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STANDING COMMITTEE ON GOVERNMENT AGENCIES

REPORT ON AGENCIES, BOARDS AND COMMISSIONS

WORKPLACE SAFETY AND INSURANCE BOARD

2nd Session, 40th Parliament
62 Elizabeth II

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The Honourable Dave Levac, MPP
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Government Agencies has the honour to present its Report and commends it to the House.

Name of Chair, MPP
Chair of the Committee

Queen's Park
November 2013

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(as of September 9, 2013)

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INTRODUCTION

Under Standing Order 106(e) the Standing Committee on Government Agencies has a mandate to review the operations of all agencies, boards and commissions to which the Lieutenant Governor in Council makes some or all of the appointments, and all corporations to which the Crown in right of Ontario is a majority shareholder. The Committee is empowered to make recommendations on such matters as the redundancy of agencies, their accountability, whether they should be sunsetted, and whether their mandate and roles should be revised.

As part of its review of the Workplace Safety and Insurance Board (WSIB), the Committee held public hearings in Toronto on July 4 and 5, 2012. Appearing before the Committee from the WSIB were Elizabeth Witmer (chair), David Marshall (president and CEO), and John Slinger (chief operating officer). The WSIB spoke at the beginning and end of the hearings and submitted material in response to requests from the Committee. Thirteen stakeholder organizations and individuals also addressed the Committee and one made a written submission. Each of these witnesses is listed in the table at the end of the document.

This report presents the Committee's findings and recommendations regarding the WSIB. The first part provides some general information about the agency. The second addresses the agency's opening remarks, while the third is a thematic summary of stakeholder testimony which also incorporates the WSIB's responses to various comments and questions. The Committee's comments and recommendations are noted throughout the document, and the recommendations are listed in full at the end.

Links to the *Hansard* transcripts of the hearings are provided below:

- July 4, 2012
- July 5, 2012

The Committee wishes to express its appreciation to the WSIB and to all witnesses. We urge the Chair of the WSIB to give serious and thoughtful consideration to the recommendations in this report.

THE WORKPLACE SAFETY AND INSURANCE BOARD

The WSIB is a trust agency administering no-fault insurance for employers and employees under the terms of the *Workplace Safety and Insurance Act, 1997* *(WSIA)*. The Board has existed in various forms since 1915, when its predecessor the Workmen's Compensation Board was created.

Mandate

Section 1 of the *WSIA* states that the Act's purpose is to accomplish the following in a financially responsible and accountable manner:

- promote health and safety in workplaces;
- facilitate the return to work and recovery of workers who sustain personal injury arising out of and in the course of employment or who suffer from an occupational disease;
- facilitate the re-entry into the labour market of workers and spouses of deceased workers; and
- provide compensation and other benefits to workers and to the survivors of deceased workers.

Until changes introduced by Bill 160, the *Occupational Health and Safety Statute Law Amendment Act, 2011*, the WSIB was also mandated "to prevent and reduce the occurrence of workplace injuries and occupational diseases." These responsibilities have now been transferred to the Ministry of Labour. The Board, however, is still tasked with promoting health and safety in the workplace. It is also responsible for administering the *WSIA* and has duties and powers under a number of other statutes.

Programs and Services

COVERAGE AND PREMIUMS

The *WSIA* lists the industries that must be covered by insurance. Workers performing certain jobs are excluded from coverage, including professional athletes, circus performers, some categories of casual workers, partners in a business, and corporate executive officers.[1] Approximately 71% of Ontario's work force is covered by the Act.

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[1] Some of these categories of individuals, such as business partners or executive officers, may be deemed to be insurable workers, on application to the WSIB.

The premiums that employers must pay to the WSIB reflect the health and safety risk of the business, payroll size, and the employer's health and safety record. The Act divides employers into two groups. Schedule 1 industries (approximately 237,000 employers) are collectively liable for their accident costs, and must pay annual premiums. Schedule 2 industries (approximately 900 employers) are individually liable, and reimburse the WSIB for claims paid on their behalf.

In 2012 Schedule 1 industries paid an average premium of $2.40 per $100 of insurable earnings. The WSIB offers several Experience Rating programs that financially reward businesses for maintaining good health and safety records, and penalize them in the opposite case.

COMPENSATION AND BENEFITS

An eligible worker may file a claim with the WSIB if he or she was injured in a workplace accident, developed medical problems caused by the type of work, or developed a disease caused by workplace exposure. If a claim is successful, the payments that injured workers or their spouses and families may receive can be divided into **compensation** and **benefits**.

Compensation includes a loss of earnings (LOE) benefit (85% of net earnings loss, up to a maximum of $81,700 in 2012), a retirement pension (often a lump sum), and a non-economic loss (NEL) benefit for workers suffering a permanent impairment. A surviving spouse receives a lump sum benefit and a periodic payment, the amount of which is determined by the number of surviving children.

Benefits for injured workers and their families include health care, burial expenses, and allowances for clothing, guide dogs, independent living, meals, personal care, and transportation costs.

Workers and employers who disagree with a WSIB decision must first appeal to the Board itself. If either party is still unsatisfied, WSIB decisions can be appealed to the Workplace Safety and Insurance Appeals Tribunal within six months of the WSIB's final decision.

UPDATE ON WSIB OPERATIONS

The public hearings commenced with opening remarks from the WSIB's chair, Elizabeth Witmer. Members were then given the opportunity to ask questions of Mrs. Witmer, David Marshall (president and CEO), and John Slinger (chief operating officer).

The presentation focussed on developments at the WSIB under the presidency of Mr. Marshall. Mrs. Witmer indicated that the WSIB has placed renewed emphasis on transparency, improved service, and accountability to stakeholders. It has recently issued a strategic plan for 2012 to 2016 which sets the agency's vision to be "the leading workplace compensation board in Canada and North America." The WSIB has introduced a number of changes to bring about this transformation, perhaps the most substantial of which are the following:

- A new service delivery model has been implemented, focussing on faster eligibility decisions and a greater emphasis on return to work (RTW), a function now supported by 300 specially-designated staff. Labour market retraining has been brought back inside the WSIB. The WSIB is also relying more on specialist teams as opposed to generalist employees.
- A new medical strategy is improving health care by providing faster access to physicians and specialists, limiting the use of addictive narcotics, and employing best practices to deal with claims that often lead to chronic injury (fractures and low back and shoulder injuries). The WSIB has doubled the number of its specialty clinics to 35 and increased their geographical reach. It has also partnered with the Centre for Addiction and Mental Health.

As a result of these changes, the WSIB informed the Committee that it now returns 91% of injured workers to employment with no loss of pay within one year of injury, and reported a similar decline in individuals receiving benefits 30, 60, and 90 days after their injuries. There has been a corresponding cost savings from these RTW improvements. The Board also noted that it has the lowest administrative costs of all of Canada's worker compensation boards.

The WSIB acknowledged that it faces several challenges, particularly the paying down of its unfunded liability (UFL).[2] Mrs. Witmer summarized the Board's actions on this front:

> I can personally assure you that the senior management team and staff are taking decisive action to reduce and eliminate the UFL, as they have been asked to do. First of all, there has been a very

[2] The Board maintains an insurance fund to pay for benefits to injured workers covered under Schedule 1. Because this fund is less than what would be required to cover the lifetime costs of all registered claims, the Board has an unfunded liability (UFL), representing the shortfall that would occur if it were required to pay off these commitments immediately. As of Q4 2011, the UFL stood at $14.2 billion, and the ratio of the Board's assets to its liabilities is 52.2%.

> thorough and evidence-based analysis of where the money is going, what value is being provided for workers and employers, what the costs are, and what best practices are and how things can be improved. A strategic plan as to how the UFL can be retired has been developed so that the board can help play its part in increasing the productivity and economic growth of Ontario.

In 2011 the WSIB reported a surplus for the first time in 10 years and accordingly did not add to the UFL. It has also increased premiums and reduced its workforce, and will be outsourcing the management of its data centre and IT work in order to further address the UFL.

Other challenges include providing coverage for an aging workforce more prone to injury; removing language and awareness barriers for a growing immigrant population; and confronting the predicted increase in occupational disease.

The WSIB stressed, "We are committed to conducting our business with fairness and with integrity, and we are engaging in more consultation with our stakeholders than ever before," to address these and all other issues.

STAKEHOLDER TESTIMONY

Arthurs Report

In 2010 Professor Harry Arthurs was appointed to conduct a review of the WSIB's funding model. The mandate of the review was to consider six specific issues: the Board's UFL (the "central issue," according to the Review); premium rate setting; rate groups; employer incentives; occupational diseases; and the indexation of benefits for partially disabled workers. Finally, although the review was not mandated to address the issues of workforce coverage and advocacy for employees, the report makes several recommendations and comments regarding these issues. The report was released in May 2012 (see also the shorter "Summary and Highlights"). Much of the testimony received by the Committee pertained to its recommendations.

The Committee therefore recommends that:

1. **The WSIB and/or the government table with the Committee a report describing the steps it has taken to address each of the recommendations in the**

Arthurs report within 90 days after the Committee's report has been tabled in the Legislature.

THE UNFUNDED LIABILITY AND INSURANCE PREMIUMS

The Arthurs report recommended that the WSIB move quickly to achieve 60% funding—past the "tipping point" where it could be considered insolvent by some measures—and 90 to 110% funding in 20 years. The report also described premium setting as the "Achilles heel" of Board funding, and asserted that rates had to be based on "the actual costs of providing insurance coverage to employers. . . ."[3] Two insurance models were suggested, both of which involve an increase in premiums:

- Model A with an average insurance premium of $2.52 that would have the Board achieve 60% funding in 8 years and 100% funding in 20 years; or
- Model B with an average premium of $2.76 that would have the Board achieve 60% funding in 5 years and 100% funding in 16 years.

In May 2012 the government introduced legislation requiring the Board to attain 60% funding sufficiency by 2017 and 100% by 2027, seemingly adopting Model B.

Most witnesses made some reference to the WSIB's UFL and the Arthurs recommendations. Employer organizations such as Canadian Manufacturers and Exporters (CME) argued that the UFL arose primarily because of the indexation of benefits and enhancements to entitlements. These witnesses generally also stressed that the UFL had to be eliminated. "It is a disincentive to retaining and attracting business to Ontario, which jeopardizes job creation," the CME observed.

However, employer organizations cautioned against relying on premium increases to eradicate the UFL. Most of these witnesses complained that Ontario's premiums were already higher than those in other provinces. The Ontario Home Builders Association (OHBA) argued that its members were "not receiving the appropriate value for the cost of the WSIB." Several witnesses declared that higher premiums impose burdens on businesses already hurt by the recession and could force some, particularly smaller operations, to close or consider moving to other jurisdictions.

Employer organizations proposed alternatives to premium increases as a means of

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[3] Workplace Safety and Insurance Board, *Funding Fairness, Report of the WSIB Funding Review*, chaired by Professor Harry Arthurs, 2012, p. 53.

addressing the UFL. The Canadian Federation of Independent Business (CFIB) argued that the WSIB should pay more attention to its administrative costs and outlay for worker benefits, and should consider transferring its investment functions to outside professionals. The Council of Ontario Construction Associations (COCA) concurred, asking for a review into WSIB costs. The CME proposed the establishment of a royal commission and suggested that deductibles or employee co-payments could be part of a revamped system.

