who provides administrative services and benefits in kind to a worker who has moved out of the jurisdiction where the claim was being adjudicated (Section 2.1 c) of the IJA).

Adjudicating Board
An Adjudicating Board is a jurisdiction that makes a decision on entitlement of benefits or determination of assessment matters (Section 2.1 a) of the IJA).

4.2 Guiding Principles (Section 1.3 d), 6 and 15.2/15.3 of the IJA):

1. All participants in the IJA agree to provide mutual aid and cooperation in the delivery of benefits and services to both workers and employers:
    - Where a worker has moved to another jurisdiction from the one in which the claim was accepted.
    - In the administration of assessment matters involving more than one jurisdiction (Section 1.3 d) of the IJA).

2. Financial assistance or services can be arranged/provided by any jurisdiction (Administering Board) for a worker who moves (either temporarily or permanently) from the jurisdiction who is adjudicating his/her claim, upon request of the adjudicating jurisdiction (Section 6.1 of the IJA-Benefits by Administering Board).

3. Once the services are completed, the costs are reimbursed in *full* (unless agreed upon otherwise) by the Adjudicating jurisdiction (Section 6.2 of the IJA-Refund by Adjudicating Board).

4. The Adjudicating Board can delegate to the Administering Board to assist in handling any complaint, request for review or reconsideration relating to benefits in kind services provided (Section 15.2 of the IJA-Enquiries to aid Appeals).

5. All complaints received by a worker or employer for benefits in kind services provided or administrative services provided are handled by the Administering Board, the jurisdiction that provided the services (Section 15.3 of the IJA-Complaint to Administering Board/PPP-Benefits in Kind-Complaints-2017).

4.3 **Key Considerations:**

1. Although Independent Medical Examinations and Permanent Functional Impairments Examinations are most commonly requested by an Adjudicating Board, benefit in kind services can also include medical treatment, vocational rehabilitation services, provision or repair of prosthetic appliances, and any other services available to the beneficiary (PPP-Benefits in Kind-Medical Exmainations-2006).

2. When arranging for medical services and/or treatment, it is up to individual jurisdictions to negotiate who chooses the service provider, whether that be the Administering Board who may have experience/knowledge of the availability and/or expertise of their contracted providers OR the Adjudicating Board who may prefer to choose independently (PPP-Benefits in Kind-Medical Examinations-2011).

3. It is critical that the Adjudicating Board define the information required when requesting benefit in kind examinations from the Administering Board, so the final report is of value (PPP-Benefits in Kind-Medical Examinations-1997).

4. It is the responsibility of the Administering Board to follow-up with the Adjudicating Board to ensure that there is an understanding and agreement on the service requested and expectations associated with it (PPP-Benefits in Kind-Medical Examinations-2014).

5. If there is a gap in the length of time it takes to arrange the requested medical appointments, it is crucial that the Administering Board update the Adjudicating Board and the worker/employer accordingly (PPP-Benefits in Kind-Medical Examinations-2008).

6. The Administering Board can negotiate in advance on how they wish to request reimbursement for benefit in kind services. They may prefer to issue reimbursement directly to the provider and then request reimbursement from the Adjudicating Board or simply have all services billed at the end to the Adjudicating Board. Regardless how reimbursement is requested, costs are always reimbursed in *full* to the Administering Board (PPP-Benefits in Kind-Payment-2011).

7. The Administering Board is responsible for a total of **$5000 per year** in translation costs. The remaining costs would be absorbed by the Adjudicating Board requesting the services. If there is any potential for further concern, then this should be discussed prior to arranging benefit in kind services (PPP-Translation-Benefits in Kind-2018, 2021, & 2022 & 2023).*

8. Designated contacts for outgoing requests for Benefits in Kind services are outlined in Schedule B of this guide (PPP-Benefits in Kind-Contact Information-1999 & 2021).

   *This is still under discussion at the next AWCBC meeting in May 2024 to reach consensus amongst all jurisdictions.

4.4 Best Practices:

1. Mutual aid and cooperation are key in the delivery of benefits and services to workers who have moved to another jurisdiction.

2. When arranging benefit in kind services, communication is key between the Adjudicating Board and Administering Board in order to provide the best level of service possible.

3. Prior to requesting benefit in kind services, the Adjudicating Board should provide the Administering Board with complete medical documentation along with detailed information as to the type of service they are requesting and specific questions they are looking to answer.

4. The Adjudicating Board is to advise both the injured worker and the employer at the onset of the process and jurisdiction responsible (i.e. Administering Board), should either party be dissatisfied with the service provided.

5. The Administering Board is only responsible for a total of $5000 per year in translation costs for any benefits in kind services. Any costs in excess of $5000 per year are to be covered by the Adjudicating Board requesting the services.

   This is still under discussion at the next AWCBC meeting in May 2024 to reach consensus amongst all jurisdictions.

6. The Administering Board should invoice the Adjudicating Board within 90 days of the completion of all services.

7. The Adjudicating Board should reciprocate and issue reimbursement in full to the invoice within 90 days of receipt.

8. Any service complaints received by the worker or employer for services rendered are to be handled directly by the Administering Board. Please also refer to Module 10 for further details.

4.5 Process:

1. The Adjudicating Board is to determine the service that is required from the Administering Board (i.e Independent Medical Examination, Permanent Functional Impairment examination, vocational services, etc,.).

2. The Adjudicating Board is to contact the appropriate individual from the Administering Board based on the Benefits in Kind Contact list (Refer to Schedule B).

3. The Adjudicating Board is to provide a detailed summary, including all related medical documents to the Administering Board including the worker's name, claim number, address, contact information, exam requested and questions needing answered (Refer to Schedule N for consent requirements for disclosure of information to other Boards, for different scenarios).

4. If the Administering Board's service provider requires the documents in a different language, the Administering Board will have them translated to the appropriate language. Any costs in excess of **$5000 per year** are to be billed back to the Adjudicating Board. If it is determined at the onset that excessive translation services will be required, the Administering Board is to contact the Adjudicating Board to determine how to handle the translation. It may be considered more cost effective for the Adjudicating Board to have the documents translated themselves or alternatively, the Adjudicating Board may transport the injured worker back to the Adjudicating Board's jurisdiction for the treatment (if the worker is fit for travel) or make other necessary arrangements.

   This is still under discussion at the next AWCBC meeting in May 2024 to reach consensus amongst all jurisdictions.

5. The Adjudicating Board is to discuss with the Administering Board which jurisdiction is going to arrange the worker's travel (air, bus, escorted travel, etc.), hotel accommodations, food allowance and other related transportation costs.

6. The Adjudicating Board is to advise both the worker and employer of the process involved should there be any concerns or dissatisfaction with services provided. That is, that any concerns would need to be redirected to the Administering Board to review and investigate.

7. The Administering Board will need to advise the Adjudicating Board as to whether there is an option for the worker to choose their own service provider (i.e. vocational service provider or specialist for medication examinations), or whether the Administering Board would choose the provider on their behalf.

8. The Administering Board is required to provide the Adjudicating Board with a general timeframe for the examinations/services that are being requested (i.e wait time) to ensure that they still wish to proceed.

9. Once the services/examinations have been completed, the Administering Board is to send a copy of the report to the Adjudicating Board to review with the worker.

10. All service complaints received by the worker or the employer should be directed back to the Administering Board to address accordingly. Please also refer to Module 10 for further clarification.

11. The Administering Board will send an invoice with all associated costs within 90 days to the Adjudicating Board for full reimbursement.

12. The Adjudicating Board will issue reimbursement to the invoice within 90 days.

4.6 Case Studies-Benefits in Kind:

The following is a case study that will help illustrate a practical situation that can arise and agreed upon resolution based on the guiding principles and best practices identified in this module.

4.6.1 Translation Services for Benefits in Kind (2018 AWCBC Meeting):

Fact Scenario:

- The Adjudicating Board requested an Independent Medical Examination from the Administering Board as the worker resided in the jurisdiction of the Administering Board and was not able to travel.
- The Adjudicating Board sent complete medical documentation along with detailed information as to the type of service they were requesting and specific questions they are looking to answer.
- Prior to arranging the examination, the Administering Board had all of the documentation professionally translated. The costs of the translation services exceeded $10,000.
- Once all services were completed, the Administering Board sent an invoice to the Adjudicating Board for all costs, including the $10,000 in translation services.
- The Adjudicating Board reimbursed all costs, with the exception of the $10,000 in translation services as they indicated that it was previously

agreed that all jurisdictions were responsible for their own translation services (as per the PPP-Translation-Cost Relief-Reimbursement Requests under IJA/AAP-1997 & 2012)*.

- The Administering Board argued that they were providing a service for the benefit of the Adjudicating Board and should not be responsible for these excessive translation services and the costs should be absorbed by the employer in their jurisdiction.

Questions & Resolutions:

- Is it appropriate for the Adjudicating Board to deny reimbursement of the translation services?
  Yes, previous discussions at the annual AWCB conferences concluded that each jurisdiction is responsible for their own translation services, being that we are a bilingual country. *Please see updated resolution below.

- Is the argument provided by the Administering Board reasonable in that they should not be held responsible for excessive translation services considering that they were providing a service on behalf of the Adjudicating Board and there was another viable solution (i.e. the Adjudicating Board reimburse all costs and the employer would be charged appropriately for these costs).
  No, the argument is not reasonable. Being a bilingual country, it is each individual jurisdiction's to cover their own translation costs as part of their administrative budgets. *Please see updated resolution below.

- Was there a better way that this situation could have been handled?
  Yes, prior to arranging benefit it kind services, discussions should have occurred between the two jurisdictions with respect to the translation services that were going to be necessary to come up with an amicable solution to both parties.

  *Updated Resolution (2022 AWCBC Meeting)
  This case study was raised for further discussion as there were some questions as to whether the above resolutions were in fact accurate and agreed upon by all jurisdictions. One jurisdiction agreed with the above resolution and reiterated that since we were a bilingual country, each jurisdiction should be responsible to cover translation costs as part of their administrative budget, regardless of the costs, for all services under the IJA, including benefits in kind translation services.

  However, the majority of jurisdictions raised concern with this approach and felt that translation requirements for benefits in kind services was a very different situation than translations services for cost reimbursement under the IJA. Benefits in kind services were services where the

Adjudicating Board was requesting *assistance* from an Administering Board and as a result, no costs should be incurred (regardless, how minimal) to that Administering Board, particularly since they could not charge them back to any employer. It was agreed that employers in one particular jurisdiction (i.e. French speaking) would be unfairly disadvantaged by being charged for translation services in the majority of jurisdictions, whereas employers in all other jurisdictions would never be charged given that the French speaking province had internal resources to provide benefits in kind translation services in English.

As a result of these differing opinions a consensus was reached whereby each jurisdiction agreed to incur a **maximum of $5000 per year** for translation services, relating to Benefits in Kind. Any costs in excess of $5000 were agreed to be billed to the Adjudicating Board requesting the services.

This is still under discussion at the next AWCBC meeting in May 2024 to reach consensus amongst all jurisdictions.

Module 5: Occupational Disease

5.1 Occupational Disease Definitions (Section 7 of the IJA):

Occupational Disease
Occupational disease is a disease of gradual onset or incremental progression resulting from exposure during employment to conditions or substances detrimental to health where the disease is due to exposure from employment in more than one jurisdiction, and includes, but is not limited to asbestosis, silicosis, pneumoconiosis, cancers caused by exposure to asbestos or radiation, industrial deafness, and vibration included white finger disease (Section 2.1 k) of the IJA).

Other occupational diseases can include infectious/communicable diseases, diseases caused by contact with parasites, various poisonings, firefighter's primary site cancers, respiratory conditions (asthma), some neurological conditions caused by exposure to chemicals/solvents and other skin conditions (dermatitis).

Occupational chronic stress, occupational chronic pain, or occupational noise-induced hearing loss are **not** classified as occupational diseases as part of the IJA.

Psychological injuries are **not** classified as Occupational Diseases (PPP, Occupational Disease-Psychological Injuries-May 2019).

Please Note: The majority of jurisdictions do not have legislation, policies and/or procedures in place to consider exposure from other jurisdictions. Section 7 of the IJA mandates that exposure from all jurisdictions should be considered in order to make a determination if there was sufficient exposure to support a claim (AWCBC 2022 meeting minutes).

Contributing Board
A Contributing Board is a Board

i) In whose jurisdiction a worker has had occupational exposure, which has contributed to the development of the occupational disease, and
ii) Which agreed to Section 7, and
iii) May include an Adjudicating Board (Section 7.1 a) of the IJA).

Contributing Exposure
Contributing exposure is occupational exposure in the jurisdiction of a Contributing Board (Section 7.1 a) of the IJA).

Occupational Disease Claim
An occupational disease claim is a claim made by a person who is either a worker suffering from an occupational disease, or the dependent of a deceased worker whose death was attributable to an occupational disease.

5.2 Guiding Principles (Section 7 of the IJA):

1. For the purpose of this agreement, occupational chronic stress, occupational chronic pain, or occupational noise-induced hearing loss are **not** classified as occupational diseases as part of the IJA (Section 7.11-Section 7 does not apply).

2. When calculating total occupational exposure, exposure is calculated in **months** of occupational exposure, rounded up (Section 7.8 of the IJA-Exposure in months).

3. Where there is entitlement to benefits in more than one jurisdiction in respect of an occupational disease, the beneficiary is required by the Adjudicating Board to elect *not* to claim from other jurisdictions, if the claim is accepted (Section 7.2 of the IJA-Election).

4. The Adjudicating Board is required to advise all other jurisdictions, where the occupational disease claim could be made, of the election, adjudication and disposition of the claim. If the claim is denied by the Adjudicating board, the occupational disease claim may be made to the Board in another jurisdiction in which the worker has occupational exposure (Section 7.2 of the IJA-Election).

5. If an Adjudicating Board allows a claim and pays benefits without a right of election being signed, the Contributing Boards are not responsible for any costs of the claim (Section 7.12 of the IJA-Effect of No Election)

6. There is no reimbursement of costs between jurisdictions if a Contributing Board would have accepted the claim based solely on the occupational exposure within its own jurisdiction (Section 7.3 of the IJA-No Reimbursement).

7. If a Contributing Board cannot allow a claim based solely on exposure within its own jurisdiction (Section 7.3), they can still adjudicate the claim if 30% of the total contributing exposure (calculated in months) occurred in their jurisdiction (Section 7.4 of the IJA-Partial Exposure with Contributing Board).

8. If 30% of the total exposure (calculated in months) was **not** in the jurisdiction of the Contributing Board then the Board can;
    - adjudicate the claim; or
    - refer the claim to the Board where the longest exposure occurred (if one or more Boards has 30% total contributing exposure); or
    - refer the claim to the Board where the most recent exposure occurred (if the longest contributing exposures over 30% are equal) (Section 7.4 of the IJA-Partial Exposure with Contributing Board)

9. The Contributing Boards are to accept the Adjudicating Board's decision regarding allowance of the claim, with no re-adjudication of the decision (Section 7.5 of the IJA-Acceptance of Determination by Adjudicating Board).

10. Costs must exceed $5000 in order for apportionment/sharing of costs to occur between Contributing Boards (Section 7.9 of the IJA-Costs must exceed $5000).

11. The Adjudicating Board (who has accepted the claim and paid full claim costs) can request reimbursement from another Contributing Board (where the claim was originally submitted) if that Board did not apply the rules under subsection 7.4, where there was 30% exposure in jurisdiction of Contributing Board or less than 30% with multiple Boards (Section 7.6 of the IJA-Contribution Request by Adjudicating Board).

12. If subsection 7.4 applies (allowing a claim when sole exposure in a jurisdiction is not sufficient to accept a claim), claim costs will be shared by all Contributing Boards (once they have exceeded $5000.00) as follows;
    - The Adjudicating Board shall apportion claim cost among Contributing Boards based on duration of exposure.
    - The Adjudicating Board shall invoice quarterly for its share in the cost of the claim (not in advance).
    - Contributing Boards will pay the invoice from the Adjudicating Board within 60 days subject only to statutory limitations (Section 7.7/7.9 of the IJA-Sharing Costs/Costs must exceed $5000).

5.3 Key Considerations:

1. Claims for occupational chronic stress, occupational chronic pain, occupational noise-induced hearing loss and psychological injuries do not fall under the Occupational Disease section of the IJA (PPP-Occupational Disease-Psychological Injuries-2019)

2. When determining entitlement for an occupational disease claim, it is important for the Adjudicating Board to gather detailed information from the worker and employers regarding his/her work history to confirm exposure in their jurisdiction, but also in other Contributing Boards' jurisdictions, particularly if there is not sufficient exposure to accept the claim on sole exposure in their jurisdiction.

3. Reference to Schedule L may be helpful for Adjudicating Boards as a resource as it outlines interjurisdictional requirements for information gathering, standards regarding sufficiency of evidence and corroboration for employment history for Occupational Disease Claims (Submitted in June 2013).

4. Workers who suffer occupational exposure in more than one jurisdiction are not to be denied entitlement to compensation benefits, except if total exposure (when considering exposure in all jurisdictions) still does not qualify for acceptance.

5. If there is sufficient exposure to accept a claim based on the sole exposure within the jurisdiction of a particular Board, there are no provisions for requests for reimbursement from other jurisdictions.

6. If there is not sufficient exposure to accept the claim in the Adjudicating Board, the Adjudicating Board can still adjudicate the claim if 30% of the total contributing exposure occurred in that jurisdiction (PPP-Occupational Disease-Partial Exposure-2012). In these cases, the Adjudicating Board will apportion the financial responsibility among all Contributing Boards.

7. In cases where a claim is submitted with a Contributing Board and there is **not** 30% exposure, it is still reasonable for the Contributing Board to adjudicate the claim, particularly if it best serves the worker (PPP-Occupational Disease-Partial Exposure-2012). The Board can still request reimbursement from the other Contributing Boards for their portion of financial responsibility (Section 7.4 of the IJA-Partial Exposure with Contributing Board).

8. The Contributing Board is expected to accept determinations made by the Adjudicating Board.

5.4 Best Practices:

1. The best practice remains to obtain a signed right of election when there is occupational exposure in more than one jurisdiction, prior to claim acceptance.

2. The Adjudicating Board is to advise all Contributing Boards of the worker's right of election to claim in their jurisdiction.

3. Each Contributing Board is expected to accept determinations made by the Adjudicating Board, without contest.

4. If a Contributing Board cannot allow a claim based solely on exposure in its own jurisdiction, they are expected to still adjudicate the claim if 30% of the total contributing exposure occurred in their jurisdiction. They will still apportion the financial responsibility among all Contributing Boards.

5. If there is not 30% exposure with a Contributing Board but it is in the best interest of the worker to adjudicate the claim, the Adjudicating Board should adjudicate the claim.

6. The Adjudicating Board is to invoice Contributing Boards a minimum of quarterly for their share of the costs of the claim, once the total costs exceed $5000 (as per Section 7.7 b) and 7.9 of the IJA).

7. Contributing Boards are to pay invoices within 60 days of receipt (as per Section 7.7 c) of the IJA-Sharing of Costs).

5.5 Process:

1. Identify an occupational disease claim within your jurisdiction that involves more than one jurisdiction. Ensure that the occupational disease falls within the allowable conditions under Section 7, paying particular attention to Section 7.11 which outlines which conditions are excluded.

2. Determine whether there is sufficient exposure to accept the claim on its own merit.

3. If the claim is acceptable based on exposure in your own jurisdiction, then proceed with sending a right of election.

4. Once completed right of election form has been received, send the appropriate documentation and applicable letter to the other applicable jurisdictions (Reference Chart in Schedule J which outlines required information to Establish a Claim and Sample letter in Schedule I).

5. Proceed with review for acceptance of the claim after receipt of signed right of election.

6. Providing that the claim would be permissible based *solely* on exposure in your jurisdiction, you are considered to be the Adjudicating Board responsible for full costs of the claim, exempt from reimbursement from any other jurisdiction.

7. If there is insufficient exposure in the Adjudicating Board's jurisdiction to accept the claim, the Adjudicating Board is still required to determine if there is a minimum of *30% of the total contributing exposure* in their jurisdiction. If 30% total exposure in the Adjudicating Board's jurisdiction has been met, then proceed with the following:
    - Offer right of election to the worker
    - Upon receipt of the completed right of election form, adjudicate the claim accordingly.
    - Advise all Contributing Boards of the claim acceptance and their % of apportionment for financial responsibility of claims costs.

- Once costs reach $5,000, prepare an invoice to the Contributing Board (s) of all costs, outlining their % or share of the costs.
- Contributing Board (s) are to accept the allowance of an occupational disease claim and the decisions made by the Adjudicating Board.
- The Adjudicating Board will invoice the Contributing Board (s) quarterly.
- Contributing Board(s) are responsible to pay for the full amount of the invoice within 60 days of receipt, within the legislation limitations outlined in Section 9 of the IJA.

8. If there is *not* 30% total exposure within the Adjudicating Board's jurisdiction, then the claim can still be adjudicated OR it can be referred **back to another jurisdiction to adjudicate**. The claim can be referred to either of the following Boards :
    - The Board where the claim was registered, if no contributing exposure is 30% of the total contributing exposure;
    - The Board where the longest contributing exposure occurred, if one or more Board has at least 30% of the total contributing exposure;
    - The Board where the most recent exposure occurred, if the longest contributing exposures over 30% are equal.

    *Decisions regarding referring a claim to another jurisdiction are to be made based on the best interests of the worker. For example, if the Adjudicating Board has gathered all information and developed a relationship with the worker, it would not make sense to simply request another jurisdiction to adjudicate that claim, even if the total exposure of that other jurisdiction was at least 30% of total contributing exposure.

9. If the Adjudicating Board accepts the claim where there is *not* 30% exposure in their jurisdiction, all Contributing Boards are to be advised of the claim acceptance and their % of apportionment for financial responsibility of claims costs. Once costs reach $5,000, the Adjudicating Board will prepare an invoice to the Contributing Boards of all costs, outlining their % or share of the costs.

5.6 Case Studies –Occupational Disease

The following is a list of case studies that help illustrate some of the practical situations that can arise and agreed upon resolutions based on the guiding principles and best practices identified in this module.

They have been broken down into the following:

5.6.1 Sole Exposure vs Multiple Exposure 2021
5.6.2 Sole Exposure vs Multiple Exposure 2021
5.6.3 Multiple Exposure, 30% Exposure 2021
5.6.4 Multiple Exposure, Less than 30% Exposure 2021
5.6.5 Multiple Exposure, Less than 30% Exposure 2021
5.6.6 Multiple Exposure, Less than 30% Exposure 2021

5.6.1 Scenario 1-Sole Exposure vs Multiple Exposure (2021 AWCBC Meeting)

Fact Scenario:

- Worker has a total exposure of 24 months (2 years).
- Worker has 50% of total exposure (equal to 12 months) in Jurisdiction A.
- Worker has 50% of total exposure (equal to 12 months) in Jurisdiction B.
- Worker submits a claim and right of election with Jurisdiction A.
- The worker has sufficient exposure in Jurisdiction A to accept the claim, based on their related policies.

Questions and Resolution:

- Can Jurisdiction A accept/adjudicate the claim, without considering the exposure in Jurisdiction B?
  Yes, Jurisdiction A can accept the claim as there was sufficient exposure in their jurisdiction, with no need to consider the exposure in Jurisdiction B.

- Since exposure is equally split between Jurisdiction A and B, can Jurisdiction A request reimbursement for 50% of costs, based on Section 7.7 of the IJA.
  No, Jurisdiction A cannot request any reimbursement from Jurisdiction A as the claim was allowable based *solely* on the exposure in Jurisdiction A despite the worker having equal exposure in Jurisdiction B (Section 7.3 of the IJA).

5.6.2 Scenario 2-Sole Exposure vs Multiple Exposure (2021 AWCBC Meeting)

Fact Scenario:

- Worker has a total of exposure of 60 months (5 years).
- Worker has 30% of total exposure (equal to 18 months) in Jurisdiction A.
- Worker has 25% of total exposure (equal to 15 months) in Jurisdiction B.
- Worker has 25% of total exposure (equal to 15 months) in Jurisdiction C.
- Worker has 20% of total exposure (equal to 12 months) in Jurisdiction D.
- Worker submits a claim and right of election with Jurisdiction A.
- The worker has sufficient exposure in Jurisdiction A to accept the claim, based on their related policies, even though total exposure is only at 30%.

Questions and Resolution:

- Can Jurisdiction A accept/adjudicate the claim, without considering the exposure in Jurisdiction B, C and D?
  Yes, Jurisdiction A can accept the claim as there was sufficient exposure in their jurisdiction, with no need to consider the exposure in Jurisdiction B, C or D.

- Can Jurisdiction A request reimbursement from Jurisdiction B, C and D, according to the percentage of exposure in each jurisdiction as only 30% of total exposure occurred in its jurisdiction (in accordance with Section 7.4 and 7.7 of the IJA)?
  No, Jurisdiction A cannot request reimbursement from any other jurisdiction despite having only 30% of total exposure in their jurisdiction. In this case, the exposure in jurisdiction A which equaled to 18 months and was sufficient by itself to accept and pay the full costs of the claim in their own jurisdiction. If the 18 months of exposure did not meet their legislative requirements to accept the claim on its own, then apportionment could occur.

5.6.3 Scenario 3-Multiple Exposure, 30% Exposure (2021 AWCBC Meeting)

Fact Scenario:

- Worker has a total of exposure of 15 months (1 year, 3 months).
- Worker has 30% of total exposure (equal to 4.5 months) in Jurisdiction A.
- Worker has 25% of total exposure (equal to 3.75 months) in Jurisdiction B.
- Worker has 25% of total exposure (equal to 3.75 months) in Jurisdiction C.
- Worker has 20% of total exposure (equal to 3 months) in Jurisdiction D.
- Worker submits a claim and right of election with Jurisdiction A.

- The worker did not have sufficient exposure in Jurisdiction A to accept the claim solely on the worker's exposure in Jurisdiction A. However, when considering the total exposure of 15 months, the claim was considered to be acceptable.

Questions and Resolution:

- Can Jurisdiction A accept/adjudicate the claim?
  Yes, Jurisdiction A can accept the claim as 30% of total exposure occurred in their jurisdiction. This is in accordance with Section 7.4 of the IJA.

- Can Jurisdiction A request reimbursement from Jurisdiction B, C and D, according to the percentage of exposure in each jurisdiction as only 30% of total exposure occurred in its jurisdiction (in accordance with Section 7.4 and 7.7 of the IJA)?
  Yes, Jurisdiction A can request reimbursement from jurisdiction B, C and D for their portion/share of the costs. In this case, 25% of total costs would be billed to Jurisdiction B and C and 20% would be billed to Jurisdiction D.

5.6.4 Scenario 4-Multiple Exposure, Less than 30% Exposure (2021 AWCBC Meeting)

Fact Scenario:

- Worker has a total of exposure of 24 months (2 years).
- Worker has 25% of total exposure (equal to 6 months) in Jurisdiction A.
- Worker has 25% of total exposure (equal to 6 months) in Jurisdiction B.
- Worker has 25% of total exposure (equal to 6 months) in Jurisdiction C.
- Worker has 25% of total exposure (equal to 6 months) in Jurisdiction D.
- Worker submits a claim and right of election with Jurisdiction A.
- The worker did not have sufficient exposure in Jurisdiction A to accept the claim solely on the worker's exposure in Jurisdiction A, but when considering the 24 months of exposure, the claim would be acceptable.

Questions and Resolution:

- Can Jurisdiction A accept/adjudicate the claim?
  Yes, Jurisdiction A can accept the claim despite only having 25% of the exposure in their jurisdiction, in accordance with Section 7.4 b) which states that if the total contributing exposure is less than 30% they can either adjudicate the claim or refer the claim to another jurisdiction.

- Can Jurisdiction A request reimbursement from Jurisdiction B, C and D, according to the percentage of exposure in each jurisdiction in accordance with Section 7.4 and 7.7 of the IJA)?
  Yes, Jurisdiction A can request reimbursement from Jurisdiction B, C and D for their portion/share of the costs. In this case, 25% of total costs would be billed to Jurisdiction B, C and D.

5.6.5 Scenario 5-Multiple Exposure, Less than 30 % Exposure (2021 AWCBC Meeting)

Fact Scenario:

- Worker has a total of exposure of 20 months (1 year, 8 months).
- Worker has 25% of total exposure (equal to 5 months) in Jurisdiction A.
- Worker has 25% of total exposure (equal to 5 months) in Jurisdiction B.
- Worker has 25% of total exposure (equal to 5 months) in Jurisdiction C.
- Worker has 25% of total exposure (equal to 5 months) in Jurisdiction D.
- Worker submits a claim and right of election with Jurisdiction A as he presently lives in Jurisdiction A.
- Jurisdiction A denies the claim indicating that the 25% exposure in their jurisdiction is not sufficient to accept the claim.
- The worker then files a right of election in Jurisdiction B who accepts the claim in accordance with Section 7.4 b) indicating that despite only having 25% of total exposure in their jurisdiction, the total exposure is sufficient to accept the claim.
- Jurisdiction B requests reimbursement from Jurisdiction A for their share of the costs (25%). Jurisdiction A refuses the request, indicating that there was not sufficient exposure in their own jurisdiction to accept the claim and indicate that they are not responsible for any costs of this claim.

Questions and Resolution:

- Was it appropriate for Jurisdiction A to deny the claim in the first place?
  No, Jurisdiction A can accept the claim despite only having 25% of the total exposure in their jurisdiction. Despite not meeting the exposure solely in their own jurisdiction, they failed to consider Section 7.4 b) of the IJA which allows consideration of exposure in other jurisdictions, when exposure is less than 30%. In addition, in this case the worker was living in Jurisdiction A and filed his claim there accordingly. It would have been in the best interests of the worker for Jurisdiction A to keep his claim and issue benefits accordingly. The worker should not have been directed back to Jurisdiction B.

- Was it appropriate for Jurisdiction A to refuse payment for their portion of the costs? Does Jurisdiction B have the right to request reimbursement from Jurisdiction A (as well as Jurisdiction C and D)?
  No, Jurisdiction A did not have the right to refuse payment for their share of the costs. Yes, Jurisdiction B can request reimbursement from Jurisdiction A, C and D for their portion/share of the costs. In this case, 25% of total costs would be billed each to Jurisdiction A, C and D, respectively. Section 7.6 of the IJA allows the Adjudicating Board to ask for reimbursement under Section 7.7, which refers to sharing of costs, despite having a claim initially submitted with Jurisdiction A.

  In this case, Jurisdiction A failed to apply the provision of Section 7.4 b) and are still held accountable for their share of the costs, related to exposure in their jurisdiction.

5.6.6 Scenario 6-Multiple Exposure, Less than 30 % Exposure (2021 AWCBC Meeting)

Fact Scenario:

- Worker has a total of exposure of 20 months (1 year, 8 months).
- Worker has 15% of total exposure (equal to 3 months) in Jurisdiction A.
- Worker has 35% of total exposure (equal to 7 months) in Jurisdiction B.
- Worker has 30% of total exposure (equal to 6 months) in Jurisdiction C.
- Worker has 20% of total exposure (equal to 4 months) in Jurisdiction D.
- Worker submits a claim and right of election with Jurisdiction A.
- Jurisdiction A cannot accept the claim based solely on exposure within their jurisdiction, however, they choose to refer the claim to Jurisdiction B as this is where the longest contributing exposure occurred.
- Jurisdiction B requests reimbursement from Jurisdiction A for their share of the costs (25%) and Jurisdiction A refuses the request, indicating that there was not sufficient exposure in their own jurisdiction to accept the claim and indicate that they are not responsible for any costs of this claim

Questions and Resolution:

- Was it appropriate for Jurisdiction A to deny the claim?
  No, Jurisdiction A can accept the claim despite only having 15% of the total exposure in their jurisdiction. Despite not meeting the exposure solely in their own jurisdiction, they failed to consider Section 7.4 b) of the IJA which allows consideration of exposure in other jurisdictions, when exposure is less than 30%.

- Was it appropriate for Jurisdiction A to refuse payment for their portion of the costs? Does Jurisdiction B have the right to request reimbursement from Jurisdiction A (as well as Jurisdiction C and D)?

No, Jurisdiction A did not have the right to refuse payment for their share of the costs. Yes, Jurisdiction B can request reimbursement from Jurisdiction A, C and D for their portion/share of the costs. In this case, 15% of total costs would be billed to Jurisdiction A, 30% of total costs would be billed to Jurisdiction C and 20% of total costs would be billed to Jurisdiction D. Section 7.6 of the IJA allows the Contributing Board to ask for reimbursement under Section 7.7, which refers to sharing of costs, despite having a claim initially submitted with Jurisdiction A. In this case, Jurisdiction A failed to apply the provision of Section 7.4 b) and are still held accountable for their share of the costs, related to exposure in their jurisdiction.

Module 6: Aggravation or Worsening of a Disability

6.1 Aggravation or Worsening of a Disability Definitions (Section 8 of the IJA):

Aggravation of a Disability-An injury that is superimposed on an original injury. It is usually referring to as disability which has been exacerbated, worsened or recurred as a result of another activity. In this section, aggravation of a disability is referring to a worsening of a condition as a result of *subsequent employment*.

Subsequent Employment-Work (employment) that occurs "after." In this section, subsequent employment refers to the work that the worker engaged in after he/she began work in another jurisdiction, different than the initial jurisdiction in which he/she was in receipt of benefits from.

Recurrence of Disability-In this section, recurrence of disability is not synonymous with a disability recurring as a result of another activity. The reference above (under definition of an aggravation of a disability) to a disability recurring as a result of another activity is referring to a specific incident which caused the aggravation of the disability or prompted the disability "to occur" and not a flare-up or continuation of the initial injury.

Recurrence of disability is a clinically demonstrated increase in physical disability, which can be directly related to a previously stabilized compensable condition. This is often referred to as a flare up. If an intervening incident is considered significant and capable of causing the injury or aggravating the susceptibility to injury, then this is **not** considered a recurrence but rather a new and separate incident.

6.2 Guiding Principles (Section 8 of the IJA):

1. When a worker aggravates a previously accepted injury by taking up employment in a different jurisdiction, he/she is entitled to adjudication of his/her claim by the jurisdiction where he/she took up employment. The Adjudicating Board in that jurisdiction is to award any additional benefits to which the worker is entitled and pay the full costs of the benefits and related services (Section 8.1 of the IJA-Subsequent Employment).

2. If it is determined that the worker is entitled to additional benefits from the jurisdiction where he secured employment, that jurisdiction is to advise the other Board, in order to prevent duplication of benefits.

3. The Adjudicating jurisdiction (where the worker began work after) has the sole jurisdiction to determine whether the injury is an aggravation of previous injury/disability (PPP-Reimbursement Protocols-Recurrence of Disability-2017).

4. If the aggravation did not result from subsequent employment, that jurisdiction should refer all pertinent information back to the original Adjudicating Board where the initial injury claim was accepted for further review and consideration (Section 8.2 of the IJA-Subsequent Employment).

6.3 Key Considerations:

1. Despite the worker taking up employment in a new jurisdiction, it is possible that his/her condition is simply a continuation of disability from the initial claim. Therefore, a medical review may be essential to make this determination.

2. A continuation of disability is not considered under this Section as it simply means that the worker had a continuation of symptoms rather than experiencing a new incident. In that case, the place of employment is irrelevant.

3. Once a decision is made regarding the injury and the relationship to subsequent employment, the Adjudicating Board are to advise the other jurisdiction of the decision, in order to prevent possible duplication of earnings.

4. A worker has the right to appeal any unfavorable decision made by the Adjudicating Board.

5. It is important to recognize that the appeal body can only rule on the decision made in their own jurisdiction and cannot delegate another jurisdiction's responsibility. If this is done, those decisions are of course, not binding.

6.4 Best Practices:

1. The best practice remains to gather all of the medical information and specifics around employment in the other jurisdiction to ensure that an accurate decision is made as to whether the injury is considered an aggravation or worsening of a disability as a result of subsequent employment.

2. Jurisdictions are to notify other related jurisdictions of any decisions made, in order to prevent a worker from receiving double compensation.

6.5 Process:

1. Once advised that a worker's condition has worsened or been aggravated as a result of subsequent employment in another jurisdiction, review all medical information to determine the present diagnosis.

2. Obtain a detailed description of the employment the worker was engaged in within the other jurisdiction and how the injury/aggravation occurred.

3. Proceed by reviewing the worker's initial claim with the original Adjudicating Board to determine whether the worker's present symptoms/conditions are related to the subsequent employment Some questions to consider may be:
    - What injury/diagnosis has the original Adjudicating Board accepted?
    - What benefits has the worker received and/or is presently receiving?
    - Was the worker considered to be at maximum medical recovery?
    - Has a permanent condition/disability been accepted?
    - Is the worker in receipt of a pension and/or a Permanent Functional Impairment award?

4. After reviewing both claims, determine if it is reasonable that the newly provided diagnosis is reasonably related to the work the worker was doing in the second jurisdiction or more reasonably related to the initial injury/diagnosis with the original Adjudicating Board.

5. If required, request a medical opinion to make this determination.

6. If it is determined that the worker's condition is related to the initial incident that occurred in the original jurisdiction, advise the worker accordingly and refer all pertinent information back to the original Adjudicating Board (with the required consent from the worker). Advise the original Adjudicating Board whether or not the worker has an active appeal pending with your jurisdiction. Due to the circumstances of involving two jurisdictions, the worker should be advised that if he/she pursues their claim with the original Adjudicating Board, their appeal will be removed, in order to prevent a possible duplication of benefits.

7. If it is determined that the worker's condition has indeed been aggravated as a result of his/her subsequent employment with your jurisdiction (new incident), then proceed with the following:
    - adjudicate the claim, providing the diagnosis accepted, clarifying the temporary/permanent aggravation of the previously accepted injury with the original Adjudicating Board;
    - award additional benefits the worker is entitled to;
    - pay the full cost of such benefits as are provided for by statutory authority or policy; and
    - advise the original Adjudicating Board upon request.

6.6 Case Studies-Aggravation or Worsening of a Disability:

The following is a case study that help illustrate some of the practical situations that can arise and agreed upon resolutions based on the guiding principles and best practices identified in this module.

6.6.1 Appropriate Application of Section 8, Aggravation/Worsening of a Disability (2017 AWCBC Meeting):

Fact Scenario:

- The worker is injured in Jurisdiction A.
- The worker is a resident of Jurisdiction B.
- Jurisdiction B offers and obtains right of election, adjudicates and accepts the claim accordingly.
- Jurisdiction B requests reimbursement from Jurisdiction A as the worker was injured in Jurisdiction A.
- Jurisdiction A reimburses accordingly.
- The worker later experiences an acceptable recurrence of the injury (i.e. increase in symptoms) while working in Jurisdiction B. A new incident was not identified.
- Jurisdiction B continues to adjudicate and pay benefits under the same claim and later requests further reimbursement from Jurisdiction A.

