



SUBMISSION
Workers' Compensation Act Review
December, 2021

Introduction

We would like to thank the Province of Saskatchewan for the opportunity to provide input on improvements to the Workers' Compensation Act.

As representatives of the Public Service Alliance of Canada (PSAC), we are involved in representing our members when they have questions or concerns with the workers compensation process. We also represent members addressing appeals to decisions made by WCB. In Saskatchewan, we represent almost 6,500 members. These members work in a wide variety of fields, including: revenue, agriculture, corrections, health, airports, environment, and defense, among many others. These federally legislated members are covered by WCB under the Government Employee's Compensation Act (GECA). In our organization, we also represent members covered by Saskatchewan provincial legislation. Specifically, within Saskatchewan, the PSAC represents a large number of workers in workplaces such as at the University of Saskatchewan and Casino Regina, which are governed by provincial legislation in Saskatchewan.

As part of our role in representing workers, we help our members understand the relevant legislation. We assist members to navigate the resolution processes outlined in the legislation. We also provide extensive training to our membership on the topic of claims processes. Through this work, we have identified a number of areas where changes can be made to ensure that the application of the legislation and policies adhere to the Meredith principles.

Based on our experiences in addressing compensation claims in various jurisdictions, we will reference the following pieces of legislation;

- Government Employee's Compensation Act
- Saskatchewan Workers Compensation Act
- Manitoba Workers Compensation Act
- Alberta Workers Compensation Act

Most importantly, it is our hope that the Province review the comparable legislation with a view to be progressive and proactive, and be a "trendsetter" on this issue. Understanding, awareness, and tolerance, while maintaining a fair and balanced approach is paramount. The language that is ultimately created should be such that it is the gold standard for protecting workers, and provides a mechanism that promotes a clear understanding of the compensation system.

With that, we have the following recommendations;

Public Service Alliance of Canada - Prairies
460 – 175 Hargrave St.
Winnipeg, MB R3C 3R8

<https://prairies.psac.com/>

Facebook: @psacprairies
Instagram: @psacprairies
Twitter: @psacprairies

Psychological Injuries

RECOMMENDATION:

We strongly encourage the Committee of Review to review, update and improve the guidance on the adjudication of psychological injuries.

Psychological injuries continue to be a large portion of the claims filed. Barriers to the claims process for psychological injuries continue to be a significant factor. WCB must acknowledge these barriers, and put measures in place to address the inequities between physical and psychological injury claims. Some of these barriers include;

- Difficulties in accessing proper care for psychological injuries, and by extension proper documentation of injuries such as DSM-V testing results
- The fact that the injuries may in themselves impact the ability of the affected worker to recognize their injury, seek early help, and participate with the WCB claims process
- Proper acknowledgement of psychological injuries as a result of chronic exposures

Of particular note, the last point is outlined in **WCB Policy PRO 02/2017** is relevant;

Incidents – Workload and Interpersonal

The daily pressures or stressors of work are normal expectations for maintaining employment. Any reasonable action taken by an employer relating to management is considered a normal part of employment and is not considered a traumatic event. Normal employment expectations include, but are not limited to, the following:

Hiring and firing employees.

Performance evaluations and/or performance corrective actions.

Staff assignments, transfers or restructuring.

Promotions, demotions and lay-offs.

Periodic workload fluctuations and/or assignment changes.

Timeline pressures.

Work environment.

If the worker is involved in a series of workload or work-related interpersonal incidents that are beyond the normal expectations of maintaining employment, the incidents may be considered a traumatic event.

A broader application and understanding of the definition of “normal expectations” must be applied. It is becoming increasingly apparent that the vast majority of psychological injuries fall within this category and are just as debilitating as any other workplace psychological injury. The updated WCB Act must reflect this workplace reality.

We also encourage the province to expand the presumptive clauses for psychological injuries. In particular, in the Alberta Workers’ Compensation Act, there is strong wording in regards to presumptive clauses not just for psychological injuries but also references to injuries resulting from long term exposures, and exposures related to particular work.

Enforcing Employer Responsibility

RECOMMENDATION:

Have a clearly established and enforced process for employer reporting.

In our role as representatives, we have increasingly witnessed examples of employers not adhering to the reporting guidelines outlined in the Act.

In order to maintain the balance established by the Meredith Principles, there must be enforced sections of the Act in which employers who attempt to avoid claims by delay in reporting, or not reporting at all are held to the standards outlined. Too often we have been witness to injured workers not being compensated solely due to the delayed or non-existent reporting of employers. These injured workers do not receive the support and care required, often causing more significant and lasting injuries.

Claim Suppression

RECOMMENDATION:

The committee of review establish and reinforce guidance on claim suppression.

Clear guidance prohibiting all forms of claim suppression must be supported. Claim suppression can take many forms, such as;

- incentives for not filing claims
- actively discouraging members to file WCB by coercion or threats
- actively deceiving or misreporting incidences to WCB
- Group goals and targets based on number of WCB reports made

These employer actions discourage injured workers from seeking proper care, and penalize injured workers for being injured in the workplace. This practise goes against the principles outlined in the Meredith principles.

As Manitoba Workers Compensation Act has provisions prohibiting these acts of claim suppression, so too should Saskatchewan.

<https://web2.gov.mb.ca/bills/40-3/b065e.php>

Invest in Prevention

RECOMMENDATION:

Invest excess funds in prevention initiatives.

We encourage and support initiatives to promote safe working conditions for all, which should be funded by excess funds when available, as opposed to providing employer rebates. Funds spent on promotion of prevention activities would serve as an investment in preventing injuries, which should be the ultimate goal. Rebates from WCB premiums are often not reinvested by employers. If employers do receive rebates, it should be with the clearly outlined expectation that those rebates be re-invested in a workplace's ongoing workplace injury prevention strategy.

Benefits

RECOMMENDATION:

Remove caps established by the maximum wage rate. Increase cover to workers over 65.

The PSAC does not support a cap to wage rate compensation. We firmly believe that any compensation should be based on lost wages, and not limited. Additional hardships occur when injured workers are not adequately compensated.

As well, with individuals living longer and thus working longer in their careers, it is important to review and update policies and practises around covering and insuring workers over 65 years of age. The adjudication and application of claims for those over 65 remains a major barrier to getting needed supports.

Clarification on the relationship with GECA

RECOMMENDATION:

Ensure the correlation between the Government Employees' Compensation Act and the Workers' Compensation Act is clear.

We recommend that that the Saskatchewan Act clearly reflect the connection and correlation between the two Acts. This correlation is not always clear to employees, employers, or WCB staff assigned to adjudicate or process claim files. A clear understanding to all of those involved would lead to a better understanding to all of those involved.

Conclusion

The PSAC thanks the Workers' Compensation Act Committee of Review to provide our input into the review of The Workers' Compensation Act, and we look forward to other opportunities to provide opinion. We appreciate the opportunity, and thank the committee for tier consideration

Should you require further clarification, please feel free to contact us at any of the coordinates below.

Thank you,

Marianne Hladun
Regional Executive Vice-President, Prairies
Public Service Alliance of Canada
460 – 175 Hargrave St.
Winnipeg, MB R3C 3R8
Email: hladunm@psac.com
Office: 204-956-4625
Cell: 204-805-4536

Clint Wirth
Regional Representative, Health and Safety
Public Service Alliance of Canada
460– 175 Hargrave St.
Winnipeg, MB R3C 3R8
Email: wirthc@psac.com
Phone: 204-947-1601
Fax: 204-943-0652