Employee organizations such as the Ontario Federation of Labour (OFL) instead argued that the UFL was high because the WSIB had been pressured into lowering premiums. The Ontario Legal Clinics' Workers' Compensation Network (OLCWCN) and Ontario Network of Injured Workers Groups (ONIWG) added that it was inappropriate to compare premium levels across the country without recognizing the impact of Ontario's low workforce coverage (see below). The OFL stressed that the WSIB was mandated to provide a compensation system, with premiums adequate to guarantee workers the benefits to which they are entitled.

However, employee organizations were also concerned about the impact of premium increases on the province's economy. The OFL proposed that more money be invested in safety and prevention as the best way to lower premiums.

The Canadian Union of Public Employees (CUPE) argued that the government should not have committed to eliminating the UFL in 15 years, because this placed too much burden on businesses.

Mr. Arthurs himself said of the new legislation, "It's not exactly what I would have recommended, but it's not very far off either." However, he added the following observation:

> Instead of saying definitively that you must reach a certain amount by a certain year, I laid out a path which would, as I say, produce very similar results to those the minister has incorporated in the regulation. I laid out a path and said that around this path there are warning lights. As long as you're within a 10% spread of financial targets going up this path, if you miss it one year by a bit, don't worry about it. . . . The minister and I—I hope it won't come to any difference in terms of what actually happens, but I think the minister is running a risk that she doesn't need to run.

Mr. Arthurs also acknowledged the impact that premiums have on businesses, but concluded that "on any given transaction, we're looking at pennies, or fractions of pennies."

As noted above, the WSIB indicated that it has a strategic plan in place to eliminate the UFL. The WSIB also acknowledged concerns about the cost of premiums. However, Mrs. Witmer commented, “it’s not the current costs of the board that are the problem, and there is no way to reduce the premiums currently if you’re going to pay off that unfunded liability.” Mr. Marshall also observed that the outsourcing of labour market retraining for 12 years had increased costs because fewer workers were returning to work. Finally, the WSIB noted that there is a proposal to merge its investment fund with other funds, which would then be managed provincially.

RATE GROUP STRUCTURES

The WSIB groups employers into various “rate groups” depending on the historical cost of insuring similar businesses. The Arthurs report concluded that the current system lacks clear principles, does not adequately promote prevention or RTW, and encourages employers to “rate shop” or ask to be placed in a lower-premium group. The report recommended that a new system of “sectoral groups” be devised that would combine premium setting with accident prevention and RTW programs. It was also proposed that a separate small business sectoral group be created.

While there was little discussion of this issue in the Committee’s hearings, the OHBA noted its approval for the recommendations, as this would harmonize Ontario with the best practices in other provinces.

EXPERIENCE RATING

The WSIB offers several experience rating (ER) programs designed to reward businesses for maintaining good health and safety records. If a company’s claims are lower than would be expected for a business of the same type and size, the firm receives a premium rebate; if higher, a surcharge. The Arthurs report notes that rebates exceeded surcharges by a cumulative total of $2.5 billion between 1995 and 2010. Furthermore, the report states that there is only modest evidence that such programs promote safety, while they may encourage employers to under-report injuries. During the public hearings, the OFL and the Ontario Nurses Association (ONA) asserted that there was an “epidemic” of unreported injuries, and that employers receiving Ministry fines for safety violations were at the same time obtaining WSIB rebates.

The Arthurs report recommended that, among other things, the WSIB should

- state clearly that the purpose of its ER programs was to reduce workplace injury and disease and to encourage return to work;
- adopt a policy to protect the integrity of these programs and commit the necessary resources to detect, prevent, and punish abuses; and
- establish a credible monitoring program to ensure the fulfillment of the above.

In his testimony before the Committee, Mr. Arthurs reiterated, “I have enough evidence that harm is being done that I think the board should immediately take steps to deter people from engaging in illicit forms of claim suppression.” He recommended that the Board assign this task to a specific individual.

Employee organizations such as the OFL recommended that the WSIB implement the recommendations immediately and ensure that workers are engaged in the process. The OFL proposed that an “excellence fund” be developed as an alternative to ER, in which employers would be given grants permitting them to implement measures to reduce workplace injury and illness. The ONA proposed that the ER programs be geared to employers with comprehensive programs linking RTW and prevention. Similarly, the Office of the Worker Advisor (OWA) proposed that ER programs be linked to recognized international health, safety, and environment standards.

Some employer organizations, such as COCA, supported the continuation of present ER programs. The CME endorsed ER programs as long as they were revenue neutral and did not contribute further to the UFL.

The WSIB responded that ER programs exist in all provinces as an accepted way of rewarding employers with good safety records. However, the Board acknowledged that these programs produce unintended effects and indicated that it was conducting a study on the issue of claim suppression. The Board also stated that it was initiating an employer engagement process in September and consulting with the Chief Prevention Officer to determine what kind of financial incentives would work best while deterring claim suppression.

Occupational Disease

As noted above, the WSIB informed the Committee that the increased incidence of occupational disease (OD) is one of the challenges facing the Board. The WSIB formerly had a panel that provided it with scientific advice regarding OD. The Arthurs Report recommended that the WSIB re-establish this panel to enable it to identify ODs eligible for compensation and to provide input regarding the likely future costs of ODs. It also recommended that costs attributable to ODs should be charged to the industry class where the claims originate, and not to OHIP or the general welfare system.

Some employer groups such as COCA argued before the Committee that the cost of ODs should be apportioned according to workplace and non-workplace causes. Because most of these diseases have multiple causes, the WSIB should only provide benefits for the workplace portion.

The Ontario Professional Fire Fighters Association (OPFFA) spoke extensively about the work it does in cooperation with the WSIB regarding OD:

> [the] WSIB continues a methodical review of illness and workplace-related diseases which is, from our perspective, a transparent process and allows for input into that process from the firefighter's point of view.

The OPFFA continued that their organization is working towards an early detection and awareness program with which the WSIB is providing assistance. The OPFFA also praised the WSIB's addressing of post-traumatic stress disorder, as workers are now immediately referred to CAMH for assessment. The OWA added that primary prevention should be the focal point of the WSIB's policies regarding OD, because it has an enormous potential to save lives and money.

The WSIB informed the Committee that it is exploring the possibility of re-establishing its OD panel. It also noted that it presently goes outside the organization for advice and evidence regarding OD.

Another issue related to OD received considerable attention during the public hearings. According to the brief submitted by the OFL, in 2009 the WSIB ended its practice of paying loss of earnings (LOE) benefits to workers who were diagnosed with an illness or condition connected to their employment, but who had retired.[4] This change followed a series of employer challenges at the Workplace Safety and Insurance Appeals Tribunal arguing that the Board was not authorized to make such payments because there was no LOE. Employers are now challenging the WSIB's practice of paying survivor benefits under similar conditions (i.e., the worker was retired at the time of death, and therefore had no earnings).

Numerous employee organizations argued before the Committee that it was unfair to refuse to compensate workers for LOE when their lifespan had been shortened or their quality of life significantly reduced by OD. They asked that the *Workplace Safety and Insurance Act* be amended to permit payment to victims and survivors of OD, even if the OD is not diagnosed until after retirement.

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[4] Loss of earnings benefits (LOE) are typically paid to injured workers as a percentage of their net earnings loss until the worker is no longer impaired or is determined to be no longer suffering a wage loss.

The Committee heard serious concerns from stakeholders about the elimination of loss of earnings benefits for occupational disease victims whose cancer or other illness developed after retirement, and dramatic reductions in benefits for surviving spouses of such workers.

The Committee therefore recommends that:

2. **The government commit that within 90 days after the Committee's report has been tabled in the Legislature the government will introduce legislation to fix these problems.**

INDEXING FOR WORKERS ON PARTIAL BENEFITS

The Arthurs report recommended that benefits for partially disabled workers be fully indexed for inflation.[5] In May 2012 the government announced that the benefits for such workers would be increased by 0.5 per cent in 2013 and another 0.5 per cent in 2014.

Employer organizations such as the CFIB spoke out against the further indexing of benefits for this group of workers, arguing, as noted above, that indexation contributes to the growth of the UFL. Employee organizations such as the Ontario Public Service Employees Union (OPSEU) argued that full indexation was the only fair solution for partially disabled workers.

WORKFORCE COVERAGE

Schedule 1 (O. Reg. 175/98) of Ontario's *Workplace Safety and Insurance Act* is inclusionary, listing the industries that are covered. The Arthurs report observed that some of the descriptions in Schedule 1 are anachronistic and fail to reflect "today's rapidly changing labour market." It recommended that the government repeal the current regulation and adopt an exclusionary list, wherein employers are covered unless specifically excluded. The report continued that this recommendation is not intended to extend workforce coverage in Ontario, but rather to clarify its nature. However, the report commented that the issue of workforce coverage "deserves early

[5] In 1995 legislation was passed introducing the so-called Friedland formula, whereby the benefits for partially disabled workers (most workers receiving benefits) would be indexed at a rate of 75% of the Consumer Price Index (CPI), less 1%. The modified Friedland formula (50% of CPI, less 1%) was introduced in 1998. Benefits for partially disabled individuals have been increased via regulation on a number of occasions since 2007.

and extensive study."

Many witnesses appearing before the Committee addressed the issue of workforce coverage. The OFL, CUPE, and OPSEU endorsed the recommendations in the Arthurs report and advocated for broader coverage, stating that employers who are not covered are "getting a free ride" because they do not contribute to the health and safety functions of the WSIB and the Ministry. On the other hand, the CFIB and some Committee Members spoke against expanding coverage, and raised the option of private insurance, particularly for smaller businesses.

The WSIB responded that it was not presently considering the issue of broadening coverage, but noted, "In most of the other provinces, the government has taken the initiative and has passed legislation."

The Committee therefore recommends that:

3. **The WSIB provide, for each condition and injury, a breakdown of claim incidence (claims per 1,000 workers), total annual number of claims, average annual claim cost and average benefit duration. (This material can be found in Appendix 1.)**

ADVOCACY

The Arthurs report observed a resource imbalance between employers and employees affecting the ability of workers to challenge Board decisions and to engage in policy debates. During the Committee's public hearings, Mr. Arthurs added, "I don't think anyone gains if some of the stakeholders aren't able to participate on a full and equal basis with the other stakeholders in the important discussions that have to go into the making of public policy."

The United Food and Commercial Workers (UFCW) concurred with Mr. Arthurs, noting that employers now also have claims managers, making it more difficult for employees facing the Board. The CFIB noted that small business also have difficulty paying for advocates.

The Committee heard serious concerns about the vulnerability and lack of resources of many workers and small employers, and the need they have for free services to help them navigate a complex system and advocate for

its improvement.

Professor Arthurs wrote that it was in the interests of the WSIB for both workers and employers to be adequately represented in both case adjudication and policy debates.

The Committee therefore recommends that:

4. **The WSIB continue to work with and fund its injured worker stakeholder groups.**

Bill 119

The *Workplace Safety and Insurance Amendment Act, 2008* marked the culmination of a lengthy review of the province's underground economy and its connection to the construction industry. The bill requires mandatory workers' compensation coverage as of January 2013 for many independent operators, sole proprietors, some partners, and some executive officers in the construction industry. The WSIB informed the Committee that approximately 90,000 new employers will be covered, and 250,000 new workers.

Several employer groups expressed concern that businesses would be forced to pay the same insurance premium for all individuals, even those who rarely or never visit construction sites. Others such as the OHBA complained that they would have to pay for two insurance policies, one private and one public, in order to provide their directors with the same coverage. The OHBA also alleged that the legislation would increase the size of the underground economy because there was inadequate enforcement of small contractors. However, COCA spoke in favour of the new requirements.