Questions and Resolution:

- Should Jurisdiction B review right of election when the recurrence occurs, since it occurred in Jurisdiction A?
  No, right of election should not be reviewed by Jurisdiction B when the recurrence occurs as Jurisdiction B already determined it was a recurrence of disability, not a new incident/claim.

- Should Jurisdiction A continue to be responsible for continued cost reimbursement considering the recurrence occurred in Jurisdiction B? If no, is it fair that the employer is charged for costs in both provinces?
  Yes, Jurisdiction A should still be responsible for continued cost reimbursement as it is a continuation of the same claim, regardless of where the recurrence of disability occurred, as no new incident was identified.

- Do Sections 8 and 9 pertain to this issue?
  Section 8.1 only applies to the situation where a new claim was established and therefore, does not apply in this case study. Section 9 does apply to this case, as the Adjudicating Board determined that there was a recurrence of disability and as such, additional costs incurred are subject to reimbursement from Jurisdiction A.

Module 7: General Cost Reimbursement Guidelines

7.1 Cost Reimbursement Definitions (Section 9 of the IJA):

Adjudicating Board-An Adjudicating Board is a jurisdiction that makes a decision on entitlement of benefits or determination of assessment matters (Section 2.1 a) of the IJA).

Reimbursing Board-A Reimbursing Board is known as the accident jurisdiction or the assessing jurisdiction, the jurisdiction where the costs of the claim ultimately reside.

Policy (as referenced in 9.2 of the IJA)-refers to policy that has the force of law, is binding on all decision makers within the system and is enacted by the governing body of a Board and does not refer to practices and procedures (as provided by Doug Mah (Alberta) in his discussion paper in 2004, Schedule Y). A principle of 'minimal adjudication' is recommended whereby the Reimbursing Board is only allowed to adjudicate on the issue of legality of payment rather than generally re-adjudicating the claim.

7.2 Guiding Principles (Section 9 of the IJA):

1. Claim costs are to be borne by the jurisdiction where the injury occurred if the worker is eligible to claim in more than one jurisdiction (Section 9.1 of the IJA-Accident Board Responsible).

2. No jurisdiction is to bear the costs of a claim for an accident that did not occur in their jurisdiction, unless the employer is not required to have an account in the province of injury. An employer's premiums are based on risk of injury in that particular province, not on injuries that occurred outside of their province.

3. Cost reimbursement applies to all jurisdictions, with the exception of the limitations on participation outlined in Appendix A of the IJA (Section 9.3 of the IJA-Application).

4. Reimbursement occurs only when the total costs exceed $1000 (Section 9.9 of the IJA Costs to Exceed $1000).

5. The Adjudicating Board is to notify a Reimbursing Board of a potential reimbursement claim within 2 years from the date the claim was accepted. It is important to note that date of acceptance is often different than the date of accident. No reimbursements are payable unless the Adjudicating Board has provided written notice within this time frame (Section 9.10 of the IJA-Written Notice within two years).

6. Reimbursement is to be for the full amount, subject only to the Reimbursing Board's policy or statutory limitations. (Section 9.2 of the IJA-Accident Board Responsible). Dollar for dollar agreements between jurisdictions take precedence (PPP-Reimbursement Protocols-Dollar for Dollar Agreements-General and Participating Jurisdictions-2011, 2012, 2014, 2017, 2018, 2019 & 2021).

7. The Reimbursing Board is to accept the decisions by the Adjudicating Board and not substitute its own interpretations or conduct any kind of independent reviews.

8. Reimbursement on capitalization costs is to be for the full amount, where both Adjudicating and Reimbursing Boards use a process of capitalizing future costs. Reimbursement will only be limited to the extent that the Reimbursing Board would have itself capitalized the costs had it administered the claim (Section 9.2 of the IJA-Accident Board Responsible).

9. Where the capitalization of an award is based on a limited period of years rather than full life expectancy, and is subject to re-capitalization at a later date, the subsequent re-capitalization is also subject to reimbursement provisions. The Adjudicating Board is to advise the Reimbursing Board of these conditions when initially requesting reimbursement (Section 9.6 of the IJA-Capitalization).

10. Additional costs incurred as a result of statutory or policy changes are not subject to reimbursement. This restriction does not apply where capitalized costs contain provisions for cost of living adjustments (Section 9.8 of the IJA-Costs not Subject to Reimbursement).

11. Where statute or policy permits participation in a reimbursement process but limits the amount or nature of participation, similar limitations will be deemed to apply to all other Boards when dealing with that Board (Section 9.4 of the IJA-Effect of Limit on Participation). This reference is no longer applicable as all Boards are fully participating in the reimbursement process.

12. Reimbursements are to be requested and paid either when the claim is closed or no more than quarterly in a 12 month calendar year (Section 9.5 of the IJA-Reimbursement Requests, PPP-Reimbursement Protocol-Invoice Frequency/Reimbursement-2008, 2009, 2011 2016 & 2021).

13. Subsequent requests for cost reimbursement are to have a minimum threshold of $200 for IJA claims (PPP-Reimbursement Protocols-Invoice Threshold-2011, 2014 & 2021).

14. When a third party action has commenced, a request for reimbursement is to be deferred pending determination of the net actual cost to the Adjudicating Board (Section 9.5 of the IJA-Reimbursement Requests).

15. If a claim is re-opened and additional benefits are provided, the additional costs incurred are subject to the general reimbursement provisions (Section 9.7 of the IJA- Claims Re-Opened).

16. Provisions relating to cost reimbursement of claims (Section 9) commenced March 1, 1992 (Section 9.12 of the IJA-Effective Date).

17. For potential reimbursement claims that arose prior to June 26, 2000, the Adjudicating Board was required to provide written notice no later than June 25, 2002 (Section 9.11 of the IJA-Notice of pre-June 2000 claims).
*This is no longer applicable as the time period has passed.

7.3 Key Considerations:

7.3.1 General:

1. If the location of accident is unclear, requests for reimbursement are to be suspended until clarification is obtained and/or it is determined that the request for reimbursement is invalid.

2. Progressive injuries that have developed over a period of time (like repetitive strain injuries that occur during work in more than one jurisdiction or back injuries with no specific incident), from work in more than one province are excluded from IJA requests for reimbursement (PPP-Reimbursement Protocols-Progressive Injuries-2018). Please also refer to detailed case study in 7.6.1.

3. Costs for injuries that occur in-flight are borne by the jurisdiction administering the claim and therefore, are exempt from IJA requests for reimbursement as it is impossible to delineate the exact location of the accident (PPP-Reimbursement Protocols-Airline Industry-2018). Reference case study 7.6.2 for further details.

4. Costs can only be requested for reimbursement if they are actually billed to an employer and therefore, charged to the claim. If costs are included in the Board's administrative budget (e.g. physician salaries), they cannot be requested for reimbursement, regardless if other jurisdictions structure their organization as a fee for service system whereby costs are billed to claim files and reimbursement is sought

(PPP-Reimbursement Protocols-Medical Treatment Costs, 1998 & 2011).

5. Medical costs are reimbursed in **full**, regardless of a jurisdiction's policies regarding maximums payable and/or treatments authorized. For example, a Reimbursing Board cannot impose limitations on whether medical marijuana can be authorized, how many physiotherapy treatments can be authorized or whether orthotics are authorized, based on the their own policies/procedures. (PPP-Reimbursement Protocols-Medical Treatment Costs-2011 & 2019).

7.3.2 Right of Election:

6. Although best practice remains to obtain a signed right of election (Section 4.1 of the IJA) preceding a request for reimbursement, jurisdictions are able to reimburse without this election, but agree to take on any inherent risk (i.e. potential for duplicate claims) in doing so. Jurisdictions acknowledge that there are times when it is not possible to obtain a signed right of election. Providing the appeal period has passed with the Adjudicating Board, any risks of a duplicate claim is eliminated, permitting applicable reimbursement from the Reimbursing Board. This supports the basic tenet of the IJA that claims costs are to be borne by the jurisdiction where the injury occurred (PPP-Reimbursement Protocols-Election Form-2013 & 2017 and Election-Form Requirement-2017).

7. If issues arise regarding reimbursement in the absence of a *signed right of election*, the issue should be referred to the IJA Coordinators to discuss further and reach resolution (PPP-Reimbursement Protocols-Election Form-2013).

8. If a worker's claim is denied in one jurisdiction and the worker re-elects in another jurisdiction, where his/her claim is accepted, reimbursement is still applicable (PPP-Reimbursement Protocols-Re-Election-2011 & 2018). Please also refer to Module 8-Limits on Readjudication, **Case Study, 8.??)**

7.3.3 Employer Registration/Contact:

9. An employer not being registered in the reimbursing jurisdiction is not, in itself, a bar to reimbursement. The reimbursing jurisdiction must determine whether the employer *should have* been registered in their jurisdiction at the time of the accident. If it is determined that a worker is able to claim in the jurisdiction in which the injury occurred and the employer is in a *mandatory industry*, assessments can be backdated so

the IJA can be applicable and reimbursement can occur (PPP-Reimbursement Protocols-Employer Registration-1999 & 2014).

10. Although the IJA does not speak to reimbursement when the Adjudicating and Reimbursing Boards have *two different employers being charged* for the worker's accident, a complexity of issues can arise when doing so. Issues can arise when an employer is charged for the claims costs with the Reimbursing Board and yet did not have the ability to offer modified duties as they were not the designated employer with the Adjudicating Board. Another complex issue can arise when the employer charged with the claims costs does not have active involvement in day-to-day claim decisions and/or access to file documents as they are not the employer contact with the Adjudicating Board. Therefore, it is recommended that reimbursement be permitted only when employer charging is with the same employer in both jurisdictions (PPP-Reimbursement Protocols-Employer Charging-Different-2014 & 2017). Refer to Case Study 7.6.5 for further details.

11. The Adjudicating Board is responsible to *advise the employer* of reimbursement requests, the impact on their assessments for claims with injuries occurring outside of their jurisdiction and jurisdictional responsibility for determination of cost relief entitlement.

7.3.4 Pension:

12. Requests for reimbursement of *pension costs* are for the actual costs issued during a specific time period, *not* for the capitalized amount calculated by the Adjudicating Board.

13. Reimbursement for *pension costs* should continue for as long as the Reimbursing Board's respective legislation permits it. The Adjudicating Board is the only jurisdiction who is to be capitalizing pension costs as it is intended primarily as a tool for calculating reserves on claims. Its purpose is not to limit reimbursement to another jurisdiction, in any capacity (PPP-Reimbursement Protocols-Pension-2010).

7.3.5 Limitations/Frequency:

14. Although the Adjudicating Board is to notify a Reimbursing Board of a potential reimbursement claim within 2 years from the date the claim was accepted, if the Reimbursing Board determines that the delay is reasonable, reimbursement can still occur.

15. Costs cannot be requested for reimbursement until they reach a minimum threshold of $1000 (Section 9.9 of the IJA).

16. Costs cannot be rebilled for reimbursement until they reach a minimum threshold of $200 (PPP-Reimbursement-Invoice Threshold-2012 & 2014).

17. Reimbursement requests are not to exceed a period of over 2 years (since written notice is to be provided within 2 years for initial reimbursement-Section 9.10 of the IJA). For reimbursement requests received over 2 years, individual jurisdictions can review approval of reimbursement on a case by case basis (PPP-Reimbursement-Invoice Frequency/Reimbursement, 2006 & 2021).

18. Given the circumstances of COVID-19 and the challenges with conducting regular operations, jurisdictions agreed that requests for reimbursement received over the 2 year time period would be reviewed on a case-by-case basis. Jurisdictions can consider timeliness of invoice submissions prior to COVID-19 and notifications provided of interruption of regular business operations when making decisions on whether reimbursement is permissible (PPP-Reimbursement-Invoice Frequency/Reimbursement, 2022).

7.3.6 Third Party Action:

19. The decision of an Adjudicating Board to pursue third party action is not open for reconsideration by the Reimbursing Board (PPP-Third Party Action-Jurisdictional Authority- 1999).

20. The Interjurisdictional Agreement cannot be used as an instrument to bar third party litigation in other jurisdictions (PPP-Third Party Action-Jurisdictional Authority (2002 & 2013).

21. The Adjudicating Boards is to notify the Reimbursing Board that they will exercise their subrogation rights and then seek reimbursement for any remaining costs *once the action is complete*. They cannot seek reimbursement for claim costs that have already been recovered from a third party. All remaining costs on the claim, in excess of any settlement received, can be requested (PPP-Third Party Action-Reimbursement Requests-1999 & 2009).

22. If reimbursement is requested and issued prior to third party action being complete, an overpayment would exist between the jurisdictions that would require resolution, whereby the Interjurisdictional Coordinators

may become involved (PPP-Third Party Action-Reimbursement Requests-2016).

7.3.7 Cost Relief:

23. Determination of entitlement to cost relief is at the discretion of the Reimbursing Board, based on its own policies/procedures as this is where the costs will reside. This applies to regular cost relief and the development of Covid cost relief (PPP-Cost Relief-1997, 1998, 200, 2011, & 2017 &2021).

24. The decision regarding cost relief entitlement to an employer does not affect the amount reimbursed between Boards.

25. Worker consent is not required to release a copy of the file to the employer when requesting cost relief (PPP-Disclosure of Information-Cost Relief Requests-2016).

26. The Ontario Board is the only jurisdiction that will determine entitlement to cost relief in cases where it is the Adjudicating Board due to their policies and experience rating cut-off dates, but any amounts that are subsequently reimbursed will be removed from the employer's cost statement and will no longer apply (PPP-Cost Relief-2014).

27. The Reimbursing Board does not have the ability to honor the Adjudicating Board's decision on cost relief, regardless if they are directed by the Appeal Body of the Adjudicating Board. The Reimbursing Board is obligated in following their own policies when determining entitlement to cost relief (PPP-Cost Relief-2016).

28. If there is a shortfall in the reimbursement amount received, this the only time that the Adjudicating Board can decide if cost relief will be provided for the remaining claim costs. Some Adjudicating Boards simply remove 100% of claim costs from the employer's firm experience regardless of the total claim costs reimbursed by the Reimbursing Board, while other Adjudicating Boards remove only claim costs that are reimbursed. For some jurisdictions, shortfalls will remain and appear on employer's accident cost if the jurisdiction is not fully reimbursed (1997 and 2011 Meeting Minutes and the IJA-PPP).

29. Nova Scotia does not have any cost relief provisions, therefore, do not provide any cost relief decisions regardless if they are the Reimbursing Board (PPP-Cost Relief-2014).

30. Employer appeals for cost relief are handled by the Reimbursing Board (i.e. the jurisdiction that provided the cost relief decision and where costs reside). Section 15.3 regarding appeals does not apply to appeals for cost relief (PPP-Cost Relief-2017).

31. It is the responsibility of the IJA coordinator to keep front line staff informed of the cost relief process for IJA claims (PPP-Cost Relief-2016)).

7.3.8 Overpayment Clarification:

32. If an Adjudicating Board experiences a change in decision (i.e. as a result of an appeal or administrative error), resulting in a reduction of the total claims costs, there is an obligation to refund the Reimbursing Board of any funds already paid, in order to accurately reflect the employer assessment in the accident jurisdiction. The employer is not to be directed to request cost relief from the Adjudicating Board (PPP-Reimbursement Protocols-Entitlement Change by Adjudicating Board-2017).

33. Administrative errors by the Adjudicating Board can include, but are not limited to the following examples:
    - Acceptance of a claim in error
    - Miscalculation of a worker's compensation rate and entitlement to wage loss benefits, thus creating an overpayment which is later forgiven by the Adjudicating Board
    - Acceptance of an aggravation in error which resulted in the worker receiving benefits he/she was not entitled to.
    - Inappropriate determination of the accident employer

34. If a Reimbursing Board has made an error in paying an invoice, they are entitled to request a refund from the Adjudicating Board for the reimbursement already issued. A two year limitation period is considered a reasonable period to request a refund, however, individual jurisdictions can agree to longer limitation periods, depending on the situation (PPP-Reimbursement Protocols-Employer Registration/Entitlement Change by Adjudicating Board-2010, 2014 & 2017).

35. It is recommended that recovery/collection of overpayments created by either the Adjudicating or Reimbursing Boards be left to individual jurisdictions to resolve. Arbitrarily withholding reimbursement from a different IJA claim to recover the overpayment may not be favorable to both parties. Jurisdictions are to act in good faith to deal with these situations (PPP-Reimbursement Protocols-Entitlement Change-By Reimbursing Board-2010).

7.4 Best Practices:

1. The best practice remains for an Adjudicating Board to always obtain a *signed right of election* in order to facilitate reimbursement (from the Reimbursing Board) and prevent any potential issues of double compensation being issued to a worker (PPP-Election-Form Requirement-2010).

2. An Adjudicating Board is to provide *notice to a Reimbursing Board* (including a copy of the right of election and application) of a potential IJA claim as soon as the claim is accepted, rather than waiting for the two year limitation period (Section 9.10 of the IJA and PPP-Reimbursement Protocols-Limitation Period-1999 & 2011). By doing so, jurisdictions can avoid a situation of duplication of earnings or at the very least, mitigate the loss.

3. In order to respect each jurisdiction's privacy legislation, jurisdictions are to send *separate letters* for each individual claim, with respect to requests for reimbursement and details regarding invoices paid.

4. A worker's *consent is not required* to release a copy of the file to the Reimbursing jurisdiction under the IJA (PPP-Disclosure of Information-Cost Reimbursement-2017).

5. *Collection and release of file information* for IJA purposes between jurisdictions (either through regular mail and/or File Transfer Protocol Sites) is subject to specific statutory or policy restrictions (PPP-Disclosure of Information-Freedom of Information-Information Sharing-2001, 2006 & 2021).

6. Refusal of reimbursement based on an employer not being registered in the reimbursing jurisdiction, *is not*, in and of itself, a bar to reimbursement. A reimbursing jurisdiction is required to investigate whether an employer is *expected* to be registered in their jurisdiction at the time of the accident and collect retroactive assessments, if applicable.

7. The best practice remains to only grant reimbursement when employer charging is with the *same employer in both jurisdictions* in order to avoid potential issues with offers of modified duties, access to file documents, etc (PPP-Reimbursement Protocols-Employer Charging-Different- 2014 & 2017).

8. *Progressive injuries* that have developed over a period of time (like repetitive strain injuries or back injuries with no specific incident) are *excluded* from IJA requests for reimbursement as the accident location is unclear (PPP-Reimbursement Protocols-Progressive Injuries-2018).

9. Requests for reimbursement for *airline claims*, are limited to accidents which occur on land only (PPP-Reimbursement Protocols-Airline Industry-2018).

10. *Medical treatment costs* are reimbursed at *100%* provided they appear as costs on the claim. They are not apportioned based on a jurisdiction's policies regarding maximums payable and/or treatments authorized (PPP-Reimbursement Protocols-Medical Treatment Costs-2019).

11. *Reimbursement is to be made in full*, unless doing so will cause the Reimbursing Board to breach their own statutory authority and policy, making it illegal to issue full reimbursement.

12. Re-adjudication is permissible only on the basis of legality of payment rather than general readjudication of a claim.

13. An Adjudicating Board who has allowed a worker's re-election and accepted his/her claim is still entitled to reimbursement from the jurisdiction who initially denied the worker's claim (PPP-Reimbursement Protocols-Re-Election-2011 & 2018). Please also refer to Module 7-Cost Reimbursement Guidelines, Case Study, 7.6.4).

14. Requests for reimbursement of pension costs are for *actual pension costs* issued for the specified invoice period and not for the capitalized amount calculated by the Adjudicating Board.

15. With respect to third party action, reimbursement requests are not to be sent until the *action is complete* and only for any costs that are not recovered.

16. It is the responsibility of the IJA Coordinator to keep front line staff informed of the cost relief process for IJA claims (2013 AWCBC meeting)

17. The Adjudicating Board is to keep the *employer informed* of pending cost reimbursement on interjurisdictional claims. This includes advising employers of the impact on their assessments for claims with injuries occurring outside of their jurisdiction and determination of cost relief entitlement (Refer to Schedule K for sample letter for interjurisdictional Employer Notice).

18. Costs must reach a minimum threshold of $1000 in order to request initial reimbursement from the accident jurisdiction.

19. Invoices are to be issued *every 90 days* (including subsequent billings) and no more than quarterly in a 12 month period (PPP-Reimbursement-Invoice Frequency/Reimbursement-2008, 2009, 2011, 2014, 2016 & 2021).

20. Subsequent requests for cost reimbursement have a *minimum threshold of $200* for IJA claims (PPP-Reimbursement-Invoice Threshold-2012, 2014, & 2021).

21. Requests for reimbursement are not to exceed a period of over 2 years, otherwise the Adjudicating Board may risk denial of reimbursement. Individual jurisdictions can review approval of reimbursement on a case by case basis (PPP-Reimbursement Protocols-Invoice Frequency/ Reimbursement-2006 & 2021).

22. Requests for reimbursement are to be ***mailed shortly after*** the date of the letter/cost statement is prepared as it compromises the reimbursing jurisdiction's ability to issue reimbursement within the recommended 90 days if not received shortly after the date of the invoice (PPP-Reimbursement Protocols-Invoice Frequency/Reimbursement-2008 & 2016).

23. Invoices are to be *reimbursed within 90 days*, in order for the Adjudicating Board to charge back its employers on a timely basis (PPP-Reimbursement Protocols-Invoice-Frequency/Reimbursement-2004, 2006 & 2009).

24. *Pension costs are not be capitalized* by the Reimbursing Board as it is not intended to be used as a method to limit reimbursement. Any limitations of reimbursement that occur are to be discussed with the involved individual jurisdictions (PPP-Reimbursement Protocols-Pension-2010 & 2011).

7.5 Process:

The identified processes for cost reimbursement have been broken down into the following categories:

7.5.1 Communication Prior to Requesting Reimbursement
7.5.2 Requesting Reimbursement
7.5.3 Full Reimbursement, Denial of Reimbursement or Partial Reimbursement

7.5.1 Communication Prior to Requesting Reimbursement:

The Adjudicating Board will follow the following process when notifying the accident jurisdiction (Reimbursing Board) of a pending request for reimbursement:

1. Identify a claim that has occurred outside of the home jurisdiction, which has been accepted. These claims are typically recognized by identifying triggers which often include right of elections received and/or identification of out of province accidents.

2. Notify the Reimbursing Board promptly upon receipt of the worker's signed right of election, as reflected in the best practices. Notification must occur within 2 years of the *acceptance* of the claim. The notification letter is to include the completed worker's report/application and a copy of the completed right of election form. The letter will advise the Reimbursing Board of a potential formal request for reimbursement, once costs reach $1000 and/or third party action is completed. A letter similar to the one outlined in Schedule I can be used.

3. The letter must include sufficient information for the Reimbursing Board to be able to establish the claim and have the letter and right of election placed on the claim file. Ideally, the letter is to include the worker's full legal name, date of birth, social insurance number, complete address, date of accident, injured body part and employer's full legal name. Please refer to the chart in Schedule J which identifies the minimum required information each jurisdiction requires to establish a claim (Refer to sample letter in Schedule I).

4. The Adjudicating Board is to notify the employer of the possible request for reimbursement and advise that once reimbursement is sent and payment is received, costs will be removed from their account and/or provide an explanation as to how their account will be impacted once payment is received and how any shortfalls will be handled. The employer is also to be advised that the Adjudicating Board will remain the Board managing the claim and that any cost relief inquires will need to be directed to the Reimbursing Board as this is where costs will be charged. A letter similar to the one outlined in Schedule K can be used.

5. The Adjudicating Board is to follow the process identified within their own jurisdiction to monitor when costs exceed $1000 and/or third party action is completed.

6. Once the notification letter is received by the Reimbursing Board, a claim will be established (if not already established) with the documents filed accordingly, until further communication is received from the Adjudicating Board.

7. If upon receipt, the Reimbursing Board determines that they have already accepted the claim, they will contact the Adjudicating Board immediately to attempt to resolve any duplication of claims/benefits issued that may have occurred. If necessary IJA Coordinators from each jurisdiction can become involved to assist in resolving any issues.

7.5.2 Requesting Reimbursement:

The Adjudicating Board will follow the following process when requesting reimbursement from the accident jurisdiction (Reimbursing Board):

1. Confirm that the accident did not occur in their home jurisdiction.

2. Review and ensure that no third party action is pending.

3. Review and ensure that costs have reached $1000.

4. Determine whether notice has been provided within 2 years and/or whether the actual request for reimbursement is within 2 years from the date of acceptance of the claim.

5. If the employer has not yet been notified of the possible request for reimbursement, send a separate letter to the employer advising how their account will be impacted (i.e. costs removed from their account or a portion of the costs removed if there is any shortfall noted) once reimbursement has been received. The employer is also to be reminded that the Adjudicating Board will continue to manage the claim, however is to direct any cost relief inquiries to the Reimbursing Board to address (Refer to sample letter in Schedule K).

6. The Adjudicating Board will send a separate letter requesting reimbursement (identifying any existing dollar for dollar agreements) for each individual claim (with a copy to the employer) outlining the following information*:
    - Claim number of the Adjudicating Board
    - Claim number of the Reimbursing Board (if known)
    - Employer's full legal name and address
    - Worker's full legal name
    - Date of birth
    - Social Insurance Number (SIN)-if collected
    - Worker's complete mailing address and phone number
    - Date of accident
    - Detailed location of accident (Including city and province)
    - Injury accepted
    - Invoice number (for reference)
    - Appropriate IJA contact at the Adjudicating Board
    - An outline of the specific period the costs cover (to and from dates)

- Detail of the costs *actually issued* specific to the invoice period identified, divided into 3 categories:
  - Compensation benefits (Wage loss benefits)
  - Medical Aid benefits
  - Pension costs (Capitalized Costs)
- An attached copy of the detailed claim cost breakdown for each category
- Compensation rate details including the gross weekly or gross annual earnings, hourly rate, hours per week worked, shift cycle, type of employment (full-time, part-time, seasonal, etc)
- Details as to the type of wage loss benefits paid (full wage loss, partial wage loss, pension benefits, estimated earnings loss, etc)
- Notification of whether further costs are anticipated and/or the claim has been inactivated.

*Refer to the sample letter outlined in Schedule M.

7. Claim summaries are optional but it is crucial that complete file documentation, including all pertinent details are submitted with reimbursement requests (PPP-Reimbursement Protocols-Claim Summary-2014).

8. Attach any decision letters, medical reports, service provider invoices, file notes, appeal decisions, employer letters, etc to the letter requesting reimbursement. Keep in mind your jurisdiction's privacy legislation when sending documents to the Reimbursing Board (Refer to Schedule N for the chart outlining each jurisdiction's consent requirements for disclosure of information for different scenarios).

9. If no response has been received by the Reimbursing Board within 90 days, send a follow-up trace letter reminding the jurisdiction of the outstanding invoice awaiting reimbursement.

10. If further costs have been incurred, another letter requesting reimbursement is to be sent in 90 days requesting further reimbursement of the additional costs (same information as identified in #5). Ensure that the minimum threshold of $200 has been met (PPP-Reimbursement Protocols-Invoice Threshold-2014 & 2021). If previous invoice requests for reimbursement are outstanding, please reference the invoices in the letter.

11. If costs are not in excess of $200 or there are no costs in 90 days, continue monitoring every 90 days to ensure that timely invoices are sent once appropriate costs are incurred.

12. If there is no response to outstanding invoices after 180 days, follow-up with the IJA contact and/or consider involving the IJA coordinators to discuss the overdue invoice(s).

7.5.3 Full Reimbursement, Denial of Reimbursement or Partial Reimbursement:

The Reimbursing Board will follow the following process when reviewing a request for reimbursement from the Adjudicating Board:

1. Confirm that the accident occurred in the jurisdiction of the Reimbursing Board.

2. Confirm whether or not a signed right of election* has been received. If not, contact the IJA contact at the Adjudicating Board to determine whether a signed right of election was received and whether it is still possible to obtain. If it is determined that the right of election is not practical to attain, determine whether it is still reasonable to issue reimbursement and whether there are any inherent risks in doing so. For example, if the appeal period has lapsed and/or the worker is no longer entitled to benefits, there may be few risks if any, in issuing reimbursement to the Adjudicating Board.

   *****All jurisdictions have provided written confirmation that they will accept AB WCB's reimbursement requests made based on the modified right of election process through the mobile AB, including acceptance of both the electronic signatures and the absence of the witness signature (PPP-Election-Form Requirement, 2021).

3. Determine whether a claim has been established. If not, create a claim. If there is an existing claim, ensure that the claim has not already been accepted and/or benefits issued to the worker. If the worker has already received benefits from the Reimbursing Board, then contact the worker and the Adjudicating Board for further information and clarification (i.e. gather information as to whether the worker has signed right of elections with both jurisdictions and when those elections were signed, whether the Adjudicating Board notified the Reimbursing Board of the claim acceptance, etc). Negotiate an amicable resolution for both parties involved.

4. Confirm that the employer identified is the same employer identified by the Adjudicating Board. If the employer charging is different (i.e. the worker may be covered under the principal company in one jurisdiction

and be required to have their own account in another), then deny the request for reimbursement. Follow the steps outlined in #10.

5. If the employer does not have an account, determine whether they were in a compulsory industry at the time of the accident. If so, contact the employer, create the account and backdate assessments accordingly in order for reimbursement to be issued. If an employer account was not required, send a letter to the Adjudicating Board denying the reimbursement request. Follow the steps outlined in #10.

6. Determine whether the date of the initial invoice and/or notification was sent within two years from the date of acceptance by the Adjudicating Board. If the invoice is a subsequent invoice, ensure that it is 90 days or greater since last invoice date, not exceeding 2 years from the last invoice. If either of these conditions are not met, then contact the Adjudicating Board to gather further information regarding the delay. If satisfied that the delay in requesting reimbursement was acceptable/reasonable, proceed with issuing reimbursement accordingly, acknowledging any existing dollar for dollar agreements between jurisdictions. Please keep in mind individual jurisdictions can review approval or reimbursement for invoices in excess of 2 years (including interruption in business operations during COVID-19) on a case by case basis.

7. Review the invoice along with all file documentation and determine whether any cost relief decisions are required. If so, review entitlement for cost relief and provide a decision regarding entitlement. If determination of cost relief entitlement is premature, then advise the employer accordingly and make note to address cost relief at an applicable later date.

7.5.3.1 Full Reimbursement:

8. The Reimbursing Board is to review the file documentation along with the invoice and all itemized costs and issue full reimbursement (particularly if there is an existing dollar for dollar agreement between the involved jurisdictions). Send a letter*and attached cheque advising that full reimbursement has been issued, noting no shortfall.

   Some jurisdictions do not have the ability to send the cheque and letter together, however, it is pertinent that there is not a significant delay of an Adjudicating Board receiving the corresponding letter and cheque.

   The letter* should include the following:
   - The worker's full name

- Claim numbers for both jurisdictions
- The date of accident
- The date/invoice number that the reimbursement relates to
- The total amount reimbursed broken down into categories and payment codes.
- Any governing legislation and/or policy (only applicable to support the denial/shortfalls identified)
- The cheque numbers associated with the reimbursement issued (for full and partial reimbursements only).

Please Note: Not all jurisdictions have the ability to itemize cheque numbers that correspond to each invoice issued in their letters due to the sheer volume of claim/invoice requests for reimbursements that they handle from all jurisdictions.

*Refer to sample letter in Schedule O.

7.5.3.2 Denial of Reimbursement:

9. Several factors may be identified which prohibit reimbursement by the Reimbursing Board. They may include the following:
    - The accident did not occur in the Reimbursing Board's jurisdiction.
    - The claim was already accepted with a signed right of election by the Reimbursing Board.
    - The employer was not required to have an account.
    - Employer charging is different in both jurisdictions.
    - The employer participates in AAP with the Reimbursing Board and cannot participate in AAP with the Adjudicating Board due to legislative constraints. Please refer to Module 9 for further explanation.
    - A completed right of election form was not submitted and it was determined that the risks were too great to issue reimbursement.
    - Reimbursement and/or notification was not provided within 2 years from the date of claim acceptance and the reasons for the delay were not reasonable.
    - The costs of the claim do not exceed $1000.
    - Third party action is pending.
    - Third party action is complete, however, full recoveries were received.

10. If it is determined that the reimbursement request must be denied, a detailed letter must be provided which outlines the decision and provides the rationale including supporting legislation and policy, as to why the reimbursement

request cannot be honored. The letter should include the details listed in #8 above (Refer to the sample letter in Schedule O.)

7.5.3.3 Partial Reimbursement:

11. If it is determined that only partial reimbursement can be made, a letter must be provided which outlines the decision and detailed rationale, including supporting legislation and related policies, as to why the reimbursement request cannot be honored in full. The letter should include the details listed in #8 above (Refer to the sample letter in Schedule O).

    Please refer to Module 8 for details on appropriate and inappropriate limitations to full reimbursement (Refer to the Chart outlined in Schedule P and Q which outline jurisdictional constraints and maximum compensable earnings per year, for jurisdictions).

7.6 Case Studies-General Cost Reimbursement Guidelines:

The following is a list of case studies that help illustrate some of the practical situations that can arise and agreed upon resolutions based on the guiding principles and best practices identified in this module.

They have been broken down into the following:

- 7.6.1 Progressive Injuries and Reimbursement (2018 AWCBC Meeting)
- 7.6.2 Airline Claims and Reimbursement (2018 AWCBC Meeting)
- 7.6.3 Right Re-Election and Reimbursement (2011 AWCBC Meeting)
- 7.6.4 Right of Re-Election, Claim Denial and Reimbursement (2018 AWCBC Meeting)
- 7.6.5 Employer Charging and Impact on Reimbursement-No AAP Participation (2012 AWCBC Meeting)
- 7.6.6 Capitalization Clarification (2010 AWCBC Meeting)
- 7.6.7 Reimbursement Limitation on Capitalized Costs (2010 AWCBC Meeting)
- 7.6.8 Third Party Action-Premature Request for Reimbursement (2016 AWCBC Meeting)
- 7.6.9 Cost Relief-Inappropriate Application (2016 AWCBC Meeting)
- 7.6.10 Cost Relief VS Entitlement (2017 AWCBC Meeting)
- 7.6.11 Collecting Overpayments on Reimbursements (2010 AWCBC Meeting)
- 7.6.12 Employer Charging Errors and **Refund** Implications (2017 AWCBC Meeting)

7.6.1 Progressive Injuries and Reimbursement (2018 AWCBC Meeting):

Fact Scenario:

- Worker submits a progressive claim, supporting employment in both Jurisdiction A and Jurisdiction B.
- Right of election was appropriately offered in both Jurisdictions A and B.
- Worker elected benefits in Jurisdiction A (province of residency) and claim is accepted and benefits are issued.
- Jurisdiction A requests reimbursement under the IJA from Jurisdiction B, indicating that the onset of symptoms and treatment occurred while he was employed in Jurisdiction B.
- Jurisdiction B denied reimbursement to Jurisdiction A claiming that the injury was progressive in nature and not specifically confined to work solely in Jurisdiction B.
- Jurisdiction B also indicated that there were no specific provisions of the IJA to support reimbursement for progressive injuries and questioned whether it would fall under Occupational Diseases (IJA Section 7).

  *Progressive injuries are considered to be injuries that have developed over a period of time, like repetitive strain injuries or back injuries, that have no specific incident identified. If a specific incident or cause (i.e increase in job hours/duties while working in a specific jurisdiction) has been identified for a repetitive strain injury, consideration can be given.

Questions:

- Is it appropriate for Jurisdiction B to deny reimbursement to Jurisdiction A?
  Yes, it is appropriate for Jurisdiction B to deny reimbursement to Jurisdiction A. If a **specific incident** or **specific work duties** within a specific location did not occur to warrant the onset of symptoms, it is not appropriate to request reimbursement.

- Are progressive injuries exempt from reimbursement under the IJA?
  Yes, progressive injuries should be exempt from IJA requests for reimbursement, particularly if the location of injury is unclear.

- Is it appropriate to consider progressive injuries as Occupational Diseases (Section 7) under the IJA?
  No, progressive injuries are not appropriate to consider under Section 7 for Occupational Diseases.

- If there is a clear onset of symptoms and/or treatment sought in a specific jurisdiction, is it appropriate to request reimbursement for progressive injuries under the IJA?
  No, onset of symptoms and/or treatment sought in a specific jurisdiction are not sufficient to establish the location of injury.

- Should requests for reimbursement for progressive injuries be barred, solely on the basis that there are no specific provisions relating to progressive injuries in the IJA?
  No, reimbursement for progressive injuries should not be barred solely on the basis that there are no specific provision relating to progressive injuries in the IJA. However, progressive injuries are barred for reimbursement if a specific incident or injury cannot be established.

7.6.2 Airline Claims and Reimbursement (2018 AWCBC Meeting):

Fact Scenario:

- Worker is a flight attendant injured while in flight (over Jurisdiction A's airspace).
- Worker is a resident of Jurisdiction B.
- Right of election was appropriately offered in both Jurisdictions A and B.
- Worker elects in Jurisdiction B and claim is accepted and benefits issued.
- Jurisdiction B requests reimbursement under the IJA from Jurisdiction A, indicating that the injury occurred over Jurisdiction A's airspace.
- Jurisdiction A denied the request for reimbursement from Jurisdiction B indicating that airspace cannot be defined or determined.
- Jurisdiction A indicated that reimbursements involving the airline industry are only permissible when the injury occurs on land.

Questions and Resolution:

- Is it appropriate for Jurisdiction A to deny reimbursement under the IJA to Jurisdiction B?
  Yes, it is appropriate for Jurisdiction A to deny reimbursement under the IJA to Jurisdiction B as airspace cannot defined or determined.

- Should reimbursement of all airline claims be confined to injuries that occur on land only?
  Yes, all jurisdictions agreed that costs for injuries that occur in-flight are borne by the jurisdiction administering the claim.

- If not, how do we determine location of injury while in flight?
  All jurisdictions agreed that we should not be attempting to determine location of injury while in flight.

7.6.3 Right of Re-Election and Reimbursement (2011 AWCBC Meeting):

Fact Scenario:

- A worker was injured in Jurisdiction A.
- Worker is resident of Jurisdiction B
- Worker elected benefits in Jurisdiction A (No AAP participation).
- Employer was registered in both Jurisdiction A and B.
- Jurisdiction A denied the worker's claim for compensation based on the fact that the worker's accident did not arise out of and occur during the course of employment.
- Worker proceeded to elect benefits in Jurisdiction B and had his claim accepted based on the same facts considered by Jurisdiction A.
- Jurisdiction B then requested reimbursement of claims costs from Jurisdiction A, which were denied based on the fact that they had already denied the worker's claim for compensation and felt they should not be responsible for reimbursement.
- Jurisdiction A noted that the worker had 2 years to submit an appeal of that decision and therefore, raised concern that the worker was able to submit a claim with Jurisdiction B.
- Concern was raised that if the worker appeal Jurisdiction A's decision and had the decision overturned, he would be in essence receiving benefits from 2 jurisdictions.

