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December 13, 2021

Workers' Compensation Act Committee of Review
300 – 1870 Albert Street
Regina, Saskatchewan S4P 4W1

Dear Workers' Compensation Act Committee of Review:

**Re: Public Feedback Request**

**-VIA ONLINE SUBMISSION-**

Thank you very much for the opportunity to provide feedback to your committee.

BCL Consulting Group Inc., is an employer representative for Saskatchewan Workers' Compensation, with clients from numerous industries within Saskatchewan.

We have managed current claims and reviewed claim files for many Saskatchewan clients and believe that there are several steps that need to be taken to ensure that employers are provided sufficient, transparent and timely information to allow for fair, effective and efficient management of claims, including appeals, by employers and their representatives.

We believe that employers are not seen by the Workers' Compensation Board as significant stakeholders, entitled to claim information or documentation as it relates to specific claim activity and payments made under their experience rated premium accounts.

Employers through their premium payments, are funding WCB and we believe that WCB needs to recognize that employers should be treated as equal and important stakeholders in claims management and appeal processes.

We have taken the following excerpts from the Workers' Compensation Act Committee of Review 2016 Report document:

*Openness – our programs and services are easy to access and to understand, and our decisions and actions are clear, reasonable and open to examination."9 The WCB's Strategic Plan states that they have revised their mission statement as follows: "We will be a customer-centric organization that continuously seeks to add value for our customers through a culture of continuous improvement".10While we appreciate the restatement of its mission, actions and results of management need to align with that objective. Process improvement alone will not make for a great customer experience. The attitude towards injured workers and concerned employers must be addressed.*

*…*

*While clear communication and openness are cited in the values statement of the Strategic Plan as a requirement of great customer service, we received examples of confusing wage calculation letters and benefits explanations. While these examples may be an anomaly, we believe that clearer written and verbal communication that is free of jargon or technical terminology would be beneficial to injured workers as well as the WCB. It is critical that injured workers are able to understand easily the details of their entitlement and how the calculation was made. Conversely, employers should be able to understand the decision as set out in the entitlement letters and be able to reconcile the benefit amount provided.*

Based on our experience, we continue to see that employers are not being provided sufficient documented information from the WCB related to claim entitlement decisions, case plan updates, timely work fitness information based on medical reporting, and disclosure documentation for review and appeal purposes.

Correction of a number of deficiencies related to information provision to employers and their representatives, we believe, would allow for more transparent, fair, robust, efficient and effective information being provided to employers for claim management and appeal purposes.

Transparent provision of information as outlined above, we believe, would allow employers to better manage, mitigate and understand their claims and associated costs.

Further, with the correction of information provision deficiencies, when concerns arise, employers and their representatives would be able to more effectively and efficiently appeal decisions when their premium dollars are not being spent within the parameters of The Workers' Compensation Act, 2013 (Act); The Workers' Compensation General Regulations, 1985; The Workers' Compensation Exclusions Regulations, 2014; and the administration of the Act and regulations.

## 1. File Disclosure for Review and Appeal

Obtaining file disclosure documentation packages for appeal purposes from the Saskatchewan WCB is currently quite cumbersome for WCB and for employers and their representatives.

On average for 2021, there has been a 6.5 months delay in our office obtaining file disclosure information packages from the Workers' Compensation Board.

We are concerned that the current process does not allow for timely or transparent sharing of all decision documentation, appeal documentation, pertinent claim information with employers or their representatives for review and consideration of appeal when discord is found between actions or costs on a claim and legislation and policy.

Currently, it is our understanding that there is one staff member responsible for preparing file disclosure documentation packages for employers and their representatives.

Further, the disclosure documentation provided is based on what that staff member believes to be pertinent to the concerns brought forward by the employer or their representative. The disclosure document packages do not provide all decisions made on a claim and can contain substantial redactions.

With all due respect, we believe that this current process does not afford full transparency to employers or their representatives, as some of the redacted information and file documentation left out of the package, while deemed unimportant by the WCB staff member compiling the disclosure documentation, may in fact be the crux of an appeal matter, but not evident on the disclosure document.

Certainly, the current disclosure process, in our opinion, does not allow for natural justice when it comes to appeal determination, preparation and action for employers or their representatives.

It is our position that the current file disclosure process requires review, with the view to providing fair, all-inclusive and transparent information to employers and their representatives to ensure that they are able to ensure that their premium dollars are being utilized within the parameters of Workers' Compensation legislation and policy.

We believe that the current process is impeding natural justice for employers and their representatives to review and pursue appeal matters in a timely, effective and thorough manner.

As a final note on the disclosure of file information, we believe that as opposed to mailing disclosure documentation, secure email transmission of the disclosure documentation may afford a timelier process for all stakeholders to access claim file information.

## 2. Authorization of Representation

Again, this process is quite cumbersome for employers and their representatives.

The current process requires completion and submission of an Authorization Letter of Representation for each worker under an employer's account; regardless of whether the employer has previously provided full authorization to their representative for *all claims, all claim matters and account matters* by way of their original Authorization Letter of Representation submission.

We believe that once the employer has provided the Authorization Letter of Representation, allowing their representative to act on their behalf for all claims, all claim matters and account matters, the employer and their representative should be copied on all decision correspondence on each file for that employer, from all Workers' Compensation Board levels (Operations Department, Appeals Department and Board Appeal Tribunal) from the start to the end of the claim.

