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### **Workers Compensation Act Review Submission**

With respect, outlined below are several suggestions and honest feedback obtained from personal experience managing cases and interaction with the WCB.

With reference to PART IV Compensation

#### **Reference:**

##### **Injury presumed out of and in course of employment**

**27(1)** Unless the contrary is proven, if an injury to a worker arises out of the worker's employment, it is presumed that it occurred in the course of his or her employment.

#### **Response:**

The presumption of accepting an injury claim by a worker based on the Meredith principals has been the long-standing foundation underpinning the protection for workers in Saskatchewan.

This remains a valuable core element in providing workers with compensation, however, the decision to impact costs to an employer's account should be clearly determined based on the following factors.

- incident investigation
- causal factors
- employer culpability
- worker culpability

If these factors are used in the decision-making process, it can be clearly established that, for example the employer is culpable due to lack of training or supervision. Or the worker is culpable because they bypassed safety controls or ignored supervisors' direction.

This would not affect the workers right to receive treatment and compensation, but it would determine if costs would be attributed to the employer or the general fund.

**Reference:****When compensation payable**

- 31(1) If a worker is not disabled beyond the day on which the worker is injured, no compensation, other than medical aid, is to be paid.
- (2) If the worker is disabled for longer than the day on which the worker is injured, compensation must be paid on and from the day of the commencement of the worker's loss of earnings resulting from the injury, excluding the day on which the worker is injured.

2013, c.W-17.11, s.31.

**Response:**

When an incident occurs, and a worker is injured the primary objective is to ensure the best care is provided. Many employers have comprehensive Modified Work Program's enabling workers to remain within the sphere of the workplace providing suitable work which the worker is valued for.

The return to work after an injury at the earliest opportunity is vital in the recovery process, in many cases the deeper impact of psychological factors becomes secondary to the initial cause due to separation from the workplace.

The reporting process by W1 or triggered from a visit to a medical practitioner should, at the outset include the requirement that workers must acknowledge and follow the employers Modified Work Program.

Employers should have the opportunity to register their program with WCB, have it verified, accepted then initiated at the outset by the case worker.

There appears to be a willingness to provide the worker with compensation payment for lost time rather than enabling the employer an opportunity to provide accommodations.

This is evident at the outset upon completion of the W1 which requires wage and banking information but has no option that modified work with the employer is an option.

**Reference:****Duty of employer to co-operate to achieve worker's return to employment**

**53** An employer shall co-operate with the board and the worker to achieve the early and safe return of an injured worker to his or her employment.

2013, c.W-17.11, s.53.

**Response:**

Having an employers Modified Work Program registered with the WCB would enable case managers to understand what options are available when planning a workers return to the workplace at the earliest stage possible.

Whether employers should be required to have an established program is open for discussion but for those that do every effort should be made to engage the workers participation. The benefits to the workers mental health along with the positive aspects this brings to recovery are clearly worth pursuing.

There seems to be a disconnect that an employer's program is not as integrated as it should be between the employer, worker, medical practitioners and WCB. In many cases restrictions are not discussed with a medical practitioner whereas the ease at which time off is prescribed is often done without due consideration.

**Summary:**

The goal is zero incidents but when the unfortunate happens the employer should be included as an integral partner in the decision-making process. This will undoubtedly require a change of mind set to work in partnership, with the goal of ensuring the earliest return to the workplace thus reducing lost workdays and preventing additional health concerns with protracted cases. The introduction of an *Employer Advocate* could well be the first step in forging a closer partnership between all parties.

Employers are best placed to provide care for their employees while managing them through Modified Work Programs, unfortunately the ease in which time off is prescribed by medical practitioners simply disconnects workers from the employer. This is a key element of keeping workers in the workplace to promote recovery and reduce additional health issues.

Employers are continually developing, investing, and improving their safety programs to reduce or remove risk exposure, it is only natural that these developments become reflective in an updated Act and the policies of the WCB.

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