Resolution:

- Once the worker signed the application for compensation with the Jurisdiction B, he/she had inherently removed the right to appeal with Jurisdiction A.
  With respect to the worker's ability to re-elect with Jurisdiction B, Section 4.1 of the IJA requires the worker to elect not to claim from other jurisdictions if the claim was **accepted.** Therefore, when the claim is denied, the worker would have the right to file in the other jurisdiction.

- With respect to the request for reimbursement, the majority of jurisdictions felt that Jurisdiction A's denial of reimbursement from Jurisdiction B was considered inappropriate readjudication by the Reimbursing Board (i.e. Jurisdiction A).
  However, there was no consensus on the issue.*

- The decision of Jurisdiction B to accept the claim was really a question of each Board considering the weight of evidence differently to determine whether the accident arose out of and occurring during the course of the worker's employment and not really, against any statutory legislation/policy of Jurisdiction A.

In this case, Jurisdiction A refused to reimburse Jurisdiction B and Jurisdiction B did not pursue the matter any further.

*It is important to note, consensus was reached on this issue in 2018 (Case Study 7.6.4).

7.6.4 Right of Re-Election, Claim Denial and Reimbursement (2018 AWCBC Meeting):

Fact Scenario:

- Worker is injured in Jurisdiction A.
- Worker is a resident of Jurisdiction B.
- Right of election was appropriately offered in both Jurisdictions A and B.
- Worker elects in Jurisdiction A, however, the claim is NOT accepted due to their policies regarding serious and willful misconduct.
- Worker returns to Jurisdiction B and requests right of election which is granted. He chooses not to pursue an appeal with Jurisdiction A.
- Jurisdiction B accepts the claim based on the same facts.
- Jurisdiction B requests reimbursement under the IJA from Jurisdiction A (province of injury).
- Jurisdiction A refuses cost reimbursement indicating that the worker should not have been offered right of election with Jurisdiction B as he already chose Jurisdiction A and the claim was denied based on their policies. Jurisdiction A felt that the worker should have appealed through their jurisdiction.

Questions and Resolution:

- Is it appropriate for Jurisdiction A (province of injury) to deny reimbursement under the IJA to Jurisdiction B?
  No, Jurisdiction A cannot deny reimbursement to Jurisdiction B under the IJA despite the fact that they had already denied the claim based on the same facts. This would be considered readjudication and is not permissible under the IJA.

- Is it appropriate for Jurisdiction A to consider their policies regarding **acceptance** of the claim when determining whether reimbursement is appropriate?
  No, Jurisdiction A cannot consider any of their policies when determining whether reimbursement is appropriate. This is considered readjudication and is not permissible under the IJA.

- Would Jurisdiction A's denial of reimbursement not be considered a readjudication of Jurisdiction B's entitlement decision and therefore, not permissible under the IJA?

Yes, Jurisdiction A's denial of reimbursement is considered readjudication of Jurisdiction B's entitlement decision and therefore, not permissible under the IJA.

- Does Jurisdiction B have the right to offer right of election to the worker, considering that Jurisdiction A already denied the claim?
  Yes, Jurisdiction B can offer right of election to the worker as Section 4.1 allows right of election as the claim was not **accepted** in Jurisdiction A. Please refer to Case Study 3.5.3 and 3.5.4 for further details.

- Does Jurisdiction A have the ability to hold the worker accountable to pursue all levels of appeal with their jurisdiction, prior to re-electing with Jurisdiction B?
  No, Jurisdiction A cannot hold the worker accountable to pursue all levels of appeal within their jurisdiction prior to re-electing with Jurisdiction B. Once the worker signs the application for compensation with Jurisdiction B, he/she has inherently removed the right to appeal with Jurisdiction A. Please refer to Case Study 7.6.3 for further details.

7.6.5 Employer Charging and Impact on Reimbursement-No AAP Participation (2012 AWCBC Meeting):

Fact Scenario:

- Jurisdiction A adjudicated a claim and requests reimbursement from Jurisdiction B as the accident occurred in Jurisdiction B (No AAP participation)
- Jurisdiction A determined that the principal company was the appropriate insured on the claim.
- Jurisdiction B determined that the worker was the employer, as a personal coverage holder, different than the principal company.
- Jurisdiction B denied reimbursement on the basis of different employer charging. It was Jurisdiction B's opinion that it would not be appropriate to charge an employer for a claim when they have had no involvement in the claim from the onset since the Adjudicating Board had determined a different employer to be the accident employer.

Questions and Resolution:

- Was it appropriate for Jurisdiction B to deny reimbursement?
  Most jurisdictions did not have an opinion, however, one jurisdiction indicated that it was not appropriate for Jurisdiction B to deny reimbursement as long as the employer had an account in Jurisdiction B and the worker could have elected with Jurisdiction B, which was in fact the case. Therefore, it was their opinion that reimbursement was

reasonable in accordance with the intent of the IJA as the accident occurred in Jurisdiction B.

It was also suggested that Jurisdiction B could relieve all costs of the other employer once reimbursement was completed.

Further Resolution (2014 AWCBC Meeting):

- Due to the complexity of issue which arise when reimbursement occurs with two different employers, all jurisdictions agreed that reimbursement would **only** occur when employer charging was with the same employer.

Further Resolution (2017 AWCBC Meeting):

- Best practice remains to reimburse only when employer charging is with the same employer in both jurisdictions due to potential issues with offers of modified duties, access to claim file, etc.

7.6.6 Capitalization Clarification (2010 AWCBC Meeting):

Fact Scenario:

- The Adjudicating Board requests reimbursement from the Assessing Board for pension costs (also known as Economic Loss Payment (ELP costs).
- The Reimbursing Board (Assessing Board) reimburses the Adjudicating Board. However, at the time of first reimbursement, the Reimbursing Board employs a process of capitalizing future costs based on their board's assumptions for earnings loss capability.
- As reimbursement requests continue over the months/years from the adjudicating province, the Reimbursing Board eventually limits/ends reimbursement to continued pension requests once they reach their total capitalized figure (aka pension reserve) suggesting that if they were adjudicating this claim, this would be the limit of the worker's entitlement?

  *Some provinces take this one step further and actually have reviewed their past claims where pension costs have been reimbursed to the Adjudicating Board and create overpayments, suggesting that reimbursement was made in error, in excess of the pension reserve calculated. In turn, the Reimbursing Board requests reimbursement back from the Adjudicating Board.

Resolution:

- The Reimbursing Board should not be capitalizing or limiting reimbursement under IJA as per the May 12 & 13, 2010 resolution documented in the Committee Protocols, Practices and Procedures document.
- At the 2011 Committee Meeting it was recommended that jurisdictions resolve this issue with the opposing Board (May 10 & 11, 2011 Committee Protocols, Practices and Procedures document).

7.6.7 Reimbursement Limitation on Capitalized Costs (2010 AWCBC Meeting):

Fact Scenario:

- The Adjudicating Board (Jurisdiction A) is seeking reimbursement for pension costs from the Reimbursing Board (Jurisdiction B).
- The Reimbursing Board (Jurisdiction B) has paid to the capitalized value of the claim. They indicate that their legislation does not permit payment beyond the capitalized value.

Questions and Resolutions:

- Is this practice fair? Is it in accordance with section 9.2 and 9.6 of the IJA? The majority of jurisdictions did not believe that this practice was fair. Section 9.2 does state that reimbursement can be limited to the extent that the Reimbursing Board would have itself capitalized the costs had it administered the claim. 9.6 speaks to re-capitalization at a later date so does not apply in this scenario.

  Only two jurisdictions indicated that they capitalized costs on claims they were reimbursing.* The question was raised as to the value each Board was assigning to the capitalized value and questions regarding whether that was considered readjudication, not permissible under the IJA.

  The majority of jurisdictions agreed that capitalizing and reserving funds are not to be used as a method to cap benefits to another jurisdiction, but simply intended to estimate the costs of the claim going forward for insurance purposes. Therefore, a jurisdiction should continue to pay the claim as long as their respective legislation allowed it.

- Is it appropriate for the Reimbursing Board (Jurisdiction B) to limit reimbursement based on their capitalized value, revisit their past reimbursements and create an overpayment if the claim reached its own capitalized value?
  The majority of jurisdictions agreed that Reimbursing Boards should not be capitalizing claims that they are reimbursing. However, if this is

somehow considered necessary for insurance purposes, it should not be used as a method to limit reimbursement to another jurisdiction, when that capitalized value is reached. If capitalization is required for insurance purposes, it should not be indicative of the actual payment of the claim as this is dependent on many factors, including actual life span of the worker. A jurisdiction would not cease paying a worker when they had reach their capitalized value and therefore, should not use that rationale to deny reimbursement to another jurisdiction.

Overpayments are also not considered to be appropriate when a Reimbursing Board indicates that they reimbursed over their capitalized value.

Creating an overpayment may be appropriate if a jurisdiction has issued reimbursement contrary to their legislation provisions. For example, if a jurisdiction has absolutely no provisions to issue payment to injured workers past the age of 65 and the Reimbursing Board issued reimbursement in error past the worker's age of 65, creation of an overpayment may be appropriate.

Summary:
The general consensus was that reimbursement should not be limited on the basis of capitalized costs calculated by the Reimbursing Board.

Jurisdictions discussed options of reimbursement when the Adjudicating Board issued a lump sum to a worker/dependant and the Reimbursing Board did not have provisions to issue a lump sum and/or pay benefits into the future. In this case, jurisdictions agreed that refusal of reimbursement was inappropriate as there would still be ongoing entitlement of benefits with the Reimbursing Board, had they adjudicated the claim. The Reimbursing Board could continue to issue reimbursement based on their monthly amount calculated, until the lump sum amount issued by the Adjudicating Board had been reached.

It was later agreed (2011 Meeting Minutes) that jurisdictions should attempt to resolve this issue amongst themselves to reach a consensus, agreeable to both parties.

*Reference can be made to the 2010 Meeting Minutes for further details on each jurisdiction's position. Individual jurisdictions positions/comments as it is not relevant for final resolution.

7.6.8 Third Party Action-Premature Request for Reimbursement (2016 AWCBC Meeting):

Fact Scenario:

- The Adjudicating Board requests reimbursement from Reimbursing Board, overlooking the fact that third party action is pending.
- The Reimbursing Board provides full reimbursement, also overlooking the fact that third party action was not completed.
- The Adjudicating Board later notifies the Reimbursing Board that third party action is ongoing and/or completed, resulting in an overpayment between jurisdictions that needs to be resolved.

Questions and Resolution:

- Was it appropriate for the Adjudicating Board to make the initial request for reimbursement from the Reimbursing Board?
  No, the Adjudicating Board was to provide formal notice to the Reimbursing Board that they were exercising its subrogation rights and then seek reimbursement for any shortfall (PPP Resolution dated April 29 &20, 1999). Reimbursement requests were not to be sent until third party recovery action was completed (PPP Resolution dated May 20 & 21, 2009).

- Is the Adjudicating Board responsible for providing a refund to the Reimbursing Board?
  Yes, the Adjudicating Board was required to provide a full refund to the Reimbursing Board. Once third party action is completed, then the Adjudicating Board can request reimbursement for any funds that have not been recovered (PPP Resolution, dated August 19 & 20, 1999).

7.6.9 Cost Relief-Inappropriate Application (2016 AWCBC Meeting):

Fact Scenario:

- The employer submitted a request for cost relief to the Adjudicating Board.
- The Adjudicating Board had already received reimbursement for claims costs from the Reimbursing Board.
- The Adjudicating Board reviewed the request and denied cost relief, referencing their own cost relief policies, rather than referencing the IJA procedures.
- The employer submitted an appeal of the denial of cost relief to the Adjudicating Board.
- The Adjudicating Board's appeal body overturned the decision and granted cost relief.

- The Adjudicating Board realized that there were no costs (as costs were with the Reimbursing Board) and referred the employer back to request cost relief from the Reimbursing Board.
- The employer argued that the Reimbursing Board should honor the Appeal Body decision from the Adjudicating Board. However, the Reimbursing Board did not have the ability to honor another jurisdiction's decision on cost relief.

Resolution:

- The Reimbursing Board is responsible to determine cost relief entitlement based on *its own policies/procedures* for the amount reimbursed to the Adjudicating Board (PPP resolution dated May 28 & 29., 2013).
- The Adjudicating Board (including any appeal body decision) cannot impose their decision on the entitlement of cost relief to the Reimbursing Board.

7.6.10 Cost Relief vs Entitlement (2017 AWCBC Meeting):

Fact Scenario:

- Jurisdiction A (Adjudicating Board) requests reimbursement from Jurisdiction B (Reimbursing Board-accident jurisdiction) under the IJA.
- Jurisdiction B accepts and reimburses accordingly.
- Jurisdiction A's Appeal Body overturns initial entitlement and denies the claim and all costs associated with it, indicating that the claim should never have been accepted and/or benefits issued to the worker.
- Jurisdiction B requests a refund of costs reimbursed based on this new appeal decision.
- Jurisdiction A denies this request and instead indicate that it is the employer's responsibility to request cost relief from Jurisdiction B, assuming that costs will be relieved by Jurisdiction B's cost relief policies.
- Jurisdiction B indicates that this is not an appropriate cost relief request as the appeal decision was one of entitlement and in essence, should never have been pursued for reimbursement under the IJA, from Jurisdiction A.

Questions and Resolution:

- Should Jurisdiction A be responsible to refund the reimbursement by Jurisdiction B since this is not a cost relief issue but rather an entitlement error?
  Yes, Jurisdiction A is responsible to refund the reimbursement by Jurisdiction B as this is not a cost relief issue, but clearly an entitlement error made by Jurisdiction A.

- Is it appropriate for Jurisdiction A to refer the employer to request cost relief for these funds from Jurisdiction B?
  No, it is not appropriate for Jurisdiction A to refer the employer to request cost relief of these funds from Jurisdiction B, based on that jurisdiction's cost relief policies. Jurisdiction A is obligated to refund the entire costs to Jurisdiction B as the denial was one of entitlement and should not have been subject to reimbursement under the IJA.

7.6.11 Collecting Overpayments on Reimbursements (2010 AWCBC Meeting):

Fact Scenario:

- Jurisdiction A received reimbursement from Jurisdiction B on an IJA claim.
- However, Jurisdiction A later experienced a change in their own entitlement decision due to an appeal, which created a huge overpayment. Jurisdiction A forgave the overpayment to the worker.
- As a result, Jurisdiction B requested a refund from Jurisdiction A, indicating that they should not have billed the Board these monies and the employer should not be impacted for these costs in Jurisdiction A since they in fact forgave the overpayment to the worker.
- Jurisdiction A indicated that they would not issue a refund to Jurisdiction B, but would simply withhold entitlement of reimbursement back from other IJA claims.
- Jurisdiction B did not agree with the position of Jurisdiction A and requested an immediate refund.

Questions and Resolution:

- Is Jurisdiction B entitled to an immediate refund from Jurisdiction A or is the solution proposed by Jurisdiction fair?
  Yes, Jurisdiction B is entitled to receive an immediate refund from Jurisdiction A and should not have to wait for the refund, based on other entitlements. Jurisdictions should act in good faith to deal with these claims as they do not occur often (2010 IJA Committee Meeting).

7.6.12 Employer Charging Errors and Refund Implications (2017 AWCBC Meeting):

Fact Scenario:

- Jurisdiction A requests reimbursement from Jurisdiction B.
- Jurisdiction B accepts and reimburses accordingly.
- Jurisdiction B later determines that the employer either was not required to have an account or there was different employer charging determination.
- Jurisdiction B now requests refund of reimbursement from Jurisdiction A due to their administrative error.

Questions and Resolution:

- Is it appropriate for Jurisdiction B to request a refund due to their own administrative error?
  Yes, it is appropriate for Jurisdiction B to request a refund due to their own administrative error.

- Should Jurisdiction A refund the reimbursement already issued?
  Yes, Jurisdiction A should refund the reimbursement already issued.

- Should there be a limitation period imposed as to when it would no longer be appropriate to request the above refund? 1 year? 2 years? When rating period is over?
  A reasonable limitation period would be 2 years, unless parties agreed to extend it.

Module 8: Limitations on Readjudication

8.1 Introduction:

Guidelines pertaining to cost reimbursement (Section 9.2 particularly) are certainly one of the sections of the agreement that have been identified as an area of confusion, as to what is intended by the provisions of the Interjurisdictional Agreement with respect to issuing full reimbursement versus limited reimbursement.

At the annual AWCBC meetings in 2010, 2011 and 2013, lengthy discussions occurred regarding redrafting various sections of the agreement (specifically 9.2, 9.5, and 9.6) in order to clearly state the intent and effect as it was agreed to be broad, confusing and imprecise (as outlined in memo from William Ostapek in Schedule AA). Many jurisdictions felt that Section 9.2 was written in such a way to allow for limitations due to policy and statutory limitation and since not all jurisdictions agreed with full reimbursement, there was no need to have the Agreement revised. However, all members had agreed that the overarching guiding principle was to issue full reimbursement, with shortfalls **only** to be permitted based on the Reimbursing Board's supporting legislation and policy.

It was agreed that guidelines be developed to outline the adopted practices and provide case scenarios which outline agreed upon resolutions for issues that may develop.

8.2 Interpretation of Section 9.2:

As outlined in Section 9.2 of the Interjurisdictional Agreement, cost reimbursement is to be in full, subject only to any policy or statutory limitations. This clause is open to interpretation and appears to be dependent on the level of scrutiny applied in relation to claim review in consideration of reimbursement. The amount of reimbursement has been dependent on the Reimbursing Board's interpretation of whether the policy and statutory limitations refer to reimbursement or payment of compensation (as highlighted in the paper present by William Ostapek (Alberta) in 2010, Schedule AA).

The discussion paper submitted by Doug Mah (Alberta) in 2004 (Schedule Y) and his memos from 2008 (Schedule Z and Schedule BB) have been the foundation for the interpretation provided, standard guidelines developed and adopted practices as all participating jurisdictions have agreed with the information he outlined.

Section 9.2 of the Interjurisdictional Agreement specifically states:

Amount of Reimbursement
"Reimbursement shall either cover the full amount of all payments made by the adjudicating Board on a claim or the portion of that full amount requested by the adjudicating Board for reimbursement subject only to any policy or statutory limitations. This includes the capitalized costs established on a claim, where both the adjudicating and reimbursing Boards employ a process of capitalizing future costs. Reimbursement in such cases shall be limited to the extent that the reimbursing Board would have itself capitalized the costs had it administered the claim."

In the 2004 discussion paper (Discussion paper on Readjudication of Cost Reimbursement Claims under the Interjurisdictional Agreement, 2004, Schedule Y), Mr. Mah indicates that the suggested interpretation seemed clear that the only limits on reimbursement are policy and legal limits. He further indicated that "in this context, it is suggested that "policy" refers to official policy enacted by the governing body (Board of Directors) under its policy-making power and does not refer to practices or procedures. The policy must have the force of law and be binding on all decision-makers within the system.

Based on this above interpretation, Mr. Mah indicates that this establishes the principle of "minimal adjudication" where the reimbursing jurisdiction is only allowed to adjudicate on the issue of the *legality of payment* and is not permitted to readjudicate *generally*. In other words, the reimbursing jurisdiction is not allowed to substitute its decision (based on difference in practice or a difference in which the evidence is perceived), provided that the adjudicating jurisdiction's decision is not illegal under the Reimbursing Board's legislation or policy. If it is determined that issuing full reimbursement would cause the Reimbursing Board to violate their own laws and policy, only then would they be legally compelled to reduce or even deny the reimbursement request.

8.3 Categories of Readjudication:

Readjudication can be divided into 4 different categories (based on the memo by Doug Mah (Alberta) in 2008-Schedule Z):

Type 1: Where the Reimbursing Board concludes that to make full payment of the request would cause the Reimbursing Board to breach its own law or policy, and thus the Reimbursing Board is legally compelled to deny or reduce the amount of reimbursement.

Type 2: Where it is not illegal for the Reimbursing Board to make full payment but its law or policy confers discretion. The Reimbursing Board decides to exercise discretion by denying or reducing the amount of reimbursement.

Type 3: Where it is not illegal for the Reimbursing Board to make full payment, but because its methodologies, customs or practices differ from the Adjudicating Board's, the Reimbursing Board denies or reduces the amount of reimbursement.

Type 4: Where the Reimbursing Board disagrees with the Adjudicating Board's interpretation of the evidence and denies, ceases or reduces the amount of reimbursement.

Based on these types, only Type 1 is acceptable.

8.4 Case Scenarios-Readjudication:

The information presented below provides a list of brief case scenarios and resolutions, categorized by type, for which re-adjudication may or may not be appropriate. The hope is to assist a jurisdiction in understanding the decision made and use as a reference when similar situations arise.

They have been broken down into the following:

8.4.1 Scenario 1-Contracted/In-House Medical Advisors

The Adjudicating Board does not employ any in-house medical advisors. It has outsourced this function to a number of community physicians who work as part time contractors. The Adjudicating Board is charged a fee by the contractor for every file review / medical opinion. These costs do not come from the Adjudicating Boards administrative budget but are charged as a claims cost and are ultimately passed on to employers. The Reimbursing Board has in-house physicians to discharge this function. Because the Reimbursing Board does not use contractors, it denies reimbursement for these costs.

Resolution*:*
The Reimbursing Boards denial is Type 3 re-adjudication (as above) and is not permitted under the IJA.

8.4.2 Scenario 2-Differing Permanent Clinical Impairment Ratings

The worker has reached medical and vocational plateau and is being assessed for permanent clinical impairment (PCI). The Adjudicating Board's rating schedule is different than the Reimbursing Board's, resulting in a percentage of whole person that is higher than the Reimbursing Board's would have been. The Reimbursing Board has received a medical opinion regarding PCI from its own physician, which of course is lower. The Reimbursing Board reduces the payment accordingly.

Resolution:
This again is Type 3 re-adjudication and is not permissible under the IJA.

8.4.3 Scenario 3-Determination of Permanent Disability/Relationship to Work Injury

While driving in the Reimbursing Board's jurisdiction in 1994, the worker pinches his calf and develops deep vein thrombosis (DVT). The Adjudicating Board accepts the claim for DVT. By 2007, the Adjudicating Board has determined that the worker's leg problem is permanent and assesses for permanent disability. The Reimbursing Board denies the payment request related to permanent disability in its entirety, stating that it is responsible only for the acute period following the 1994 incident and that the worker's longer term problems are the result of "general job duties".

Resolution:
This is Type 4 re-adjudication and is not permissible under the IJA.

8.4.4 Scenario 4-Establishing Compensation Rates

The Reimbursing Board has rigid rules pertaining to the calculation of compensation rates, resulting from both legislation and policy. The Adjudicating Board's methodology for calculating compensation rates results in a more generous long term rate. The Reimbursing Board applies its methodology, resulting in a significantly lower long term rate and thereby reducing the Adjudicating Board's reimbursement request considerably.

Resolution:

This could be Type 1 re-adjudication (permissible), depending on whether or not there is legal compulsion to apply the Reimbursing Board's methodology. Otherwise, it might be Type 2 or Type 3, or a combination, and therefore not permissible.

8.4.5 Scenario 5-Prescription Costs and Relationship to Work Injury

The Reimbursing Board, based on its own in-house medical advice, does not believe that a certain prescription paid for by the Adjudicating Board relates to the work injury. The Adjudicating Board, on the other hand, has a medical memo that says the prescription is indicated. The Reimbursing Board denies reimbursement for the prescription.

Resolution:

This is Type 4 re-adjudication and is not permitted under the IJA.

8.4.6 Scenario 6-Permanent Clinical Impairment Determination

The Adjudicating Board's policy requires referral for Permanent Clinical Impairment (PCI) upon the happening of a certain event. A PCI was established under the Adjudicating Board's methodology. The Reimbursing Board purported to deny reimbursement for permanent disability on the basis that, in its medical opinion, it was too early to do a proper PCI assessment.

Resolution:

This is Type 4 re-adjudication and would not be allowed under the IJA.

8.4.7 Scenario 7-Differing Opinions on Medical Diagnosis Accepted

The worker was diagnosed with minor residual psychological symptoms and awarded a 10% permanent disability by the Adjudicating Board. The Reimbursing Board formed the opinion, following review of the file, that the evidence was not reliable enough to confirm a diagnosis of PTSD (Post Traumatic Stress Disorder) under the DSMIV (Diagnostic and Statistical Manual of Mental Disorders). On the Adjudicating Board's file, there were differing opinions from treating providers as to whether or not the worker had PTSD.

Resolution:
This is a question of sufficiency of evidence. Once the Adjudicating Board found that the worker suffered from a permanent psychological disability and in view of the fact that there is some evidence on the file as to PTSD, it was likely that the Reimbursing Board engaged in Type 4 re-adjudication.

*All above case scenarios were extracted from 2008 memo from Doug Mah (Alberta) to IJA Coordinators, titled "Re-adjudication" (Schedule Z)

8.4.8 Scenario 8-Maximum Insurable Earnings/Compensation Rate

The maximum insurable earnings in the Adjudicating Board's jurisdiction is $70k. In the Reimbursing Board's jurisdiction this is $58k. The Adjudicating Board submits a claim to the Reimbursing Board for one year of TTD (Temporary Total Disability) at the Adjudicating Board's maximum and notes a shortfall.

Resolution:
This is Type 1 re-adjudication and permissible under the IJA. The Reimbursing Board is entitled to reimburse at its own legislative maximum, not the Adjudicating Board's maximum.

8.4.9 Scenario 9-Psychological Condition

Chronic stress is acceptable in the Adjudicating Board but is specifically de-insured by legislation in the Reimbursing Board. The Adjudicating Board submits a reimbursement claim to the Reimbursing Board for a chronic stress claim. The Reimbursing Board denies the request.

Resolution:
This is Type 1 re-adjudication and permissible under the IJA. The Reimbursing Board is entitled to deny reimbursement as they are legally compelled to deny reimbursement, as it is not a psychological condition that they insure.

8.4.10 Scenario 10-Pension Entitlement Differences

A surviving spouse under age 40 in the Adjudicating Board's jurisdiction is entitled to a lifetime pension based on the deceased worker's earnings; but in the Reimbursing Board's jurisdiction a surviving spouse under 40 is only entitled to a single lump sum benefit equal to two years the deceased worker's annual earnings. The Adjudicating Board requests reimbursement for the capitalized cost of the fatality claim to the Reimbursing Board. The Reimbursing Board issues reimbursement equivalent to two years' worth of benefits.

Resolution:
This is Type 1 re-adjudication and permissible under the IJA. The Reimbursing Board is only required to reimburse the total of two years' worth of benefits as per their legislative requirements.

However, it should be noted that based on agreed upon best practices, the Adjudicating Board should only be requesting reimbursement for *actual* pension costs for the specified invoice period and not for the capitalized amount calculated. The Reimbursing Board would continue to reimburse the pension amount until the total of two years' worth of benefits is reached.

8.4.11 Scenario 11-Differing Pension Ratings

The Adjudicating Board determines that a worker is 50% disabled based on a medical opinion on file. The Adjudicating Board submits an invoice request to the Reimbursing Board for the capitalized cost of the pension. The Reimbursing Board, upon reviewing medical evidence, believes the worker is only 10% disabled. The Reimbursing Board gets a medical opinion from its own medical advisor supporting a 10% disability. As a result, the Reimbursing Board only issues reimbursement equivalent to a 10% disability award.

This scenario is similar to Scenario 2 where there are two different permanent clinical impairment ratings.

Resolution:
This is a combination of Type 3 and Type 4 re-adjudication and is not permissible under the IJA. The Reimbursing Board disagreed with the assessment rating provided and re-adjudicated used their own methodologies (i.e. a medical opinion from their own medical advisor) to arrive at a different rating. In this case, the Reimbursing Board must still reimburse the Adjudicating Board based on the 50%.

However, it should also be noted that the Adjudicating Board is not permitted to request reimbursement for the capitalized costs of the pension, but only the *actual* pension issued for the specified period of time that is covered in the invoice request.

8.4.12 Scenario 12-Academic Retraining Sponsorship

The Adjudicating Board funds a two year academic program for an injured worker and submits a claim to the Reimbursing Board. Upon reviewing the file, the Reimbursing Board concludes that the worker would only have been entitled to 12 weeks of re-employment assistance under local practice and not a two year program.

Resolution:
This is Type 3 re-adjudication and not permissible under the IJA. In this case, the Reimbursing Board has re-adjudicated the Adjudicating Board's decision to grant the two year program, which was simply outside of their practice but not legally prohibited. The Reimbursing Board must still reimburse the Adjudicating Board for the full cost of the program.

8.4.13 Scenario 13-Absence of a DSM Psychological Diagnosis

The Adjudicating Board accepts a worker's mental disorder as compensable in the absence of a diagnosis under the DSM (Diagnostic and Statistical Manual of Mental Disorders). The Adjudicating Board submits a reimbursement claim to the Reimbursing Board. Under the Reimbursement Board's policy, there must be a diagnosis of a recognized disorder under the DSM before a claim for mental disorder is acceptable. The Reimbursing Board denied reimbursement until a DSM diagnosis was confirmed.

Resolution:
This is Type 1 re-adjudication and permissible under the IJA. The Reimbursing Board is entitled to deny reimbursement as a specific DSM diagnosis is required in order to be recognizable as a psychological condition under their legislation and related policy. They are entitled to withhold payment until such time as a diagnosis under the DSM is obtained by the Adjudicating Board.

*All above scenarios were extracted from 2004 Discussion Paper of Doug Mah (Alberta), titled “Readjudication of Cost Reimbursement Claims under the IJA”.

8.4.14 Scenario 14-Identification as a Worker

The Adjudicating Board accepts a claim and pays benefits for a worker who is injured in another jurisdiction. They request reimbursement from the Reimbursing Board which is the accident jurisdiction. The Reimbursing Board determines that the worker does not meet the definition of a worker under their Act and denies the reimbursement request.*

Resolution:
This is Type 1 re-adjudication and permissible under the IJA. The Reimbursing Board is entitled to deny reimbursement as they have determined that the worker does not meet their legislative requirements of a worker and legally are compelled to deny reimbursement.

*Case scenario was extracted from 2008 IJA Committee Meeting Minutes

8.5 Jurisdictional Constraints:

A chart outlining each jurisdiction's maximum compensation rate dating back to 2015 for reference. This is available in Schedule P.

In addition, each jurisdiction has provided a summary of their potential limits to reimbursement based on their statutory limitations. This is available in Schedule Q. However, each jurisdiction is still required to provide a detailed explanation of any limitation of reimbursement with the supporting legislation and policy for each and every claim.

8.6 Disputed IJA Application:

Reimbursement can also be denied based on non-application of the IJA. These cases differ from "re-adjudication" cases in that in the latter, the application of the IJA is not disputed. In re-adjudication cases, it is accepted that the IJA applies and what is disputed is the Adjudicating Board's decisions. However, in cases of disputed IJA application, it is questioned whether the request for reimbursement falls under the Interjurisdictional Agreement at all

8.7 Case Studies-Disputed IJA Application Case Scenarios:

Some sample scenarios of purported non-application drawn from real experience to illustrate the nature of the issue are described below.

They have been broken down accordingly:

- 8.7.1 Scenario 1-Progressive Injuries
- 8.7.2 Scenario 2-Subsequent Employment
- 8.7.3 Scenario 3-Subsequent Employment
- 8.7.4 Scenario 4-Location of Accident Unclear
- 8.7.5 Scenario 5-In-House Medical Costs

8.7.1 Scenario 1-Progressive Injuries

The worker was employed as a laborer erecting metal sheds and was required to lift heavy poles and gauge metal. The worker had done the same work for 11 years, five months with the same employer. The employer carries out work throughout Alberta, Saskatchewan, Manitoba, Ontario and British Columbia. On November 28, the worker reported a back strain to the Adjudicating Board that occurred on August 24 (while in the Reimbursing Board), although the worker continued to work for some months. The employer's report submitted on December 1 to the Adjudicating Board noted that the worker had injured his back as a result of general lifting requirements over the past year, and did not mention a specific work incident. Medical

reporting on the Adjudicating Board's file indicates that the injury was progressive in nature. The Adjudicating Board has made a reimbursement request to the Reimbursing Board, which has been denied on the basis that it is not an IJA claim.

Resolution:
This is an acceptable denial of reimbursement as progressive injuries that have developed over a period of time (like repetitive strain injuries or back injuries with no specific incident) are excluded from IJA requests for reimbursement as the actual location of accident is often unclear (PPP-Reimbursement Protocols-Progressive Injuries-2018).

Please also refer to the case study outlined in Module 7, General Cost Reimbursement Guidelines, specifically 7.6.1 which provides further description of an inappropriate request for reimbursement for a progressive injury.

8.7.2 Scenario 2-Subsequent Employment

The worker lives in the Adjudicating Board and during the months of March, April and May was engaged in delivering refrigerators (weighing 200 to 300 lbs.) for the same employer. The worker performed his work in the Reimbursing Board from March 27 to March 30. The worker reports the following information to the Adjudicating Board in June:

Date	Location	Symptom
March 28	Reimbursing Board	Sharp pain in groin.
April 15	Adjudicating Board	Twinges in groin.
May 10	Adjudicating Board	Developed hernia.

The worker did not seek medical treatment for the March 28 incident and described the pain as going away. The Adjudicating Board accepts the claim for a hernia and has made a reimbursement request to the Reimbursing Board on the basis of the March 28 incident as the precipitating incident, which the Reimbursing Board has denied. The Reimbursing Board says the accident occurred in the Adjudicating Board when the hernia surfaced on May 10 and therefore denied reimbursement indicating that the IJA does not apply.

Resolution:
This is an acceptable denial as the worker's injury which prompted him to seek treatment was on May 10 and was in the Adjudicating Board's jurisdiction. Therefore, it was not applicable for reimbursement under the IJA.*

*Please also refer to Module 6 which defines subsequent employment and provides a further case study and agreed upon resolution.

8.7.3 Scenario 3-Subsequent Employment

The worker reported that he fell in the Reimbursing Board's jurisdiction while unloading equipment. He then drove 8.5 hours home on a logging road back to his home in the Adjudicating Board's jurisdiction. The employer went to the worker's home to pick up the company truck and found the worker lying on the ground. The worker indicated that he had fallen again while unloading articles from the truck. The employer took the worker to hospital for medical treatment. The worker was diagnosed with a low back injury and the Adjudicating Board accepted the claim. The Adjudicating Board's reimbursement request to the Reimbursing Board was denied.

*Please also refer to Module 6 which defines subsequent employment and provides some further case studies and agreed upon resolutions.

8.7.4 Scenario 4-Location of Accident Unclear

The Adjudicating Board and the Reimbursing Board are in adjacent provinces. The worker was employed as a truck driver in the Adjudicating Board, sometimes traveling into the Reimbursing Board. The worker had been experiencing back pain for some time. There were apparently ergonomic problems with the driver's seating. The worker crossed over into the Reimbursing Board's jurisdiction, parked his vehicle and slept for 8 hours. When he woke up, he experienced severe back pain. The Adjudicating Board accepted the back claim and submitted a reimbursement request to the Reimbursing Board on the basis that the worker was physically located in the Reimbursing Board when the severe pain started. The Reimbursing Board denied reimbursement.

Resolution:

This is an acceptable denial of reimbursement as progressive injuries that have developed over a period of time (like repetitive strain injuries or back injuries with no specific incident) are excluded from IJA requests for reimbursement as the actual location of accident is often unclear (PPP-Reimbursement Protocols-Progressive Injuries-2018).

*All scenarios were extracted from 2008 memo from Doug Mah (Alberta) to IJA Coordinators (Schedule Z).

8.7.5 Scenario 5-In-House Medical Costs

The Adjudicating Board requests reimbursement for internal assessments or medical reports that are covered under the Adjudicating Board's overall administrative budget. Therefore, these costs do not show up as a claim cost but it is in fact a cost to the Board for a service provided. The Reimbursing Board denies the reimbursement request.

Resolution:

This is an appropriate denial of reimbursement as costs can only be requested for reimbursement if they are actually billed to an employer and therefore, charged to the claim file (PPP-Reimbursement Protocols-Medical Treatment Costs, 1998 & 2011).

8.8 Dispute Resolution:

If agreement cannot be reached after review of the above scenarios and agreed upon resolutions, the Adjudicating Board can begin the dispute resolution process. All parties are to act in good faith and best effort to resolve all disputes between jurisdictions, keeping in mind the spirit and intent of the IJA.

Refer to Module 11 for details of the guiding principles, key considerations, best practices and process to follow.

Regardless of the dispute between jurisdictions, no worker should ever be left without a remedy.

Module 9: Alternative Assessment Procedure (AAP)

9.1 Alternate Assessment Procedure Definitions (Section 12.1 of the IJA):

Alternative Assessment Procedure
The Alternative Assessment Procedure (AAP) is an elective assessment procedure under which an Electing Participant pays all assessments for a calendar year in respect of a worker engaged in one of the industries outlined in Appendix E of the IJA to one Assessing Board (Section 12.1 a) of the IJA).

Assessing Board
An Assessing Board is a Participating Board to which an Electing Participant pays assessments under the AAP (Section 12.1 b) of the IJA). The worker's residency remains the deciding factor for identifying which Board is the Assessing Board (PPP-AAP-Assessing Board-2010).

Electing Participant
An Electing Participant is either an employer who participates in the AAP or an individual who has optional coverage with an Assessing Board, who is responsible to pay assessments and who is actively participating in the AAP (Section 12.1 c) of the IJA).

Participating Board
A Participating Board is quite simply a Board that is participating in the AAP (Section 12.1 d) of the IJA).

Registering Board
A Registering Board is a Participating Board, other than the Assessing Board, with which an Electing Participant would be required to register and pay assessments, in the absence of the AAP (Section 12.1 e) of the IJA).

Worker
A worker is an individual who has workers' compensation coverage from an Assessing Board for work performed anywhere in Canada, and who works in more than one jurisdiction (Section 12.1 f) of the IJA).

9.2 Guiding Principles (Section 12.2-12.12 of the IJA):

1. Participation in the AAP is limited to interjurisdictional trucking and transport in a list of specified industries outlined in Appendix E of the IJA. On January 1, 2014, January 1, 2015 and November 28, 2017 additional industries were added. They include the following:
    - Bulk Liquids Trucking (Effective January 1, 2014)
    - Couriers, Messengers and Delivery (Effective January 1, 2014)
    - Dry Bulk Materials Trucking (Effective January 1, 2014)
    - Forest Products Trucking (Effective January 1, 2014)
    - General Freight Trucking (Effective January 1, 2014)
    - Specialized Freight Trucking (Effective January 1, 2014)
    - Used Household and Office Goods Moving (Effective January 1, 2014)
    - Interurban and Rural Bus Transportation (Effective January 1, 2015)
    - Charter Bus Industry (Effective January 1, 2015)
    - Land Scenic and Sightseeing Transportation (Effective January 1, 2015)
    - Pilot Car Service (Effective November 28, 2017)

    Trucking Labour Supply/Drivers for Hire (drivers for hire with staffing agency or drivers who are simply completing a manufacturer's/reseller's sales contract with delivery of the merchandise) are not included in the AAP as they are not transportation companies. However, jurisdictions that do not have specific labour supply classifications may allow labour supply companies to participate in AAP, provided they are assigned to a classification listed in Appendix E of the IJA. (PPP, AAP-Included Industries, 2017 & 2021 & 2022).