Labour groups countered that independent operators did not provide adequate insurance coverage for their employees. The OWA observed that the legislation was necessary because there were a number of "fake independent operators" in the province, individuals who were forced to sign documents stating that they were independent when in reality they were employees.

Finally, the Old Order Mennonite Government Relations Committee (OOMGRC) asked for exemption from the extension of WSIB coverage. The members of this community do not participate in insurance programs because they have a tradition of charity within their faith. They argued that a transition to an insurance program would have a detrimental effect on their community's bonds.

The WSIB clarified that employees, including executives, who do not visit construction sites will be eligible for lower rates. The Board also stressed that many in the construction industry were in support of the legislation as it would "level the playing field."

Benefit Policies

GENERAL COMMENTS

Some employee organizations appearing before the Committee argued that the WSIB's renewed emphasis on efficiency has led to a decrease in benefits paid to workers. The OLCWCN and ONIWG indicated that, according to the Board's own statistics, there has been

- a 50% increase in the rate of claims denial;
- a reduction of $633 million in benefits;
- a reduction in vocational retraining from 19 to 5 months;
- a 29% reduction in long-term benefits for permanently disabled; and
- a 31% reduction in permanent impairment awards.

Some Committee Members also asked the Board about its apparent increase in claim denials.

Employer organizations argued that certain benefit policies were too generous. They highlighted the WSIB's "lock-in" policy, whereby an individual's benefits are locked in after 72 months because it is assumed that the illness or injury will not improve after this time. The CME and COCA asked that the WSIB continue to examine this area. The CME also proposed that the health care system be responsible for pre-existing medical conditions.

The WSIB responded that the percentage of claims that it allows has been stable for a decade. However, it acknowledged that its denial rate has increased because it is now paying closer attention to claims that would previously have been abandoned, leading to a decrease in the abandonment rate and an increase in the denial rate.[6] Furthermore, the Board's chief statistician has determined that, while the total benefits paid out have declined due to the decline in the number of claims, "the amount paid for a single day off work . . . has not changed very much." Overall, the Board concluded,

[6] The WSIB divides its claims into three basic categories: allowed, denied, and abandoned.

> [T]he benefits in Ontario are very comparable to what is being offered in all the other provinces, with the exception of this provision for the lock-in of benefits at six years. . . . That is a feature that's unique in Ontario, and it's something that you could look at or think about.

The Board noted that the Fair Practices Commission (the Board's independent ombudsman) recommended that the WSIB take action on 20% fewer claims in 2012, a sign that benefits are not being wrongly denied. Finally, the WSIB reported that it has initiated a new review of four areas of benefit policy, led by Jim Thomas and modelled on the Harry Arthurs consultation.

In response to the Committee's request that the WSIB submit any reports it has received or commissioned dealing with claims assessment and the potential reduction of benefits, the Board provided 32 documents, including the statement of work and final deliverable for the 2011 Deloitte study "Analytic Review of Claims Data." The Committee also asked for a report detailing the processes for manager reviews of front-line staff benefit decisions. The Board supplied a lengthy list of its various delegations of authority and two management oversight documents.

Finally, the Board was asked to provide information pertaining to instances in which it had reversed a decision to lock-in claims. The Board responded that "it would take thousands of person hours to complete" this request, which would also involve "a real risk to the privacy of individual workers." The Board instead provided a copy of its Practice Guidelines for Loss of Earnings Reviews.

Current benefit eligibility creates a six-year threshold following which an injured worker's benefits are no longer subject to review.

The Committee therefore recommends that:

5. **The WSIB provide data regarding the incidence of claims being reviewed after five years of benefit payments and the outcomes of such reviews. (This material can be found in Appendix 1.)**

RETURN TO WORK

The WSIB is mandated to facilitate the return to work of employees with injuries or illnesses. Until recently, the WSIB operated two programs to this end. The **Early and Safe Return to Work** (ESRTW, or simply RTW) program facilitated the worker's return to his or her job, or a suitable position with the same employer. If this proved impossible, the **Labour Market Re-entry** (LMR) program provided external vocational rehabilitation services to help workers retrain and obtain new employment. The WSIB merged these two programs into its new in-house **Work Reintegration Program** in July 2011. Priority is now placed on returning the worker to a position with the original employer.

As noted above, the WSIB reports improved success in returning workers to employment under this new program. A number of witnesses contended that the changes have increased the likelihood that workers are being placed in menial or low-paying positions. The UFCW reported that some individuals have been given positions that they consider demeaning, and argued that the WSIB has abandoned retraining. OPSEU accused the Board of short-term thinking, alleging that finding a worker a minimum wage job with a former employer is cheaper than retraining.

OPSEU also contended that workers have been forced into unsuitable positions that end up leading to re-injury, while the ONA indicated that workers raising safety issues have been considered "non-cooperative" and may have their benefits terminated. The OWA recommended the expansion of cooperative initiatives between employers and employees regarding RTW, and gave the example of a Niagara Health System initiative.

The WSIB countered that it has not compromised the quality of its RTW programs, and pointed to the following measures demonstrating the success of the new approach:

- The "recurrence rate," or the number of workers making another benefit claim after returning to work, has dropped by about 20%.
- 91% of injured workers return to productive work within one year of their injury with no wage loss.
- 74% of injured workers with permanent impairments are returning to work.

The Committee requested that the Board provide statistical information for the past five years on re-employment levels for injured workers and a detailed explanation of the methodology for deriving these figures. The Board submitted two documents showing that

- the old LMR program had an "employed rate" of between 36% and 41% compared to the new WR program's rate of 74%; and

- 91.73% of injured workers returned to 100% of their pre-injury earnings within one year in 2011, compared to 85.39% in 2009.

No further explanation for these figures was provided.

The goal of the WSIB should be to minimize the effect of injury upon a worker's quality of life, income, and long-term well-being prospects.

The Committee therefore recommends that:

6. **The WSIB provide historical data concerning injured worker re-entry into the workforce, specifically the change in the worker's average wage, the proportion of workers that rejoined the same employer, and worker retention over one, three, and five years following injury. Such data should include worker outcomes prior to the retraining program being returned to WSIB jurisdiction. (This material can be found in Appendix 1.)**

DEEMING

The process of "deeming" (technically now known as "determining"[7]) is related to RTW. The WSIB pays injured workers 85% of their net earnings loss until the worker is no longer impaired or suffering a wage loss. However, the WSIB may determine that a worker has the potential to earn a certain wage upon completion of an RTW plan and reduce benefits accordingly, even if that individual is unable to obtain employment.

The OFL contended before the Committee that many individuals have lost their benefits even though they have not found meaningful employment. CUPE added that the message that the WSIB is transmitting—that "no one is unemployable"—is wrong, and damaging to individuals who are truly unable to work. The UFCW reported that migrant workers are particularly affected by this requirement, as they are generally sent home after an injury and therefore cannot find replacement work. The OLCWCN and ONIWG argued that the WSIB should track what happens once a worker's file has been closed to determine what percent of these individuals are actually able to find work. According to these two organizations, the WSIB now has a committee that is examining the possibility of tracking outcomes after a worker's file is closed.

[7] See WSIB, "Payment and Reviewing LOE Benefits (Prior to Final Review)," Doc. no. 18-03-02, July 15, 2011, accessed October 3, 2012.

The Committee heard serious concerns about benefit reductions to vulnerable injured workers.

If these concerns are validated, there is a significant risk that injured workers will have to resort to social assistance programs to the cost of the municipal and provincial taxpayer.

The solution for many of these workers is a job with dignity rather than unemployment and social assistance.

The Committee therefore recommends that:

7. **The Minister of Labour and the WSIB report back, within 90 days after the Committee's report has been tabled in the Legislature, with statistics from Ontario Works and the Ontario Disability Support Program, from 2007/08 to the present, documenting the number and proportion of claimants formerly or currently on WSIB benefits.**

Appeals

Numerous organizations drew attention to the appeals backlog at the WSIB. Some expressed concern about proposed changes to the appeals process. In particular, the UFCW, OWA, and OLCWCN and ONIWG noted that injured workers are being asked to sign a declaration acknowledging that the initiation of an appeal permits the Board to reverse earlier entitlements. The OWA claimed that this practice was having a "chilling impact" and recommended that the Board develop a guidance document as an alternative to the declaration.

Other organizations stated that the WSIB was planning to eliminate oral hearings from the appeals system, potentially depriving workers of a valuable opportunity to explain their situation. The UFCW argued that this change would have a particularly detrimental impact on migrant workers or new Canadians.

The UFCW and CUPE argued that it is not the appeals system that needs renewal, but rather the WSIB's new approach to initial claims. These labour organizations indicated that initial decisions were being made too quickly and with inadequate information, producing inferior decisions and more appeals. They recommended that the WSIB slow down the initial decision process. The WSIB could, however, still

activate RTW as it was waiting for further information on a file. OPSEU proposed better communication between the appeal system and WSIB staff so that the latter would know that certain decisions are not permissible.

The WSIB responded there were several signs that its appeals system has improved. For example, only 1% of decisions are now appealed, the lowest rate since 1995. Regardless, the Board commented that it has added 20 resolution officers to address the appeals backlog. The Board has also extended the consultation period regarding the proposed changes to the appeals process.

The Committee requested that the Board provide all documents addressing how the changes in the appeals process will affect the number of workers objecting to decisions and pursuing those objections to appeal. The Board responded that the proposed changes are not designed to reduce the number of appeals, "therefore, there are no reports containing projections of the impact. . . ."

The Board was also asked to provide a report listing the number of assigned and unassigned appeals and the number of Appeals Resolution Officers (AROs) in the last five years. The Board provided a chart that was difficult to read, but appeared to show that the number of unassigned appeals has increased to about 3,461 as of Q4 2011, and that the number of AROs has fluctuated over the last 5 years, from a low of 69 in Q4 2007 to a high of 87 in Q4 2011. The Board also provided a graph showing that the number of new appeals increased from 9,425 in 2005 to 11,383 in 2011, while the reversal rate declined from 30.5% to 25.6%.

The Committee heard serious concerns about proposed changes by the WSIB to its internal appeals process, including tightened appeal time limits, limits on oral hearings and a requirement for sometimes poorly resourced representatives to prepare extensive documentation before their appeals are accepted.

The Chair of the Workplace Safety and Insurance Appeals Tribunal (WSIAT) issued an urgent message on February 1, 2013, expressing great concern about the Tribunal's capacity to deal with the increase in appeals from the WSIB within current resource levels.

The Committee therefore recommends that:

8. **The WSIB reconsider its appeal changes, especially the restrictions on oral hearings, and that the WSIB report back with the results of its review within 90 days after the Committee's report has been tabled in the Legislature.**

9. **The WSIB report on its Appeals Branch volumes and decision outcomes, including outcomes for oral and written appeals separately, from 2007/08 to the present, within 90 days after the Committee's report has been tabled in the Legislature.**

10. **The Chair of the WSIAT report on the WSIAT's appeals volumes and backlogs for the same time period, including any need for additional resources, within 90 days after the Committee's report has been tabled in the Legislature.**

11. **The Minister of Labour make a commitment within 90 days after the Committee's report has been tabled in the Legislature, that the WSIAT will be given additional resources to address its workload issues.**

Workplace Health and Safety

In December 2010, the Expert Advisory Panel on Occupational Health and Safety (headed by Tony Dean) issued its report. Key recommendations were to move the overall prevention function pertaining to workplace safety from the WSIB to the Ministry of Labour and to assign the responsibility for prevention to a Chief Executive. The *Occupational Health and Safety Statute Law Amendment Act, 2011* enabled the implementation of these recommendations and the transition is presently underway.