An option that may be suitable would be to have all claim decisions accessible to employers and their representatives, through secure online account options.

Having all claim decisions readily accessible to employers and their representatives; online through a secure portal, and/or through copying both the employer and their representative on all documented correspondence, would streamline the request for disclosure process and subsequently, the appeal process.

The employer and their representative would have readily available, all decisions rendered under each claim. The ERO1 or ERO2 could then be completed by the employer or their representative; limiting the requirement to circle back to the Case Manager for decisions previously rendered or matters previously addressed.

## 3. Decision Documentation

Documented decision information provided by Case Management to employers, is, in our opinion, scant.

Whenever an entitlement to benefits (wage loss, medical aid or otherwise) is made on a claim, we believe the employer and worker should be made aware of this decision, in writing.

The decision should provide reasoning and policy references that explain and support the extent and duration of that entitlement decision.

Without receiving regular and detailed decision documentation from WCB, it makes it challenging for employers to know what benefits have been provided on a claim and if they are in keeping with legislation and policy provisions.

We also believe that employers should be privy to compensation rate calculation information to determine if there are any discrepancies between the worker's pre-injury earnings and the calculated compensation rate.

Compensation/wage loss benefits make up a substantial portion of experience rated cost and impact premiums accordingly.

For this reason, we believe that increased transparency is required to ensure that employers and their representatives are able to perform a check and balance to ensure their account is not being overcharged.

Currently, we are not seeing any indication that these compensation rate decisions or calculations are being accessible to employers.

Overall, we believe that the WCB should be providing more regular and detailed decision documents to employers and their representatives, related to benefit decisions made during a claim. This will allow for more transparency in decision making processes.

As outlined above, we believe that employers and their representatives should have access to all decision documentation generated during a claim, through a secure online portal and/or through being copied on all decision documents mailed.

## 4. Medical Fitness Information and Claim Cost Mitigation

It is our opinion that the WCB forms provided to physician's and other health care professionals need revision.

The current forms, in our opinion, do not relay concise or succinct information regarding a worker's current fitness for work.

Further, we are not aware of any forms that are provided by a physician to a worker, to take directly to their employer, following an appointment to confirm their work fitness.

This in turn makes it challenging for employers to know if a worker is fit for modified work, pre-accident duties or if they require time off work.

Of course, the sooner an employer is made aware of a worker's medical fitness to return to some form of employment, the more quickly they may be able to provide medically suitable work to their worker, and the more efficiently claim costs can be managed and mitigated.

We are requesting that the current health care forms be reviewed and revised to allow for clear, real time medical work fitness information for employers, workers and the WCB.

Further, we believe that the staff in the Operations Department are not providing timely information to employers, related to the medical documentation received related to work fitness.

If an employer is not made aware of or provided information confirming that their worker is medically fit for some form of employment, it makes it challenging to return their worker to medically suitable employment in a timely manner.

Return to work information and communication channels, in our opinion, need to be significantly improved to assist employers in providing suitable employment opportunities to their injured worker and to allow for claim cost mitigation through provision of modified work, as opposed to wage loss benefits through WCB.

We believe that provision of timely information to employers, by way of online access or forms, related to workers medical fitness for work, is a critical component in form development and case management that is not being addressed adequately by the Operations Department; resulting in unnecessary wage loss benefits being paid to workers when they could have been completing medically suitable duties at work.

## 5. Allowance for Medical Appointments

We have enquired with the Policy Department, where in policy it is stated that WCB must pay wages to workers for medical appointments, where they are medically fit for full time work but miss time from work to attend a WCB directed appointment.

We understand that there is no policy that speaks directly to this matter and that wage payment occurs because they have had to miss time from work due to their injury.

It is our position that if a worker is fit for work and is required to attend a medical appointment during work hours, that the employer should be able to pay the worker for work time missed to attend the WCB directed appointment if they choose to under an allowance policy.

In these instances, it is not that the worker is not medically fit to be at work; it is just that they are required to attend a WCB directed appointment during their work hours.

If an employer could choose to pay the worker for time to attend a WCB directed appointment during work hours, where they would otherwise be medically fit to be at work, it would reduce experience rated claim costs and possibly reduce associated premiums.

We are therefore respectfully requesting consideration of an allowance policy that would allow an employer to choose to pay a worker for hours missed from work to attend a WCB directed appointment/treatment and not be penalized with wage loss costs being assessed to their experience account.

## 6. Independent Level of Appeal

Finally, we are concerned that none of the appeal levels through the Saskatchewan Workers' Compensation system are independent of the Workers' Compensation Board.

This, in our opinion, does not allow for independent review or interpretation, of applicable legislation and policy intent by a panel, unrelated to the Workers' Compensation Board.

More recently, it has been our concern that there has been incorrect interpretation of legislation and policy by appeal bodies within the Saskatchewan Workers' Compensation Board.

This, in our opinion, has led to decisions being made, to the detriment of the appellant, not in keeping with the intent of Workers' Compensation legislation and policy.

It is hoped that this information is of assistance during your review.

Please feel free to contact our offices if you require more information related to our submission.

Sincerely,

**BCL CONSULTING GROUP INC.**

Per:
Beth Hanlon, Consultant, BSc.PT