    Airline expansion into the AAP was not supported due to challenges in determining residency, complexities/inconsistencies with payroll reporting, and differences in structure of assessments (i.e, self insured) in different jurisdictions (PPP, AAP-Airline Expansion, 2019 & 2021).

2. Participation in the AAP is only available to those that are "Electing Participants" who are either an employer who participates in the AAP and/or an individual who has optional coverage with an Assessing Board (Section 12.2 of the IJA).

3. The AAP is applicable to injuries outside of Canada, including the transfer of assessment between jurisdictions. All Boards agreed with the exception of Ontario (PPP AAP-Application Outside of Canada, 2015).

4. The worker's **residency** remains the deciding factor for identifying which Board is the Assessing Board(PPP-AAP-Assessing Board, 2010).

5. For *existing employer* accounts, participation in the AAP is to commence on January 1st of each year and required application for participation should be made no later than February 28th of that year, following the annual reporting deadline for employers in each jurisdiction (Section 12.3 b) of the IJA and PPP-AAP-Participation-Deadline for Existing Employer Accounts-2000 & 2014).

6. *New employer* accounts can opt into the AAP within 60 days after opening their new account (Section 12.3 c) of the IJA and PPP-AAP-Participation-Deadline for New Employer Accounts-2000 & 2014).

7. Once an employer is accepted into the AAP, mandatory participation is required across all jurisdictions. This is agreed upon by all jurisdictions, with the except of the Ontario (PPP-AAP-Participation-Mandatory Across Jurisdictions-2012, 2017, & 2019).

8. Withdrawal from the AAP is required to occur by December 31st in order to be effective for the following year (Section 12.3 d) of the IJA and PPP-AAP-Withdrawal-2016).

9. Upon acceptance into the AAP, the Assessing Board is required to provide a copy of the application to all Participating Boards of each jurisdiction (Section 12.3 e) of the IJA).

10. The Assessing Board is to notify all Registering Boards of an employer's participation in AAP by March 31st (PPP-AAP-Notification of Participation-2006, 2014, & 2015).

11. An employers' participation in the AAP is to be reviewed every 3 years. Every jurisdiction has authority to determine whether employer can remain or be removed from AAP. Any changes to participation are to be effective the date that the workers were hired/terminated . However, not all jurisdictions are in agreement with backdating the effective date (PPP-AAP-Participation-Review Every 3 Years-2012, 2018 & 2021 & 2022).

12. If a worker elects to claim compensation from a Registering Board, that Board is required to adjudicate and pay benefits in accordance with its applicable legislation and then request full reimbursement from the Assessing Board (Section 12.9 of the IJA).

13. The Registering Board is to notify an Assessing Board of a potential reimbursement claim within 2 years from the date the claim was *accepted*. It is important to note that date of acceptance is often different than the date of accident.

14. The Registering Board will invoice the Assessing Board for the full costs of the claim, either when the claim is closed or at a minimum of quarterly, on a calendar basis (Section 12.9 of the IJA).

15. There is no minimum initial $1000 threshold in order for initial reimbursement to be requested. However the $200 minimum threshold for subsequent invoices apply (PPP-AAP-Invoice Threshold-2012 & 2021).

16. The Assessing Board is responsible to pay the **full amount** of the invoice, regardless of their own legislative limitations. General Cost Reimbursement Guidelines, as outlined in Section 9 **do not apply** to an Electing Participant in Section 12. The principle is transfer of assessments rather than cost reimbursement (Section 12.10 and 12.12 d) of the IJA (PPP-AAP-Reimbursement/Transfer of Assessments, 2018).

17. The principle of transfer of assessments to a Registering Board (where the claim is adjudicated) from an Assessing Board is only applicable if an employer participates in the AAP in both jurisdictions (PPP-AAP-Reimbursement/Transfer of Assessments-2019).

18. The AAP should not bar the application of a jurisdiction's available legislation for the transfer of costs between employers due to negligence (PPP-AAP-Cost Transfer due to Negligence-2008 & 2018).

19. The Saskatchewan Workers Compensation Board began participating in the AAP as a pilot project in 2008 and full participation was effective January 2012 (PPP-AAP-Participation-By Jurisdiction-2008 & 2014).

9.3 Key Considerations:

1. Participation in the AAP is limited to interjurisdictional trucking and transport industries as outlined in Appendix E of the IJA. It is important to check with individual jurisdictions as to the categorization/classification of each industry as some jurisdictions may have different criterion established for employers to be classified as interjurisdictional trucking and transport industries (Please also refer to #17 and #18 for further details).

2. For the purposes of this agreement, drivers for hire are defined as either drivers with a staffing agency or drivers who are simply completing a manufacturer's/reseller/s sales contract with delivery of the merchandise (PPP-AAP-Included Industries-Appendix E).

   Trucking Labour Supply Industry (i.e. drivers for hire) are typically not included in the AAP. However, jurisdictions that do not have specific labour supply

classifications may allow labour supply companies to participate in AAP, provided they are assigned to a classification listed in Appendix E of the IJA. (PPP, AAP-Included Industries, 2017 & 2021 & 2022).

3. Employers opening *new* WCB accounts during the year can opt for AAP effective the date they open their account. Typically, the effective date of coverage would be the same day as the application is accepted. However, individual jurisdictions have the authority to determine the exact date the coverage becomes effective. (PPP-AAP-Participation-Deadline for New Employer Accounts-2000 & 2014).

4. Employer with *existing* WCB accounts wishing to opt into the AAP would follow the annual reporting deadline for employers in each jurisdiction (i.e. last day of February in all jurisdictions). Any employers registering in AAP by these dates would be assessed under the AAP effective January 1st of that year. (PPP-AAP-Participation-Deadline for Existing Employer Accounts-2000 & 2014).

5. When identifying the Assessing Board by the worker's residency, the key factor is the worker's *permanent address at the time of the accident* (PPP-AAP-Assessing Board, 2010).

6. If an employer participating in AAP has employees residing in more than one jurisdiction, there will be more than one Assessing Board.

7. When an employer is approved into AAP or withdrawn, all jurisdictions should be notified accordingly (by the Assessing Board (PPP-AAP-Notification of Participation-2006, 2008, 2014, 2015, and 2018).

8. The Board who receives the initial application and collects assessments is responsible to notify all Registering Boards and Assessing Boards (PPP-AAP-Notification of Participation- 2008 & 2014).

9. The Assessing Board is to notify the Registering Boards, upon approval of an employer's AAP participation, no later than March 31st each calendar year (PPP-AAP-Notification of Participation-2006, 2014 & 2015)

10. Once opted into AAP, employers are obligated to remain in for the full year and are not able to revert the usual assessment process until the following January (PPP-AAP-Participation-Deadline for New and Existing Employer Accounts-2000 & 2014).

11. Although there is no expiration on AAP participation until the Assessing Board is notified that the employer is withdrawing, an employer's participation in AAP is to be reviewed every 3 years to ensure that their business practices have not changed. Any changes made are effective the date that the business practices

actually changed, rather than the date of the review. Each jurisdiction has to authority to determine when an AAP employer can remain in AAP or be removed if they do not comply with the 3 year review. Jurisdictions are responsible to communicate their decision to the jurisdictions impacted. (PPP-AAP-Participation-Review Every 3 Years-2012, 2017, 2018 & 2019).

12. If an employer wishes to withdraw from the AAP, they must provide notice no later than December 31st in order for it to be effective January 1st (PPP-AAP-Withdrawal-2016).

13. AAP employers who close their actual accounts within the year and reopen their employer account in the same year, can return to the AAP, without having to reapply or complete application paperwork, providing their business needs (i.e. travel or residency of employees) have not changed (PPP-AAP-Participation-Re-Open of Employer Accounts-2002 & 2013).

14. Mandatory employer participation is required across all jurisdictions where employers have coverage (once opted in), otherwise employers may choose to prorate workers' earnings to a jurisdiction with a more favorable assessment rate, which could increase the risk of employers being able to pay lower assessments. This is agreed upon by all jurisdictions, with the except of the Ontario Board (PPP-AAP-Participation-Mandatory Across Jurisdictions-2012, 2017, & 2018).

15. Mandatory participation across jurisdictions *does not apply* when an employer is in an industry outside of the applicable industries outlined in Appendix E of the IJA based on the nature of work performed in their own jurisdiction, as outlined in #1 (PPP-AAP-Participation-Mandatory Across Jurisdictions-2019).

16. Mandatory participation across jurisdictions also does not apply when an employer is not required to have an account in a jurisdiction, based on applicable legislation (PPP-AAP-Participation-Mandatory Across Jurisdictions-2019). Please also refer to #17 and #18.

17. Each jurisdiction is responsible to review an employer's AAP application to determine whether they meet their own legislative requirements to allow participation (i.e. whether they would be required to even have an employer account or whether they fall under the applicable industries outlined in Appendix E of the IJA).

18. An employer can be accepted into the AAP in one jurisdiction and not considered to be eligible in another due to differing legislative account requirements as noted above. Communication between the Registering Board and Assessing Board is essential to ensure that employers are reporting their business

operations accurately (PPP-Different Employers, 2010 & 2018). Please refer to case studies 9.6.3, 9.6.4, 9.6.5, 9.6.6, and 9.6.7 for further details.

19. Full reimbursement of claims costs to the Registering Board that accepted/adjudicated the claim is the guiding principle under AAP, however it is only applicable if an employer participates in the AAP in both jurisdictions. If the employer does not meet the rules to qualify for AAP participation in a jurisdiction, then transfer of assessment rules do not apply (PPP-AAP-Reimbursement/Transfer of Assessments-2019), so then must consider if IJA Section 9.2 general cost reimbursement guidelines apply.

20. It is important to recognize that if an employer is participating in the AAP in one jurisdiction and qualifies for AAP in another, but simply fails to advise a jurisdiction that he had workers residing in that particular jurisdiction, AAP reimbursement/transfer of assessment rules would still apply. The jurisdiction would simply correct the administrative error and begin to collect assessment dating back to when they hired residents of that jurisdiction (PPP-AAP-Reimbursement/Transfer of Assessments-2019.) so then must consider if IJA section9.2 general cost reimbursement guidelines apply. It is important to note that the Ontario Board does not agree with this provision/process.

21. Jurisdictions can only issue clearance letters to an employer for employment performed in their own jurisdiction (PPP-AAP-Clearance Letters, 2017).

22. As the AAP cannot bar the application of a jurisdiction's legislation for the transfer of costs between employers due to negligence, discussions between jurisdictions may need to occur regarding the possibility of assessment adjustments in order for cost transfer provisions to be reviewed and applied (PPP-AAP-Cost Transfer due to Negligence-2008 & 2018). Please refer to Case Study detailed in 9.6.1 for further details.

23. The AAP is applicable to injuries outside of Canada, including transfer of assessment between jurisdictions. All jurisdictions agreed, with the exception of Ontario (PPP-AAP-Application Outside of Canada-2015). Please also refer to case study 9.6.2 for further details.

24. When an Independent Operator with personal coverage is accepted into the AAP, the Registering Board is entitled to 100% reimbursement regardless if the amount of personal coverage purchased through the Assessing Board was lower. The reimbursement is not subject to the Assessing Board's legislation or policy restrictions (PPP-AAP-Independent Operator-2012 & 2018). Refer to case study 9.6.11 for further details.

25. The Registering Board is expected to notify the Assessing Board of a potential request for reimbursement within 2 years of the acceptance of the claim. Without doing so, the Registering Board may risk denial of payment of the claims costs.

26. There is no minimum initial $1000 threshold in order for initial reimbursement to be requested however, the $200 minimum threshold for subsequent invoices applies (PPP-AAP-Invoice Threshold-2012 &2021).

9.4 Best Practices:

1. In order for employers to be accepted into the AAP, a formal application must first be completed and submitted to each of the jurisdictions where they have employees residing. Each jurisdiction has the authority to determine whether the employer meets the specific criteria for acceptance into the AAP. Refer to the application form outlined in Schedule R, which is also Appendix D of the IJA.

2. Employers must register for AAP participation by February 28th, noting an effective date of January 1st (PPP-AAP-Participation-2000 & 2014).

3. For new employer accounts, the effective date of coverage for AAP participation is the same day as the application is accepted (PPP-AAP-Participation-Deadline for New Employer Accounts-2000 & 2014).

4. Once an employer is opted into the AAP, jurisdictions are to require mandatory participation across all jurisdictions to prevent issues with employers choosing more favorable assessment options. This applies to all jurisdictions, with the exception of Ontario (PPP-AAP-Participation-Mandatory Across Jurisdictions-2012, 2017, 2018 & 2019).

5. Employer are expected to complete an AAP application in every jurisdiction where they have resident workers to clarify whether they are granted participation. If participation is not allowed/mandated, then jurisdictions can determine appropriate assessments by having the employer pro-rate mileage in some jurisdictions while participating in AAP in others.

6. Upon acceptance of an employer into the AAP, the Assessing Board is to notify all Registering Boards by March 31st by providing a copy of the application form (PPP-AAP-Notification of Participation- 2006 & 2014).

7. An employer is expected to provide written notice of their intent to withdraw from the AAP by December 31st in order to be effective for the following year.

8. Upon withdrawal from the AAP, jurisdictions are to immediately advise all Registering Boards accordingly (PPP-AAP-Notification of Participation-2018).

9. If an employer closes and the then later re-opens their account in the same year (with no changes), they can return to AAP participation, without completing a new AAP application (PPP-AAP-Participation-Re-Open of Employer Accounts-2002 & 2013).

10. Assessing Boards are to notify Registering Boards of participation or withdrawal either by mail, fax or email (PPP-AAP-Notification of Participation-2015).

11. The Assessing Board is responsible to initiate a review of each employer's participation in the AAP, every 3 years to ensure that there is no change to their business needs. Best practice is to send 4 letters, including an initial request to update participation (response requested within 30 days from the date of the letter), a reminder to update participation (response requested within 20 days of the second letter), a final notice to update participation (a response requested within 10 business days of the third letter) and/or a termination of participation letter (4th letter), if applicable. Please refer to Schedule T, U, V and W, for template letters that can be used by jurisdictions to assist in this process (PPP-AAP-Participation-Review Every 3 Years-2012, 2018, & 2019).

12. Each jurisdiction has the authority to determine whether an AAP employer can remain in AAP or be removed if they do not comply with the 3 year review. The effective date of changes is to be the date that the business practices actually changed (rather than the date of the review). Jurisdictions are responsible to communicate their decisions to other Registering Boards. (PPP-AAP-Participation-Review Every 3 Years-2019).

13. The Assessing Board is responsible for 100% of costs that are paid by the Registering Board (Adjudicating Board), providing the employer qualifies for AAP participation in that jurisdiction. The principle is one of transfer of assessments rather than cost reimbursement.

14. A jurisdiction will issue clearance letters *only* for the work performed in their own jurisdiction.

15. The Registering Board will notify and invoice an Assessing Board of a potential reimbursement claim within 2 years from the date the claim was *accepted*.

9.5 Process:

The identified processes for transfer of assessment under the AAP have been broken down into the following categories:

9.5.1 Requesting Reimbursement
9.5.2 Issuing Full Reimbursement
9.5.3 Denying Reimbursement

9.5.1 Requesting Reimbursement:

When requesting a transfer of assessment for an AAP claim, the Registering Board will follow the following process when requesting reimbursement from the Assessing Board:

1. The Registering Board identifies an acceptable claim where an employer participates in the AAP and the worker is not a resident of their jurisdiction. The worker could have been injured in the Registering Board's jurisdiction or in the jurisdiction of residence (some jurisdiction's out of province legislation allow for acceptance of claims for workers who are hurt out of province and live outside of their province providing that they have demonstrated the majority of work in the jurisdiction of residence). These AAP claims are typically recognized by identifying triggers which can include AAP participation, right of election forms received, out of province residents, and/or out of province accidents.

2. The formal notification and/or the request for reimbursement is required within 2 years of claim acceptance.

3. Under the AAP, *notification of a pending request* for reimbursement is *only* required if there is pending third party action as there is no $1000 minimum threshold for requests, providing notice was provided within 2 years of claim acceptance. In these cases, the Registering Board would notify the Assessing Board promptly upon receipt of the worker's signed right of election.

   The notification letter should include the completed worker's report/application and a copy of the completed right of election form. The letter will advise the Assessing Board of a potential formal request for reimbursement/transfer of assessments under the AAP, once third party action is completed. A letter similar to the one outlined in Schedule I can be used. Follow the process identified within your jurisdiction to monitor when costs third party action is completed.

4. The notification letter or request for assessment transfer letter will include sufficient information for a jurisdiction to be able to establish the claim and have the letter and right of election placed on the claim file. Ideally, the letter will include the worker's full legal name, date of birth, social insurance number, completed address, date of accident, injured body part and employer's full legal name. Please refer to the chart in Schedule I, M and S for sample letters. In addition, Schedule J should be referenced to identify the minimum information each jurisdiction requires to establish a claim.

5. Once the notification letter is received by the Assessing Board, a claim will be established (if not already established) with the documents filed accordingly, until further communication is received from the Registering Board.

6. Notify the employer that as part of participation in the AAP, they have agreed to pay all premiums to the jurisdiction of residence of their workers and therefore, costs will reside with that jurisdiction. Remind the employer that once full reimbursement is received, costs will be removed from their account. The employer should also be advised that the Registering Board will remain the Board managing the claim and that any cost relief inquires will need to be directed to the Assessing Board as this is where costs will be charged. A letter similar to the one outlined in Schedule K can be used, with modifications to include the specific AAP provisions, surrounding premiums of their jurisdiction's residents.

7. The Registering Board (Adjudicating Board) will send a letter requesting a reimbursement of full costs (with a copy to the employer) outlining the following information:
    - Claim number of the Registering/Adjudicating Board
    - Claim number of the Assessing Board (if known)
    - Employer's full legal name and address
    - Worker's full legal name
    - Date of birth
    - Social Insurance Number (SIN)-if collected
    - Worker's complete mail address and phone number
    - Date of accident
    - Detailed location of accident (Including city and province)
    - Injury accepted
    - Invoice number (for reference)
    - Appropriate IJA contact for the jurisdiction
    - Outline of the specific period the costs cover (to and from dates)

- Detail the costs *actually issued* specific to the invoice period identified, divided into 3 categories:
- Compensation benefits (Wage loss benefits)
- Medical Aid benefits
- Pension costs (Capitalized Costs)
- An attached copy of the detailed claim cost breakdown for each category
- Compensation rate details including the gross weekly or gross annual earnings, hourly rate, hours per week worked, shift cycle, type of employment (full-time, part-time, seasonal, etc)
- Details as to the type of wage loss benefits paid (full wage loss, partial wage loss, pension benefits, estimated earnings loss, etc)
- Notification of whether further costs are anticipated and/or the claim has been inactivated.

Refer to the sample letter/form outlined in Schedule M and S.

8. Claim summaries are optional but it is crucial that complete file documentation, including all pertinent details are submitted with reimbursement requests (PPP-Reimbursement Protocols-Claim Summary-2014).

9. Attach any decision letters, medical reports, service provider invoices, file notes, appeal decisions, employer letters, etc to the letter requesting reimbursement.

10. To avoid potential breaches of protection of privacy, separate letters for each request/claim are required in addition to careful scrutiny as to what file information is released.

11. If no response has been received by the Reimbursing Board within 90 days, send a follow-up letter reminding the jurisdiction of the outstanding invoice awaiting reimbursement.

12. If further costs have been incurred, another invoice request for reimbursement letter is to be sent in 90 days requesting further reimbursement for additional costs (same information as identified in #7). There is a minimum threshold of $200 for IJA and AAP claims (PPP-AAP-invoice Threshold-2012 & 2021). If previous invoice requests for reimbursement are outstanding, please reference the invoices in the letter.

13. If there is no response to outstanding invoices after 180 days, follow-up with the IJA contact and/or consider involving the IJA coordinators to discuss the overdue invoice(s).

14. If upon receipt of either a notification letter or a request for transfer of assessments, the Assessing Board determines that they have already accepted the claim, they will contact the Registering/Adjudicating Board immediately to attempt to resolve any duplication of claims/benefits issued that may have occurred. If necessary IJA Coordinators from each jurisdiction can become involved to assist in resolving any issues.

9.5.2 Issuing Full Reimbursement:

The Assessing Board will follow the following process when reviewing a request for transfer of assessment from the Registering/Adjudicating jurisdiction and issuing full reimbursement:

1. Determine whether the employer has an account, whether they were in a compulsory industry at the time of the accident and whether they are participating in AAP in your jurisdiction. If the employer was required to have an account or has an account, but was not participating in the AAP with your jurisdiction, contact the employer, create the account and backdate assessments for all residents of your jurisdiction, in order for reimbursement to be issued. If an employer account was not required, proceed to Section 9.5.3 which outlines the process for denying reimbursement under AAP.

2. Confirm that the employer identified is the same employer identified by the Registering Board. If the employer charging is different (i.e. the worker may be covered under the principal company in one jurisdiction and be required to have his own account in another), then deny the request for reimbursement, with a detailed letter outlining the rationale for the denial.

3. Confirm that the worker resides in your jurisdiction (i.e. the Assessing Board) and that your jurisdiction has in fact collected all assessments for this injured worker.

4. Confirm whether a signed right of election has been received. If not, contact the IJA contact at the Registering Board (outlined in Schedule A) to determine whether a signed right of election was received and whether it is still possible to obtain. If it is determined that the right of election is not practical to attain, determine whether it is still reasonable to issue reimbursement and whether there are any inherent risks in doing so. For

example, if the appeal period has lapsed and/or the worker is no longer entitled to benefits, there may be few risks if any, in issuing payment to the Adjudicating Board.

5. Determine whether a claim has been established. If not, a claim will need to be created. If there is an existing claim, ensure that the claim has not already been accepted and/or benefits issued to the worker. If the worker has already received benefits from your Board (Assessing Board) contact the worker and the Registering Board for further information and clarification (i.e. gather information as to whether the worker has signed right of elections with both jurisdictions and the dates those elections were signed, whether the adjudicating jurisdiction notified the reimbursing jurisdiction of the claim acceptance, etc.). Negotiate an amicable resolution for both parties involved.

6. Determine whether the date of the initial invoice and/or notification was sent within two years from the date of acceptance by the Adjudicating Board. If not, then contact the Adjudicating jurisdiction to gather further information regarding the delay. If satisfied that the delay in requesting reimbursement was acceptable/reasonable, proceed with issuing reimbursement accordingly.

7. Review the invoice along with all file documentation and determine whether any cost relief decisions are required at this time. If so, review entitlement to cost relief and provide a decision regarding entitlement. If determination of cost relief entitlement is premature, then advise the employer accordingly and make note to address cost relief at a later date.

8. Review the file documentation along with the invoice and all itemized costs and issue full reimbursement. Send a letter advising that full reimbursement has been issued, noting no shortfall.

9. The letter outlining reimbursement should include the following:
    - The worker's full name
    - Claim numbers for both jurisdictions
    - The date of accident
    - The date/invoice number that the reimbursement relates to
    - The total amount reimbursed broken down into categories and payment codes.
    - The cheque numbers associated with the reimbursement issued (for full and partial reimbursements only).
    - Any governing legislation and/or policy (only applicable to support a denial as outlined in Section 9.5.3)

A letter similar to the one outlined in Schedule O can be used.

Please Note: Not all jurisdictions have the ability to itemize cheque numbers that correspond to each invoice issued in their letters due to the sheer volume of claim/invoice requests for reimbursements that they handle from all jurisdictions.

10. If multiple invoices are being reimbursed, separate letters are to be sent, pertaining to each claim/invoice, in order to avoid privacy breaches.

9.5.3 Denying Reimbursement:

The Assessing Board will follow the following process when denying a request for transfer of assessment from the Registering/Adjudicating jurisdiction:

1. If after review of all file documentation, it is determined that the invoice cannot be paid, the Assessing Board is required to send a letter outlining the denial.

2. The letter outlining reimbursement should include the following:
    - The worker's full name
    - Claim numbers for both jurisdictions
    - The date of accident
    - The date/invoice number that the denial relates to
    - Details as to why the invoice cannot be paid
    - Any governing legislation and/or policy (to support the denial)*

    *Refer to #3 below which outlines possible circumstances which may warrant a denial of payment.

3. There are a variety of circumstances which may warrant a denial of payment of the invoice. They are outlined below in no particular order:
    - The injured worker does not meet the definition of a worker under the statutory legislation of the Assessing Board.
    - The worker signed a right of election with the Assessing Board first and the claim was accepted and benefits were issued accordingly.
    - The Registering Board did not obtain a signed right of election from the worker and the Assessing Board has determined that there are significant risks in issuing payment of the invoice (i.e. duplication of earnings, issues with possible appeal decisions with no right of elections obtained).
    - The Assessing Board has identified a different employer than the Registering Board.

- The Assessing Board has determined that the worker's permanent address at the time of accident was not the jurisdiction of the Assessing Board.
- The employer was not required to have an account with the Assessing Board (i.e. the worker may be covered under the principal employer or the worker may be considered an owner operator with voluntary coverage options).
- The employer did not qualify for AAP participation within the Assessing jurisdiction and therefore, they have not collected any assessments for the worker from the employer.
- The Registering Board did not provide suitable notification of a possible request for reimbursement within 2 years of the *acceptance* of the claim and the rationale for the delay was not considered sufficient to issue payment for the invoice.
- Third party action is still pending with the Registering Board and the invoice is considered premature.
- Third party action has been completed however, full recoveries have been received, leaving no actual net costs to the Registering/Adjudicating Board.

9.6 Case Studies-Alternative Assessment Procedure (AAP):

The following is a list of case studies that help illustrate some of the practical situations that can arise and agreed upon resolutions based on the guiding principles and best practices identified in this module.

They have been broken down into the following:

9.6.1 AAP Bars Cost Transfer due to Negligence (2008 AWCBC Meeting)
9.6.2 AAP Application Outside of Canada (2015 AWCBC Meeting)
9.6.3 AAP Reimbursement/Transfer of Assessment (2018 AWCBC Meeting)
9.6.4 AAP Mandatory Participation (2015 AWCBC Meeting)
9.6.5 AAP Participation Not Accepted in All Jurisdictions (2018 AWCBC Meeting)
9.6.6 AAP Participation Not Accepted in All Jurisdictions (2019 AWCBC Meeting)
9.6.7 AAP Participation-Not Accepted as an Included Industry (2019 AWCBC Meeting)
9.6.8 Non-Registered Employer VS Employer that "should have been" Registered (2008 AWCBC Meeting)
9.6.9 AAP Clarification on Application with 2 Different Employers Charged (2010, 2013 & 2014 AWCBC Meetings)
9.6.10 AAP Different Employer Charging and Impacts on Reimbursement (2010 AWCBC Meeting)

9.6.11 Reimbursement for Personal Coverage/Independent Operator Claims (2012 AWCBC Meeting)

9.6.1 AAP Bars Cost Transfer due to Negligence (2008 AWCBC Meeting):

Fact Scenario:

- Worker is injured in Jurisdiction A.
- Worker is a resident of Jurisdiction B.
- Worker claims compensation in Jurisdiction A.
- The employer is registered in AAP and therefore, Jurisdiction B is the Assessing Board and has collected all premiums for this worker.
- Jurisdiction A would be considered the Registering/Adjudicating Board and as such, would receive a transfer of assessments (equal to full reimbursement for 100% of claim costs) from Jurisdiction B.
- The employer in Jurisdiction A is not at fault for the third party accident.
- Jurisdiction A has applicable legislation where the employer would be eligible for all cost to be transferred to a third party due to negligence, rather than being charged for this claim in Jurisdiction B. However, since there are no costs in Jurisdiction A (Costs are with Jurisdiction B as the Assessing Board), Jurisdiction A is not able to apply this applicable legislation.
- In this case, the participation in AAP penalizes the employer from applicable legislation being applied in Jurisdiction A, where costs could have been transferred.

Question and Resolution:

- Is it appropriate that the employer is barred from cost transfer review since no assessments were collected by Jurisdiction A.
  No, it is not appropriate for the employer to be barred from Jurisdiction A's available legislation for cost transfer to a third party due to negligence.*

  To resolve this issue, Jurisdiction B agreed to refund the employer and in turn, Jurisdiction A agreed to collect premiums from the employer, treating it as if the worker was resident of Jurisdiction A. This allowed Jurisdiction A to review and apply cost transfer provisions to this employer.

  ***The AAP should not bar the application of a jurisdiction's available legislation for the transfer of costs between employers due to negligence.**

  Although this resolution was not based on true residency of the worker (and in fact outside of the AAP rules), both jurisdictions agreed that the

Registering Board would become the Assessing Board in order for the employer to be eligible for review of transfer of costs.

9.6.2 AAP Application Outside of Canada (2015 AWCBC Meeting):

Fact Scenario:

- Employer travels through jurisdictions A and B and has confirmed participation in AAP.
- At the time of injury, the employer hired residents in jurisdiction A and B, therefore, jurisdiction A and B are both Assessing Boards (for their resident workers' payroll).
- New accident occurs in USA.
- The worker resides in jurisdiction B.
- The worker chooses to elect benefits in jurisdiction A as he meets the legislative requirements for out of province injuries.
- Jurisdiction A subsequently requests reimbursement under AAP from jurisdiction B (as jurisdiction A was not the Assessing Board for this worker and therefore, collected no premiums for this worker)
- Jurisdiction B denies the request for reimbursement indicating that although the employer participates in AAP, the AAP does not extend to injuries occurring outside of Canada.

Questions and Resolution:

- Does the actual AAP apply to injuries outside of Canada?
  All jurisdictions, with the exception of Ontario, agreed that the AAP applies to injuries outside of Canada as the current definition of worker was not limited to work "only occurring" in Canada.

- Does the AAP "transfer of assessment" apply to injuries outside of Canada?
  In other words, is cost reimbursement appropriate to Jurisdiction A (from Jurisdiction B) under the AAP even though the accident occurred in the USA?
  All jurisdictions, except Ontario, agreed that "transfer of assessment" from Jurisdiction B to A was appropriate even though the accident occurred in the USA.

9.6.3 AAP Reimbursement/Transfer of Assessment (2018 AWCBC Meeting):

This case study was broken down into separate fact scenarios from the meeting minutes for better understanding.

Fact Scenario 1:

- Worker is injured in Jurisdiction A
- Worker is a resident of Jurisdiction A.
- Worker elects and receives compensation from Jurisdiction B.
- Employer participates in AAP in Jurisdiction A and Jurisdiction B.
- Jurisdiction A is the Assessing Board.
- Jurisdiction B is the Registering Board.

Question & Resolution:

- Is reimbursement applicable?

Yes, Jurisdiction B can request reimbursement from Jurisdiction A as Jurisdiction A is the Assessing Board and collected all premiums for this worker, while costs were incurred by Jurisdiction B.

Fact Scenario 2:

- Worker is injured in Jurisdiction A.
- Worker is a resident of Jurisdiction B.
- Worker elects and receives compensation from Jurisdiction A.
- Employer participates in AAP in both Jurisdiction A and Jurisdiction B.
- Jurisdiction B is the Assessing Board.
- Jurisdiction A is the Registering Board.

Question & Resolution:

- Is reimbursement applicable?
  Yes, Jurisdiction A can request reimbursement from Jurisdiction B as Jurisdiction B is the Assessing Board and collected all premiums for this worker. The location of injury is not relevant in this case as AAP takes precedence over regular IJA, Section 9 claims.

Fact Scenario 3:

- Worker is injured in Jurisdiction A.
- Worker is a resident of Jurisdiction B.
- Worker elects and receives compensation from Jurisdiction B.
- Employer participates in AAP in both Jurisdiction A and Jurisdiction B.
- Jurisdiction B is the Assessing Board.
- Jurisdiction A is the Registering Board.

Question & Resolution:

- Is reimbursement applicable?
  No, Jurisdiction B cannot request reimbursement from Jurisdiction A regardless if the accident occurred in Jurisdiction A. Jurisdiction B is the Assessing Board that collected all of the assessments for the worker. The costs are appropriately kept with Jurisdiction B. The location of accident is not relevant in this case as AAP takes precedence over regular Section 9 rules of the IJA.

Summary:

- Under section 9.1 it is clear that when a claimant elects in the non-accident jurisdiction (the Registering/Adjudicating Board), the Registering/Adjudicating Board will request reimbursement from the accident jurisdiction (Assessing Board).
- It is important to recognize that regular Section 9 cost reimbursement guidelines are not applicable when an employer participates in the AAP (Section 12). Under AAP, all costs flow to the Assessing Board, the jurisdiction which collected all premiums on the injured worker's payroll.

9.6.4 AAP Mandatory Participation (2015 AWCBC Meeting):

Fact Scenario:

- Employer travels through jurisdictions A and B and C participates in AAP.
- At the time of participation, the employer only hired residents of Jurisdiction A, therefore, jurisdiction A was the Assessing Board.
- Jurisdiction A confirmed participation and sent notice to Jurisdiction B and C (at the time, jurisdiction B was a Registering Board).
- The Employer continues to participate in the AAP for approximately 15 years and at some point hires residents of Jurisdiction B.
- A new accident occurs in Jurisdiction C for a worker who resided in Jurisdiction B.
- The worker chooses to elect benefits in Jurisdiction A as he meets legislative requirements for out of province injuries
- Jurisdiction A subsequently requests reimbursement under AAP from Jurisdiction B.
- Jurisdiction B denies the request for reimbursement indicating that although the employer was accepted into AAP in jurisdiction A, they did not apply specifically to Jurisdiction B and therefore, were not accepted by their jurisdiction (part of rationale provided is that right of election would not have been provided to the injured worker in this case as they did not meet jurisdiction B's legislative requirements for out of province workers).

Questions and Resolution:

- Is it appropriate for Jurisdiction B to deny request for reimbursement from Jurisdiction A?
  The general consensus was that Jurisdiction B should go back and collect retroactive assessments and pay the reimbursement. It was felt that ultimately the responsibility remains with the employer to keep each jurisdiction updated when their business needs change (i.e. hire residents from a different province), when they opt into the AAP.

  However, if Jurisdiction B maintains that their resident would not have right of election and therefore, disagrees to collect retroactive assessments, Jurisdiction A would then be able to collect assessments on behalf of this non-resident, providing that Jurisdiction B would refund the partial assessments collected up to that point. If Jurisdiction B refuses to refund the partial assessments collected, Jurisdiction A would have the option of being removing the employer from the AAP or simply absorbing the costs of this claim.

  The addition of the 3 year review requirement would assist in identifying the change in business needs of the employer and potentially address this issue prior to it occurring.

  It was agreed that the 2 jurisdictions should request arbitration to resolve their dispute.

  Ontario will not backdate applications to coincide with date of hire of their resident workers, pursuant to Section 12.2 and 12.5 of the IJA. However, this is to be reviewed again in May 2019 AWCBC meeting after the Assessment Committee meeting in June 2018 to obtain further clarification/agreement.

9.6.5 AAP Participation Not Accepted in All Jurisdictions (2018 AWCBC Meeting):

Fact Scenario:

- Worker is injured in Jurisdiction A.
- Worker is a resident of Jurisdiction B.
- Worker elects to claim compensation from Jurisdiction A.
- The employer is registered as an AAP employer with Jurisdiction A so it proceeds to collect assessments based on 100% of the payroll of only the employer's workers residing in Jurisdiction A. Jurisdiction A sends proper AAP notice to all other Boards upon allowing employer to opt into AAP.

- Jurisdiction A seeks AAP claim cost reimbursement (100% of claim costs) from Jurisdiction B as the worker is a resident of Jurisdiction B.
- Jurisdiction A has an employer registered as an AAP employer Jurisdiction A
- Jurisdiction A's request for cost reimbursement is denied on the basis that the employer was never accepted as an AAP employer by Jurisdiction B. Jurisdiction B further indicated that the employer did not have a substantial work connection in their jurisdiction.
- Jurisdiction A is left with claim costs for which it had not collected assessments.

Questions & Resolutions:

- How can the AAP work effectively when there are jurisdictions refusing to recognize AAP employers on the basis that the employers have no substantial connection to their jurisdiction, even though the employer has at least one worker (the one that was injured) residing in their jurisdiction? There have been several situations where Jurisdiction A has been denied AAP requests on this basis.

- Jurisdiction A cannot collect on the assessments for AAP workers who are residing in other jurisdictions so it appears the employer is allowed to pay no assessments on these gap workers. If a board is unable to collect assessments for an AAP employer, should there be a positive obligation for that employer and/or refusing board to advise the other board(s) when there are workers residing in a jurisdiction that won't accept the AAP application. Should there be some other centralized method to collect assessment on the payroll of the workers residing in Jurisdiction B to cover costs of other boards left insuring these workers? Arguably though this then increases the potential liability of the other Boards to insure those workers. Is this simply a gap that must remain in order for the AAP to work?

  The employer should be paying for these workers based on regular IJA or agree that Jurisdiction A can collect assessments for all payroll if jurisdiction B won't cover their resident workers, as long as Jurisdiction B agrees to relinquish the partial assessments collected up to that point. If Jurisdiction B does not agree to relinquish partial assessments collected, the employer can be advised that their resident workers of Jurisdiction B would not be covered under AAP and therefore, Jurisdiction A would retroactively collect regular IJA assessments for that worker (and any others residing in Jurisdiction B).

Jurisdiction A also has a long-standing disagreement with the assertion from Jurisdiction B that it is not permissible (or required) to register an AAP employer after it has been discovered the employer had workers in its jurisdiction because that would be retroactive registration. Jurisdiction A takes the position this practice is not "retroactive" registration because the employer had in fact already opted into the AAP before the injury occurred (just not properly registered with the Board where the injured worker was residing). This deficiency in reporting/collection can be fixed by going back and calculating assessments owed for that employer's payroll to its workers residing in that jurisdiction since the date of the original AAP registration with the originating board). Without allowing for this correction the employer is not being properly assessed for its entire payroll.

Resolution:

- Each Assessing Board has sole jurisdiction to review each employer application to determine whether they would allow AAP participation based on their legislation and applicable policies.
- An AAP employer is expected to pay assessments for their workers, either where they reside or where they are usually employed. In this scenario, Jurisdiction B has confirmed they have not collected assessments (and would not allow AAP participation), so Jurisdiction A can retroactively collect appropriate assessments from the employer for this worker. The employer is required to report assessments for this worker in one jurisdiction.
- Best practice is for Registering Boards to advise all Assessing Boards if they are not able to accept the employer into the AAP, so that the employer is appropriately assessed for their workers in one jurisdiction.
- All jurisdictions, with the exception of Ontario agree that allowing employers into AAP after it is discovered that they have workers residing in a particular jurisdiction is not considered retroactive registration nor considered backdating an application, providing the employer had already been accepted into the AAP by at least one jurisdiction, prior to the injury occurring. It was agreed that this is simply viewed as the employer had not properly registered with and/or paid assessments to the Assessing Board where the worker was residing.