Some organizations appearing before the Committee asked whether there was presently a void in health and safety, as prevention functions have not yet been fully transferred to the Ministry while the WSIB has lost prevention staff.

In more general comments, the CFIB asked for tailored assistance to small businesses regarding accident prevention. The OHBA reported that employers worried about reprisal when they approached the WSIB or the Ministry with a question about health and safety. The ONA asked that health care employers be required to do more to protect the health and safety of their workers. Finally, witnesses and Members asked about the protections available to migrant workers.

The WSIB responded that the most important aspects of the province's health and

safety system are fully operative: the Workwell audits, the health and safety committee of the Board, and the health and safety associations. The OWA noted that it now has authority to address problems affecting migrant workers; the WSIB acknowledged that this issue required more cooperation between the federal and provincial governments.

The task of promoting safety in the workplace was transferred to the Ministry of Labour in 2012 except certain programs such as Workwell, which focuses on injury-prone employers.

The Committee therefore recommends that:

12. **The WSIB provide a summary of Workwell initiatives and inspections in the last five years and the WSIB's planned role for the program over the next ten years. (This material can be found in Appendix 1.)**

Introduction of New Policies

The WSIB repeatedly acknowledged the importance of dialogue with its stakeholders. Several organizations expressed satisfaction with the current approach to consultation; for example, COCA noted that the Board has established a secretariat to support these processes. Other organizations argued that the WSIB was in the practice of implementing policies that were still at the consultation stage. The OWA commented that it has "worked a lot with the board to identify what's official policy, what's perhaps a little bit unofficial and how to ensure that the official policy is followed."

The WSIB insisted that it is not using policies that have not been formally approved. In response to the Committee's request that the Board submit all new or revised directions to staff pertaining to adjudication in a number of areas since January 1, 2010, the Board provided more than 2,000 pages of material.

Governance

Several organizations raised issues pertaining to the governance of the WSIB. COCA made the following recommendation:

> The WSIB must adopt a contemporary model of governance, where directors are selected according to

a matrix of competencies and expertises that are required for the board to conduct its work effectively.

COCA also recommended that the WSIB be transferred to the Ministry of Finance, which it claimed was "better equipped to monitor a large, complex financial organization such as the WSIB."

The OFL argued that the WSIB Board of Directors has failed to exercise its function of setting strategic priorities, leaving management to establish *ad hoc* directions. For example, the OFL contended that the Board of Directors recently delegated its policy approval powers to the President/CEO. The OFL made four recommendations related to WSIB governance:

- The Board of Directors should have clear responsibility for the strategic policy decisions in the Act.
- The Board of Directors should develop a transparent process facilitated by a third party review and revision of its strategic plan.
- The role of the Board of Directors and the Fair Practices Commission should be expanded.
- A bipartite Board of Directors should be appointed to give workers an equal voice in the running of the system.

REPORTING BACK TO THE COMMITTEE

Stakeholders have presented serious concerns to the Committee about the WSIB's implementation of its mandate.

The WSIB is facing significant continuing challenges in the coming months.

The Committee therefore recommends that:

13. **The WSIB report back on the issues and recommendations raised within the Committee's report, including the costs associated with implementation of the recommendations, within 90 days after the Committee's report has been tabled in the Legislature.**

SUMMARY OF RECOMMENDATIONS

The Committee recommends that:

1. **The WSIB and/or the government table with the Committee a report describing the steps it has taken to address each of the recommendations in the Arthurs report within 90 days after the Committee's report has been tabled in the Legislature.**

2. **The WSIB and/or the government commit that within 90 days after the Committee's report has been tabled in the Legislature the government will introduce legislation to fix these problems.**

3. **The WSIB provide, for each condition and injury, a breakdown of claim incidence (claims per 1,000 workers), total annual number of claims, average annual claim cost and average benefit duration.**

4. **The WSIB continue to work with and fund its injured worker stakeholder groups.**

5. **The WSIB provide data regarding the incidence of claims being reviewed after five years of benefit payments and the outcomes of such reviews.**

6. **The WSIB provide historical data concerning injured worker re-entry into the workforce, specifically the change in the worker's average wage, the proportion of workers that rejoined the same employer, and worker retention over one, three, and five years following injury. Such data should include worker outcomes prior to the retraining program being returned to WSIB jurisdiction.**

7. **The Minister of Labour and the WSIB report back, within 90 days after the Committee's report has been tabled in the Legislature, with statistics from Ontario Works and the Ontario Disability Support Program, from 2007/08 to the present, documenting the number and proportion of claimants formerly or currently on WSIB benefits.**

8. **The WSIB reconsider its appeal changes, especially the restrictions on oral hearings, and that the WSIB report back with the results of its review within 90 days after the Committee's report has been tabled in the Legislature.**

9. **The WSIB report on its Appeals Branch volumes and decision outcomes, including outcomes for oral and written appeals separately, from 2007/08 to the present, within 90 days after the Committee's report has been tabled in the Legislature.**

10. **The Chair of the WSIAT report on the WSIAT's appeals volumes and backlogs for the same time period, including any need for additional resources, within 90 days after the Committee's report has been tabled in the Legislature.**

11. **The Minister of Labour makes a commitment within 90 days after the Committee's report has been tabled in the Legislature, that the WSIAT will be given additional resources to address its workload issues.**

12. **The WSIB provide a summary of Workwell initiatives and inspections in the last five years and the WSIB's planned role for the program over the next ten years.**

13. **The WSIB report back on the issues and recommendations raised within the Committee's report, including the costs associated with implementation of the recommendations, within 90 days after the Committee's report has been tabled in the Legislature.**

WITNESSES

Abbreviation	Organization/Individual	Date of Appearance
Arthurs	Professor Harry Arthurs	July 4, 2012
CFIB	Canadian Federation of Independent Business	July 4, 2012
CME	Canadian Manufacturers and Exporters	July 4, 2012
COCA	Council of Ontario Construction Associations	July 5, 2012
CUPE	Canadian Union of Public Employees	July 4, 2012
OFL	Ontario Federation of Labour	July 4, 2012
OHBA	Doug Tarry Limited/Ontario Home Builders' Association	July 5, 2012
OLCWCN/ ONIWG	Ontario Legal Clinics' Workers' Compensation Network and Ontario Network of Injured Worker Groups	July 4, 2012
ONA	Ontario Nurses Association	Written submission
OOMGRC	Old Order Mennonite Government Relations Committee	July 5, 2012
OPFFA	Ontario Professional Fire Fighters Association	July 5, 2012
OPSEU	Ontario Public Service Employees Union	July 5, 2012
OWA	Office of the Worker Advisor	July 5, 2012
UFCW	United Food and Commercial Workers Canada	July 5, 2012

APPENDIX 1

WSIB RESPONSE TO REQUESTS FOR FURTHER INFORMATION

Elizabeth Witmer
Chair
Présidente du conseil

Tuesday, June 18, 2013

Anne Stokes
Clerk, Standing Committee on Government Agencies
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Dear Ms. Stokes

Thank-you for your letter of May 17, 2013, pursuant to the Standing Committee on Government Agencies May 14 request for additional information as part of its agency review of the Workplace Safety Insurance Board. We are pleased to provide the following reports and information in response:

1. **Injuries/Conditions Report**

   For each condition and injury, we have provided data for the past five years (2008 to 2012) as recorded in the WSIB's system as of March 31 of the year following the injury or illness.

   The data includes:

   a. Allowed lost time injury count
   b. Lost time injury rate per 1000 workers
   c. Average benefit cost in the injury/illness year
   d. Average days lost in the injury/illness year

2. **Data Regarding Claims Reviewed After Five Years of Benefits Payments and Outcomes of Such Reviews**

   This report features data on claims locked in from 2008 to 2010. Claim counts, average annualized cost and the average LOE lock-in entitlement percentage are provided for claims locked in at least five years after the date of injury or illness.

3. **Data Regarding Re-entry into the Workforce, Average Wage, Proportion of Workers that Rejoined the Same Employer and Employment Retention and Outcomes**

   Currently, as reported in the *2012-2016 Strategic Plan: Measuring Results*, *Q4 2012 Report, 92%* of all injured/ill workers return to work with their employer within one year of injury or illness. Point-in-time employment retention following return to work is not tracked by the WSIB and, once loss of earnings benefits are locked in at 72 months, the WSIB does not

have the legislative authority to review, and, therefore, collect information regarding wage loss or restoration.

To examine longitudinal outcomes for injured workers, the Institute for Work and Health (IWH) has undertaken extensive research on behalf of the WSIB. In a 2011 study, *Examining the Adequacy of Workers' Compensation Benefits,* the IWH measured the adequacy of earnings replacement benefits for permanently disabled workers, tracking earnings over a 10 year period. It represents the largest study of workers' compensation benefit adequacy ever conducted in Canada. In their April 2013 *Supplemental Analysis: Canada Pension Plan Disability Benefits and WSIB benefits in the 1992-1994 NEL/FEL claimant cohort,* the IWH looked at how well permanently injured workers were able to replace their pre-injury earnings through a combination of WSIB benefits, employment earnings and Canada Pension Plan disability benefits.

Although there was variation in post-injury earnings replacement within each of the permanent impairment categories examined, the Supplemental Analysis found the average after-tax earnings replacement rate was 105% of the non-injured control group. Both studies are attached, along with a summary of the study, prepared jointly by the WSIB and the IWH.

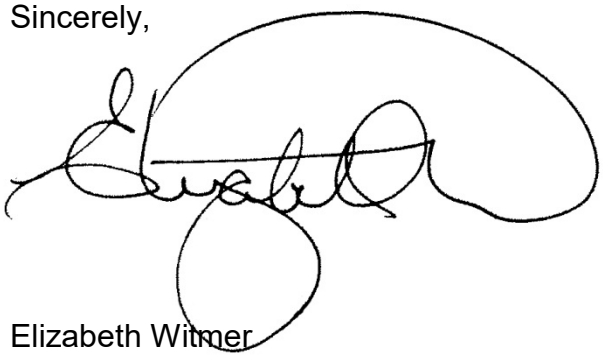
The IWH is currently refreshing the study based on a new cohort of injured/ill workers. The WSIB is committed to working with the IWH and engaging stakeholders in the tracking of long term outcomes for injured workers.

4. Workwell Program Deliverables, Plans and Initiatives

This report provides the number of Workwell Risk Plans completed, and first and second audits completed from 2008 to 2012. In addition, we've provided details regarding the initiatives executed in the past five years and WSIB's future plans for the program.

We trust that the information provided will be of value to the Standing Committee for the preparation of its report.

Sincerely,



Elizabeth Witmer

c. The Honourable Yasir Navqi, Minister of Labour

ITEM 1

FOR STANDING COMMITTEE ON GOVERNMENT AGENCIES
IN RESPONSE TO MAY 17, 2013 LETTER, CLERK'S OFFICE

June 18, 2013

wsib
cspaat
ONTARIO

Workplace Safety and Insurance Board

wsib cspaat ONTARIO Workplace Safety and Insurance Board

Committee Request #1

The WSIB is currently the sole insurer for all conditions and injuries arising in the workplace. The Committee therefore requests that the WSIB provide, for each condition and injury, a breakdown of claim incidence (claims per 1,000 workers), total annual number of claims, average annual claim cost and average benefit duration.