9.6.6 AAP Participation Not Accepted in All Jurisdictions (2019 AWCB Meeting):

Fact Scenario:

- Worker is injured in Jurisdiction A
- Worker is a resident of Jurisdiction B.
- Worker elects in Jurisdiction A.
- Employer participates in AAP and pays all assessments to Jurisdiction A for workers residing in this jurisdiction (Assessing Board, but not for this worker).
- Jurisdiction A requests reimbursement from Jurisdiction B as the worker resided in Jurisdiction B and Jurisdiction A assumes Jurisdiction B is also an Assessing Board.
- However, the employer did not elect to participate in the AAP in Jurisdiction B, therefore prorates wages for workers residing in Jurisdiction B that are travelling to other jurisdictions.

Questions and Resolution:

- Is Jurisdiction B obligated to reimburse Jurisdiction A, the jurisdiction in which the accident occurred, given that the IJA general cost reimbursement Section 9.2 applies to Jurisdiction B for this employer the claim costs are borne by the Board in the jurisdiction where the accident occurred and not by the Board in the jurisdiction where the worker lives? No. Although the employer participated in AAP in Jurisdiction A, the employer was not required to participate in AAP in Jurisdiction B, which is why Jurisdiction B pro-rated assessments based on mileage travelled in that jurisdiction.

9.6.7 AAP Participation Not Accepted as an Included Industry (2019 AWCB Meeting):

Fact Scenario:

- The employer is registered in Jurisdiction A doing various activities including trucking equipment from Jurisdiction B and Jurisdiction C into Jurisdiction A.
- The employer is registered in the AAP in Jurisdiction B and Jurisdiction C.
- However, the employer is not eligible to register in the AAP program in Jurisdiction A as they do not fall under the trucking industry due to the nature of their business in that province (i.e. they are considered to be forestry). They are required to still have an account and do pay premiums accordingly to Jurisdiction A.
- Jurisdiction B nor C would realize that Jurisdiction A was not part of the AAP as they had a valid account there.

Questions & Resolutions:

- Can an employer be accepted as AAP in one jurisdiction and then not eligible in another jurisdiction?
  Yes. In this case, the employer's business operations in Jurisdiction A do not fall within the list of specified industries (limited to interjurisdictional trucking and transport industries) outlined in Appendix E of the IJA.

- Can Jurisdiction B and C still accept an employer into AAP, even if it is not in an eligible industry in Jurisdiction A?
  Yes, the employer qualifies for AAP in Jurisdiction B and C as their business activities fall within the trucking industry in both of those jurisdictions.

9.6.8 Non-Registered Employer vs. Employer that "should have been" Registered (2008 AWCBC Meeting):

AAP:

If an employer is registered in AAP with one jurisdiction and has failed to advise a jurisdiction (Registering Board) in which it has resident workers, appropriate measures need to be taken to "back-date" participation. Full reimbursement would then occur, under the AAP based on the jurisdiction of residence and the Registering Board (now also an Assessing Board) that collected assessment premiums accordingly.

As per the April 6&7, 1998 resolution documented in the Committee Protocols, Practices and Procedures document, the Reimbursing Board is obliged to honor the reimbursement if the employer was in a compulsory industry at the time of the accident even if the employer was not registered at the time of the accident.

***Please Note:** Ontario is not in agreement with backdating of applications to coincide with date of hire of their resident workers, pursuant to Section 12.2 and 12.5 of the IJA. However, this was reviewed in May 2019 AWCBC meeting (after the National Assessment Committee meeting was held in June 2018) to discuss whether there was agreement to amend Section 12 to clearly state that mandatory participation was required across all jurisdictions, once opted in. Unfortunately, there was no consensus reached at the National Assessment Meeting. However, all jurisdictions require mandatory employer participation across all jurisdictions (once opted in), with the exception of Ontario.

9.6.9 AAP Clarification on Application with Two Different Employers Charged (2010 AWCBC Meeting)*Revisited in 2013 and 2014

Fact Scenario:

- Worker is injured in Jurisdiction A
- Worker is a resident of Jurisdiction B.
- Worker elects in Jurisdiction A.
- Employer A participates in AAP and pays all assessments to Jurisdiction A for workers residing in this jurisdiction (Assessing Jurisdiction, but not for this worker).
- Jurisdiction A requests reimbursement from Jurisdiction B as the worker resided in Jurisdiction B and Jurisdiction A assumes Jurisdiction B is also an Assessing Board under the AAP.
- Jurisdiction B determines that a different employer, Employer B is actually responsible for the accident and determines Employer A is NOT required to have an account in their province.
- Employer B has an account in both Jurisdiction A and B and in fact participates in the AAP in both jurisdictions.
- Jurisdiction A has determined that Employer B is **NOT** the appropriately charged employer for this claim due to its own legislative rules.

Questions/Resolution:

- Is it appropriate for Jurisdiction B to reimburse Jurisdiction A when Jurisdiction A has determined that it is a *different employer charged?* OR In order for reimbursement to occur should the employers charged be the same? Does one Jurisdiction's rule take precedence over another in cases like this?
  All jurisdictions agreed the same employer is not required in order to accept a request for reimbursement. If the employer has an account and the worker was able to elect with another jurisdiction, reimbursement is reasonable in accordance with the IJA. The Board can relieve all costs to the employer once reimbursement is received (May 16&17, 2012 resolution documented in the Committee Protocols, Practices and Procedures document).

  The WSIB (Ontario) requested review of this case scenario as they indicated that they did not agree with the above resolution and indicated that their Board could not support a suggestion to accept a request for reimbursement with two different employers. Jurisdictions agreed that this was an issue that required further review and follow-up May 28 & 29, 2013 AWCBC meeting)

- When this request for reimbursement is received, should Jurisdiction B even consider a different employer--or should they simply review the Jurisdiction A's decision regarding Employer A being charged and then advise that this employer is not required to have an account in their jurisdiction, and subsequently deny the reimbursement request. Would it be considered re-adjudication by the Jurisdiction B to determine Employer B is the appropriate employer being charged?
  It is reasonable for Jurisdiction B to thoroughly review the employer charging and make an appropriate determination of the appropriate employer to be charged to the claim. It would not be considered readjudication by Jurisdiction B, but rather an appropriate investigative action that the IJA/AAP is applicable.

- Is it reasonable to have *2 separate employers being charged for the same claim*, depending on where the worker chooses to elect benefits?
  It is possible that if the worker was to choose to elect benefits in Jurisdiction B, the employer charged would be different then if they chose to elect benefits in Jurisdiction A.

- Does this create any *FOIP issues* regarding access to information? Employer A or Employer B?
  Specifically, if Employer B requested a copy of this file from Jurisdiction A (in order to obtain up-to-date file info) after Jurisdiction A received reimbursement from Jurisdiction B (knowing that they are the employer being faced with the costs of the claim), Jurisdiction A would not necessarily release a copy of the file as Jurisdiction A would not consider Employer B to be the employer charged in Jurisdiction A.

  Claims management issues are created when we have 2 different employers being charged with the claim. Under the IJA, the Jurisdiction A Board has 2 full years to request reimbursement. So, it is very possible that this claim could be accepted, managed and closed without Employer B ever being aware that they would be the employer responsible for this claim until they receive their costs statements from the Jurisdiction B. This can create concerns for Employer B particularly if they are proactive in their disability management practices and have never had an opportunity to become involved in the case management of the file (as in Jurisdiction A, the claim is charged to Employer A, who the Jurisdiction B has determined is not required to have an account).

  This creates issues with respect to simple things like establishing a worker's compensation rate to more complex things like disagreeing with benefits being paid to the worker and/or having the ability to offer modified duties to the worker in an attempt to reduce the claims costs

incurred as Jurisdiction A would not even consider to involve Employer B in these discussions. If we follow the same logic, then it also begs the question whether it is even appropriate to provide Employer A the "right" to appeal case management issues on the claim when truly they are never going to be the employer responsible for the costs of the claim and there would be no true ties to the claim. The doctrine of procedural fairness would require the employer that is ultimately charged with the claim costs be permitted to participate in any appeal process of the tribunal making the decision.

Final Resolution: Due to the complexity of issues which arise when reimbursement occurs with two different employers, all jurisdictions agreed that reimbursement would only occur when employer charging was with the same emloyer.

Best practice remained to reimburse only when employer charging is with the same employer in both jurisdictions due to potential issues with modified duties, access to file, etc. (May 17 & 18, 2017 AWCBC Meeting)

9.6.10 AAP Different Employer Charging and Impacts on Reimbursement (2010 AWCBC Meeting):

Fact Scenario:

- Worker is injured in Jurisdiction A
- Worker is a resident of Jurisdiction B.
- Worker elects in Jurisdiction A.
- A leased operator hired another leasing operator.
- Jurisdiction A considered the leased operator an employer who participated in the AAP (Employer A).
- Jurisdiction B determined that the leased operator was a worker , but a worker of the larger transport company (Employer B) who did NOT participate the AAP. The larger company had never been involved in the adjudication of the claim (modified duties etc.).

Questions & Resolutions:

- Can two different employers be charged for the cost of the same claim? Is it re-adjudication because one jurisdiction has determined that a different employer is to be charged with the cost of the claim? Does one jurisdiction take precedence over another for employer charging?
  The Committee concluded that due to each jurisdiction's individual legislation there could be two different employers for the same individual. Although Employer A participated in the AAP in Jurisdiction A, the employer did not qualify for AAP participation in Jurisdiction B. There

would be no reimbursement under the AAP and it would be appropriate for Jurisdiction B to deny the request.

This case illustrated that the AAP operates at the worker level, and that not all workers of an employer may be covered under the AAP. The jurisdiction that receives all the assessments/premiums for a worker must be able to cover that worker in all jurisdictions. Situations such as this could be avoided if more communication was occurring between the Assessing/Registering Board(s) to ensure employers were properly registering in the AAP.

More effective communication between assessing and registering Boards is required (2010 IJA Committee Meeting).

Due to the complexity of issues which arise when reimbursement occurs with two different employers, all jurisdictions agreed that reimbursement would only occur when employer charging was with the same employer (Previous resolution from Case Study 9.5.8 is applicable).

9.6.11 Reimbursement for Personal Coverage/Independent Operator Claims (2012 AWCBC Meeting):

Fact Scenario:

- Jurisdiction A registers an independent operator with personal coverage ($40,000 personal coverage purchased) under the Alternate Assessment Procedure (AAP).
- Jurisdiction A is considered to be the Assessing Board. Jurisdiction B (the "Registering Board") is notified accordingly.
- The worker (independent operator with personal coverage) suffers an accident in Jurisdiction B and is offered the right to elect in Jurisdiction B under the AAP as Jurisdiction B is the Registering Board.
- The worker chooses to claim benefits from Jurisdiction B.
- Jurisdiction B proceeds to accept the claim and establish the worker's compensation rate based on Jurisdiction B's own policies/procedures (yearly earnings of $60,000).
- Jurisdiction B seeks reimbursement from Jurisdiction A under the AAP, requesting 100% reimbursement.

Questions & Resolution:

- Did Jurisdiction B appropriately establish the worker's compensation rate by gathering satisfactory proof that the worker was an independent operator with personal coverage in another jurisdiction, in accordance with Section 12.4 (b) of the IJA?

Yes, Jurisdiction B was required to establish the worker's compensation rate based on its own legislative requirements which happened to be in excess of the personal coverage purchased in Jurisdiction A.

- Is Jurisdiction B entitled to 100% reimbursement from Jurisdiction A?
  Yes, Jurisdiction B is entitled to 100% reimbursement from Jurisdiction A as Jurisdiction A was considered the Assessing Board and collected all assessment premiums for this worker.

- Is it appropriate for Jurisdiction A (i.e. Assessing Board) to establish the worker's compensation rate in excess of the $40,000 personal coverage purchased?
  Regardless of how Jurisdiction A established the worker's compensation rate, Jurisdiction A is still responsible for the full costs of the claim costs paid by a Registering Board (Jurisdiction B) in accordance with the requirements of the AAP.

  *AAP is based upon a transfer of assessments collected by the Assessing Board rather than a reimbursement of claim costs in the regular IJA. Therefore, the reimbursement is not subject to the Assessing Board's legislation or policy restrictions. The Assessing Board must transfer assessments equaling 100% of the Registering Board's claim costs even if the accident employer purchased lower personal coverage with the Registering Board.

Further Discussion (removed all identifiers):

Since the worker was given the right of election from Jurisdiction B, Jurisdiction B was required to follow its own legislative requirements when it came to establishing the worker's compensation rate. Jurisdiction A cannot dictate that the worker only be allowed to elect benefits in Jurisdiction A as this is against the intent and spirit of the IJA. Since Jurisdiction A collected all of the premiums for the injured worker, Jurisdiction A was required to reimburse Jurisdiction B the full costs of the claim, in accordance with the AAP guidelines.

In order to avoid this problem in the future, Jurisdiction A could review the worker's earnings prior to allowing them to purchase personal coverage in order to ensure that the appropriate amount of personal coverage is purchased. Some jurisdictions noted that this may work in some cases, but not in situations when the worker may be new to business and has no earnings record to review.

Module 10: Appeals

10.1 Guiding Principles (Section 15 of the IJA)

1. Any appeal or request for review or reconsideration is to be dealt with under the process applicable to the Adjudicating Board (Request for Appeals-Section 15.1 of the IJA).

2. The Adjudicating Board may delegate to the Administering Board (providing benefits in kind on behalf of the Adjudicating Board) the conduct of enquiries to aid in such matters (Enquiries to aid Appeals-Section 15.2 of the IJA). Please refer to Module 4 for details on Benefits in Kind services.

3. Where an employer or beneficiary is dissatisfied with services provided by the Administering Board, the resolution of the complaint shall be determined by the Administering Board (Complaint to Administering Board-Section 15.3 of the IJA).

10.2 Key Considerations:

1. Requests for appeals or requests for review or reconsideration can be initiated by the injured worker or the employer. Appeals can involve a variety of topics including acceptance of the claim, diagnosis accepted, established compensation rate, entitlement to benefits, suspension of benefits, entitlement to vocational services, etc. Regardless whether the Reimbursing Board agrees with the decisions made by the Adjudicating Board, it is critical that they remain unbiased.

2. The Reimbursing Board (accident jurisdiction) does not have the authority to appeal any adjudicative decision through the Adjudicating Board's appeal system (PPP-Appeals-Authority of Reimbursing/Adjudicating Board-20014, 2014 & 2017).

3. Formal assistance in an appeal is outside of the IJA Committee mandate (PPP-Appeals-Authority of IJA Committee-1998).

4. Requests for cost relief are the *exception*, where the Reimbursing Board is responsible to determine cost relief entitlement, as this is where the claim costs ultimately reside. Please refer to Module 7.3.7 for further clarification and direction (PPP-Appeals-Authority of Reimbursing/Adjudicating Board-2017 and PPP-Cost Relief-1997, 1998, 2008, 2011, 2016, and 2017).

5. As soon as an Adjudicating Board becomes aware of an employer or injured worker's dissatisfaction with benefits in kind services received, it is important that

they refer the concerned parties directly to the Administering Board to investigate/review (PPP-Benefits in Kind-Complaints-2017).

10.3 Best Practices:

1. As soon as a potential IJA or AAP claim is identified, the best practice is for the Adjudicating Board to promptly advise both the worker and the employer (in writing) of the appeal process should there be any concerns with the claim's management decisions.

2. Once an IJA claim is identified, the Adjudicating Board is to formally advise the employer that any cost relief inquiries are to be directed to the Reimbursing Board (providing they accept the request for reimbursement). With respect to AAP claims, the Adjudicating Board is responsible to advise the employer that cost relief is the responsibility of the Assessing Board.

3. If benefit in kind services are required, the Adjudicating Board is responsible to advise all involved parties of the process involved should there be any concerns and/or dissatisfaction with the services provided (i.e. that the Administering Board is responsible for resolution of the complaint).

10.4 Process

1. Upon receiving an appeal or request for review for reconsideration, the Adjudicating Board is to review the nature of the request in detail.

2. If the nature of request is an appeal or request for review for consideration, relating to *case management decisions made*, the Adjudicating Board will proceed with the process identified within its jurisdiction for handling reviews.

3. If the request is one where the employer is requesting *cost relief*, the Adjudicating Board will refer the employer to the Reimbursing Board for further review, providing the Reimbursing Board has accepted the request for reimbursement).

4. If the Reimbursing Board has not yet accepted the initial request for reimbursement, the Adjudicating Board will advise the employer that their request is temporarily deferred until further clarification can be obtained from the Reimbursing Board. The Adjudicating Board will contact the Reimbursing Board regarding a decision regarding the outstanding request for initial reimbursement. If the Reimbursing Board later accepts the request for reimbursement, the Adjudicating Board can refer the employer back to the Reimbursing Board to handle the request for cost relief.

If the Reimbursing Board denies the request for reimbursement from the Adjudicating Board, the Adjudicating Board will then proceed with processing the employer's request for cost relief.

5. If the request for review or reconsideration pertains to recent dissatisfaction of benefits in kind services rendered, the Adjudicating Board will first contact the designated benefits in kind person with the Administering Board (refer to Schedule B for a list of contacts per jurisdiction) to provide details of the concern raised by the worker and/or employer.

   The Adjudicating Board will then refer the involved parties (i.e. worker/employer) to the Administering Board, who arranged and provided the benefit in kind services.

10.5 Case Studies-Appeals

The following is a case study that will help illustrate a practical situation that can arise and agreed upon resolution based on the guiding principles and best practices identified in this module.

10.5.1 Cost Relief Appeal (2017 AWCBC Meeting):

Fact Scenario:

- Jurisdiction A requests reimbursement from Jurisdiction B.
- Jurisdiction B accepts and reimburses accordingly.
- Jurisdiction B renders an adverse decision on cost relief to the employer.
- Employer appropriately appeals the adverse decision to Jurisdiction B appeal body.
- Jurisdiction B advises employer as per Section 15.3 of the IJA, the employer must appeal their decision to Jurisdiction A.
- Jurisdiction A advises that they have no legal jurisdiction to review Jurisdiction B's cost relief decision.

Questions/Resolution:

- Should Jurisdiction B be referring the appeal to Jurisdiction A, under Section 15.3? No, Jurisdiction B should not be referring the appeal to Jurisdiction A, as Section 15.3 is not applicable.

- Is this a misinterpretation of Section 15.3 of the IJA? Does Section 15.3 not pertain to Benefits in Kind as it references “Administering Board?”
  Yes, this is a misinterpretation of Section 15.3. Section 15.3 relates to “Benefits in Kind” referencing the **Administering Board** which is defined as a Board, other than the Adjudicating Board, which provides administrative services and benefits in kind to a beneficiary who has moved out of the jurisdiction of the Adjudicating Board (as defined under Section 2.1 c) of the IJA).

Module 11: Dispute Resolution

11.1 Introduction:

An IJA Dispute Resolution Best Practices Training Guide was prepared by Douglas R. Mah, Secretary and General Counsel at the Workers Compensation Board of Alberta in 2010 (Schedule BB).

The guide was incorporated into this document under Guiding Principles, Key Considerations and Process.

11.2 Guiding Principles (Section 16 of the IJA):

1. All participants in the IJA will act in good faith and use best efforts to comply with the spirit and intent of the IJA. In particular, this means making efforts to ensure that no worker goes without a remedy.

2. The interpretation of the IJA is not static and is ever evolving.

3. Participants will take a collaborative and consultative approach to interpretation. That is why the IJA Coordinators meetings are useful as they achieve documented protocols, practices and procedures with respect to IJA administration.

4. As an overarching rule, a reimbursing jurisdiction is not allowed to "re-adjudicate" the decision of an adjudicating jurisdiction. The amount of reimbursement is governed by section 9.2 of the IJA and is limited only by statute or policy enacted by the jurisdiction's governing body. The reimbursing jurisdiction should not substitute its own discretion or purport to make a different decision where the original decision is within the reimbursing jurisdiction's authority. Section 9.2 reads as follows:

> Reimbursements shall either cover the full amount of all payments made by the adjudicating Board on a claim, or the portion of that full amount requested by the adjudicating Board for reimbursement subject only to any policy or statutory limitations. This includes the capitalized costs established on a claim, where both the adjudicating and reimbursing Boards employ a process of capitalizing future costs. Reimbursement in such cases shall be limited to the extent that the reimbursing Board would have itself capitalized the costs had it administered the claim.

5. The reimbursing jurisdiction does not have authority to appeal any adjudicative decisions through the adjudicating jurisdiction's appeal system (PPP-Appeals-Authority of Reimbursing/Adjudicating Board-2014).

6. Each Adjudicating Board has the exclusive jurisdiction to determine all matters arising under its statutory authority and the action or decision of the Adjudicating Board on such matters is final and conclusive. This decision-making authority cannot be delegated to any other Board (Exclusive Jurisdiction-Section 16.1 of the IJA).

7. When faced with a disagreement between jurisdictions, the Boards in dispute are to undertake negotiations in good faith to reach a fair and reasonable conclusion/decision (Dispute Resolution-Section 16.2 of the IJA).

8. In the event of a dispute, discussions should first occur between the staff involved, then involve senior representatives of each Board, and escalate to IJA Coordinators if no resolution can occur (Dispute Resolution/Referral to IJA Coordinator-Section 16.2 and 16.3 of the IJA).

9. If the IJA Coordinators fail to resolve the issues to their mutual satisfaction, they may agree to appoint one or more coordinators from other jurisdictions to mediate the dispute (Referral to IJA Coordinator-Section 16.3 of the IJA).

10. Any costs incurred by the mediator are to be paid equally by the Boards in dispute (Costs Shared-Section 16.6 of the IJA).

11. The IJA Coordinators are responsible to provide the mediator with any additional information that is required for the understanding and resolution of the dispute (Information for Mediators-Section 16.4 of the IJA).

12. The mediator may request an oral hearing, at a place and time that is agreeable to all Boards involved in the dispute. All evidence, whether submitted in writing or presented orally is to be treated with the utmost confidentiality (Information for Mediators-Section 16.4 of the IJA).

13. The recommendations of the mediator are not binding, however, it is agreed that all jurisdictions are to make their best effort to implement the mediator's recommendations. (Recommendations-Section 16.5 of the IJA).

14. Jurisdictions have a 2 year limitation period to initiate the dispute resolution process from the date of the receipt of the decision in dispute (PPP-Dispute Resolution-Limitation Period-2004).

11.3 Key Considerations:

1. Disputes under the IJA invariably involve either nonpayment or reduced payment by a reimbursing jurisdiction subsequent to a request for payment by an adjudicating jurisdiction. Please refer to Guiding Principle #4 for further clarification.

2. When faced with a dispute, the IJA Coordinators may develop a methodology for apportioning costs between the jurisdictions (Discussion paper by Doug Mah, 2008, Schedule BB).

3. Pursuing mediation (when agreement cannot be reached between IJA Coordinators) through an agreed upon mediator can be a very time consuming and costly process for all participants. Therefore, jurisdictions need to seriously consider the advantages and disadvantages of pursuing such dispute resolution.

4. The dispute resolution decision can be valuable in setting a precedence for resolving similar disputes in the future and establishing solid best practices for implementation of the IJA.

5. A 2 year limitation period is in place to initiate the dispute resolution mechanism from the date of receipt of the decision in dispute (PPP-Dispute Resolution-Limitation Period-2004).

6. The recommendations of the mediator are not binding because of the exclusive jurisdiction of each Board regarding claims paid to workers in their respective jurisdiction. It remains a jurisdiction's decision to implement a dispute resolution decision into subsequent administration of the IJA (PPP-Dispute Resolution-Binding-2004 & 2010).

7. Although it remains a jurisdiction's decision to implement a dispute resolution decision, all jurisdictions are reminded that that the goal is to act in good faith in reaching a fair and reasonable resolution, in accordance with the spirit and intent of the IJA (PPP-Dispute Resolution-Binding 2004/2010).

11.4 Best Practices:

1. Always act in good faith and best effort to resolve all disputes between jurisdictions, in accordance with the spirit and intent of the IJA.

2. As a result of the 2 year limitation period, it is best for the Adjudicating Board to initiate the dispute resolution process as soon as possible after the decision letter

is received as it takes time to gather information and clarification on decisions that have been made.

3. When reviewing the rationale behind the Reimbursing Board's decision to deny and/or limit reimbursement, it is recommended that the Adjudicating Board reference the BPG and PPP. These documents provide many resolutions and case studies which may assist the Adjudicating Board in understanding the decision made and prevent pursuing any further action or provide the Reimbursing Board with the relevant excepts of the BPG and PPP to reconsider their decision.

4. Many disputes can be resolved easily by first having informal conversations between jurisdictions by allowing each party to have a better understanding of the issues, rather than limiting discussions to formal written correspondence.

5. When faced with a dispute between jurisdictions, best practice to negotiate a solution that is agreeable to both parties. For example, the Adjudicating Board may negotiate partial reimbursement rather than complete denial of reimbursement, in favor or forgoing a lengthy arbitration process.

1. When pursuing dispute resolution through mediation, having an "Agreed Statement of Facts" signed by both jurisdictions will ensure that the mediator has all of the information necessary to make a timely decision.

2. The best practice remains to implement all of the mediator's recommendations, regardless whether they are binding or not.

11.5 Process:

1. In determining whether to pursue the reduced reimbursement or the denial of reimbursement, the Adjudicating Board must make a business decision. The following factors (the list is not intended to be exclusive) may be relevant:
    - amount in dispute
    - effort required to secure the payment
    - relationship with Reimbursing Board
    - the effect on the employer of Adjudicating Board not receiving payment
    - whether or not the worker "falls through the cracks"
    - length of time required to resolve the dispute (where anecdotal experience indicates the average period of time to resolve a dispute is two years)

1. The Adjudicating Board needs to be aware of the 2 year limitation period to initiate the dispute resolution process from the date of the receipt of the decision in dispute (PPP-Dispute Resolution-Limitation Period-2004) when seeking clarification and making decisions on whether further action will be pursued.

2. The Adjudicating Board should seek clarification from the Reimbursing Board as to the reasons why there has been nonpayment or reduced payment. First, the two jurisdictions must reach consensus on the facts of the case. Second, the Adjudicating Board must receive an explanation in writing from the Reimbursing Board as to the legislation and policy being relied upon for the decision.

3. The claim handler/case manager in the adjudicating jurisdiction may wish to seek legal advice and/or input from his or her supervisor at this stage.

4. The claim handler/case manager in the Adjudicating Board should attempt a negotiation with his or her counterpart in the Reimbursing Board, by correspondence **and** also by telephone. If resolution is not reached, the Adjudicating Board may wish to escalate the issue to senior representatives of each Board for further discussion. Depending on the reporting structure of the IJA department, this may be supervisors/management of the customer service department (or directly to the Interjurisdictional Coordinator).

5. Should the dispute remain unresolved, each Board shall refer the dispute directly to the Interjurisdictional Coordinators appointed by their respective Boards for further review and discussion. If the coordinators fail to resolve the issues to their mutual satisfaction, they may agree to the appointment of one or more coordinators from other Boards to mediate the dispute.

6. If discussions between the IJA Coordinators do not result in a resolution, then the Adjudicating Board may initiate one or more of the following dispute resolution mechanisms:
    - submission of the case on an anonymous basis to the annual meeting of the IJA Coordinators as a case study;
    - pursuing the statutory review or appeal process in the Reimbursing Board, where permitted by law; or
    - pursuing mediation under Section 16 of the IJA.

7. If the Adjudicating Board chooses to submit the issue as a case study to the annual AWCBC IJA Committee meeting, they are expected to provide a detailed briefing summary of the scenario to the IJA Committee Chair, at least 30 days prior to the meeting in order to provide sufficient time for it to be added as an agenda item (PPP-AWCBC IJA Committee Meeting-Briefing Notes-1997, 2014, 2017 and AWCBC IJA Committee Meeting-Agenda--1997, 1999, 2010 and 2014). Best practice would be to include the Reimbursing Board as part of this process (to review the summary of the scenario provided and have the ability to provide further supporting rationale either in writing or at the meeting).

8. The Adjudicating Board may also pursue a statutory review or submit a formal appeal to the Reimbursing Board, if permitted by law. Prior to initiating such a review, it may be important for the Adjudicating Board to consult with their own legal department, to determine whether such review decisions would be binding.

9. As a final dispute resolution mechanism, the Adjudicating Board may pursue consensual arbitration.

Pursuing Consensual Arbitration (Steps)-as outlined in Doug Mah's memo:

1. Identify and agree upon the issue for arbitration.
2. Identify and agree upon the arbitrator.
3. Prepare and execute the arbitration agreement. Points to consider;
    - both sides should agree to pay one-half of the arbitrator's fee regardless of outcome
    - arbitration agreement should be signed by the parties and the arbitrator
    - arbitration agreement should provide that arbitrator has exclusive jurisdiction to determine process
    - arbitration agreement should stipulate that arbitration is non-binding as board/commission likely not able to delegate decision-making authority
4. Prepare and sign an Agreed Statement of Facts (if facts can be agreed upon)
    - consider what, if any, further evidence needs to be submitted, either in affidavit form or through witnesses
5. Determine whether examination on affidavit required.
6. Prepare and submit written briefs to the arbitrator.
7. Oral hearing if requested by one of the parties or required by the arbitrator.
8. Receive decision.
9. Pay arbitrator's invoice.

Module 12: Other Agreements

12.1 Noise Induced Hearing Loss Agreement with Saskatchewan and Alberta:

There is an existing agreement between the Saskatchewan and Alberta Workers' Compensation Boards regarding the handling of hearing loss claims where there has been exposure in both jurisdictions. Under the current arrangement, where a worker sustains occupational noise exposure in both jurisdictions and chooses to make a claim in one of two jurisdictions, the jurisdictions where the claim is filed will not discount occupational noise exposure occurring in the other jurisdiction. For the purpose of claim handling, both jurisdictions have agreed to treat occupational noise exposure occurring in the other jurisdiction as having occurred in the jurisdiction where the claim is filed.

Please refer to Schedule X for Interjurisdictional Hearing Loss Chart (2008).

12.2 Government Employees Compensation Act (GECA):

The Government Employees Compensation Act (GECA) provides compensation for the loss of earnings, medical care and other related benefits to federal employees injured in the course of their employment or disabled by reason of an industrial disease due to the nature of their employment.

GECA is the legislative authority allowing the Federal Government to enter into agreements with all of the provincial and territorial worker's compensation boards to administer the compensation benefits for its injured federal employees, in accordance with the applicable compensation scheme of the respective jurisdiction where the federal employee elects. GECA employee's jurisdiction to elect benefits is determined by the Government Employees Compensation Place of Employment Regulations SOR/86-791 which states in section 2 "... the place where an employee is usually employed is the place where the employee is appointed or engaged to work."

Employees of Air Canada are not considered federal employees and therefore, their employees are not covered under GECA (PPP-GECA-2019). Air Canada is federally regulated because it operated in the industry of aviation but it is not a Federal Government employer.

12.2.1 Federal Minister of Labour and WCB Alberta:

GECA has resulted in the federal government entering into separate contracts with all Canadian WCBs. Section 5 of GECA allows the Alberta WCB to adjudicate those claims where employees are usually employed in Yukon, Northwest Territories and Nunavut. It states the following:

Section 5 (1) Where an employee is usually employed in Yukon or the Northwest Territories, the employee shall for the purposes of this Act be deemed to be usually employed in the Province of Alberta.
(2) Where an employee is usually employed in Nunavut, the employee shall for the purposes of this Act be deemed to be usually employed in the Province of Alberta

Jurisdictions cannot impose their out of province legislations to dictate right of election for federal employee's GECA claims. GECA claims are excluded as they are not WCB claims that can result in claim costs against provincial employers. The claims are created by federal law (GECA) and the WCB's are simply agreeing to administer them on behalf of the Federal Government. As such, no right of election exists under the provincial statutory authority of the Canadian WCBs.

Since the claim costs for federal employees are reimbursed in full by the Federal Government, these claims are excluded from the IJA/AAP.

12.2.2 Case Study-GECA-Determination of Usual Place of Employment & Out of Province Legislation (2017 AWCBC Meeting):

Fact Scenario:

- The worker is injured in Nunavut while working for Labour Canada.
- The Alberta Board adjudicates the claim as per Section 5 of GECA
- Later, it was confirmed that the worker's usual place of employment was British Columbia.
- Work Safe BC denies the claim, indicating that the worker did not fall under their out of province legislation and therefore, indicated that they could not adjudicate the claim.

Questions/Resolution:

- Is it appropriate to reference jurisdiction's out of province legislation when determining right of election for Labour Canada?
  No, GECA determines whether their workers elect benefits. Jurisdictions' out of province legislation does not apply to federal employees.

- Who has jurisdiction to determine "usual place of employment" for Labour Canada injured workers?

Regulation 2 of GECA determine "usual place of employment," therefore, it is the Federal Government that makes the determination.

12.2.3 Case Study-GECA-Identification of Employees (2019 AWCBC Meeting):

Fact Scenario:

- Worker is an employee of Air Canada and resident of Jurisdiction A.
- Worker is injured in Jurisdiction B.
- Worker elects in Jurisdiction A.
- Jurisdiction A requests reimbursement from Jurisdiction B (province of injury) under the IJA.
- Jurisdiction B denies reimbursement indicating that Air Canada is covered by the Government Employees Compensation Act (GECA) and as such, the Interjurisdictional Agreement does not apply.

Questions/Resolution:

- Is reimbursement to Jurisdiction A applicable under the Interjurisdictional Agreement in this case?

  It depends on whether or not both Jurisdiction A and B classify Air Canada as a self-insured employer. If Air Canada is not a self-insured employer in both jurisdictions then reimbursement to Jurisdiction A is applicable. If Air Canada is classed as self-insured by both Jurisdiction A and B the IJA does not apply in accordance with Section 3. 2 f).

  The denial based on GECA is not appropriate because GECA covers federal employees or employees of federal agencies. Air Canada does not fall under either of these categories. The Federal Labour Program confirmed that Air Canada is not a federal employee and therefore, its employees are not covered under GECA. Air transport is a federally regulated industry but does not make the employers operating in that industry federal employers.

12.3 Canada/United States Reciprocal Forest Fire Fighting Arrangement (CANUS):

The Canada/United States Reciprocal Forest Fire Fighting Arrangement (CANUS) is an agreement to mutually share resources for wildland fire fighting between Canada and the United States.

CANUS (s. 4.2.14) stipulates that workers who are injured are to receive compensation through the workers' compensation program of the state or province where the worker was originally employed (the jurisdiction providing the assistance).

CANUS is not in conflict with the IJA as it deals with resource sharing between the USA and Canadian jurisdictions.

Canada has similar agreements with Mexico, New Zealand, South Africa and Australia.

12.4 Mutual Aid Resources Sharing Agreement (MARS):

The Mutual Aid Resources Sharing Agreement (MARS Agreement) is a legal agreement to mutually share forest fire fighting resources when required, between all the jurisdictions of Canada. Resources include but are not limited to personnel, equipment, aircraft, and other services.

The MARS Agreement (specifically Section 6.1 of the Implementation Guidelines) allows injured workers, while on assignment, to have the right to claim compensation in their home jurisdiction or the jurisdiction in which they are injured.

It should be noted that at the May 2009 AWCBC IJA Committee meeting, Doug Mah (AB) reported that the MARS agreement had been amended so that it now recognized the *right of workers* to elect in their home jurisdiction *or* the jurisdiction of injury. He indicated that previous wording contained in the MARS conflicted with the IJA, as it dictated that although workers had the right to elect in either their home jurisdiction or where the injury occurred, workers *must* elect in their home jurisdiction.

As a result, Section 6.1 k) of the implementation Guidelines was updated as follows:

"*While on assignment pursuant to the MARS Agreement, personnel injured in a province or territory in which they are not resident are entitled to workers' compensation benefits in accordance with the applicable workers' compensation legislation.*

Injured personnel may have the right to claim compensation in their home jurisdiction or the jurisdiction in which they are injured. In such event, they may make a claim to the workers' compensation agency of one or the other but not both. The costs of the claim will be paid by the workers' compensation agency administering the claim.

Although personnel are covered by their home agency WCB, they are still required to abide by the WCB requirements with-in the assignment jurisdiction."

At that time, the Committee agreed that as a result of the changes made to the MARS Agreement, it was no longer in conflict with the IJA as it recognized the worker's right to elect with either the home jurisdiction *or* where the injury occurred (PPP-MARS Agreement-2009 and 2009 AWCBC IJA Committee meeting minutes).

Impact on the IJA and Cost reimbursement provisions:

Section 10.01 of the 2016 MARS Agreement states:
"*Upon request,* ***any Party providing Resources pursuant to this Agreement shall be reimbursed by the Receiving party for the cost of payment of compensation and death benefits*** *distributed to injured employees and the dependents or representatives of deceased employees in the event such employees sustain injury or are killed while rendering aid pursuant to this Agreement, and such payments shall be made in the manner and on the same terms as if the injury or death sustained were in the regular course of employment. (emphasis added)*

In conjunction with Section 6.1 k) of the 2019 Implementation Guidelines and Section 10.01 of the 2016 MARS Agreement, reimbursement is appropriate and applicable under the IJA. All jurisdictions were in agreement with this, with the exception of Ontario.

The Ontario Board indicated that their out of province residents are required to establish a substantial work connection (in accordance with their policies) and therefore, may not always meet this requirement, which would not allow them to issue reimbursement. They indicated that they could not provide blanket approval for reimbursement in all situations and would have to review reimbursement on a case by case basis.

It should be noted that the Quebec Board had also indicated that their legislation does not permit reimbursement for these out of province residents, however, indicated that they would still reimburse accordingly and make alternative arrangements with their Ministry of Forestry.

(Refer to case study 12.4.1 from 2019 AWCBC meeting, along with meeting minutes from the 2021 AWCBC IJA Committees meeting for further details).

12.4.1 Case Study-MARS-Reimbursement (2019 & 2021 AWCBC Meeting):

Fact Scenario:

- Worker is a firefighter and resident of Jurisdiction A, paid by Jurisdiction A employer.
- Worker goes to Jurisdiction B to assist in fighting their fire (under MARS Agreement).
- Worker is injured in Jurisdiction B.
- Under the MARS Agreement, a worker can elect in either home jurisdiction (A) or jurisdiction of injury (B).
- Worker elects in Jurisdiction A.
- Jurisdiction A requests reimbursement from Jurisdiction B (province of injury) under the IJA.
- Jurisdiction B denies reimbursement indicating that the worker does not have a substantial connection of employment to their province based on their policies.
- Jurisdiction B also indicates that the employer (worker is paid by employer from Jurisdiction A) does not have an account nor required to, therefore reimbursement is not possible.

Questions/Resolution:

- Is it appropriate for Jurisdiction B to deny reimbursement based on their policy of "no substantial connection to employment" in their jurisdiction?
  No, Jurisdiction B should not deny reimbursement based on there being "no substantial connection to employment" in their jurisdiction, as this is contrary to the intended purpose of the MARS agreement to share resources, recognizing the right of workers to elect in their home jurisdiction or the jurisdiction of injury and the right of the jurisdiction that lent its resources to be reimbursed in full by the jurisdiction where the resource (firefighter) was injured.

  The Quebec Board had indicated that they would not be able to reimburse due to their current legislation. However, they consulted with their VP and determined that if faced with this situation they would agree to reimbursement and make some alternative agreement with the Ministry of Forestry.

  Ontario indicated that they could not provide blanket approval for all situations as they were mandated to establish a substantial work connection for out of province residents, as outlined in their policies. In this scenario, the Ontario Board had agreed that they would consider this worker an Ontario worker as the Ministry of Natural Resources was deemed to be the employer.

- Does it matter that the employer paying the firefighter from Jurisdiction A does not have an account in Jurisdiction B?
  No, although Jurisdiction B does not have an account in Jurisdiction A, other jurisdictions have confirmed that they have established the account with their own provincial ministries who handle firefighters to eliminate this issue.

- Since Jurisdiction B denied reimbursement based on "having no substantial connection to employment" in their jurisdiction and having no valid account, are they then implying that the worker could not elect in their jurisdiction?
  If so, is this approach in conflict with the MARS agreement?
  Yes, with Jurisdiction B denying reimbursement on having "no substantial connection to employment" and thus, having no valid account in their province, they are suggesting that the worker would not be able to elect in their home jurisdiction.
  Yes, this approach is in conflict with the MARS agreement which recognizes that workers should have the right of election with their home jurisdiction or the jurisdiction of injury.

- Is reimbursement applicable?
  The appropriateness of reimbursement required further discussion with the designated members of each jurisdiction. Discussion centered around the intended meaning of Section 6.1 Personnel Information of the Implementation Guidelines of the MARS Agreement, specifically 6.1 k), which states in part: "The costs of the claim will be paid by the workers' compensation agency administering the claim." The majority of jurisdictions recognized that the MARS Agreement was silent on issues of reimbursement and interpreted this portion as simply identifying who should be paying the injured worker and not, intended to specify which jurisdiction should remain with the costs of the claim. It seemed contrary to the intent of the rest of the agreement which focused on "mutual sharing of resources." As a result, it was agreed that all committee members would return to their jurisdictions and discuss specifically with the designated staff responsible and return with a response from their jurisdiction by July 30, 2019.

  The item was deferred for discussion at the May 2021 AWCBC meeting (as May 2020 meeting was cancelled) to determine if consensus could be reached.

In May 2021 AWCBC meeting, jurisdictions agreed that Section 10.01 of the 2016 MARS Agreement should be referenced along with Section 6.1 k) of the 2019 Implementation Guidelines in order to support reimbursement. All jurisdictions agreed that **reimbursement was applicable**. Ontario indicated that they would review future reimbursements on a case by case basis, but could not provide blanket approval for all situations involving MARS requests for reimbursement, as they had a requirement to establish substantial work connection for their out of province residents.

12.4.2 Case Study-MARS Equivalent-Reimbursement (2022 AWCBC Meeting):

Fact Scenario:

- Jurisdiction A requested support from Jurisdiction B in support of their disaster recovery program to address a snowstorm in October 2019. The province declared a state of emergency to assist with resource requests as many areas of the province were severely impacted. Resources for the province including utilities and critical infrastructure repair were depleted. The city was looking for availability of crews and resources to travel to the city and assist with urgent arborist duties including trained and skilled crews that were appropriate resources with vehicles, bucket trucks, equipment, etc. Aerial trucks (with chippers) and trained arborists (for removing branches and clearing the resulting tree debris) were required.
- Jurisdiction A agreed to arrange hotel, fuel access (vehicles and equipment, work location, work assignments, safety orientation, additional PPE (if required), while Jurisdiction B agreed to arrange truck transport, equipment (including backups), flights, credit cards for incidental costs, meals and dedicated foreman.
- A formal agreement was signed between the two cities of Jurisdiction A and B for the loans of equipment and arborists.
- Costs incurred by Jurisdiction B were to be reimbursed by Jurisdiction A after the event.
- As a result of the work in Jurisdiction A, a worker sustained an elbow injury due to working long shifts which required him to pick up large heavy pieces of wood and pulling large piles of side branches over 9 hours to assist with the clean-up as a result of Jurisdiction A's local state of emergency.
- The worker elected in Jurisdiction B and claim is accepted and benefits are issued.
- Jurisdiction B requests reimbursement under the IJA from Jurisdiction A, indicating that the injury occurred in Jurisdiction A and considered this an extension of the MARS agreement as it was a sharing of resources.
- Jurisdiction A **denied** reimbursement.

The Arborist Agreement stated in part:

SALARY, BENEFITS AND EXPENSES

3.1 *Jurisdiction B* shall pay all salary and benefit expenses including, but not limited to, wages, health benefits, sickness and accident benefits, long term disability premiums, pension contributions, vacation, overtime, and any remaining compensation and/or benefits set out in City policy and/or applicable employment contracts and collective agreements, directly to *Jurisdiction B's* Employees seconded to *Jurisdiction A* under the terms of this Agreement, in accordance with the terms and conditions applicable to *Jurisdiction B's* Employees while working away from their normal location.

3.2 *Jurisdiction B* shall pay all transportation, food, parking, and accommodation expenses directly to *Jurisdiction B*'s Employee seconded to *Jurisdiction A* under the terms of this Agreement in accordance with the City policy and/or applicable employment contracts and collective agreements.

3.3 ***Jurisdiction A* shall pay to *Jurisdiction B*, as reimbursement for the services provided by *Jurisdiction B*'s Employees to *Jurisdiction A* pursuant to this Agreement:**
a) The cost of salaries and benefits expenses borne by *Jurisdiction B* as described under 3.1; and

b) The cost of all additional expenses borne by *Jurisdiction B* as described under 3.2.

3.4 *Jurisdiction A* shall pay to *Jurisdiction B* the amounts stipulated in 3.3 in monthly instalments. On the fifteenth day of every month, *Jurisdiction A* shall provide *Jurisdiction B* a summary of hours worked by *Jurisdiction B's* employees for *Jurisdiction A* over the previous month, and *Jurisdiction B* shall in a timely manner then Invoice *Jurisdiction A* for all amounts stipulated in 3.3. *Jurisdiction A* shall pay *Jurisdiction B* forthwith following receipt of such invoices.

3.5 Expenses for any necessary training of *Jurisdiction B*'s Employees under the terms of this Agreement will be borne by *Jurisdiction A*.

Questions/Resolution:

- Is Jurisdiction A responsible for reimbursement of claims costs to Jurisdiction B, under the IJA?
  The consensus amongst jurisdictions was that Jurisdiction B should receive reimbursement from Jurisdiction A as they had lent their resources to Jurisdiction A.

- Is it reasonable that the employer in Jurisdiction B be responsible for all claims costs and the related effects on their assessments/premiums for an accident that occurred in Jurisdiction A?
  The consensus amongst jurisdictions was that Jurisdiction B should not be responsible for all claims costs and related effects on their assessments/premiums for an accident that occurred in Jurisdiction A.

However, it was noted that this agreement was made between two cities rather than two provinces, which resulted in the MARS agreement technically not applying. Concern was raised that cities were entering into agreements in the absence of consulting with the WCB's of the respective jurisdictions. Each jurisdiction was encouraged to provide ongoing education to their employers with respect to entering into agreements with other provinces or municipalities and the details of what coverage entails.

Ultimately, it was felt that this was an equivalent to the MARS agreement as it was considered to be a lending of resources and reimbursement should be applicable.

Situations like these will require review on a case-by-case basis as every scenario may have different facts.

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Schedule C: Template Letter-Right of Election for Out of Province Accidents

WCB LOGO

[Date]

[Name and Address of Recipient]

Dear [Claimant's Name]:

Claim Number: [Claim Number]
Date of Accident: [Date of Accident]
Part of Body: [Part of Body Injured]

I am writing because the Workers' Compensation Board (WCB)-[your province] has received information that you were involved in an accident outside of [your province].

I will be investigating your claim to ensure I have all historical and relevant information that pertains to or has an impact on your injury or condition. This information will help me determine your entitlement to the appropriate benefits and services.

As it appears this accident happened in another province's jurisdiction, to claim with our Board you must meet the following criteria: [Add your pertinent out of province legislation]

- You must be a resident of [your province] OR your usual place of employment must be in [your province].
- You are required to perform your work both in and out of [your province].
- Your employment outside [your province] has not lasted more than twelve (12) consecutive months (except where your employer has specifically applied to extend this period).

You may be eligible to claim compensation in either the province in which you were injured or live. Please consider this choice carefully because you cannot receive benefits from both

If you choose to claim in [your province], you must complete, sign and return the attached *Election to Claim Under the Act* form.

I am unable to process this claim in [your province] unless the information is received. If you wish to claim in [your province], please return the completed form by [date].

If you have any questions please do not hesitate to contact me at [contact number] or you may call one of the main numbers listed at the bottom of this letter.

For more information about the WCB and our services, please visit our website at: [your website].

Sincerely,

[Name of Sender]
[Title of Sender]

Enclosure

*Attach Worker's Report of Injury and Right of Election form for out of province accidents

Schedule D-Template Form-AB Right of Election for Out of Province Accidents

Workers' Compensation Board
Box 2415
Edmonton AB T5J 2S5

C169
ELECTION TO CLAIM UNDER THE AB WCA
(Out of Province Accident)

In order that we may proceed with this claim, please complete and return this form without delay.

	Date of Accident *(YYYY/MM/DD)*		Claim Number:	
Worker's *Surname*	*First Name*		*Initial*	Date of Birth *(YYYY/MM/DD)*
Address	City/town	Province	Postal Code	Telephone Number

We have received reports that you were injured on the date shown above in an industrial accident outside of Alberta.

You may have the right to claim compensation under the provisions of Section 28 of The Workers' Compensation Act of Alberta, (see attached) or alternately to claim compensation or other remedy under the law of the place in which you were injured.

You should consider this matter carefully and, if you decide to claim compensation under the Alberta Act, you should (a) complete and return the enclosed application form, and (b) complete the election portion of this form and return it.

If we have not heard from you within thirty days, we will assume that you do not wish to claim under The Workers' Compensation Act of Alberta and we will take no further action in this matter.

ELECTION TO CLAIM UNDER THE AB ACT

In the matter of injuries resulting from an accident that happened on _____ at or near _____ I elect to claim compensation under The Workers' Compensation Act of the Province of Alberta. Should my claim be accepted, I waive and forego any rights to compensation in any other jurisdiction, and will not apply for or accept any benefits from such other jurisdiction unless authorized to do so by the Workers' Compensation Board of Alberta.

I have read and understand the provisions of Section 28 of the Act.

Dated this _____ day of _____, 20 _____, at _____

Worker's Social Insurance Number * _____

Signature Worker or Dependent _____

Witness Name _____

Witness Signature _____

This information is requested in accordance with Section 36 of the Workers' Compensation Act.

* Optional

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Schedule E: Template Letter-Right of Election for In-Province Accidents

WCB LOGO

[Name and Address of Recipient]

[Date]

Dear [Claimant's Name]:

Claim Number: [Claim Number]
Date of Accident: [Date of Accident]
Part of Body: [Part of Body Injured]

I am writing because the Workers' Compensation Board (WCB) [your province] has received information that you were involved in an accident in [your province], but you are a resident of «resident province».

I will be investigating your claim to ensure I have all historical and relevant information that pertains to or has an impact on your injury or condition. This information will help me determine your entitlement to the appropriate benefits and services.

You may be eligible to claim compensation in either the province in which you were injured or the province in which you live. Please consider this choice carefully because you cannot receive benefits from both jurisdictions.

Section [applicable legislation] of the Workers' Compensation Act of [your province] states in part: [example provided below]

"A worker claiming compensation or to whom compensation is payable under this Act shall, if the Board requires it, undergo a medical examination by a physician selected by the Board and at a time and place determined by the Board and the Board shall pay the costs of that examination."

If you choose to claim in [your province], you may be required to travel to *[*your province] as per Section [applicable legislation] of the Act, at the request of WCB at any time. You would also be responsible to forward all medical information pertaining to your work injury to your [your province] claim. To claim in [your province], you must complete, sign and return the attached form to elect to claim in [your province].

*Please Note: Should your employer complete the [your province's applicable form confirming no business in worker's jurisdiction of residence] form confirming they did not perform any business and/or operations in your province of residency, your signed [your province's right of election form for in-province accidents] form will be withdrawn.

I am unable to process this claim in [your province] unless the information is received. If you wish to claim in [your province], please return the completed form by [date].

If you have any questions please do not hesitate to contact me directly at [contact number] or you may call one of the main numbers listed at the bottom of this letter.

For more information about the WCB and our services, please visit our website at: [your website].

Sincerely,

[Name of Sender]
[Title of Sender]

Enclosure

*Attach Worker's Report of Injury and Right of Election form for in-province accidents

Schedule F: Template Form-AB Right of Election for In-Province Accidents

wcb Workers' Compensation Board Alberta

Box 2415
Edmonton AB T5J 2S5
Fax: (780) 498-7999

C1040

ELECTION TO CLAIM UNDER THE AB WCB

(Out of Province Resident)

In order that we may proceed with this claim, please complete and return this form without delay.

	Date of Accident (YYYY/MM/DD)		Claim Number:	
Worker's Surname	First Name		Initial	Date of Birth (YYYY/MM/DD)
Address	City/town	Province	Postal Code	Telephone Number

We have information that you reside outside the Province of Alberta but were injured on the date shown above in a work-related accident within Alberta.

Pursuant to Section 29 of the *Workers' Compensation Act* of Alberta (the "WCA") and Section 4.1 of the Interjurisdictional Agreement on Workers' Compensation, you may have the right to claim compensation under the WCA of Alberta, or alternatively to claim compensation or another remedy under the law of the place in which you reside.

You should consider this matter carefully and you may wish to contact the workers' compensation agency in the province of territory where you reside in order to determine your rights there. If you decide to claim compensation in Alberta, you should complete the election portion of this form and return it.

If we have not heard from you within thirty days, we will assume that you do not wish to claim in Alberta and we will take no further action in this matter.

ELECTION TO CLAIM UNDER THE AB WCB

In the matter of injuries resulting from an accident that happened on _____ at or near _____ I elect to claim compensation under Workers' Compensation Act of Alberta. Should my claim be accepted, I waive and forego any rights to compensation in any other jurisdiction, and will not apply for or accept any benefits from such other jurisdiction unless authorized to do so by the Workers' Compensation Board of Alberta.

I have read and understand the provisions of Section 29 of the WCA and Section 4.1 of the Interjurisdictional Agreement .

This information is requested in accordance with Section 36 of the Workers' Compensation Act.

Dated this _____ day of _____, 20 _____, at _____

Worker's Social Insurance Number * _____

Signature Worker or Dependent _____

Witness Name _____

Witness Signature _____

* Optional

C 1 0 4 0

C – 1040 REV FEB 2019

Schedule G: Template Form-Right of Election (Appendix B of the IJA)

FORM OF ELECTION

THE WORKERS' COMPENSATION ACT OF _____

ELECTION TO CLAIM COMPENSATION
(EXTRA-JURISDICTIONAL)
CLAIM NUMBER _____

I _____sustained personal injury or occupational disease on the _____ day of _____, 20 ____, in the Province (or Territory, State, etc.) of _____ while in the employ of _____.

OR (in case of a death)

I am a dependent of _____, who died on the _____day of _____, 20___, as a result of work-related injury or an occupational disease sustained in the Province (or Territory, State, etc.) of _____.

I must choose whether I will claim compensation under the Workers' Compensation Act of _____ or claim compensation [or damages] under the law of the Province (or Territory, State, etc.) where the injury (or occupational disease or fatality) occurred.

Having considered the matter, I elect to claim compensation for this injury (or occupational disease or fatality) under the Workers' Compensation Act of_____.

Should my claim be accepted, I waive and forego any rights to compensation in any other jurisdiction, and will not apply for or accept any benefits from such other jurisdiction unless authorized to do so by the _____ Compensation Board [or Commission].

[Any unique jurisdictional inserts here]

Dated this_____ day of _____ 20_____, at _____

Worker's Social Insurance Number _____

Signature Worker or Dependent _____
Witness _____

Schedule H-Template Form-AB-Employer Confirmation of Interjurisdictional Accounts (No Right of Election Applicable)

PO Box 2415
Edmonton AB Canada T5J 2S5
Tel: 780-498-3999
1-800-661-9608
Fax: 780-427-5863
WCB website: www.wcb.ab.ca

C1137
EMPLOYER CONFIRMATION OF INTERJURISDICTIONAL ACCOUNTS

General Information on Right of Election Requirements

If it is determined that a worker may be entitled to workers' compensation benefits in more than one jurisdiction, there is a requirement under the Workers' Compensation Boards' Interjurisdictional Agreement to have a worker sign a right of election in order to elect benefits from the Alberta WCB. This may be the situation when a worker is injured in Alberta but resides in another province. However, if an employer does not have an account or is not expected to have an account in the worker's province of residency at the time of the accident, there is no requirement for a right of election from the worker.

By completing this form, the employer confirms that they did not perform any business and/or operations in the province of residency at the time of the worker's accident and as such, are not required to have an account with the other Board. However, it is important to note that the Alberta WCB has final authority to determine whether a right of election is required from the worker.

Date of Accident: _____

Name of your injured worker(s):	WCB claim number

_____, _____, **hereby confirms that it did not perform any**
Employer's Name ***Alberta WCB Account #***

business and/or have any operations in the province of _____ **at the time of the**
Province where worker was a resident

worker's date of accident.

Dated this _____day of _____,20_____, at _____

Employer/ Employer's Authorized Representative Signature _____

Contact Name_____

Contact Title _____

Contact Phone Number_____

Note: The individual signing this document acknowledges that they have the authority to represent and bind the employer.

C1137

Schedule I: Template Letter-Communication Prior to Reimbursement Request or Transfer of Assessment Request

WCB LOGO

[Name and address of recipient]

[Date]

Dear [Name of recipient]:

RE: **Worker's name [full legal name]:** [Claimant's Name]
[Adjudicating Board] Claim #: [Claim number]
[Reimbursing Board and/or Other Jurisdiction] Claim #: [Claim number]
Date of Accident: [Date of Accident]
Injured Body Part: [Part of Body Injured]

Our Board has received reports that this claimant was injured in a work accident in [accident jurisdiction] on [date of accident].

Please find enclosed a completed and signed copy of an interjurisdictional election form submitted by the above named worker, claiming to elect with the [Adjudicating Board] Workers' Compensation Board.

Option 1: Worker is not electing with Adjudicating Board (2nd paragraph above would not apply)
The worker has elected to not claim benefits with the [Adjudicating Board] Workers' Compensation Board. Therefore, I am closing our file and forwarding the contents of this file to your Board.

Option 2: Worker does not meet right of election with Adjudicating Board (2nd paragraph above would not apply)
The worker does not meet right of election requirements to claim benefits with the [Adjudicating Board] Workers' Compensation Board. Therefore, I am closing our file and forwarding the contents of this file to your Board.

Option 3: Injury occurred in Adjudicating Jurisdiction (No reimbursement applicable)
As this worker was injured in [jurisdiction of injury], reimbursement is not applicable under Section 9 of the Interjurisdictional Agreement.

Option 4: Notice Only
The worker has elected to claim benefits with [Adjudicating Board] Workers' Compensation Board. Therefore, I am forwarding this copy to you for information purposes in compliance with the Interjurisdictional Agreement. At present, the costs of the claim do not meet the minimum $1000 criteria for invoicing under the reimbursement guidelines (Section 9.5) of the Interjurisdictional Agreement (IJA). If costs should reach $1000, I will submit an invoice to your Board pursuant to the IJA, requesting reimbursement accordingly. I have enclosed a copy of our file documentation for your records.

Option 5: Possible Third Party Action
As this has been identified to be a third party claim, the legal department of the [Adjudicating Board] Workers' Compensation Board may try to recover costs from the responsible party. When the third party decision is made and/or any necessary action is completed, I will send an invoice outlining any costs remaining, exceeding the $1000 threshold under Section 9.5 and 9.9 of the Interjurisdictional Agreement.

If you have any questions or concerns related to this correspondence, please do not hesitate to contact me at [phone number].

Sincerely,

[Name of Sender]
[Title of Sender]

Encl.

Schedule J: Chart-Minimum Requirements to Establish a Claim

Minimum Requirements to Establish a Claim

Provinces/Territories	Worker's name	Date of work-related injury	Physical location of work-related injury	Type of injury/Body part	Employer's name	SIN	Worker's address	Worker's telephone number	Date of birth	Employer's address
Alberta	X	X					X		X	
British Columbia	X	X	X		X				X	
Manitoba	X	X	X		X				X	
New Brunswick	X	X	X		X				X	
Newfoundland and Labrador	X	X	X		X				X	
Northwest Territories and Nunavut	X	X	X	X	X				X	
Nova Scotia	X	X	X		X	X[1]			X	
Ontario	X	X	X		X		X		X	
Prince Edward Island	X	X	X		X					
Quebec	X	X				X			X	
Saskatchewan	X	X	X	X	X	X	X		X	X
Yukon	X	X	X		X		X		X	X

1 The SIN is helpful as some jurisdictions do not include the worker's date of birth on the election form and it can be tricky identifying a worker with a common name, without another identifier. NS could do without the SIN as long as the date of birth is provided.

Schedule K-Template Letter-Interjurisdictional Employer Notice

WCB LOGO

[Name and address of employer]:

[Date]:

Dear [Name of recipient]:

RE: Worker's name [full legal name]:
[Adjudicating Board] Claim #:
Date of Accident:
Injured Body Part:

The Workers' Compensation Board of [Adjudicating Board] is participating in an agreement for cost reimbursement on interjurisdictional claims. All Canadian Workers' Compensation Boards participate in this agreement.

The Interjurisdictional Agreement (IJA) covers workers who are injured in another jurisdiction on or after March 1, 1992 and choose to claim compensation in their home jurisdiction. If the total costs of the claim exceed $1000, the Adjudicating Board jurisdiction will seek reimbursement of the costs from the Workers' Compensation Board in the jurisdiction where the injury occurred. Claims with a total cost of less than $1000 are not eligible for reimbursement.

The above noted worker was injured in [jurisdiction of injury] and elected to claim benefits with [Adjudicating Board]. When costs exceed $1000, we will be seeking reimbursement under the IJA. All costs of the claim will be removed from your [Adjudicating Board] WCB account once the Workers' Compensation Board of [jurisdiction of injury] accepts responsibility and reimbursement is received. If responsibility is declined or reimbursement is not received, costs will remain charged to your WCB account in [Adjudicating Board].

An important point to remember is [Adjudicating Board] WCB remains the Board that is managing this claim. Please direct any claim inquiry to the [Adjudicating Board] case manager with the exception of cost relief. Consideration of cost relief is handled by the jurisdiction where the costs reside.

Please direct any questions relating to the impact of this cost transfer on your [Adjudicating Board] WCB account to our Employer Services Department at [phone number].

Sincerely,

[Name of Sender]
[Title of Sender]

Schedule L: Chart-Jurisdictional Information for Long Latency Occupational Disease Claims (June 2013)

Long Latency Occupational Disease Claims
Jurisdictional Information (June 2013)

Goal: To standardize the sufficiency of evidence in adjudication of occupational disease claims.

Action: To provide baseline jurisdictional information regarding current requirements for sufficiency of evidence when adjudicating long latency disease claims.

Jurisdiction and Contributor	**What evidence / information does your jurisdiction require when adjudicating long latency occupational disease claims?**	**Does your jurisdiction have a standard regarding sufficiency of evidence / information when adjudicating long latency occupational disease claims, or is this determined on a case by case basis?**	**How is employment history corroborated when adjudicating long latency occupational disease claims?**
Alberta (Val Krushniruk) October 2012 – No update provided	Employers Report, Workers Report (if employer still in existence or worker not deceased), and all related medical since illness or symptoms started. Confirmed Alberta employment or that the worker was covered under Alberta jurisdiction if out of province/country when illness developed. Right of election if Asbestos claim. Confirmed diagnosis based on medical. Probable medical review by medical consultant. Confirmation of work history, occupations and job descriptions.	No standard regarding sufficiency of evidence/information required for adjudication. Apply principles of fairness and natural justice when considering all relevant evidence on new claims or existing claims under review under Policy 01-08. Policy 02-01 applied, specifically, evidence and statutory presumption sections. There is a standard for evidence/information required for claims from firefighters under the Firefighters legislation/regulations.	Employment history is corroborated by reviewing any prior claims the worker may have, CPP information, union records, and co-worker/witness statements. If the employer in question is still in existence, information is gathered directly from them. An investigation of the site may be performed.

	MSDS sheets for the hazard identified in the workplace. Confirmation of how worker was exposed/encountered hazard.		
British Columbia (Jay Rowland) October 2012 - No change to information provided previously. No new information to report.	Determine whether the long latency disease is listed in the presumptive schedule of occupational diseases (26.21 Schedule B Presumption). Determine whether the worker meets the *description of process or industry* set opposite such disease in the schedule. If worker meets above criteria, disease will be deemed to be due to the employment unless the contrary is shown. To rebut the presumption, the evidence must establish, on a balance of probabilities, that the employment did not play some significant role in causing the disease. If the presumption applies, the worker need not submit evidence that the disease is work caused (the presumption only applies if the worker was employed in the described work immediately before being disabled by the disease. If the presumption does not apply, careful work history is taken to determine possible exposure to carcinogens, substances or chemicals etc. over the entire working career. Smoking history and family history are considered for development of disease. Evidence	If presumption does not apply, then adjudication proceeds on a case by case basis. The legal test is that of 'causative significance'. If possibilities are evenly balanced, section 99 of the Workers Compensation Act applies (benefit of doubt). Each claims unique circumstances, exposures and personal risk factors are examined. As much relevant information as can be obtained. There are often barriers due to the passage of time (unavailable medical, employer no longer in business, worker deceased). Often use Occupational Hygiene Officers to review he case, call employer, review inspection reports and provide a profile of exposure history (low, moderate or high) with time references (historical estimate of exposure). Medical advisors search published epidemiological evidence to determine risk for development of disease. They may also comment on personal risk factors and their impact (smoking, intrinsic disease, hereditary factors etc.). Following the above investigation, a decision will be made based on whether the evidence supports that work (in our jurisdiction) was of significance to the development of disease or not. If so, the claim is accepted without apportionment (occupational vs. non-occupational) by causal factors.	Confirmation of exposure evidence if employer still in business. Union records, payroll information or information from spouse, co-workers or others. Challenging claims as usually multi-faceted.

	regarding non-occupational risk factors is sought.	The word significant is not defined in legislation, but means the work must have played a greater than minimal role in contributing to the disease.	
Manitoba (Ken Langton) October 2012 – No changes to information provided previously. No new information to report.	Determine if worker was/is employed in covered industry when exposure occurred. Determine whether worker was performing employment activities when exposure occurred. Determine if date of exposure and date of diagnosis (latency period) is consistent with current medical literature. Determine whether employment activities put the worker at greater risk of exposure and development of their condition than their non-employment activities, if so, the claim will be accepted.	Case by case basis. Must be able to establish that exposure occurred while the worker was in the course of their employment in a covered industry. For asbestos related conditions only one exposure is necessary.	If employer is no longer in business, the worker is asked if they have any documentation confirming their employment. Look for prior claims which may have information about previous employers. Co-workers may be able to confirm employment, as well as information about employment activities and exposure. We also check whether co-workers have had previous claims which may include relevant information. Claim search of the employer to determine if other claimants with similar conditions. CPP for details of pension contributions for the relevant period.
New Brunswick (Carol Veysey) October 2012 – See changes	Evidence of exposure, type of exposure, frequency of exposure use of personal protective equipment, confirmation of the disease, site of the cancer and latency period, workers medical records, specialist reports, pathology reports and evidence of alternate causes.	Case by case basis on own merits. As per the current adjudication process (Current Adjudication Process); Dedicated Medical Advisor to assist in understanding the evidence on file and provision of an opinion (based on scientific and medical literature and epidemiological evidence) with respect to causality. External consultant specializing in occupational medicine, toxicology or epidemiology is used when required to assist in determining causality.	~~Often a challenge.~~ ~~Proof or evidence from the worker, such as, pay stubs, information from Revenue Canada etc.~~ ~~Investigators are sometimes used to assist with contacting co-workers/supervisor to obtain statement.~~

		Dedicated decision maker weighs evidence and takes following factors into consideration: expertise of individual providing opinion, accuracy of facts relied upon by provider of opinion, issues of bias or objectivity with opinion, objective vs. subjective medical evidence, findings of relevant scientific studies referenced by qualified medical practitioner and dates of those studies to ensure current information is being considered. The claim is accepted when the decision maker determines that the exposure did occur and was the probable cause of the disease.	~~In some cases, claim denial had occurred because it was not possible to confirm employment or exposure.~~ If the employer in question is still in existence, information is gathered directly from them. Otherwise, employment history is corroborated by reviewing any prior claims the worker may have, CPP information, union records, pay records, pension letters and co-worker/witness statements. Investigator may assist in contacting co-workers/supervisor for a statement. Exposure may already be documented in a claim from a co-worker.
Newfoundland (Ann Martin) January 2013 – response received	Workers Report. Medical Reports. Any non-work injury factors which could cause the condition are taken into consideration and determined through evidence in medical and worker's verbal reports. Details regarding the type and intensity of exposure from both the worker and employer. MSDS sheets are obtained along with job descriptions, if available. If information cannot be obtained from an employer affidavits from co-workers are required with respect to work history and duration and/or type of exposures.	The claims are reviewed and adjudicated on their individual merits, utilizing the principles of EN-19 'Arising Out of and In the Course of Employment' and EN-20 'Weighing of Evidence' as noted in Policy. With respect to Asbestos related claims/conditions WorkplaceNL Policy EN-14, outlines the latency and duration of exposure required in relation to various types of Cancer. For non-asbestos related claims for occupational disease, the Medical consultants assist with the review utilizing the scientific evidence and research available regarding the type and duration of exposure. Such reference material for scientific review may include, IRSST, WHO, CCOHS (Centre for Occupational Health and Safety), IARC (International	In the absence of information directly from the employer, information may be obtained from: evidence from worker's previous claims with the exposure employer, affidavits from co-workers, or confirmation of employment from Union records. Consideration may sometimes be given to T4 slips, or pay stubs if available.

		Agency for Research on Cancer). In some cases an external Occupational Medicine Specialist or toxicologist may be consulted.	
Northwest Territories (David King) October 2012 – No update provided.	Workers claim form, verification of employment (if available), exposure history (if available), all relevant medical information documents (consultations, investigations, confirmed diagnosis) and independent consultation review by an expert in the relevant area of medicine.	Case by case basis.	Verification/reports from the employer, old pay stubs, Revenue Canada T4's, sworn affidavits from the worker or co-workers.
Nova Scotia May 2013 – Response received	We require an Occupational Disease claim form provided by the worker which allows the worker to claim for one (or more) medical conditions, details on possible hazards and exposures, and provide a work history listing occupations, jurisdictions, and time periods. We then seek a confirmed medical diagnosis (medically dubious diagnoses are sometimes encountered i.e. Multiple Chemical Sensitivities). Certain conditions activate presumptive clauses (mesothelioma, lung cancer, laryngeal cancer, lead poisoning), and there are occupation –based presumptive clauses as well (firefighters, coal workers) If not presumptive, we'd proceed to establish cause and effect with regard to workplace factors and seek opinions from internal and external medical resources as	If presumption does not apply, we move to our Occupational Disease Entitlement Policy, on a case by case basis. The case worker must weigh the evidence, supported by medical opinions and research as required.	Employment history is corroborated by gathering records from prior WCB claims, CPP disability claims, requesting information from Service Canada, Revenue Canada, and information submitted by the worker (pay stubs, retirement info, union records). In some cases we would review information from former co-workers, supervisors, etc.

	required. Our Occupational Disease Entitlement Policy has details.		
Ontario (Adil Dossa) October 2012 – No update provided.	Relevant prior and current employment information including dates and names (including any out of province), nature of business, job titles and location of companies. Exposure history including exposure agents, duration and frequency of exposure, work process and use of personal protective equipment. Medical history (obtained by Advanced Practice Nurse Case Manager) including, dates of medical sought, names of physicians and specialists and information regarding testing and specialists. Information about potential non-occupational exposures and risk factors including, hobbies and interests, smoking history and alcohol use. The above information is usually collected from the worker or the estate as well as employers who are still in operation. Input is sought from internal resources, such as, Occupational Medical Consultant, Occupational Hygienist and Occupational Disease Policy and Research Branch.	On a case by case basis the legal principles of '*causation test*' (provides criteria for deciding if a condition is work related) and '*standard of proof*' (provides degree of certainty- is the condition more likely than not work related) are applied to determine causal relationship and work relatedness of medical condition and employment activities.	Generally, the worker or the estate is relied on to provide dates of employment, names of companies employed with and positions held. The work history has to be supported by employment records from current and prior employers. If the employer is no longer in operation and no records are available, one or more of the following are relied on; T4 or other income tax records, company pension or CPP/EI records, Union records, co-worker statements and prior WSIB claims.
Prince Edward Island (Kate Marshall) October 2012 – See changes	Workers Report, Employers Report (if still in operation) and a Medical Report including information pertaining to exposure would be required in order to proceed with claim adjudication. A workers report may have been submitted	Case by case basis based on degree of exposure or effect on the disease by both work and non-work causes. Medical evidence including latency, progression, nature of the disease and degree of exposure are reviewed. Non-work causes such as hobbies, medical conditions and industries or	Employers Report if employer still in operation. If not, tax information, Union information, previous claims, co-worker statements or medical information confirming place of employment at particular points in

	at the time of exposure and would have been in 'record claim' status until medical treatment was sought (perhaps following a period of latency).	employment not covered under the Act are considered. Where an occupational disease occurs that is, in the opinion of the Board, due in part to the employment of the worker and in part to a cause or causes other than the employment, the Board may consider the claim where, in its opinion, the employment is the dominant cause of the occupational disease. For respiratory diseases, the following criteria are required to be met in order to be eligible for compensation; Must result from duties arising out of and in the course of employment, there is exposure to substances with irritating or inflammatory properties at the workplace and there is evidence, supported by appropriate diagnostic testing, of airway disease in the worker that can be reasonably related to the substances.	time. Attempts would be made to contact employers where exposure occurred. Workers report including information pertaining to exposure(s). The worker would be contacted to verify/clarify information.
Quebec (Danielle Dumas) October 2012 (Sophie Genest) – No changes to information previously provided. No new information to report.	Information can be in the form of scientific studies, studies recognized by the medical community or industrial studies conducted by different public health agencies.	Section 29 and Schedule 1 of the Act foresees the application of presumption to deal with eligibility of the claim which limits the need to seek evidence. Claims that are not eligible under Section 29 must be analyzed under Section 30 of the Act which relates to industrial accidents and occupational diseases. This requires comprehensive information gathering to show that the disease is occupational. Analysis is generally done on a case by case basis. For lung disease, there is a specific process stipulated in Sections 226 to 233 of the Act.	The employer (if still in operation) can confirm the workers professional experience. The commission can also have (with the contribution of the Prevention-Inspection Division) the industrial and professional background of certain employers. The commission can also extract from its database to see if there have been similar claims made by other workers. The Quebec Pension Board can confirm the list of employers corresponding to the number of years of professional

			experience declared by the worker. The union can also provide certain relevant experience.
Saskatchewan (Allan Basnicki) October 2012 – No update provided.	As per policy and procedure(3.1.5.4 Injuries- Occupational Disease (POL 11/2003), 3.1.4 Injuries- Occupational Disease (PRO 11/2003) and 3.1.5.5 Injuries- Fire Fighters and Cancer Related to Combustion Gases (POL 09/2003), medical diagnosis, possible causes, complete work and health history, employment history, as well as what, in the workplace, would have caused the medical problems. All relevant and available medical information.	All cases are judged on their individual merits following procedural guidelines for adjudication of common occupational diseases. Medical diagnosis and possible causes are usually clarified with Medical Consultants.	Workers, employers and treating physicians would be contacted.
Yukon (Donna Dymackova) October 2012 (Kathleen Avery) – No change to information provided previously. No new information to report.	No general policy on Occupational Diseases.	No general policy on Occupational Diseases.	No general policy on Occupational Diseases.

Updated June 2013

Schedule M: Template Letter-Request for Reimbursement (IJA or AAP)

WCB LOGO

[Name and address of recipient]

[Date]:

Dear [Name of recipient]:

RE: Worker's name [full legal name]:
[Adjudicating Board] Claim #:
[Reimbursing Board and/or Other Jurisdiction] Claim #:
Date of Accident:
Injured Body Part:

The purpose of this correspondence is to request reimbursement of claim costs/transfer of assessments under the Interjurisdictional Agreement further to our [original letter advising of the above named workers election to claim] OR [previous request for cost reimbursement] dated [date of letter with copy of election or previous request for reimbursement].

Option 1: Initial request
[Workers full legal name] was injured in [injury jurisdiction] on [date of accident] while employed with [full legal name of employer].

Option 2: Subsequent reimbursement request
Since our previous request, additional benefits have been paid and therefore additional costs incurred. As such, I am requesting further reimbursement as follows.
[note any changes to benefit calculation since initial request if applicable].

Option 1 &2:
Please note this worker's employer information is as follows:
[Complete employer information including contact person name and number]

Total Invoice Request:	$
Loss of Earnings Benefits (covering the period of ? to ?):	$
Medical Aid Benefits:	$
Pension Benefits (covering the period of ? to ?):	$

Rate based benefits were calculated using the following information:

- [annual or weekly gross earnings]
- [Shift cycle-number of days per week and hours per day]
- TD code

Please find enclosed an attached copy of the detailed claim cost breakdown for each category.

Please note this claim [is now closed] **OR** [remains open and therefore further reimbursement may be requested at a later date]. Please find enclosed file documentation to support this request.

If you have any questions in relation to this request, please feel free to contact me at [phone number].

Sincerely,

[Name of Sender]
[Title of Sender]

Encl.