Data Provided (please see attachment: 6 pages)

Allowed Lost Time claims in the past 5 years (2008-2012) by Nature of Injury with the following information:

- number of allowed Lost Time claims
- Lost Time Injury rate per 1000 workers
- average benefit cost in the injury/illness year
- average days lost authorized for the injury/illness year

ALLOWED LOST TIME CLAIMS BY NATURE OF INJURY

Data Source:

- WSIB Enterprise Information Warehouse
- Data as at March 31st of the year following injury/illness

Data Notations:

- Includes all allowed Lost Time (ALT) claims for Schedule 1 and 2 employers with injury/illness date from January 1, 2008 to December 31, 2012. Fatal claims that were allowed loss of earnings benefits are included in this population.
- Data sorted in descending order based on the total number of ALT claims in the past 5 years.
- LTI rate calculated as the number of ALT claims per 1000 full-time workers (estimated).
- Benefit Cost and Days Lost limited to the year the injury/illness occurred. Injury Year Cost reflects all amounts charged to the employer in the year of the injury/illness. Injury Year Days Lost includes all LOE authorized for the year of the injury/illness.
- Some benefit types include capitalized costs (e.g. commuted Non-Economic Loss (NEL), Survivor pension).

***** We recommend caution interpreting average cost and days lost for injuries/illnesses with low claim counts as these are highly susceptible to volatility.**

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Injury/Illness Year 2008

NEC = ***Not Elsewhere Classified.*** **Injury Code TBD =** ***insufficient medical information to determine nature of injury***

Nature of Injury	Number of ALT Claims	LTI Rate per 1000 Workers	Avg Injury Year Cost	Avg Injury Year Days Lost
Sprains and strains	39,564	8.34	2,047	20
Bruises, contusions	8,718	1.84	1,206	11
Fractures	5,571	1.17	5,239	42
Cuts, lacerations, punctures	5,712	1.20	1,128	10
Multiple traumatic Injuries	2,407	0.51	3,712	30
Traumatic injuries, disorders, complications, unspecified, NEC	566	0.12	2,568	20
Tendonitis	1,675	0.35	3,190	31
Abrasions, scratches and other superficial injuries	1,677	0.35	541	5
Infectious and parasitic diseases	524	0.11	227	4
Concussion	734	0.15	3,425	28
Burn or scald (heat)	1,078	0.23	2,017	9
Hernia	718	0.15	3,095	27
Intervertebral herniated, slipped disc including disc syndrome	833	0.18	6,328	53
Intracranial injuries excluding concussions	786	0 17	2,444	17
Crushing injuries	611	0.13	1,986	17
Mental disorders or syndromes	453	0.10	4,855	47
Dislocation	795	0.17	4,605	41
Carpal tunnel syndrome	689	0.15	3,824	40
Poisonings, systemic	492	0.10	445	4
Epicondylitis	588	0.12	3,465	33
Amputations or enucleations	460	0.10	5,787	42
Signs and symptoms including contacts/carriers of disease	319	0.07	1,028	10
Soreness, pain. hurt, except the back	28	0,01	1,615	14
Rotator cuff tear or syndrome	260	0.05	6,102	55
Musculoskeletal system and connective tissue, diseases and disorders unspecified, NEC	437	0.09	4,058	36
Burns (chemicals)	266	0.06	1,701	9
Skin and subcutaneous tissue disorders, including dermatitis	259	0.05	1,155	12
Respiratory system diseases	304	0.06	3,311	12
Avulsion	270	0.06	1,763	17
Back pain, hurt back	12	0.00	1,658	19
Bursitis	182	0.04	2,585	22
Tenosynovitis	153	0.03	2,735	28
Sciatica	137	0.03	4,015	38
Disorders of the eye, adnexa, vision, unspecified, NEC	129	0.03	924	6
Injury code TBD	51	0.01	52,103	5
Conjunctivitis	90	0.02	339	3
Welder's flash	102	0.02	377	3

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Nature of Injury	Number of ALT Claims	LTI Rate per 1000 Workers	Avg Injury Year Cost	Avg Injury Year Days Lost
Heal and light effects including heat stroke, fatigue and syncope	26	0.01	218	3
Electrocutions, electric shock	68	0.01	4,158	23
Burns multiple, unspecified, NEC	122	0.03	1,060	10
Disorders of ear including deafness	57	0.01	1,313	11
Burns (electrical)	37	0.01	3,613	19
Circulatory system diseases	36	0.01	8,374	60
Nervous system and sense organs diseases	24	0.01	3,209	21
Ganglion	39	0.01	2,233	16
Neoplasms, tumors and cancer, excluding mesothelioma	52	0.01	49,025	116
Mesothelioma	44	0.01	105,026	137
Facet syndrome	33	0.01	1,578	15
Capsulitis	16	0.00	2,960	26
Freezing effects including frostbite	14	0.00	2,002	16
Non-personal damage	13	0.00	880	17
Air pressure effects including other environmental conditions	12	0.00	1,626	25
Synovitis	7	0.00	2,335	28
Diseases and disorders multiple, unspecified, NEC	3	0.00	19,617	117
Myositis	4	0.00	1,150	14
Digestive system diseases	1	0.00	177	1
Genitourinary system diseases and disorders	2	0.00	68	6
Diseases of blood and blood-forming organs	0	0.00	0	0
YEARLY TOTALS	78,260	16.49	2,446	21

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Injury/Illness Year 2009

NEC = ***Not Elsewhere Classified.*** **Injury Code TBD =** ***insufficient medical information to determine nature of injury***

Nature of Injury	Number of ALT Claims	LTI Rate per 1000 Workers	Avg Injury Year Cost	Avg Injury Year Days Lost
Sprains and strains	32,681	7.05	2,129	20
Bruises, contusions	6,486	1.40	1,269	11
Fractures	4,447	0.96	5,827	44
Cuts, lacerations, punctures	4,269	0.92	1,297	11
Multiple traumatic Injuries	2,340	0.51	3,559	27
Traumatic injuries, disorders, complications, unspecified, NEC	1,169	0.25	2,353	19
Tendonitis	1,364	0.29	2,863	27
Abrasions, scratches and other superficial injuries	1,233	0.27	520	4
Infectious and parasitic diseases	880	0.19	226	3
Concussion	696	0.15	3,318	25
Burn or scald (heat)	907	0.20	1,243	8
Hernia	608	0.13	3,175	27
Intervertebral herniated, slipped disc including disc syndrome	744	0.16	5,601	47
Intracranial injuries excluding concussions	703	0.15	3,314	18
Crushing injuries	501	0.11	2,237	16
Mental disorders or syndromes	480	0.10	4,701	46
Dislocation	470	0.10	4,747	39
Carpal tunnel syndrome	547	0.12	3,8211	38
Poisonings, systemic	506	0.11	1,356	4
Epicondylitis	418	0.09	3,361	31
Amputations or enucleations	361	0.08	7,100	42
Signs and symptoms including contacts/carriers of disease	271	0.06	823	7
Soreness, pain, hurt, except the back	19	0.00	444	6
Rotator cuff tear or syndrome	320	0.07	4,648	39
Musculoskeletal system and connective tissue, diseases and disorders unspecified, NEC	310	0.07	3,432	33
Burns (chemicals)	218	0.05	1,322	10
Skin and subcutaneous tissue disorders, including dermatitis	210	0.05	1,191	13
Respiratory system diseases	286	0.06	1,324	9
Avulsion	204	0.04	2,041	15
Back pain, hurt back	12	0.00	829	14
Bursitis	163	0.04	1,900	18
Tenosynovitis	153	0.03	2,783	28
Sciatica	173	0.04	3,896	36
Disorders of the eye, adnexa, vision, unspecified, NEC	75	0.02	773	6
Injury code TBD	42	0.01	32,835	7
Conjunctivitis	81	0.02	249	2
Welder's flash	66	0.01	190	1

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Nature of Injury	Number of ALT Claims	LTI Rate per 1000 Workers	Avg Injury Year Cost	Avg Injury Year Days Lost
Heal and light effects including heat stroke, fatigue and syncope	35	0.01	381	3
Electrocutions, electric shock	60	0.01	7,605	28
Burns multiple, unspecified, NEC	28	0.01	1,236	11
Disorders of ear including deafness	31	0.01	2,502	24
Burns (electrical)	36	0.01	12,744	42
Circulatory system diseases	23	0.00	9,327	82
Nervous system and sense organs diseases	39	0.01	2,595	18
Ganglion	28	0,01	1,961	21
Neoplasms, tumors and cancer, excluding mesothelioma	15	0.00	109,926	111
Mesothelioma	33	0,01	89,563	138
Facet syndrome	26	0.01	1,439	14
Capsulitis	19	0.00	5,391	47
Freezing effects including frostbite	22	0.00	2,430	26
Non-personal damage	6	0.00	311	1
Air pressure effects including other environmental conditions	5	0.00	1,834	27
Synovitis	9	0.00	6,059	46
Diseases and disorders multiple, unspecified, NEC	5	0.00	2,783	46
Myositis	6	0.00	648	6
Digestive system diseases	1	0.00	223	0
Genitourinary system diseases and disorders	3	0.00	986	9
Diseases of blood and blood-forming organs	0	0.00	0	0
YEARLY TOTALS	64,843	14.00	2,508	21

wsib cspaat ONTARIO Workplace Safety and Insurance Board

Injury/Illness Year 2010

NEC = ***Not Elsewhere Classified.*** **Injury Code TBD =** ***insufficient medical information to determine nature of injury***

Nature of Injury	Number of ALT Claims	LTI Rate per 1000 Workers	Avg Injury Year Cost	Avg Injury Year Days Lost
Sprains and strains	29,200	6.20	2,034	18
Bruises, contusions	5,393	1.14	1,046	10
Fractures	4,354	0.92	5,565	42
Cuts, lacerations, punctures	4,056	0.86	1,289	11
Multiple traumatic injuries	2,447	0.52	4,011	26
Traumatic injuries, disorders, complications, unspecified, NEC	1,304	0.28	2,307	16
Tendonitis	1,237	0.26	3,002	26
Abrasions, scratches and other superficial injuries	1,164	0.25	567	4
Infectious and parasitic diseases	1,554	0.33	250	3
Concussion	732	0.16	2,263	20
Burn or scald (heat)	784	0.17	2,090	10
Hernia	562	0.12	3,144	26
Intervertebral herniated, slipped disc including disc syndrome	563	0.12	5,419	44
Intracranial injuries excluding concussions	504	0.11	6,263	13
Crushing injuries	550	0.12	2,411	18
Mental disorders or syndromes	512	0.11	5,104	44
Dislocation	423	0.09	3,998	35
Carpal tunnel syndrome	465	0.10	4,002	38
Poisonings, systemic	486	0.10	646	5
Epicondylitis	388	0.08	2,670	25
Amputations or enucleations	311	0.07	7,511	43
Signs and symptoms including contacts/carriers of disease	321	0.07	684	6
Soreness, pain, hurt, except the back	56	0.01	044	10
Rotator cuff tear or syndrome	267	0.06	4,134	32
Musculoskeletal system and connective tissue, diseases and disorders unspecified, NEC	259	0.05	3,196	30
Burns (chemicals)	234	0.05	1,226	8
Skin and subcutaneous tissue disorders, including dermatitis	206	0.04	1,220	12
Respiratory system diseases	235	0.05	514	5
Avulsion	211	0.04	2,009	16
Back pain, hurt back	62	0.01	968	14
Bursitis	142	0.03	1,553	16
Tenosynovitis	130	0.03	2,450	29
Sciatica	152	0.03	3,783	33
Disorders of the eye, adnexa, vision, unspecified, NEC	90	0.02	446	4
Injury code TBD	244	0.05	20,774	14
Conjunctivitis	72	0.02	473	3

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Nature of Injury	Number of ALT Claims	LTI Rate per 1000 Workers	Avg Injury Year Cost	Avg Injury Year Days Lost
Welder's flash	73	0.02	252	2
Heal and light effects including heat stroke, fatigue and syncope	114	0 02	687	4
Electrocutions, electric shock	54	0.01	7,235	26
Burns multiple, unspecified, NEC	40	0.01	649	8
Disorders of ear including deafness	44	0.01	2,259	11
Burns (electrical)	34	0.01	7,988	32
Circulatory system diseases	23	0.00	9,013	50
Nervous system and sense organs diseases	26	0.01	6,266	38
Ganglion	29	0.01	2,624	25
Neoplasms, tumors and cancer, excluding mesothelioma	13	0.00	42,718	54
Mesothelioma	5	0.00	33,280	81
Facet syndrome	12	0.00	2,542	23
Capsulitis	15	0.00	2,868	25
Freezing effects including frostbite	11	0.00	639	17
Non-personal damage	8	0.00	454	4
Air pressure effects including other environmental conditions	2	0.00	550	11
Synovitis	1	0.00	384	4
Diseases and disorders multiple, unspecified, NEC	3	0.00	3,473	49
Myositis	2	0.00	823	4
Digestive system diseases	1	0.00	161	1
Genitourinary system diseases and disorders	0	0.00	0	0
Diseases of blood and blood-forming organs	0	0.00	0	0
YEARLY TOTALS	60,200	12.78	2,432	19

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Injury/Illness Year 2011

NEC = ***Not Elsewhere Classified.*** **Injury Code TBD =** ***insufficient medical information to determine nature of injury***

Nature of Injury	Number of ALT Claims	LTI Rate per 1000 Workers	Avg Injury Year Cost	Avg Injury Year Days Lost
Sprains and strains	26,622	5.52	1,861	16
Bruises, contusions	5,213	1.08	1,323	11
Fractures	4,333	0.90	5,632	41
Cuts, lacerations, punctures	3,676	0.76	1,327	11
Multiple traumatic Injuries	1,956	0.41	3,917	25
Traumatic injuries, disorders, complications, unspecified, NEC	2,482	0.51	1,958	14
Tendonitis	1,060	0.22	2,789	25
Abrasions, scratches and other superficial injuries	1,006	0.21	504	4
Infectious and parasitic diseases	724	0.15	271	3
Concussion	955	0.20	3,283	26
Burn or scald (heat)	800	0.17	2,564	9
Hernia	591	0.12	3,172	25
Intervertebral herniated, slipped disc including disc syndrome	394	0.08	4,449	36
Intracranial injuries excluding concussions	510	0.11	3,836	16
Crushing injuries	535	0.11	2,710	19
Mental disorders or syndromes	583	0.12	5,614	45
Dislocation	406	0.08	3,704	30
Carpal tunnel syndrome	376	0 08	3,693	33
Poisonings, systemic	408	0.08	526	5
Epicondylitis	325	0.07	3,175	28
Amputations or enucleations	364	0.08	8,738	49
Signs and symptoms including contacts/carriers of disease	253	0.05	712	7
Soreness, pain, hurt, except the back	445	0.09	728	8
Rotator cuff tear or syndrome	270	0.06	3,770	31
Musculoskeletal system and connective tissue, diseases and disorders unspecified, NEC	218	0.05	3,552	30
Burns (chemicals)	179	0.04	1,975	11
Skin and subcutaneous tissue disorders, including dermatitis	227	0.05	1,709	14
Respiratory system diseases	143	0.03	1,806	13
Avulsion	166	0.03	2,211	15
Back pain, hurt back	338	0.07	1,015	11
Bursitis	142	0.03	2,647	20
Tenosynovitis	113	0.02	2,931	28
Sciatica	103	0.02	3,184	26
Disorders of the eye, adnexa, vision, unspecified, NEC	141	0.03	1,082	7
Injury code TBD	95	0.02	58,138	10
Conjunctivitis	73	0.02	282	3

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Nature of Injury	Number of ALT Claims	LTI Rate per 1000 Workers	Avg Injury Year Cost	Avg Injury Year Days Lost
Welder's flash	68	0.01	373	4
Heal and light effects including heat stroke, fatigue and syncope	75	0.02	998	5
Electrocutions, electric shock	43	0.01	2,263	9
Burns multiple, unspecified, NEC	14	0.00	843	8
Disorders of ear including deafness	38	0.01	1,559	9
Burns (electrical)	27	0.01	5,962	27
Circulatory system diseases	35	0.01	6,368	43
Nervous system and sense organs diseases	17	0.00	1,540	14
Ganglion	15	0.00	918	6
Neoplasms, tumors and cancer, excluding mesothelioma	15	0.00	11,951	99
Mesothelioma	13	0.00	121,150	84
Facet syndrome	20	0.00	3,494	20
Capsulitis	11	0.00	5,291	42
Freezing effects including frostbite	13	0.00	1,352	13
Non-personal damage	6	0.00	1,111	8
Air pressure effects including other environmental conditions	7	0.00	496	4
Synovitis	7	0.00	3,866	31
Diseases and disorders multiple, unspecified, NEC	5	0.00	3,070	26
Myositis	2	0.00	739	9
Digestive system diseases	3	0.00	2,627	12
Genitourinary system diseases and disorders	0	0.00	0	0
Diseases of blood and blood-forming organs	1	0.00	309	3
YEARLY TOTALS	56,672	11.75	2,438	18

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Injury/Illness Year 2012

NEC = ***Not Elsewhere Classified.*** **Injury Code TBD =** ***insufficient medical information to determine nature of injury***

Nature of Injury	Number of ALT Claims	LTI Rate per 1000 Workers	Avg Injury Year Cost	Avg Injury Year Days Lost
Sprains and strains	24,643	4.99	1,878	15
Bruises, contusions	3,926	0.80	1,198	10
Fractures	4,544	0.92	5,562	38
Cuts, lacerations, punctures	3,712	0.75	1,307	10
Multiple traumatic Injuries	1,722	0.35	5,004	23
Traumatic injuries, disorders, complications, unspecified, NEC	3,727	0.76	2,301	11
Tendonitis	1,177	0.24	2,712	21
Abrasions, scratches and other superficial injuries	1,149	0.23	696	5
Infectious and parasitic diseases	1,195	0.24	246	2
Concussion	1,292	0.26	2,985	22
Burn or scald (heat)	756	0.15	1,591	9
Hernia	496	0.10	3,325	26
Intervertebral herniated, slipped disc including disc syndrome	335	0.07	4,674	35
Intracranial injuries excluding concussions	352	0.07	3,953	13
Crushing injuries	497	0.10	2,618	16
Mental disorders or syndromes	601	0.12	5,521	45
Dislocation	361	0.07	4,132	31
Carpal tunnel syndrome	292	0.06	3,379	30
Poisonings, systemic	457	0.09	653	5
Epicondylitis	268	0.06	3,009	25
Amputations or enucleations	367	0.07	6,619	37
Signs and symptoms including contacts/carriers of disease	241	0.05	1,028	7
Soreness, pain, hurt, except the back	856	0.17	404	4
Rotator cuff tear or syndrome	256	0.05	5,161	33
Musculoskeletal system and connective tissue, diseases and disorders unspecified, NEC	146	0.03	2,821	24
Burns (chemicals)	224	0.05	1,182	8
Skin and subcutaneous tissue disorders, including dermatitis	217	0.04	1,816	14
Respiratory system diseases	138	0.03	926	7
Avulsion	132	0.03	2,446	14
Back pain, hurt back	468	0.09	643	6
Bursitis	119	0.02	2,008	16
Tenosynovitis	112	0.02	1,815	19
Sciatica	73	0.01	3,705	28
Disorders of the eye, adnexa, vision, unspecified, NEC	86	0.02	442	4
Injury code TBD	46	0.01	99,713	2
Conjunctivitis	98	0.02	278	2
Welder's flash	66	0.01	311	2

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Nature of Injury	Number of ALT Claims	LTI Rate per 1000 Workers	Avg Injury Year Cost	Avg Injury Year Days Lost
Heal and light effects including heat stroke, fatigue and syncope	71	0.01	609	5
Electrocutions, electric shock	431	0.01	5,925	26
Burns multiple, unspecified, NEC	4g	0.01	1,832	13
Disorders of ear including deafness	27	0.01	856	4
Burns (electrical)	361	0.01	11,012	30
Circulatory system diseases	22	0 01	24,030	50
Nervous system and sense organs diseases	27	0.01	2,477	21
Ganglion	13	0.00	1,171	11
Neoplasms, tumors and cancer, excluding mesothelioma	11	0.00	152,119	86
Mesothelioma	6	0.00	185,868	113
Facet syndrome	10	0.00	1,907	14
Capsulitis	7	0.00	4,856	47
Freezing effects including frostbite	7	0.00	2,019	24
Non-personal damage	6	0.00	652	4
Air pressure effects including other environmental conditions	3	0.00	890	8
Synovitis	4	0.00	888	11
Diseases and disorders multiple, unspecified, NEC	3	0.00	24,969	58
Myositis	4	0.00	527	8
Digestive system diseases	3	0.00	3,186	18
Genitourinary system diseases and disorders	0	0.00	0	0
Diseases of blood and blood-forming organs	0	0.00	0	0
YEARLY TOTALS	55,525	11.25	2,464	16

Item 2

For Standing Committee on Government Agencies
In response to May 17, 2013 letter, Clerk's Office

June 18, 2013

COMMITTEE REQUEST #2

Current benefit eligibility creates a six-year threshold following which an injured worker's benefits are no longer subject to review. The Committee therefore requests that the WSIB provide data regarding the incidence of claims being reviewed after five years of benefit payments and the outcome of such reviews.

Data Provided (please see attachment: 2 pages)

Newly locked-in claims in the past 5 years (2008-2012), broken down by the time in years it took for a claim to be locked-in. It shows the following information:

- number of newly locked-in claims
- average annualized cost
- average LOE entitlement ***%***

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ANNUALIZED AVERAGE COST OF A NEWLY LOCKED-IN CLAIM

Data Source:

- WSIB Information Management Catalogue
- Data as at end of each lock-in month

Data Notations:

- Includes all claims for Schedule 1 and 2 employers that received their first locked-in loss of earnings (LOE) payment in the reporting period.
- Time to Lock-in refers to the elapsed years from Injury/Illness Date to Lock-in Date.
- LOE Cost derived by extrapolating each claim's initial weekly LOE rate to an annual value.