Schedule N: Chart-Consent Requirements for Disclosure of Information for Different Scenarios

Jurisdiction	**Cost Reimbursement** - a board requests cost reimbursement for an IJA claim	**Claims outside the IJA** - A jurisdiction requiring medical information or status of a claim for a worker who may have a claim for the same party of body in more than one jurisdiction. Each board should answer : Would consent be required from the injured worker in order to release/share information with the requesting Board/jurisdiction	**Benefits in Kind** This was in reference to requesting a jurisdiction's assistance in arranging a medical assessment from another jurisdiction, typically medical assessment occurs where the worker was presently residing. Question to each board : Would you require the worker's consent to share medical information with the Board arranging the medical examination/assessment?	**Additional information (if applicable)**
NWT/Nunavut	No	If it is a non-IJA claim, NT/NU would require consent from the worker before releasing any claim file information.	No	Confirmed that any information we have about a worker can be shared with other boards for any reason consistent with our legislation – including the administration of the IJA – without additional
Yukon	No	Yes	No	
BC	Worker's Authorization for Release of Personal Information" is obtained from the injured worker at the initiation of the claim.	It depends on the type of information being requested. We are bound by FIPPA rules (our Freedom of Information and Protection of Privacy Act) which directs what information requires a release of personal information. In most situations we do require a release though as per the Act	yes would typically require release to be signed	BC has 9 types of Disclosure Requests (Review Division, Workers Compensation Appeal Tribunal, 90/30 day, Non Proceeding Disclosures, Legal, Medical, Full Medical Referral, Accounts, FIPP) with varying rules and processes based on FIPPA.
AB	No	Not if only medical is requested. If complete copy is required, then consent is needed.	No	N/A
SK	No consent required	Yes, consent is required	yes, consent is required	
MB	No	It depends on the specific facts of each situation and what type of information is requested. The disclosure of information is governed by the applicable privacy laws not the IJA.	No (if disclosure for purpose of assisting the of treatment an injured worker)	MB is subject to FIPPA and PHIA so it can only collect (accept) informationfrom another board if relates directly to and is necessary for administering a claim pursuant to the WCA
ON	No separate consent needed to share info for cost reimbursement under the IJA.	If it is a non-IJA claim, Ontario requires the worker's consent before sharing any claim file information	No, Ontario does not require consent to share medical information with an Administering Board that is providing benefits in kind	If not an IJA claim, Ontario has a form that enables the worker to consent to having their claim file sent to a third party such as another WCB. We would ask that other WCBs wanting such info suggest that the worker fill out this form and submit it to the WSIB.
QC	No	If it is a non-IJA claim, Ontario requires the worker's consent before sharing any claim file information	Yes, Quebec will ask the worker to sign a form authorizing us to release, exchange or obtain information	
NB	No	No	No	N/A
PEI	No	Yes - Worker must complete a separate consent form/document.	No	Current position is under review. We are considering a modification to the IJA Election form around "worker consent" to strengthen our position under FOIPP.
NS	No consent required	Generally No, but subject to unique and/or sensitive situations	Generally No, but subject to unique and/or sensitive situations	
NL	No	No	No	Consent is received on the initial injury report from the worker.

Schedule O: Template Letter-Full, Denial or Partial Reimbursement (IJA or AAP)

WCB LOGO

[Name and address of recipient]

[Date]:

Dear [Name of recipient]:

RE: Worker's name [full legal name]:
[Adjudicating Board] Claim #:
[Reimbursing Board and/or Other Jurisdiction] Claim #:
Date of Accident:
Injured Body Part:

The purpose of this correspondence is to provide a decision in response to your request for reimbursement of costs/transfer of assessments under the Interjurisdictional Agreement dated [date of invoice] for the above claim for [workers full legal name] who is employed by [employer's full legal name].

Option 1: Full Reimbursement
I am pleased to inform you that your request for reimbursement has been approved noting no shortfall. A cheque for [total reimbursed amount] is enclosed.

Option 2: Denial of Reimbursement
Unfortunately, your request for reimbursement is denied. [Add complete rationale for shortfall with supporting legislation and/or policy statements].

Option 3: Denial of Reimbursement
Your reimbursement request has been approved noting a shortfall of [total shortfall amount]. [Add complete rationale for shortfall with supporting legislation and/or policy statements]. A cheque for [total reimbursed amount] is enclosed. **OR** Your request has been forwarded to our [department responsible for payment] for processing and you can expect payment [date or timeframe in which payment can be expected ie: within 2 weeks].

If you have any questions or concerns related in relation to this decision, please do not hesitate to contact me at [phone number].

If you disagree with the above decision, please submit a request for reconsideration outlining the facts which support a change in my decision. I would happy to review your request upon receipt.

Sincerely,

[Name of Sender]
[Title of Sender]

Schedule P: Chart-Jurisdictional Maximum Compensation Rates for Loss of Earnings

Jurisdiction	Comp Rates	Max Annual Earnings 2015	Max Annual Earnings 2016	Max Annual Earnings 2017	Max Annual Earnings 2018	Max Annual Earnings 2019	Max Annual Earnings 2020	Max Annual Earnings 2021	Max Annual Earnings 2022	Max Annual Earnings 2023	Max Annual Earnings 2024	Wait Pd*
AB	90% net	$95,300	$98,700	$98,700	$98,700 ***	No Max	No Max	98,700	$98,700	$102,100		No
BC	90% net	$78,600	$80,600	$81,900	$82,700	$84,800	$87,100	100,000	$108,400	$112,800		No
MB	90% net	No Max**	No Max**	No Max**	No Max**	No Max**	No Max**	No Max**	$150,000**	$153,800		No
NB	85% net	$60,900	$61,800	$62,700	$63,600	$64,800	$66,200	$67,100	$69,200	$74,800		3/5ths*
NL	80% net	$61,615	$62,540	$63,420	$64,375	$65,600	$66,980	$67,985	$69,005	$72,800		No
NWT/NU	90% net	$86,000	$88,600	$90,600	$90,600	$92,400	$94,500	$97,300	$102,200	$107,400		No
NS	75% net/ 85% net ****	$56,800	$58,200	$59,300	$59,800	$60,900	$62,000	$64,500	$69,000	$69,800		2/5ths*
ON	85% net *****	$85,200	$88,000	$88,500	$90,300	$92,600	$95,400	$97,308	$100,422	$110,000		No
PEI	85%	$52,100	$52,200	$52,800	$53,400	$55,000	$55,300	$55,300	$58,300	$65,000		2/5ths*
QC	90% net	$70,000	$71,500	$72,500	$74,000	$76,500	$78,500	$83,500	$88,000	$91,000		No
SK	90% net	$65,130	$69,242	$76,086	$82,627	$88,314	$88,906	$91,100	$94, 440	$96,945		No
YK	75% gross	$84,837	$84,837	$85,601	$86,971	$89,145	$90,750	$91,930	$94,320	$98,093		No

*Refers to a period of time (i.e: 3/5ths of a work week) following the date of accident that a worker is unpaid by their employer prior to earnings loss benefit commencement. Effective January 1, 2016 there was no longer a wait period for Prince Edward Island.

**Subject to maximum annual earnings pursuant to the *Adjustment in Compensation Regulation* for accidents occurring after December 31, 1991 and before January 1, 2006." There are no maximum annual earnings in relation to an accident occurring after 2005 and before 2022. Maximum annual earnings from January 1, 2022 onward shall be indexed annually by Regulation.

***No Maximum insurable earnings effective September 1, 2018 for date of accidents after September 1, 2018.

****Nova Scotia-75% net for 26 weeks; 85% net thereafter

*****Ontario-85% net (post 1998 accidents); 90% net (pre-1998 accidents)

Schedule Q: Chart-Jurisdictional Constraints in Reimbursing a Request

Jurisdiction	Constraint(s)
**Alberta	Section 28 (1) of the Alberta WC Act identifies the following conditions for a right of election to be offered for an out of province accident: If an accident happens while the worker is employed out of Alberta, the worker or the worker's dependents are entitled to compensation under this Act if (a) the worker (i) is a resident of Alberta, or (ii) has his or her usual place of employment in Alberta and the work out of Alberta is a continuation of the employment by the same employer or an employer that is related to that employer within the meaning of section 134 (b) the nature of the employment is such that, in the normal course of the employment, the work or service the worker performs is required to be performed both in and out of Alberta, and (c) subject to subsection (2), the employment out of Alberta has lasted less than 12 continuous months *The Alberta Board does not have any provisions in the WC Act to outline election requirements for in-province injuries for out-of-province workers. These workers are offered the right of election as long as the employer has an account in the province of Alberta or are required to have an account with the AB WCB, at the time of the worker's accident. Limits to Reimbursement: -Employer does not have coverage and was not required to at the time of the accident (not a mandatory industry, no optional coverage) -Accident employer is self-insured (Canada Post/Federal Government) -Wage loss benefit requests are subject to maximum annual earnings limitations -Reimbursement would not be possible if third party action was not resolved. -Reimbursement of partial wage loss requires gross income earnings post-accident -Permanent Functional Impairment award reimbursements are subject to maximums identified per year -Alberta legislation/policies do not have any provisions to pay interest on any benefit entitlement
**British Columbia	Section 147of the Act deal with **injuries outside BC** and provide authority for BC to enter into agreements. 147(2) states, where an injury of a worker occurs while the worker is working elsewhere than in the Province which would entitle the worker or the worker's dependants to compensation under this Part if it occurred in the Province, the Board must pay compensation under this Part if (a) a place of business of the worker's employer is located in British Columbia; (b) the worker's residence and usual place of employment of the worker are located in British Columbia; (c) the employment is such that the worker is required to work both in and out of British Columbia; and (d) the worker's employment outside British Columbia (i) has immediately followed the worker's employment in British Columbia by the same employer, (ii) has lasted less than 6 months
	Limits to reimbursement: • Accident employer is self-insured • No interprovincial election form completed • Employer does not have coverage and was not required to at the time of the accident (not a mandatory industry, no optional coverage) • Worker has no right of election in Manitoba • Cannot reimburse partial wage loss unless other Board provides details of income earned post-accident • Cannot reimburse claims costs for benefits paid in advance ie: living allowances etc... • Pension cannot be paid past 48 months if worker is 61 or older at the time of the accident (section 39(3) WCA).

**New Brunswick	**Section 8.1(1) (2) and (3) of the Act addresses the right to election:** **8.1**(1) Where a worker or his dependents are entitled to compensation or some other remedy in respect of an accident both in another jurisdiction and in New Brunswick, the worker or dependents shall elect *(a)* to claim compensation or the other remedy under the law of the other jurisdiction, or *(b)* to claim compensation under this Act, and shall give notice of that election to the Commission under subsection (2), but if there is in existence an agreement under subsection 8(3), the right of election is subject to the terms of the agreement. **8.1**(2) Notice of election shall be given to the Commission *(a)* by the worker within three months after the happening of the accident, or *(b)* if the accident results in death, by a dependent within three months after the death, and if notice of election is not given in accordance with this section, the worker or dependent is deemed to have elected not to claim compensation under this Act. **8.1**(3) The Commission may, on application either before or after the expiration of the three month period referred to in subsection (2), extend that period if, in the opinion of the Commission, the claim is a just one and ought to be allowed. **Reimbursement Limitations:** **1. Section 2(3) of the Act, Definition of a Worker, Exclusions:** **2**(3) Subject to sections 4 and 6, this Part does not apply to the following: *(a)* persons whose employment is of a casual nature and otherwise than for the purposes of the industry; *(a.1)* persons who play sports as their main source of income; *(b)* outworkers;; *(c)* members of the family of the employer residing with the employer who are under sixteen years of age; and *(d)* persons employed as domestic servants. 2. **Section 7(1), Conditions for Entitlement**: **7**(1) When personal injury or death is caused to a worker by accident arising out of and in the course of his employment in an industry within the scope of this Part, compensation shall be paid to that worker or his dependents, as the case may be, as hereinafter provided, unless the accident was, in the opinion of the Commission, intentionally caused by him, or was wholly or principally due to intoxication or serious or willful misconduct on the part of the worker and did not result in the death or serious and permanent disability of the worker. **3. Section 38.11(14) (15), Loss of Earnings Benefits:** **38.11**(14) Compensation pursuant to this section is payable until the loss of earnings ceases or until the worker attains age sixty-five, whichever occurs first. **38.11**(15) Notwithstanding subsection (14), where a worker is sixty-three years of age or more at the commencement of the worker's loss of earnings resulting from the injury or recurrence of an injury, the Commission shall provide compensation pursuant to this section for a period not exceeding two years following the commencement of the worker's loss of earnings resulting from the injury or recurrence of the injury. **4. Employer does not have coverage and was not required to have mandatory coverage at the time of the accident (less than 3 employees)** **5. Accident employer is self-insured.** **6. Loss of earnings requests are subject to the maximum annual earnings limitations and the 3 day wait.** **7. Permanent Physical Impairment awards are subject to the maximum annual earnings limitations based on year of accident.**

**Newfoundland and Labrador	WorkplaceNL of Newfoundland and Labrador has the following limits to reimbursement: - Accident employer is self-insured - No election form completed - Wage loss benefit requests are subject to the prescribed maximum compensable and assessable earnings - Permanent Physical Impairment awards are subject to the prescribed maximum compensable and assessable earnings based on year of accident - Reimbursement is not provided until third party action resolved - Cannot reimburse partial wage loss until other board provides details of income earned post-accident - Employer does not have coverage and was not required at the time of the accident.
Northwest Territories and Nunavut	Nunavut and the Northwest Territories' Workers' Compensation Acts have a section which deals with injuries occurring outside of the Territories and provide authority for the WSCC to enter into agreements: **22.** (1) Compensation is payable in respect of a worker who suffers a personal injury, disease or death arising out of and during the course of employment while working outside the Northwest Territories, if (a) the worker's usual place of employment is in the Territories; (b) the worker's employment involves performing activities both inside and outside the Territories for the same employer; and (c) the period of work performed outside the Territories does not exceed six months. **23.** (1) If a person is entitled to compensation or some other remedy under both this Act and the law of another place where the personal injury, disease or death occurred, the person must elect whether (a) to claim compensation under this Act; or (b) to claim compensation or the other remedy under the law of that other place. **95.** The Commission may make agreements with a public body in another jurisdiction responsible for workers' safety or compensation, to ensure that (a) the workers' safety or compensation regimes in both places are efficiently administered; and (b) eligible claimants receive compensation either in conformity with this Act or in conformity with the laws of that jurisdiction. Policies 00.03 and 02.03 apply the above legislation. http://www.wscc.nt.ca/YourWSCC/WhoWeAre/Policies/Pages/Policymanual.aspx The amount of compensation we pay is limited to 90% of a legislated yearly maximum insurable remuneration (YMIR) amount (as defined in the Act and prescribed in the Regulations), which limits the amount the WSCC will reimburse. Sections 38 to 43 provide guidance on compensation for disability, section 48 provides instruction on the compensation to a surviving dependent spouse with section 50 containing limits on the compensation paid to the child of a deceased worker. Section 58 details how to determine a worker's annual remuneration. Section 21 requires the person to be entitled to compensation or other remedy both under the NT or NU Act as well as the law of another place before the IJA would apply. The general interpretation of this section is that the claim must meet the WSCC entitlement provisions. In addition, section 9.2 of the IJA requires full reimbursement subject to any policy or statutory limitations. For example, the limit on compensation to a child over the age of 19 who is no longer attending school. I have been advised that some examples of situations where the WSCC has denied reimbursement, in part or in full, are: • The worker was paid for days (on rotation) that the WSCC would not have considered working days; • The worker's referral to vocational rehabilitation were for reasons not permitted/included in the WSCC's policy; and • The diagnosis was not supported by evidence as required by WSCC policy.

**Nova Scotia	In Nova Scotia, the major statutory limitation we face regarding requests for reimbursement relate to the "3 worker rule" which involves two parts: 1. Determining whether the employer/firm is considered within a mandatory industry for registration 2. Determining the residency of the worker, if necessary To summarize how this rule operates in very general terms: in order for a worker to be considered a worker under our *Act*, the employer must first be required to register (or be within a mandatory industry). When looking at whether an employer/firm must be registered, again generally speaking, the employer/firm must have 3 or more workers, working 5 or more days throughout the calendar year (residency component) in NS. **WCAct: s.3(2)(3) (Application of Part I)** **3 (1)** This Part applies to employers and workers engaged in, about or in connection with any industry prescribed by the Governor in Council by regulation. **(2)** The Governor in Council may, by regulation, exclude any employer, class of employer, or class of worker engaged in, about or in connection with any industry prescribed pursuant to subsection (1). **(3)** A class of employer prescribed pursuant to subsection (2) may include a class of employer employing fewer than the prescribed number of workers. **WCAct: s. 19-27 (Residency Rules)** **19** Subject to Sections 20 to 27 and Section 166, no compensation is payable to a worker pursuant to this Part unless (a) the place where the worker usually works for the employer is in the Province; and (b) the accident occurs in the Province. 1994-95, c. 10, s. 19. **Accident during absence from Province** **20 (1)** Where (a) a worker's residence is within the Province; (b) the place where the worker usually works for the employer is within the Province; (c) the place of business or chief place of business of the employer is within the Province; (d) an accident occurs while a worker is employed outside the Province; and (e) at the time of the accident the worker had been employed outside the Province for less than six months, the worker may claim compensation pursuant to this Part as if the accident had occurred in the Province. **(2)** Where (a) a worker's residence is within the Province; (b) the place where the worker usually works for the employer is within the Province; (c) the place of business or chief place of business of the employer is within the Province; and (d) the employment of the worker outside the Province lasts or is likely to last for six or more months, the worker's employer may apply to the Board to be assessed on the earnings of the worker. **(3)** Where (a) an application made pursuant to subsection (2) is approved by the Board; and (b) an accident occurs while the worker is employed outside the Province; the worker may claim compensation pursuant to this Part as if the accident had occurred in the Province. 1994-95, c. 10, s. 20. **Application by employer to be assessed** **21 (1)** Where (a) the residence of a worker is outside the Province; (b) the place where the worker usually works for the employer is outside the Province; and (c) the worker's employment within the Province lasts or is likely to last for more than five days, the worker's employer shall apply to the Board to be assessed on the earnings of the worker and the worker is a worker for the purpose of subsection 3(1). **Accident during temporary absence** **22** Where (a) the residence of a worker is outside the Province; (b) the place where the worker usually works for the employer is within the Province; (c) the place of business or chief place of business of the employer is within the Province; (d) an accident occurs while the worker is outside the Province; and (e) at the time of the accident the worker was outside the Province merely for some temporary purpose connected with the worker's employment within the Province,

	the worker may claim compensation pursuant to this Part as if the accident had occurred in the Province. 1994-95, c. 10, s. 22. **Compensation where entitlement outside Province** **23** Where (a) an accident occurs while a worker is outside the Province; (b) the place of business or chief place of business of the employer is outside the Province; and (c) the worker is entitled to compensation pursuant to the law of the place where the accident occurred, the worker may not claim compensation pursuant to this Part, whether the worker's residence is within or outside the Province, unless (d) the place where the worker usually works for the employer is within the Province; and (e) at the time of the accident the worker was outside the Province merely for some temporary purpose connected with the worker's employment within the Province. 1994-95, c. 10, s. 23. **Accident outside Province in transportation industry** **24** Where (a) an accident occurs outside the Province in connection with the operation of (i) a ship, boat or other vessel, or (ii) an aircraft, train, truck, bus or other vehicle used to transport goods or passengers; (b) the worker's residence is within the Province; and (c) the work or service performed by the worker is required to be performed both within and outside the Province, the worker may claim compensation pursuant to this Part as if the accident had occurred in the Province. 1994-95, c. 10, s. 24. **Assessment of employer** **25** Where a worker is employed outside the Province and the circumstances of (a) the place of business or chief place of business of the worker's employer; (b) the residence of the worker; and (c) the worker's usual place of employment, are such that, if an accident occurred while the worker was outside the Province, the worker could claim compensation as if the accident had occurred in the Province, the worker's employer shall declare and be assessed on the earnings of the worker in the same way and in the same amounts as though the worker was employed within the Province. 1994-95, c. 10, s. 25. **Liability of employer where earnings not reported** **26 (1)** Where (a) compensation is payable for an injury that occurred outside the Province; and (b) the worker's employer has not reported the full earnings of the worker to whom the injury occurred, the employer is liable, unless relieved by the Board, for the full amount of compensation and other expenditures made by the Board. **(2)** The Board may collect the amount for which the employer is liable pursuant to subsection (1) in the same manner as the collection of an assessment. 1994-95, c. 10, s. 26.
Ontario	**A) <u>Employer not obligated to register</u>** • Employers who are in industries that are not listed in Schedules 1 or 2 of O. Reg. 175/98 are not required to register. Such employers would only have coverage by application. Therefore, Ontario could not reimburse if the employer is in a by-application industry and has not obtained by-application coverage from the WSIB. (see s. 11(1) of the Act and O. Reg. 175/98) ○ O. Reg. 175/98 can be found at the following link: http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_980175_e.htm **B) <u>Worker not covered (even if employer is registered/obligated to register)</u>** • A worker who is not a resident of Ontario must have a "substantial connection" with Ontario in order to come within the scope of the *Workplace Safety and Insurance Act, 1997*. Policy 12-04-12 outlines the factors that will be considered in determining if there is a substantial connection. Each case must be decided on its own facts; however, generally speaking a worker who works in Ontario for 11 or more days in the course of a year usually has a substantial connection with Ontario. ○ Policy 12-04-12 can be found at the following link: http://www.wsib.on.ca/en/community/WSIB/OPMDetail?vgnextoid=d2e3fcea9bfc7210VgnVCM100000449c710aRCRD

	• There are certain workers who are excluded from coverage due to the nature of their employment (e.g. casual work/piecework). (see s. 11(1) of the Act). • In all industries except construction, all independent operators, sole proprietors, partners, and executive officers are excluded from coverage unless they have optional insurance with the WSIB. (see ss. 11(2) and 12 of the Act) • In the construction industry, since January 1, 2013, compulsory coverage has been expanded to include most independent operators, sole proprietors, partners, and executive officers in the construction industry. However, there are two exemptions from compulsory coverage: (i) for exempt home renovation work; and (ii) an exemption for 1 partner from each partnership and 1 executive officer from each corporation who does not perform "construction work" (as defined in WSIB policy) if the individual fills out the required declaration form. (see ss. 12.1 and 12.2 of the Act, O. Reg. 47/09 and Policy 12-01-06) o O. Reg. 47/09 can be found at the following link: http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_090047_e.htm o Policy 12-01-06 can be found at the following link: http://www.wsib.on.ca/en/community/WSIB/OPMDetail?vgnextoid=309346e7324f6310VgnVCM100000469c710aRCRD
**Prince Edward Island	For **accidents within PEI** causing injury to workers residing or employed outside of PEI, there are no statutory limitations to cost reimbursement. Section 7 of the Act speaks to **accidents outside PEI** and the following are statutory limitations to cost reimbursement; 7(2) The employer business is within PEI; the residence of worker is within PEI. The employment out of province is lasting or likely to last more than 6 months. The employer **may** register with WCB PEI and if so, the worker would be entitled to benefits in PEI. If worker elects injury jurisdiction and cost reimbursement is requested but the employer is not registered in PEI, PEI may not reimburse claim costs as it is not mandatory that the employer is registered in PEI. 7(4) The employer business is outside PEI; the residence of the worker is within PEI; the worker is entitled to benefits outside PEI. The worker is not entitled to benefits in PEI unless usual place of employment is within PEI. If worker elected injury jurisdiction and cost reimbursement was requested, PEI would not reimburse claim costs unless the usual place of employment of the worker is within PEI. 7(5) PEI would not reimburse claim costs related to an accident outside the province in connection with any vehicle used in the transportation of passengers, goods or substance unless the following criteria are met; • work or service is required to be performed both within and outside the province; and • the residence of the worker is within the province.
Quebec	**Employer must have establishment in Quebec:** **7.** This Act applies to every worker to whom an industrial accident happens in Québec or who contracts an occupational disease in Québec and whose employer, when the accident happens or the disease is contracted, has an establishment in Québec (note: a PO Box is NOT considered an establishment in Québec – see definition below). **For accident outside Quebec, worker must have domicile in Quebec:** **8.** This Act applies to a worker who is the victim of an industrial accident outside Québec or who suffers from an occupational disease contracted outside Québec if, when the accident occurs or the disease is contracted, the worker has his domicile in Québec and his employer has an establishment in Québec. **Exception to above:** Worker's domicile outside Québec. However, where the worker's domicile is not in Québec, this Act applies where the worker had his domicile in Québec at the time of his assignment outside Québec, the work outside Québec is for a duration of not more than five years when the accident occurs or the disease is contracted, and his employer has an establishment in Québec. **Agreement**. **8.1**. An agreement made under the first paragraph of section 170 of the Act respecting occupational health and safety (chapter S-2.1) may provide for exceptions to sections 7 and 8, on such conditions and to such extent as it determines.

	Definition of establishment: **"*establishment*"** means all the installations and equipment grouped on one site and organized under the authority of one person or of related persons in view of producing or distributing goods or services, except a construction site; this word includes, in particular, a school, a construction enterprise and the lodging, eating or recreational facilities put at the disposal of workers by the employer, excepting, however, private lodging facilities;
Saskatchewan	Denials would only be on the basis of the employer not being required to or not being eligible for coverage within Saskatchewan. A temporary denial would occur if the requesting Board had not addressed possible Third Party action. **1.2.1 Coverage Within Saskatchewan – Out of Province Employers (POL 07/2002) Document Date 29 July 2002** Purpose: To establish guidelines for out-of-province employers (incidental incursions). **DEFINITIONS** "Incidental" means out-of-province workers come into Saskatchewan two or less times per year or for a duration of four or less consecutive days. "Principal" means the employer in a mandatory industry in Saskatchewan who contracts for service with an out-of-province employer (contractor). **BACKGROUND** 1. When employers based outside of Saskatchewan require their employees to travel into Saskatchewan, either as part of the employer's operations in another province or solely for the purpose of operating a portion of their business activities in Saskatchewan, clarification is needed as to when or in what circumstances the employer and their employees become subject to The Workers' Compensation Act, 1979 (the Act) of Saskatchewan. 2. The Saskatchewan Workers' Compensation Board (the WCB) has exclusive jurisdiction under Section 22 of the Act to determine all matters and questions arising under the Act, including under 22(1)(h) whether any industry is within the scope of the Act and under 22(1)(i) whether any worker is within the scope of the Act. 3. "Industry" is defined in Section 2(j) as "an industry to which this Act applies and includes establishment, undertaking, trade and business." 4. Section 3(1) makes application of the Act mandatory to all "employers and workers engaged in, about or in connection with any industry in Saskatchewan", except industries that are specifically excluded. It is necessary for assessment and injury coverage purposes, to determine whether an out-of-province employer is carrying on business in a mandatory Saskatchewan industry and therefore, is required to register and pay premiums to the WCB. 6. Employers required to register with the WCB who are in default of submitting a statement of payroll or paying assessments to the Board, shall be subject to the penalties set out under Section 153 of the Act, and Sections 3, 4, 5 and 8 of The Workers' Compensation General Regulations, 1985 (the "General Regulations"). **Mandatory Coverage** 1. Where an out-of-province employer is awarded a contract for work to be carried out in a mandatory Saskatchewan industry, registration with the WCB is required if the employer: a. has established a place of business in Saskatchewan, or b. employs Saskatchewan resident workers. 2. Where neither of the above is true, out-of-province employers performing work for a principal in a mandatory Saskatchewan industry will be required to register if: a. the employer comes into the province 3 or more times per year, or b. the employer comes into the province 5 or more consecutive days per year. 3. Where an employer has both a Saskatchewan base of operations (in a mandatory Saskatchewan industry) and a non-Saskatchewan base of operations, coverage will only be extended to workers who are engaged in activities that are part of the Saskatchewan base of operations. Workers employed in the employer's non-Saskatchewan base of operations will not be covered if they are engaged in activities that are not part of the Saskatchewan base of operations, even when working in Saskatchewan. **Voluntary Coverage** 4. Where the work performed by an out-of-province employer is incidental, registration with the Board is not required and the workers of the out-of-province employer will not be considered workers under the Saskatchewan Act. The Saskatchewan principal may be liable for any legal action commenced by an out-of-province worker in the event of a work injury, unless:

	a. the Saskatchewan principal becomes responsible for the premiums payable to the Board, or, b. the out-of-province employer elects voluntary coverage with the WCB. **Exceptions** 5. The Independent Worker policy (POL 15/2000), will be considered in conjunction with this policy, as registration criteria vary from the provisions contained here. 6. Any other exceptions to the policy outlined above will be forwarded to the Director of Revenue and Employer Accounts for consideration. **Payroll Reporting and Payment of Premiums** 7. When it has been determined that an out-of-province employer is required to register with the WCB, a statement of the employer's payroll must be submitted within 30 days of the commencement of business and premiums paid accordingly. 8. Where a registered out-of-province employer defaults on premiums payable with respect to the work being carried out in a Saskatchewan industry, the principal will be personally liable to pay the premium on the labour portion of that contract. Act Sec # 002(f)(j), 003(1), 022, 028, 124, 132, 133, 153, 157(1)
**Yukon	In order to apply the IJA, the worker's employer must be registered with the board. The employer must belong to an industry required to register. The employer must register if doing business in the Yukon for more than 10 days in a year. The injured worker must be a "worker" as defined in the legislation. Section 7 of the Yukon's Workers' Compensation Act sets out rules for worker's injured outside of Yukon. If the worker is working outside the Yukon then compensation is only payable if the worker was working outside of Yukon for less than 12 months, the worker is a resident or usually employed in the Yukon and the employment outside Yukon is a continuation of the Yukon employment. Compensation for loss of earnings is limited to 75% of the gross average pre-injury earnings of an injured worker. This is subject to the maximum wage rate that is defined in the legislation. Sections 23-31 govern the basis of calculating compensation benefits for loss of earnings. The worker is entitled by virtue of section 31 to an annuity at the age entitled under the Old Age Security Act. Compensation for a surviving spouse and dependents is subject to the limits in sections 43 to 48. Spousal compensation is equal to 3.125% of the maximum wage rate for the year. **Work-related injury caused outside of the Yukon** **7**(1) If a worker is working outside of Canada and is required by the laws of the foreign jurisdiction to have coverage, and the worker suffers a work-related injury, if the worker is covered by that foreign jurisdiction, the worker is not covered in the Yukon under this *Act*. (2) If a work-related injury is caused while a worker is employed outside of the Yukon, compensation is payable only if; (a) the worker was outside of the Yukon in connection with that employment for less than 12 consecutive months immediately before the cause of the work-related injury arising; (b) the worker is either a resident of the Yukon or is usually employed in the Yukon; (c) the worker's employment outside of the Yukon is a continuation of the employment by the same employer in the Yukon; and (d) where a worker is working outside of Canada, the board has received written confirmation that the worker is in compliance with paragraphs 7(2)(a) to (c). (3) The board may extend the 12 month period in subsection (2) on the application of the employer. (4) A worker or the worker's dependent must notify the board within 30 days of the date the worker's work-related injury arose of their intention to claim compensation under this section. (5) Subject to an Interjurisdictional Agreement, if compensation is claimed in the jurisdiction where the work-related injury was caused, compensation shall not be paid in respect of that work-related injury. (6) Compensation is deemed to have been claimed in the jurisdiction where the worker's work-related injury was caused if notice under this section is not provided to the board within 30 days

**Effective June 1, 2010 SK and AB entered into a dollar for dollar agreement
Effective January 1, 2012 SK confirmed that they would be issuing full reimbursement to all jurisdictions.
Effective January 1, 2012 AB and SK entered into dollar for dollar agreements with MB.
Effective January 1, 2014 AB entered into new dollar-for-dollar reimbursement agreement with YK.

Effective January 1, 2017 MB and YK entered into a new dollar-for dollar agreement.
Effective May 15, 2017 AB entered into an interpretive agreement with BC for reimbursement.
Effective July 1, 2017 NB and PEI entered into a dollar for dollar reimbursement agreement.
Effective August 1, 2017 NS and NB entered into a dollar for dollar agreement.
Effective October 1, 2018 NS and PEI entered into a dollar for dollar reimbursement agreement.
Effective November 1, 2018 NS and NL entered into a dollar for dollar reimbursement agreement.
Effective January 1, 2020 NL and PEI entered into a dollar for dollar reimbursement agreement.

Schedule R: Form-Application for the Alternative Assessment Procedure (AAP) **APPENDIX D**

LOGO HERE	**Application for the Alternative Assessment Procedure (AAP) for Interjurisdictional Trucking and Transport**

Introductory paragraph(s) goes here. Intro paragraphs should include form submission instruction and contact information, in case someone has questions about the form. NOTE: This form will generally only be sent to a firm that is already registered with their home jurisdiction.

Board name account number	Start date of interjurisdictional operations *(yyyy-mm-dd)*
Legal name	Trade name
Contact person	Position title
Phone number *(include area code)*	Fax number *(include area code)*
Mailing Address	

Please check as applicable.	***Workers*** travel in or through…	***Workers*** live in…	The firm has a ***place of business*** in…	**Account number** *(if you are registered in another jurisdiction)*
Alberta	☐	☐	☐	
British Columbia	☐	☐	☐	
Manitoba	☐	☐	☐	
New Brunswick	☐	☐	☐	
Newfoundland and Labrador	☐	☐	☐	
Northwest Territories and Nunavut	☐	☐	☐	
Nova Scotia	☐	☐	☐	
Ontario	☐	☐	☐	
Prince Edward Island	☐	☐	☐	
Québec	☐	☐	☐	
Saskatchewan	☐	☐	☐	
Yukon	☐	☐	☐	

Eligible industries

Please indicate the industry in which your firm is operating (check all that apply).			
Bulk Liquids Trucking	☐	General Freight Trucking	☐
Couriers, Messengers and Delivery	☐	Specialized Freight Trucking	☐
Dry Bulk Materials Trucking	☐	Used Household and Office Goods Moving	☐
Forest Products Trucking	☐	Other (please specify)	

Declaration

- I am the applicant or its authorized agent. By submitting this application, I confirm that the applicant is seeking to elect the Alternative Assessment Procedure (AAP); is agreeing to assume obligations under the *Workers Compensation Act*; and has read or otherwise fully understands the content, requirements, and declaration of this application. Further, I confirm that the information provided is complete and accurate.
- The applicant firm grants authority to the Assessing Board to provide information, including personal information, to Participating Boards which, at the sole discretion of the Assessing Board, is considered necessary for the effective administration of the AAP.

Name of authorized signing authority *(please print)*	Position title
Signature of authorized signing authority	Date *(yyyy-mm-dd)*

Summary of terms and conditions

1. Once this application is accepted by Board name (the Assessing Board), the terms and conditions form part of a legally binding contract.
2. These terms and conditions incorporate by reference the *Interjurisdictional Agreement on Workers' Compensation* (the IJA) and carry the same force and effect as that document.
3. The IJA may be revised from time to time without notice. Once published, those revisions are incorporated into these terms and conditions.
4. If this application is accepted, the firm will pay assessments for each impacted worker to the Assessing Board in accordance with the Alternative Assessment Procedure (AAP). The Assessing Board will notify the appropriate Registering Board(s) of its acceptance of the firm for the AAP.
5. If the firm employs workers living in any jurisdiction other than Board name's province or territory, the firm must contact the workers' compensation authority in that jurisdiction to ascertain whether registration is required and to secure compensation coverage for all eligible workers.
6. A worker's right to claim benefits from the jurisdiction of residence or the jurisdiction of injury is not affected by this procedure.

General information

The AAP forms part of the *Interjurisdictional Agreement on Workers' Compensation* (the IJA), an agreement between all Canadian workers' compensation authorities. Changes to the IJA are made public on the Association of Workers' Compensation Boards of Canada website, www.awcbc.org, where you can also obtain a copy of the IJA.

Each workers' compensation authority in Canada generally requires an out-of-province firm to pay premiums for every worker who travels in or through the province or territory; however, a firm that elects the AAP will pay premiums to the workers' compensation authority in the jurisdiction where a worker lives, provided the worker is eligible for compensation coverage from that jurisdiction for work undertaken anywhere in Canada. Once an application for the AAP has been approved, the Assessing Board will notify Registering Boards of the application, and a registration will generally be established in each applicable jurisdiction.

Payment and reporting options

A firm engaged in an eligible interjurisdictional industry may elect one of the following options:

1. Report earnings and pay premiums to each workers' compensation authority for work performed in that jurisdiction. In trucking and transportation industries, earnings and premiums are based on a percentage of kilometres driven in each province or territory.
2. Elect the AAP, which allows the firm to report interjurisdictional earnings and pay premiums for a worker to the workers' compensation authority in the jurisdiction where the worker lives.

An employer who elects the AAP may only use this method of paying assessment premiums for a worker performing work in an included industry and working in more than one jurisdiction. An employer must continue to pay assessments for all other workers in the province or territory where they work.

Participation in the AAP is for a full calendar year and mid-year changes will not be permitted. To withdraw from the AAP, a firm must provide written notice to the Assessing Board and each Registering Board prior to the commencement of the applicable calendar year. The firm will then be withdrawn from the AAP effective January 1 of the next calendar year.

Schedule S: Template Form-Alternative Assessment Procedure Request for Transfer of Assessment (Appendix C of the IJA)

ALTERNATIVE ASSESSMENT PROCEDURE (AAP) FOR INTERJURISDICTIONAL TRUCKING AND TRANSPORT REQUEST FOR ASSESSMENT TRANSFER

A. Identification of the worker			
Surname			Sex M F
First name			
Address			
	City	Province or Territory	Postal code
Date of birth		Social Insurance Number	
Claim number			

B. Identification of the employer			
Name of Employer			
Establishment Address			
	City	Province or territory	Postal code
Contact person			
Phone number		Employer #	

C. Description of time and place of the occurrence		
Place of occurrence	City	Province or territory
Date of accident		

D.	**Description of the occurrence and nature of the work-related injury (injury location)**

E.	**Benefit category**		
Gross weekly earnings		_____	
		Amount	**Payment period**
-	short term	_____	_____
-	long term	_____	_____
-	health care	_____	_____
-	rehabilitation	_____	_____
-	survivor benefits	_____	_____
-	other _____	_____	_____
Total _____			
First request ☐	Interim request ☐	Final request ☐	

For subsequent assessment transfer requests, please provide claim number in section A and complete section E.

F	**Further disbursements expected**	**Yes** ☐	**No** ☐

Signature of authorized representative		
_____	_____	_____
Name of Representative	Phone Number	Date

Schedule T: Template Letter-Participation Update in the Alternative Assessment Procedure for Interjurisdictional Trucking/Transport-1rst Letter

WCB LOGO

[Name and address of employer]
[Account number of employer in your province]

[Date]:

Dear [Name of recipient]:

RE: Participation Update of the Alternative Assessment Procedure for Interjurisdictional Trucking/Transport-Interjurisdictional Agreement on Workers' Compensation

Several years ago, you registered for the Alternative Assessment Procedure (AAP) for interjurisdictional trucking under the Interjurisdictional Agreement on Workers' Compensation. In accordance with the new provisions of this Agreement, every three years, the [your province] Workers' Compensation Board must update the file of all employers and personal coverage holders who participate in this procedure. Please find attached the participation update form. The account number associated with our request is [employer's account number with your province].