Time to Lock-in	2008 Number of Claims	2008 Average Cost	2008 Average Entitlement %	2009 Number of Claims	2009 Average Cost	2009 Average Entitlement %
6 - 7 Years	3.037	18,142	65.1%	3,349	18,756	65.0%
7 - 8 Years	274	14,615	54.3%	314	15,632	55.0%
8 - 9 Years	163	15,147	57.2%	185	15,579	56.7%
9 - 10 Years	100	12,813	53.4%	131	16,870	59.7%
10 - 11 Years	39	11,876	58.6%	52	16,094	55.2%
> 11 Years	0	0	0.0%	33	16,236	73.1%
Total New Lock-ins	3,613	17,524.6	63.6%	4,064	18,255.0	63.6%

Time to Lock-in	2008 Number of Claims	2008 Average Cost	2008 Average Entitlement %	2009 Number of Claims	2009 Average Cost	2009 Average Entitlement %
6 - 7 Years	3,291	17,265	57.8%	3,048	17,297	55.5%
7 - 8 Years	280	15,178	47.2%	287	13,807	46.7%
8 - 9 Years	165	15,218	50.8%	152	13,045	46.1%
9 - 10 Years	118	15,501	51.1%	111	15,396	52.9%
10 - 11 Years	77	14,365	56.5%	71	13,231	51.8%
> 11 Years	70	14,327	59.8%	88	13,986	53.2%
Total New Lock-ins	4,001	16,875.7	56.6%	3,757	16,647.8	54.3%

Time to Lock-in	2008 Number of Claims	2008 Average Cost	2008 Average Entitlement %
6 - 7 Years	3,440	16,314	50.7%
7 - 8 Years	412	14,716	46.1%
8 - 9 Years	250	15,506	49.0%
9 - 10 Years	106	13,871	43.2%
10 - 11 Years	69	16,273	50.0%
> 11 Years	117	14,258	46.6%
Total New Lock-ins	4,394	16,003.8	49.8%

ITEM 3

FOR STANDING COMMITTEE ON GOVERNMENT AGENCIES IN RESPONSE TO MAY 17, 2013 LETTER, CLERK'S OFFICE

June 18, 2013

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Committee Request #3

The goal of the WSIB should be to minimize the effect of injury upon a workers quality of life, income, and long-term well-being prospects. The Committee therefore requests that the draft report contain historical data concerning injured worker re-entry into the workforce, specifically the change in the worker's average wage, the proportion of workers that rejoined the same employer, and worker retention over one, three, and five years following injury. Such data should include worker outcomes prior to the retraining program being returned to WSIB jurisdiction.

Data Provided

Point-in-time employment retention following return to work is not tracked by the WSIB and, once loss of earnings benefits are locked in at 72 months, the WSIB does not have the legislative authority to review, and, therefore, collect information regarding wage loss or restoration.

As indicated in our June 18, 2013 letter to the Clerk, to examine longitudinal outcomes for injured workers the Institute of Work and Health (IWH) has undertaken extensive research on behalf of the WSIB.

The following reports and studies that speak to the restoration of pre-injury earnings are attached:

- *Institute for Work and Health (IWH) study - Examining the Adequacy of Workers' Compensation Benefits, January 2011*
- *Institute for Work and Health (IWH) study - Supplemental Analysis: Canada Pension Plan Disability Benefits and WSIB benefits in the 1992-1994 NEL/FEL claimant cohort, April 2013*
- Summary of the Adequacy of Benefits and Supplemental Reports - jointly prepared by the WSIB and the IWH.

Examining the adequacy of workers' compensation benefits

A key objective of workers' compensation programs is to provide adequate compensation for lost earnings to people who experience work-related injury or illness.

A workplace injury or illness can lead to lower post-injury earnings for several reasons, including physical impairment of the worker, disruption of career pro-gression/seniority, a weakened relationship with the employer, and the stigma that may be attached to injured workers.

In this *Issue Briefing,* we outline ways of examining the adequacy of workers' compensation earnings replacement benefits. We then present key findings of recent research at the Institute for Work & Health (Tompa et al., 2010) that measured the adequacy of earnings replacement benefits for permanently disabled workers under three workers' compensation benefit regimes: two in Ontario, before and after the 1990 change in the system, and one in British Columbia that was in place in the 1980s and 1990s.

KEY MESSAGES

- The earnings replacement rate, after taxes, for permanently disabled claimants was at least 90 per cent on average for every category of physical impairment under each of the three workers' compensation systems studied (Ontario pre-1990; Ontario 1990-1997; and British Columbia pre-2002).
- Within each category of impairment, there was much variation in post-injury earnings. There was also variation in earnings replacement rates, especially for those with less impairment. In the Ontario programs, about one- third of those with less than 50 per cent impairment had an earnings replacement rate of less than 75 per cent. In the B.C. program, this figure was 15-30 per cent. At the same time, a sizeable percentage of claimants (highest in the B.C. program) had earnings replacement rates above 100 per cent.
- The post-injury labour market earnings experience of permanently disabled claimants was polarized: most had either strong or weak earnings recovery.
- On average, physical impairment ratings underestimated earnings losses.
- Links between workers' compensation claims data in Ontario and British Columbia and Statistics Canada earnings data make it possible to study how well workers' compensation benefits compensate claimants for lost earnings. The use of control groups makes it possible to estimate what workers' earnings would have been had they not been injured.

Conceptual approaches to assessing benefits adequacy

There are several ways that the adequacy of workers' compensation benefits might be measured. There are two key issues: how to measure lost earnings and how to define the replacement rate — the degree to which the provision of benefits compensates for earnings loss.

Measuring lost earnings

Regarding the first issue, one approach is to compare a worker's earnings after the date of injury with earnings prior to the injury. This has the advantage of simplicity: if the earnings data are available (and can be linked to compensation claims data), it is straightforward to calculate the ratio of post-injury earnings per year for each year after injury to earnings in the year prior to injury. Ideally this would be done over a lengthy period after injury to capture both short-term and medium- to long-term impacts.

However, this approach has an important, limitation: many things may affect the earnings of an individual over time, other than an injury, so it is difficult to determine the specific impact of the injury. Examples of these other influences include: accumulated work experience (which can be affected by work injury, but also affects earnings in the absence of work injury), the acquisition of new

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Institute for Work & Health

Research Excellence Advancing Employee Health

january 2011

skills and knowledge, and labour market conditions. These influences may vary with the characteristics of the worker, such as age and gender. For example, a worker who is injured at a very young age might have had a low pre-injury wage rate, but the expectation of a much higher wage rate as they gained experience and knowledge. In such a case, comparison of post- to pre-injury earnings would understate the earnings loss.

Several researchers in the United States have addressed this problem by constructing comparison or control groups composed of workers with similar earnings to the injured worker prior to the date of injury. Examples of these studies are as follows:

- Biddle (1998) linked accepted workers' compensation claims filed in the state of Washington from July 1993 through June 1994, with earnings data for six quarters (1.5 years) before and 14 quarters (3.5 years) after a work injury occurred. Earnings losses for more seriously injured workers were estimated by comparing their post-injury earnings with those of workers whose injuries did not involve lost work time. Biddle used statistical methods to adjust for worker and labour market characteristics that might explain differences in earnings losses relative to the comparison group.
- Boden and Galizzi (1999) compared the post-injury earnings of various categories of workers' compensation claimants in Wisconsin with those of a comparison group of workers who received benefits for only 7-10 days. The claimants had injuries occurring between April 1, 1989 and September 30, 1990. Boden and Galizzi assumed that earnings losses for the comparison group occurred only during the brief period of temporary benefits. Similar to Biddle's approach, they also used statistical methods to control for other factors (personal, employer and labour market characteristics) that might explain differences in earnings losses relative to the comparison group. They then estimated what the earnings of the injured workers would have been, if they had been in the comparison group, and compared their actual post-injury earnings with these figures.
- Reville (1999) compared the post-injury earnings of permanent partial disability claimants (PPD) in California with the earnings of up to 10 uninjured controls (per injured worker), who were employed at the same firm and had similar earnings before the injury date. Injuries occurred during 1991-93. PPD refers to injuries found to have a permanent impact, but that do not prevent the injured person from returning to some form of work. Reville noted that the use of controls from the same firm as the claimant leads to underrepresentation of small firms because they are less likely to have available controls. In this study, Reville did not include workers at self-insured firms, but a later study Reville et al. (2001b) extended the analysis to such Anns, using claims data from 1991-1995. Reville et al. (2001a) conducted a similar analysis for PPD claimants in New Mexico over the period 1994-98.

Defining the replacement rate

A second issue in measuring the adequacy of workers' compensation benefits is how best to measure the degree to which benefits compensate for lost earnings. Two alternative measures may be considered.

One approach, adopted in all of the U.S.-based studies outlined above, is to measure the proportion of lost earnings that are replaced by workers' compensation benefits. We refer to this as the **loss replacement rate.**

For example, suppose we decided to calculate lost earnings by comparing post-injury with pre-injury earnings. Suppose further that pre-injury annual earnings were $50,000, post-injury earnings were $42,000, and workers' compensation benefits were $4,000. In this case, the loss of earnings is $8,000 per year, and benefits cover half of that loss. The loss replacement rate is 50 per cent.

A similar calculation could be made if we were using control groups to estimate earnings loss. However, instead of calculating the earnings loss by comparing post-injury earnings with pre-injury earnings, the comparison would be with the earnings of the control group after the injury date.

An alternative approach would be to measure the extent to which the combination of post-injury earnings and workers' compensation benefits replaced the earnings that the worker would have had if not injured. This could be measured using pre-injury or control group earnings. We refer to this as the **earnings replacement rate.** In the example just described, the sum of earnings and benefits after injury is $46,000.This yields an earnings replacement rate of 92 per cent (46,000 divided by 50,000).

We have four possible ways of measuring the adequacy of workers' compensation benefits, depending on the decisions about how to measure earnings loss (either comparing with pre-injury earnings, or with control group earnings after injury) and how to define the replacement rate (loss replacement or earnings replacement).

issue briefing

Measuring benefits adequacy in Ontario and British Columbia

In a recent study at the Institute for Work & Health led by Dr. Emile Tompa, all four methods were used to measure the adequacy of wage replacement benefits for permanently disabled workers. Adequacy was measured under the workers' compensation regimes in Ontario before and after the 1990 change in the system, and the workers' compensation regime in British Columbia that was in place in the 1980s and 1990s. (Funding for this research was provided by NIOSH Grant #1 R01 OH007900-01A1 and WorkSafeBC Research Secretariat Grant #RS2006-OG05. For a more detailed discussion of the findings summarized here, see Tompa, Scott-Marshall, Fang, and Mustard (2010)).

Our focus in this *Issue Briefing* is on the results using **control groups** to measure wage loss, and using **earnings replacement** as the measure of adequacy. As outlined above, the use of control groups provides a better indication than pre-injury earnings of what claimants would have earned had they not been injured. Earnings replacement provides a better indication than loss replacement of the degree to which the claimant's earnings are restored.

In addition, there are two different approaches to averaging earnings replacement rates. For an overview of these approaches, see Tompa et al. (2010). Here we report the results using what Tompa et al. refer to as average individual-level replacement rates.

The three programs

All three of these workers' compensation schemes provided temporary compensation benefits in the early period of a claim. Long-term benefits were provided once a claimant was identified as having a residual impairment after reaching maximum medical recovery. Our focus here is on claimants who were found to have a permanent impairment.

Ontario's pre-1990 scheme compensated workers with permanent impairments according to the percentage of physical impairment. Benefits were based on 90 per cent of the pre-injury after-tax earnings multiplied by the percentage of impairment.

The scheme in effect in Ontario from January 2, 1990 to Dec. 31, 1997, involved a two-part benefit for long-term or permanent impairments. First, a non-economic loss (NEL) benefit, usually awarded as a lump sum, was based on the worker's degree of impairment second, a future economic loss (FEL) benefit was provided. It was based on replacing 90 per cent of the difference between earnings before injury, and earnings capacity after injury (both figures after taxes). FEL benefits were reviewed at 12, 36 and 60 months post-injury to re-evaluate the calculation of earnings capacity. (As of January 1, 1998, the target changed to 85 per cent of this difference.)