Please return the completed form no later than [Date]. If you no longer participate in interjurisdictional trucking, you are still required to complete the form, checking the relevant box on the first page of the questionnaire.

Please do not hesitate to contact us should you require further information regarding this matter.

Sincerely,

[Name of Sender]
[Contact Information]

Encl.: Participation Update form
Alternate Assessment Procedure for Interjurisdictional Trucking pamphlet
Return Envelope

cc: [All Registering Workers' Compensation Boards]

WCB LOGO

Participation Update
Alternative Assessment for Interjurisdictional Trucking

Employer Account #:
Date:

☐ I no longer engage in interjurisdictional transport (go to the *Declaration)*

☐ I engage in interjurisdictional transport

Please check the provinces and territories travelled in or through by your workers or by personal coverage holders, as well as the provinces or territories they live in. Specify the provinces and territories where the business has an establishment. If you are registered in other jurisdictions, please enter your employer account numbers.

Please check as applicable	***Workers* travel in or through**	***Workers live in…***	**The firm has a *place of business* in…**	**Account number (if you are register in another jurisdiction)**
Alberta	☐	☐	☐	
British Columbia	☐	☐	☐	
Manitoba	☐	☐	☐	
New Brunswick	☐	☐	☐	
Newfoundland and Labrador	☐	☐	☐	
Northwest Territories and Nunavut	☐	☐	☐	
Nova Scotia	☐	☐	☐	
Ontario	☐	☐	☐	
Prince Edward Island	☐	☐	☐	
Quebec	☐	☐	☐	
Saskatchewan	☐	☐	☐	
Yukon	☐	☐	☐	

For personal coverage holders in [your province], please enter the name of these individuals:

_____

Eligible Industries
Please indicate the industry in which your firm is operating (check all that apply).

Used Household and Office Goods Moving	☐	**Specialized Freight Trucking**	☐
Couriers, Messengers and Delivery	☐	**Forest Products Trucking**	☐
Charter Bus Industry	☐	**Bulk Liquids Trucking**	☐
Pilot Car Services	☐	**Dry Bulk Materials Trucking**	☐
Interurban and Rural Bus Transportation	☐	**Land Scenic and Sightseeing Transportation**	☐
General Freight Trucking	☐	**Other (specify):**	☐

Alternate Assessment Procedure for Interjurisdictional Transport (The Procedure):

1. The Procedure applies to the eligible industries listed above.

2. The [your province] will inform the other compensation boards that the employer or person who has personal coverage participates in the Procedure. Participation with the [your province] applies only to workers residing in [your province]. The employer must take steps to participate in the other compensation boards where workers reside.

3. No change will be made to the coverage of workers who employers elect to participate in the Procedure.

4. An employer or person who has personal coverage who participates in the Procedure cannot withdraw from it in the course of a calendar year, unless the employer or person ceases to perform the activities covered by the Procedure. An employer or person may, however, withdraw from the Procedure by submitting written notice to that effect before the end of a given calendar year. The participation with then end the following calendar year.

5. When a worker is assigned outside of [your province], it is the employer's responsibility to verify, with the compensation boards of other provinces and territories, whether the employer and its workers are subject to the worker's compensation legislation.

Declaration and signature of authorized signing authority

The employer or the person with personal coverage applies to participate in the Alternative Assessment Procedure for Interjurisdictional Transport and undertakes to respect the provisions of the Interjurisdictional Agreement on Workers' Compensation regarding that Procedure, to pay assessment to the [your province] in accordance with those provisions and to inform the [your province] of any changes made to its interjurisdictional activities or to the residence of its workers.

I confirm that the information provided is complete and accurate.

_____	_____	_____	_____	_____
Surname	First Name	Telephone	Ext	Facsimile

_____	_____	_____
Signature	Title	Date (Year/Month/Date)

Alternative Assessment Procedure for Interjurisdictional Transport (the Procedure)

The boards of all of the provinces and territories of Canada have agreed to set out specific provisions in the Interjurisdictional Agreement on Workers' Compensation for employers and persons who have personal coverage who carry out interjurisdictional transport.

An employer that participates in the Procedure must pay all of the assessments to the boards of the province or territory of the residence of the worker **to the extent that this board ensures the coverage of that worker everywhere in Canada.** The same principle applies to the person with personal coverage. If the employer participates in the Procedure employs workers who have their residence in more than one province or territory, they must submit an application for the Procedure to all the boards of the provinces or territories where their workers are residing.

Who can register?

Employers operating in one or more of the industries listed above, if their workers are regulated by more than one province or territory for the same work. The same applies to personal coverage holders.

What conditions must be met for [your province] to cover a worker or a personal coverage holder anywhere in Canada?

The worker must reside in [your province] and be connected to an establishment in [your province].

Schedule U: Template Letter-Reminder to Update Participation in the Alternative Assessment Procedure for Interjurisdictional Trucking/Transport-2nd Letter

WCB LOGO

[Name and address of employer]
[Account number of employer in your province]

[Date]:

Dear [Name of recipient]:

RE: Reminder to update your participation in the Alternative Assessment Procedure for Interjurisdictional Trucking/Transport-Interjurisdictional Agreement on Worker's Compensation

As we informed you in our letter dated [date of first letter], the [your province] must update the files of all employers and personal coverage holders who participate in the Alternative Assessment Procedure for Interjurisdictional Transport under the Interjurisdictional Agreement on Worker's Compensation every three years. The account number associated with our request is [employer's account number with your province].

Accordingly, we are sending you this reminder to complete the update participation form enclosed, which must be returned to us within 20 days of receiving this letter. If you no longer engage in interjurisdictional transport, you must still complete the form, checking the relevant box on the first page of the questionnaire. If the participation in the Alternative Assessment Procedure for Interjurisdictional Transport is not updated, this could result in significant financial repercussions, such as a double assessment for the same worker from more than one province or territory. If we do not receive the update form within the prescribed time, we will be required to consider terminating your participation in the Alternative Assessment Procedure for Interjurisdictional Transport.

If you have already sent us your completed form, please ignore this reminder.

Please do not hesitate to contact us should you require further information regarding this matter.

Sincerely,

[Name of Sender]
[Contact Information]

Encl.: Participation Update form
Return Envelope

*Page 2, 3 and 4 (from Schedule T would also be attached)

Schedule V: Template Letter-Final Notice to Update Participation in the Alternative Assessment Procedure for Interjurisdictional Trucking/Transport-3rd Letter

WCB LOGO

[Name and address of employer]
[Account number of employer in your province]

[Date]:

Dear [Name of recipient]:

RE: FINAL NOTICE to update your participation in the Alternative Assessment Procedure for Interjurisdictional Trucking/Transport-Interjurisdictional Agreement on Worker's Compensation

As we informed you in our letter dated [date of second letter], the [your province] must update the files of all employers and personal coverage holders who participate in the Alternative Assessment Procedure for Interjurisdictional Transport under the Interjurisdictional Agreement on Worker's Compensation every three years. The account number associated with our request is [employer's account number with your province].

Accordingly, we are sending you this final notice to complete the update participation form enclosed, which must be returned to us within **10 business days of receiving this letter**. If you no longer engage in interjurisdictional transport, you must still complete the form, checking the relevant box on the first page of the questionnaire.

If we do not receive the update form by the deadline specified, we will be required to terminate your participation in the Alternative Assessment Procedure for Interjurisdictional Transport and to inform the compensation boards in Canada's other provinces and territories.

If you are an employer, you will then have to report the wages paid to your workers based on the kilometres driven in each province and territory where you are required to pay assessment. If you are a personal coverage holder, you may also be required to pay assessment for work performed elsewhere in Canada.

If you have already sent us your completed form, please ignore this reminder.

Please do not hesitate to contact us should you require further information regarding this matter.

Sincerely,

[Name of Sender]
[Contact Information]

Encl.: Participation Update form/Return Envelope
*Page 2, 3 and 4 (from Schedule T would also be attached)

Schedule W: Template Letter-Termination of Participation in the Alternative Assessment Procedure for Interjurisdictional Trucking/Transport-4th Letter

WCB LOGO

[Name and address of employer]
[Account number of employer in your province]

[Date]:

Dear [Name of recipient]:

RE: Termination of Participation Update of the Alternative Assessment Procedure for Interjurisdictional Trucking/Transport

Since you have failed to respond to our repeated requests to update your file, as indicated in our letter dated [date of third letter], we inform you that your participation in the Alternative Assessment Procedure will end on December 31, [present year] and that we will notify the boards of the other provinces and territories of Canada.

The account number associated with our request is [employer's account number with your province].

As an employer, from on you are required to report the wages paid to your workers based on the kilometres drives in each province and territory where you are required to pay assessments. If you are a personal coverage holder, it is your responsibility to verify whether you are required to pay assessments for work performed elsewhere in Canada.

Sincerely,

[Name of Sender]
[Contact Information]

cc: [All Registering Workers' Compensation Boards]

Schedule X: Chart-Interjurisdictional Hearing Loss Chart (2008)

Interjurisdictional Hearing Loss Chart (2008)

	YK	BC	AB	SK	NB	NL	QC	NT	NU	MB	ON	PEI
Require a waiver upon application?	No	No	No	No	Yes. Election is used to notify other Jurisdictions of application	No	Yes. Election is used to notify other jurisdictions of application	No info	No info	No Info	No Info	No
% of total exposure accepted if more than one jurisdiction	Only % of exposure in YK, total exp. is apportion'd if necessary	•>90% accepted in full •<5% denied. •5-90% Only% of exp. in BC.	• 100% wage loss benefits • Apportion NELP[1] • Agreement with SK to accept exp in SK.	Only % of exposure in SK, total exp. is apportioned if necessary	Only % of exposure in NB, total exp. is apportioned if necessary	Only % of exposure in NL, total exp. is apportioned if necessary	Only % exposure in SK, total exp. is apportioned if necessary	No info	No info	No info	No info	No apportionment if exposure is greater than 2 years
Hearing Aid Coverage		Does not cover if issued to worker in past 5 yrs (in any jurisdiction	Provides Hearing Aids if needed	No info	No coverage if provided by another jurisdiction	No coverage if provided by another jurisdiction	No info	No info	No info	No info	No info	Yes if hearing loss is 25dB or greater Replacement every 4 years to a max of $1600/aid.

[1]NELP-Non-Economic Loss Payment

Schedule Y: 2004 Discussion Paper-Douglas Mah (AB)-Reimbursement of Cost Reimbursement Claims under the IJA

A Discussion Paper on
Readjudication of Cost Reimbursement Claims
under the Interjurisdictional Agreement (IJA)

Prepared by Douglas R. Mah
Workers' Compensation Board Alberta

Introduction

There is likely not universal agreement across the country as to the nature and extent of permissible readjudication under the IJA and certainly practices appear to differ from jurisdiction to jurisdiction. If cost reimbursement is to be made a permanent feature of the IJA, there should be a consistent understanding of what constitutes permissible readjudication, along with a consistent application of the concept in the handling of reimbursement claims.

Discussion

What the IJA actually says

Appendix C of the IJA sets out the reimbursement guidelines. Paragraph 2 of Appendix C speaks to the limits of readjudication:

> Reimbursement shall either cover the full amount of all payments made by the adjudicating Board on a claim, or the portion of that full amount requested by the adjudicating Board for reimbursement subject only to any policy or statutory limitations. This includes the capitalized costs established on a claim, where both the adjudicating and reimbursing Boards employ a process of capitalizing future costs. Reimbursement in such cases shall be limited to the extent that the reimbursing Board would have itself capitalized the costs had it administered the claim.

Suggested interpretation of Paragraph 2

The statement above seems clear that the only limits on reimbursement are policy and legal limits. In this context, it is suggested that "policy" refers to official policy enacted by the governing body (board of directors) under its policy-making power, and does not refer to practices or procedures. The policy must have the force of law and be binding on all decision-makers within the system.

Therefore, Appendix C, paragraph 2 establishes what I will call the principle of 'minimal adjudication', that is that the reimbursing jurisdiction is only allowed to adjudicate on the issue of the legality of payment and is not allowed to readjudicate generally. Where the reimbursing jurisdiction (R) disagrees with the decision of the adjudicating jurisdiction (A), because of a difference in local practice or a difference in the way the evidence is perceived, the reimbursing jurisdiction is not allowed to substitute its decision, so long as the adjudicating jurisdiction's decision is not illegal under the reimbursing jurisdiction's legislation or policy.

Consider the following examples:

1. Maximum insurable earnings in A jurisdiction is $70K and $58K in R jurisdiction. A submits claim to R for one year of TTD at maximum. R entitled to reimburse at its maximum, not A's maximum.
2. Chronic stress acceptable in A but is specifically deinsured by legislation in R. A submits reimbursement claim to R for chronic stress claim. R entitled to not pay claim.
3. Surviving spouse under age 40 in A entitled to lifetime pension based on deceased worker's earnings but in R surviving spouse under 40 only entitled to single lump sum benefit equal to two years times deceased worker's annual earnings. A submits capitalized cost of fatality claim to R. R only required to reimburse two years worth of benefits.
4. A finds worker 50% disabled based on medical opinion on file. A submits claim to R for capitalized cost of pension. R, upon reviewing medical evidence, believes worker is only 10% disabled. R gets medical opinion from own medical advisor supporting 10%. In these circumstances R has readjudicated A's finding of 50%, which is not permitted under Appendix C. R must still reimburse A based on the 50%.
5. A funds a two year academic program for an injured worker and submits claim to R. R, upon reviewing the file, concludes that it would have given that worker 12 weeks of re-employment assistance under local practice but not a two year program. In this case, R has readjudicated A's discretion to grant the two year program, which is not permitted under Appendix C. R must still reimburse A the full cost of the program.

6. A accepts worker's mental disorder as compensable in the absence of a diagnosis under the DSM. A submits reimbursement claim to R. Under R's policy, there must be a diagnosis of a recognized disorder under the DSM before a claim for mental disorder is acceptable. R is entitled to withhold payment until such time as a diagnosis under the DSM is obtained by A.

Criticisms of this approach

The criticisms I have heard about this approach are:

- A is not held accountable for its decision because it can 'pass the buck' to R. At the same time, the employer holds R accountable for a decision made by A. R is made responsible for A's lack of rigour and diligence.
- Employers in R are entitled to cost relief where R pays a decision made by A that is not in keeping with R's local standards.
- There is no way for R to question the correctness of A's decision. (Does dispute resolution apply?)

Issues requiring resolution

1. Is the suggested interpretation of Appendix C, paragraph 2 correct and should it be adopted as the standard interpretation by all participating jurisdictions?
2. If so, how can the adjudicating jurisdiction be held accountable for its decisions?
3. How can the correctness of the adjudicating jurisdiction's decision be challenged?
   - Through dispute resolution under the IJA?
   - Through the reimbursing jurisdiction appealing the decision of the adjudicating jurisdiction in the adjudicating jurisdiction's appeal system?
   - Through some other means? (*Please note April 2002 discussion by IJA Co-ordinators on the subject of forms of dispute resolution.*)
4. Are employers in the reimbursing jurisdiction entitled to cost relief based on a difference of opinion between the reimbursing jurisdiction and the adjudicating jurisdiction?

Schedule Z: 2008 Memo-Douglas Mah (AB)-Cases of Disputed IJA Application

From: Douglas R. Mah
Secretary & General Counsel

To: IJA Coordinators

File:
Phone: 498-8665
Fax: 498-7878
Date: May 6, 2008

Re: Cases of Disputed IJA Application (Item 6b on May 2008 IJA Agenda)

BACKGROUND

In Alberta, we have encountered several instances in which reimbursement has been sought but the application of the IJA itself is disputed. This results in the reimbursement request being denied.

These cases differ from "readjudication" cases in that in the latter, the application of the IJA is not disputed. In readjudication cases, it is accepted that the IJA applies and what is disputed is the amount of reimbursement.

Here are some sample scenarios of purported non-application drawn from real experience to illustrate the nature of the issue. Again, A is the adjudicating board and R is the reimbursing board.

Scenario 1

The worker lives in A and during the months of March, April and May was engaged in delivering refrigerators (weighing 200 to 300 lbs.) for the same employer. The worker performed his work in R from March 27 to March 30. The worker reports the following information to A in June:

Date	Location	Symptom
March 28	R	Sharp pain in groin.
April 15	A	Twinges in groin.
May 10	A	Developed hernia.

The worker did not seek medical treatment for the March 28 incident and described the pain as going away. A accepts the claim for a hernia and has made a reimbursement request to R on the basis of the March 28 incident as the precipitating incident, which R has denied. R says the accident occurred in A when the hernia surfaced on May 10 and therefore the IJA does not apply.

Scenario 2

The worker was employed as a laborer erecting metal sheds and was required to lift heavy poles and gauge metal. The worker had done the same work for 11 years, five years with the same employer. The employer carries out work throughout Alberta, Saskatchewan, Manitoba, Ontario and British Columbia. On November 28, the worker reported a back strain to A that occurred on August 24 (while in R), although the worker continued to work for some months. The employer's report submitted on December 1 to A noted that the worker had injured his back as a result of general lifting requirements over the past year, and did not mention a specific work incident. Medical reporting on A's file indicates that the injury was progressive in nature. A has made a reimbursement request to R, which has been denied on the basis that it is not an IJA claim.

Scenario 3

The worker reported that he fell in R while unloading equipment. He then drove 8.5 hours home on a logging road back to his home in A. The employer went to the worker's home to pick up the company truck and found the worker lying on the ground. The worker indicated that he had fallen again while unloading articles from the truck. The employer took the worker to hospital for medical treatment. The worker was diagnosed with a low back injury and A accepted the claim. A's reimbursement request to R was denied.

Scenario 4

A and R are adjacent provinces. The worker was employed as a truck driver in A, sometimes traveling into R. The worker had been experiencing back pain for some time. There were apparently ergonomic problems with the driver's seating. The worker crossed over into R, parked his vehicle and slept for 8 hours. When he woke up, he experienced severe back pain. A accepted the back claim and submitted a reimbursement request to R on the basis that the worker was physically located in R when the severe pain started. R denied reimbursement.

PROPOSED RESOLUTION

All of these cases share the common feature that R is denying reimbursement on the basis that the IJA does not apply. The injuries are either progressive in nature and developing in more than one jurisdiction, or it is uncertain as to exactly where the injury occurred. It is proposed that:

a) the adjudicating board submit the dispute for dispute resolution under the IJA; or
b) the IJA Coordinators develop a methodology for apportioning costs between the jurisdictions.

D. R. Mah

Schedule AA-2011 Memo-William Ostapek (AB)-Review of Section 9 of IJA

Review of s. 9 IJA (2011)

Conflicts

Full Reimbursement vs. Limited Reimbursement

Although s. 9 begins with the statement that there is full reimbursement of the cost of benefits to the Adjudicating Board (s. 9.1), the limits imposed on this "full reimbursement" are sufficiently broad and unclear that they significantly undermine full reimbursement as a governing principle.

Section 9.2 restates the principle that reimbursement is to cover the full amount of all benefits paid by the adjudicating board, but then allows the reimbursing board to limit its reimbursement through the application of "any policy or statutory limitations". There is little or no detail given about how and when it is appropriate to apply such limitations, with the exception of a discussion of capitalized future costs.

A generous application of the right to limit reimbursement according to policy and statutory limitations would allow a reimbursing jurisdiction to re-adjudicate the claim according to its own legislation and policy. There is currently a good deal of confusion about whether this is appropriate or intended by the provisions of the IJA.

Two possible interpretations of these provisions are possible:

1. that the reference to policy and legislative limitations refers to policy and legislative limitations <u>on reimbursement</u> and not policy and legislative limitations on the payment of compensation. If this approach were to be accepted, then full reimbursement would be the rule unless limited by a specific provision related to reimbursement of the cost of interjurisdictional claims.

2. that the reference to policy and legislative limitations refers to policy and legislative limitations regarding the payment of benefits in the reimbursing jurisdiction. If this is the case, the cost of benefits would be reimbursed to the Adjudicating Board according to what the reimbursing jurisdiction would have paid had the claim been accepted and adjudicated there. Claims would effectively have to be adjudicated twice under this regime; once by the Adjudicating Board and again on an application for reimbursement.

Each jurisdiction currently has provisions within its legislation allowing it to enter into agreements with other jurisdictions for the administration of interjurisdictional claims as such provisions are necessary for the creation of the IJA. Nine jurisdictions (BC, AB, Sask, NB, MB, Que, NWT/NU, YT) have acknowledged that their legislation allows for full reimbursement. Nfld, NS and PEI have indicated that there is no specific legislation authorizing the practice (or, I

assume, prohibiting it) and have stated that they disagree in principle with this practice. My reading of the applicable portions of the Ontario legislation (s. 160) indicates that full reimbursement of any payments made for "compensation, rehabilitation or health care" is allowed by that legislation. As such, subject to objections on other bases, it is at least possible, from a legislative perspective, to discuss full reimbursement as a concept.

There are a variety of other arguments to support each position. The most obvious arguments relate to premiums collected and benefits paid. Having paid benefits according to the law applicable in its jurisdiction, the Adjudicating Board will likely wish to have full reimbursement as it has incurred these costs through the management of the claim and has collected no premiums to offset them. Conversely, having collected premiums (assessments) based on benefits payable in its jurisdiction, a Reimbursing Board will wish to reimburse according to those same laws and limitations.

It is suggested that there needs to be additional clarity with regard to the concept of full reimbursement and with regard to the exceptions to that principle. Currently, the exceptions seem to be the rule for most jurisdictions. If, in fact, the exceptions are intended to be the rule, then s. 9 should be redrafted to reflect that fact. In any event, the ambiguity and confusion arising from the current provisions should be clarified by a redraft of the sections discussed above.

Gaps

Captialization

There are currently instances where reimbursement to the Adjudicating Board is being limited on the basis of the capitalized cost calculated by the Reimbursing Board. Boards have advised that they cannot reimburse more than the total capitalized cost calculated for the claim and have limited reimbursement of periodic compensation costs on this basis. This matter was discussed at the 2010 meeting and there was general agreement (as evidenced by the minutes) that capitalization was intended primarily to be a tool for calculating reserves on claims and that it should not normally be used to limit reimbursement unless there has been a claim for reimbursement of a capitalized lump-sum compensation payment. Unfortunately, the wording of ss. 9.2 and 9.6 of the IJA is confusing and imprecise. It is suggested that these sections be redrafted to clearly state their intent and effect.

Time Limits

The time limits set out in s. 9.5 are confusing and unclear. This section states that claims for reimbursement shall be made by and Adjudicating Board and paid by a Reimbursing Board, "either when the claim is closed or, at a minimum of quarterly on a calendar basis". It is difficult to determine what was intended by this section. The initial words of the section would indicate that reimbursement should take place at the end of the claim. Alternatively (because the word "or" has been used) it suggests that reimbursement shall take place "at a minimum of quarterly". It is impossible to say with certainty whether this phrase was intended to mean "at least quarterly" or "no more than quarterly", although the plain meaning of the words used would indicate the former rather than the latter. Using this meaning the section, however, indicates that jurisdictions have a choice between asking for reimbursement at the end of the claim or requesting reimbursement at least four times a year during the currency of the claim. Imposing a choice between such drastically different alternatives does not appear reasonable.

It is suggested that the confusing current wording in this section be replaced with clearer provisions indicating that reimbursement (requests and payments) can take place no more than quarterly and may also take place at the end of the claim.

William Ostapek
Workers' Compensation Board - Alberta

Schedule BB: 2010 Training Guide-Douglas Mah (AB)-IJA Dispute Resolution Best Practices Training Guide

IJA Dispute Resolution Best Practices Training Guide

Prepared by:
Douglas R. Mah, Secretary & General Counsel
Workers' Compensation Board-Alberta

A. Principles

15. All participants in the IJA will act in good faith and use best efforts to comply with the spirit and intent of the IJA. In particular, this means making efforts to ensure that no worker goes without a remedy.

16. The interpretation of the IJA is not static and is ever evolving.

17. Participants will take a collaborative and consultative approach to interpretation. That is why the IJA Coordinators meetings are useful as they achieve documented protocols, practices and procedures with respect to IJA administration.

18. As an over-arching rule, a reimbursing jurisdiction is not allowed to "readjudicate" the decision of an adjudicating jurisdiction. The amount of reimbursement is governed by section 9.2 of the IJA and is limited only by statute or policy enacted by the jurisdiction's governing body. The reimbursing jurisdiction should not substitute its own discretion or purport to make a different decision where the original decision is within the reimbursing jurisdiction's authority. Section 9.2 reads as follows:

> Reimbursements shall either cover the full amount of all payments made by the adjudicating Board on a claim, or the portion of that full amount requested by the adjudicating Board for reimbursement subject only to any policy or statutory limitations. This includes the capitalized costs established on a claim, where both the adjudicating and reimbursing Boards employ a process of capitalizing future costs. Reimbursement in such cases shall be limited to the extent that the reimbursing Board would have itself capitalized the costs had it administered the claim.

B. Process

19. Disputes under the IJA invariably involve either nonpayment or reduced payment by a reimbursing jurisdiction subsequent to a request for payment by an adjudicating jurisdiction.

20. In determining whether to pursue the payment, the adjudicating jurisdiction must make a business decision. The following factors (the list is not intended to be exclusive) may be relevant::

    - amount in dispute
    - effort required to secure the payment
    - relationship with reimbursing jurisdiction
    - the effect of not receiving payment on the employer in the adjudicating jurisdiction
    - whether or not the worker “falls through the cracks”
    - length of time required to resolve the dispute (where anecdotal experience indicates the average period of time to resolve a dispute is two years)

21. The adjudicating jurisdiction should seek clarification from the reimbursing jurisdiction as to the reasons why there has been nonpayment or reduced payment. First, the two jurisdictions must reach consensus on the facts of the case. Second, the adjudicating jurisdiction must receive an explanation in writing from the reimbursing jurisdiction as to the legislation and policy being relied upon for the decision.

22. The claim handler/case manager in the adjudicating jurisdiction may wish to seek legal advice and/or input from his or her supervisor at this stage.

23. The claim handler/case manager in the adjudicating jurisdiction should attempt a negotiation with his or her counterpart in the reimbursing jurisdiction. If resolution is not reached, the adjudicating jurisdiction may wish to escalate the issue to the two IJA Coordinators for further discussion.

24. If discussions between the IJA Coordinators does not result in a resolution, then the adjudicating jurisdiction may initiate one or more of the following dispute resolution mechanisms:

    - submission of the case on an anonymized basis to the annual meeting of the IJA Coordinators as a case study

    - pursuing the statutory review or appeal process in the reimbursing jurisdiction, where permitted by law

    - pursuing mediation under section 16 of the IJA

      Exclusive Jurisdiction of Adjudicating Board

      16.1 Each Adjudicating Board has the exclusive jurisdiction to determine all matters arising under its Statutory Authority and the action or decision of the Adjudicating Board on such matters is final and

conclusive. This decision-making authority cannot be delegated to any other Board.

Dispute Resolution

16.2 In the event of a dispute arising between jurisdictions, the Boards in disputes shall undertake negotiations in good faith to reach a decision. Such negotiations shall originally be conducted by the staff involved by correspondence and telephone. Failing an agreement, senior representatives of each Board shall address the issues, with the goal of reaching a fair and reasonable conclusion.

Referral to IJA Coordinator

16.3 Should the dispute remain unresolved, each Board shall refer the dispute to the interjurisdictional coordinator appointed by their respective Boards for further review and discussion. If the coordinators fail to resolve the issues to their mutual satisfaction, they may agree to the appointment of one or more coordinators from other Boards to mediate the dispute.

Information for Mediators

16.4 The mediators may request any additional information as is necessary for the understanding and determination of the dispute and may conduct an oral hearing on the dispute at such time and place agreeable to the Boards involved in the dispute. All evidence, whether written or oral, shall be treated with the utmost confidentiality.

Recommendations

16.5 The recommendations of the coordinator who acts as mediator is not binding on the parties, however, it is agreed that Boards shall act in utmost good faith and make every bona fide effort to carry out the mediator's recommendations.

Costs Shared

16.6 Any reasonable costs incurred by any coordinator who acts as mediator shall be paid equally by the Boards in dispute.

- pursuing consensual arbitration

Steps

10. identify and agree upon the issue for arbitration
11. identify and agree upon the arbitrator
12. prepare and execute the arbitration agreement
    - both sides should agree to pay one-half of the arbitrator's fee regardless of outcome
    - arbitration agreement should be signed by the parties and the arbitrator
    - arbitration agreement should provide that arbitrator has exclusive jurisdiction to determine process
    - arbitration agreement should stipulate that arbitration is non-binding as board/commission likely not able to delegate decision-making authority

13. prepare and sign an Agreed Statement of Facts (if facts can be agreed upon)
    - consider what, if any, further evidence needs to be submitted, either in Affidavit form or through witnesses
14. determine whether examination on affidavit required
15. prepare and submit written briefs to the arbitrator
16. oral hearing if requested by one of the parties or required by the arbitrator
17. receive decision
18. pay arbitrator's invoice

25. It should be noted that except in the case of statutory review and/or appeal, the other remedies noted above are not necessarily binding upon the reimbursing jurisdiction. However, if the outcome is within the legal discretion and authority of the reimbursing jurisdiction (which it should be), then the reimbursing jurisdiction may wish to implement the outcome based on the principle of good faith.

26. In general, dispute resolution in the form of mediation or arbitration should be commenced within two years of the dispute arising. For certainty, the dispute is deemed to have arisen on the date the reimbursing jurisdiction declines, in writing, to make the payment requested.

C. References

- Interjurisdictional Agreement on Workers' Compensation Consolidation amended July 9, 2008
- IJA Committee Protocols, Practices and Procedures – May 2008

Schedule CC: MARS Agreement 2016-09-23

CANADIAN INTERAGENCY

MUTUAL AID RESOURCES SHARING AGREEMENT

THIS AGREEMENT made this 26th day of September 2016

AMONG:

THE GOVERNMENT of Canada as represented by the Minister of Natural Resources and the Minister of Environment and Climate Change,
OF THE FIRST PART

-and -

HER MAJESTY the Queen in Right of the Province of Alberta as represented by the Minister of Agriculture and Forestry,
OF THE SECOND PART,

-and -

HER MAJESTY the Queen in Right of the Province of British Columbia as represented by the Minister of Forests, Lands and Natural Resource Operations,
OF THE THIRD PART

-and -

HER MAJESTY the Queen in Right of the Province of Manitoba as represented by the Minister of Sustainable Development,
OF THE FOURTH PART,

-and -

HER MAJESTY the Queen in Right of the Province of New Brunswick as represented by the Minister of Energy and Resource Development,
OF THE FIFTH PART.

-and -

HER MAJESTY the Queen in Right of the Province of Newfoundland and Labrador as represented by The Minister of Fisheries, Forestry and Agrifoods and The Minister for Intergovernmental Affairs,
OF THE SIXTH PART.

-and -

HER MAJESTY the Queen in Right of the Province of Nova Scotia as represented by the Minister of Natural Resources,
OF THE SEVENTH PART.

-and -

HER MAJESTY the Queen in Right of the Province of Ontario as represented by the Minister of Natural Resources.,

OF THE EIGHTH PART.

-and -

HER MAJESTY the Queen in Right of the Province of Prince Edward Island as represented by the Minister of Communities, Land and Environment,

OF THE NINTH PART.

-and -

THE GOVERNMENT of Québec as represented by the Ministre des Forêts, de la Faune et des Parcs, and the Ministre responsable des Relations canadiennes, et de la Francophonie canadienne,

OF THE TENTH PART,

-and -

HER MAJESTY the Queen in Right of the Province of Saskatchewan as represented by the Minister of Environment,

OF THE ELEVENTH PART,

-and -

HER MAJESTY the Queen in Right of the Yukon as represented by the Minister of Community Services,

OF THE TWELFTH PART,

-and -

HER MAJESTY the Queen in Right of the Northwest Territories as represented by the Minister of Environment and Natural Resources ,

OF THE THIRTEENTH PART,

-and -

CANADIAN INTERAGENCY FOREST FIRE CENTRE
CENTRE INTERSERVICES DES FEUX DE FORET DU CANADA, incorporated under the laws of Canada, (hereinafter referred to as "CIFFC")

OF THE FOURTEENTH PART,

(hereinafter referred to as the "Parties")

1.01 The Parties to this Agreement do hereby agree that they will mutually share wildland fire management resources, which include, without limiting the generality of the foregoing, personnel, equipment, aircraft, skills, training, and other services for the purpose of improving wildland fire management (hereinafter referred to as "Resources").

2.01 The Parties agree that CIFFC shall be the authority assigned to coordinating this Agreement.

3.01 A Party is authorized to request and to receive Resources from any other Party by executing the procedures as outlined in the Canadian Interagency Mutual Aid Resources Sharing Agreement Implementation Guidelines as amended from time to

time pursuant to Section 4.01 (hereinafter referred to as the "Implementation Guidelines" and attached as Schedule A and forming part of this Agreement).

4.01 On the execution of this Agreement, and by March 1st annually thereafter, the Parties will review the Implementation Guidelines, approve any amendments thereto and exchange with each other the names of officials designated to request or provide Resources under this Agreement. All aspects of the sharing, receiving and returning of all Resources shall be governed by the Implementation Guidelines.

5.01 Except as provided in any other agreement any Party providing Resources which are specifically identified in the Implementation Guidelines shall be reimbursed according to the rates set out with respect to those Resources in the Implementation Guidelines. Where any Party provides Resources not specifically identified in the Implementation Guidelines, that Party shall be reimbursed at a rate determined by prior agreement between the Parties involved.

6.01 The Receiving party is permitted to use the Resources at any and all times during the lending term for wildland fire management purposes.

7.01 The Resources shall be maintained, used and operated in accordance with all applicable laws, rules, regulations and orders.

8.01 Excepting personnel and aircraft, or as otherwise provided through the Implementation Guidelines, the Receiving party agrees to keep or cause the Resources to be kept in good and substantial repair and operating condition, reasonable wear and tear excepted , at its own cost, including without limiting the generality of the foregoing, to carry out or cause to be carried out such inspections, maintenance, overhaul, replacement and repair of the Resources as shall reasonably be required from time to time.

9.01 Unless as otherwise provided, the Receiving party agrees that the Lending party has the right to recall any and all Resources and the Receiving party shall within twenty four (24) hours return such Resources to a location designated by the Lending party.

10.01 Upon request, any Party providing Resources pursuant to this Agreement shall be reimbursed by the Receiving party for the cost of payment of compensation and death benefits distributed to injured employees and the dependents or representatives of deceased employees in the event such employees sustain injury or are killed while rendering aid pursuant to this Agreement, and such payments shall be made in the manner and on the same terms as if the injury or death sustained were in the regular course of employment.

11.01 Nothing in this Agreement shall be construed as affecting any previous or existing agreement or understandings between the Parties.

12.01 Nothing in this Agreement shall be construed as obligating the Parties to make expenditures or enter into obligations, contractual or otherwise, for the payment of monies in excess of appropriations authorized by law and allocated for wildland fire management purposes.

13.01 The Receiving party further agrees to:

a) Accept full responsibility for operation and maintenance of the Resources; and,
b) Keep the Resources free from any liens, charges or encumbrances and from distress, execution, seizure or other legal process arising out of the possession, use or custody of the Resources under the terms of this Agreement; and,
c) Permit the Lending party to inspect the Resources and any other pertinent documentation or relevant records with respect to the Resources or their operation, at all reasonable times; and,
d) Pay all costs for replacement, repair, overhaul, premature removal, or damage caused by or through the operation of the Resources, excluding aircraft or personnel; and,
e) Allow only fully qualified or duly licensed operators to operate the Resources; and,
f) File all necessary tariffs, documentation and obtain appropriate licenses as may be required in the operation of the Resources; and,
g) Notify the Lending party forthwith of any loss or damage of the Resources; and,
h) Refrain from making any changes or alterations to the Resources.

14.01 No Party to this Agreement or its officers or employees shall be liable to any of the other Parties thereto or their officers or employees on account of any act or omission in consequence of performance of this Agreement.

15.01 Furthermore, it is agreed that a Receiving party is not, and shall in no way be construed as, an agent for a Lending party.

16.01 Unless otherwise provided in the Implementation Guidelines, the Lending party shall not be liable to the Receiving party for any damage or costs occasioned by the failure of any Resource to operate properly.

17.01 This Agreement will be written in English and in French and both versions have equal force and effect.

18.01 This Agreement replaces the Canadian interagency Mutual Aid Resources Sharing Agreement concluded on September 14, 1983.

19.01 In the case of a conflict between this Agreement and the Implementation Guidelines this Agreement shall prevail.

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by persons authorized in that behalf and this Agreement is effective as at the date and year first above written.

Minister of Natural Resources for the Government of Canada	Date	Witness

Minister of Environment and Climate Change for Parks Canada	Date	Witness
Minister of Agriculture and Forestry for the Government of Alberta	Date	Witness
For the Government of Alberta approved pursuant to the Government Organization Act		
Intergovernmental Relations, Executive Council	Date	Witness
Minister of Forests, Lands and Natural Resource Operations, for the Government of British Columbia	Date	Witness
Minister of Sustainable Development for the Government of Manitoba	Date	Witness
Minister of Energy and Resource Development for the Government of New Brunswick	Date	Witness

Minister of Fisheries, Forestry and Agrifoods for the Government of Newfoundland and Labrador	Date	Witness
Minister for Intergovernmental Affairs for the Government of Newfoundland and Labrador	Date	Witness
Minister of Natural Resources for the Government of Nova Scotia	Date	Witness
Minister of Natural Resources for the Government of Ontario	Date	Witness
Minister of Intergovernmental Affairs for the Government of Ontario	Date	Witness
Minister of Communities, Lands and Environment for the Government of Prince Edward Island	Date	Witness
Ministre des Forêts, de la Faune et des Parcs for the Government of Québec	Date	Witness

_____ Ministre responsable des Relations canadiennes, et de la Francophonie canadienne for the Government of Quebec	_____ Date	_____ Witness
_____ Minister of Environment for the Government of Saskatchewan	_____ Date	_____ Witness
_____ Chair, Board of Directors of the Canadian Interagency Forest Fire Centre Inc.	_____ Date	_____ Witness
_____ Vice-Chair, Board of Directors of the Canadian Interagency Forest Fire Centre Inc.	_____ Date	_____ Witness
_____ Minister of Environment and Natural Resources for the Government of the Northwest Territories	_____ Date	_____ Witness
_____ The Government of Yukon, as represented by the Minister of Community Services	_____ Date	_____ Witness

SCHEDULE "A" TO CANADIAN
INTERAGENCY MUTUAL AID RESOURCES
SHARING AGREEMENT DATED THE 26th
DAY OF MAY, 2016.

IMPLEMENTATION GUIDELINES

Schedule DD: MARS Implementation Guidelines 2019

MARS
Implementation Guide