The third program, in place in British Columbia until 2002, considered two approaches to long-term compensation benefits with every claim. One option was a permanent impairment-based benefit, which was 75 per cent of the pre-injury earnings, before taxes, multiplied by the percentage of impairment. The other option was a loss of earnings capacity benefit, which was 75 per cent of the difference between pre-injury earnings and post-injury earnings capacity, both before taxes. The claimant received whichever benefit was higher. This is sometimes referred to as a bifurcated program. (In June 2002, British Columbia moved to a new system based predominantly on degree of impairment, with a small number of claims still receiving loss of earnings capacity benefits. Benefits formation was also changed to 90 per cent of net earnings: before-tax earnings less provincial and federal taxes, and CPP and EI employee deductions.)

The target replacement rate used in the short-term disability program is often used as a test of adequacy. This is the benefit that compensates people who are temporarily off work but then fully recover. For example, the post-1990 Ontario legislation had a target replacement rate of 90 per cent of after-tax pre-injury earnings.

Meeting the data challenge

Studies of the adequacy of workers' compensation benefits require the research team to link data from workers' compensation claims to data on the earnings of injured workers (and matched controls) before and after the injury.

Tompa et al. were able to link workers' compensation data in Ontario and British Columbia with earnings data from Statistics Canada's Longitudinal Administrative Databank (LAD). This databank contains information on the earnings of a sample of 20 per cent of Canadian tax filers.

Workers' compensation records for injuries occurring between 1986-1989 and 1990-94 were linked to the LAD data for the pre-1990 and post-1990 Ontario schemes, respectively. For the British Columbia scheme, data from 1990-94 were used. In each case, earnings information was available for at least four years prior to, and at least nine years following, the injury year. The duration of post-injury earnings data in this study goes well beyond what

Measuring benefits adequacy in Ontario and British Columbia

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The scheme in effect in Ontario from January 2, 1990 to Dec. 31, 1997, involved a two-part benefit for long-term or permanent impairments. First, a non-economic loss (NEL) benefit, usually awarded as a lump sum, was based on the worker's degree of impairment second, a future economic loss (FEL) benefit was provided. It was based on replacing 90 per cent of the difference between earnings before injury, and earnings capacity after injury (both figures after taxes). FEL benefits were reviewed at 12, 36 and 60 months post-injury to re-evaluate the calculation of earnings capacity. (As of January 1, 1998, the target changed to 85 per cent of this difference.)

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The target replacement rate used in the short-term disability program is often used as a test of adequacy. This is the benefit that compensates people who are temporarily off work but then fully recover. For example, the post-1990 Ontario legislation had a target replacement rate of 90 per cent of after-tax pre-injury earnings.

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Table 1: Claimants' earnings loss by impairment category

Measuring benefits adequacy in Ontario and British Columbia

In a recent study at the Institute for Work & Health led by Dr. Emile Tompa, all four methods were used to measure the adequacy of wage replacement benefits for permanently disabled workers. Adequacy was measured under the workers' compensation regimes in Ontario before and after the 1990 change in the system, and the workers' compensation regime in British Columbia that was in place in the 1980s and 1990s. (Funding for this research was provided by NIOSH Grant #1 R01 OH007900-01A1 and WorkSafeBC Research Secretariat Grant #RS2006-OG05. For a more detailed discussion of the findings summarized here, see Tompa, Scott-Marshall, Fang, and Mustard (2010)).

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In addition, there are two different approaches to averaging earnings replacement rates. For an overview of these approaches, see Tompa et al. (2010). Here we report the results using what Tompa et al. refer to as average individual-level replacement rates.

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Impairment category	Earnings loss

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year of injury.

The characteristics of the claimants were somewhat

Under 5 per cent	**Approx. 20 per cent**
5-10 per cent	**30-40 per cent**

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different between the two Ontario programs and the British Columbia one, particularly with regard to the average

10-20 per cent	**40-60 per cent**
20-50 per cent	**40-70 per cent**

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degree of assessed physical impairment. For example, in

Greater than 50 per cent	Approx. 80 per cent

both of the Ontario programs, less than 30 per cent of the claimants were in the "less than 5 per cent" impairment category. Over 60 per cent of the British Columbia claimants were in this category. In all three programs, only a very small share of the claimants had over 50 per cent impairments — one per cent in both Ontario programs, two per cent in B.C. (The methods used to assess the degree of impairment were somewhat different across the three programs.)

Tompa et. al. selected up to 10 controls for each claimant linked to the LAD. The selection of controls was based on a number of characteristics, including wage and salary earnings in each of the four years prior to the injury year, gender, age, and province of residence. Most controls had pre-injury labour market earnings within 10 per cent of their claimant counterparts, and the remainder had earnings within 10-20 per cent of their claimant counterparts.

Findings: labour market earnings post-injury

The before-tax earnings of claimants and control groups were compared annually over a nine-year period after the year of injury, for each of five categories of permanent impairment (under 5 per cent; 5-10 per cent; 10-20 per cent; 20-50 per cent; and over 50 per cent), and for each of the three workers' compensation programs. For the four years prior to the injury year, average earnings of claimants and controls in each impairment category were close to equal, as a result of the matching process.

On average, claimants in each impairment category and across all three compensation programs experienced lower levels of labour market earnings after injury relative to their control counterparts. As expected, those in the higher impairment categories experienced greater earnings losses. Details are shown in Table 1. The findings suggest that, on average, impairment ratings underestimate earnings losses.

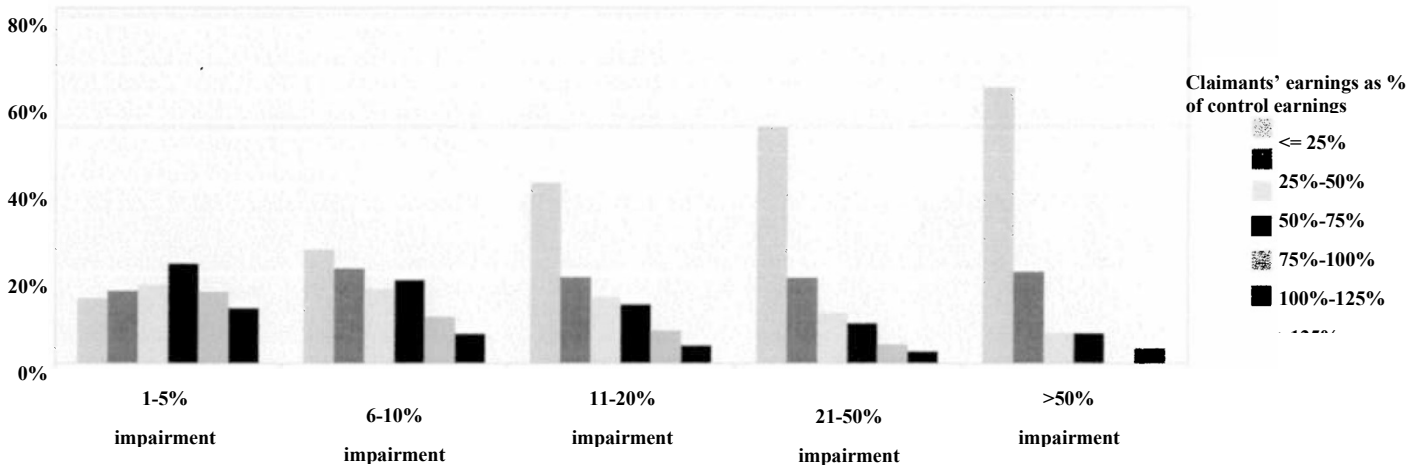
Claimants in the under 5 per cent and in the 50 per cent or greater impairment categories had similar earnings losses in all three of the workers' compensation programs examined by Tompa et al. Those in the mid-range impairment categories did somewhat better in the B.C. program: their earnings recovery increased over time at a greater pace than claimants in the same category under the two Ontario programs.

These figures are averages across individuals in each impairment category. To look at how much variation there was in earnings recovery within categories, Tompa et al. examined the share of claimants in each category who experienced earnings recovery of less than 25 per cent, 25-50 per cent, 50-75 per cent, 75-100 per cent, 100-125 per cent, and over 125 per cent, over the 10-year period, beginning with the year of injury, after taxes. Charts 1, 2, and 3 show the results of this analysis for each of the three workers' compensation programs. Data for these charts are shown in the tables on page 9.

For example, Chart 1, which looks at claimants in Ontario 1986-1989, shows that, for those in the 1-5 per cent impairment category, about 15 per cent of claimants earned less than 25 per cent of control group earnings, and 13 per cent of claimants had an earnings ratio compared to controls of over 125 per cent. In contrast, in the over 50 per cent impairment category, over 60 per cent of claimants earned less than a quarter of the amount the control group earned, and only 3 per cent earned more than controls.

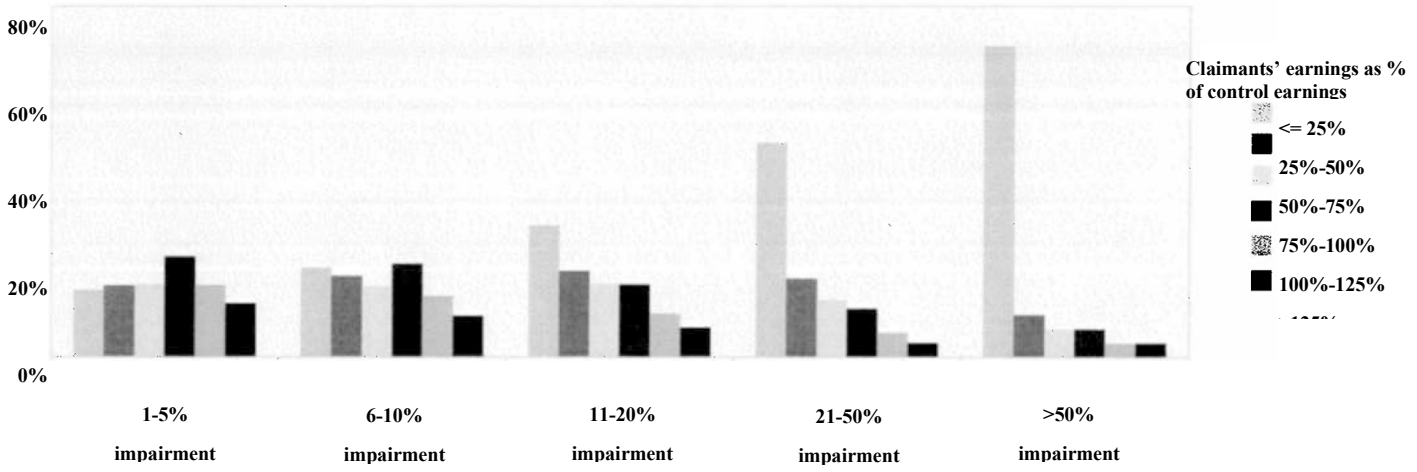
These charts show the high variability in post-injury earnings relative to control earnings within each category, for all three programs. They also show how outcomes are polarized: across all three programs and all categories of impairment, a minority of claimants—usually under 40 per cent—had earnings between 25 and 75 percent of control earnings over the 10-year period from the year of injury. In other words, most claimants had either strong (over 75 per cent) or weak (under 25 per cent) earnings ratios.

Chart 1: Distribution of earnings losses of claimants compared to controls over 10 years, by level of impairment, ***Ontario Permanent Impairment Program***



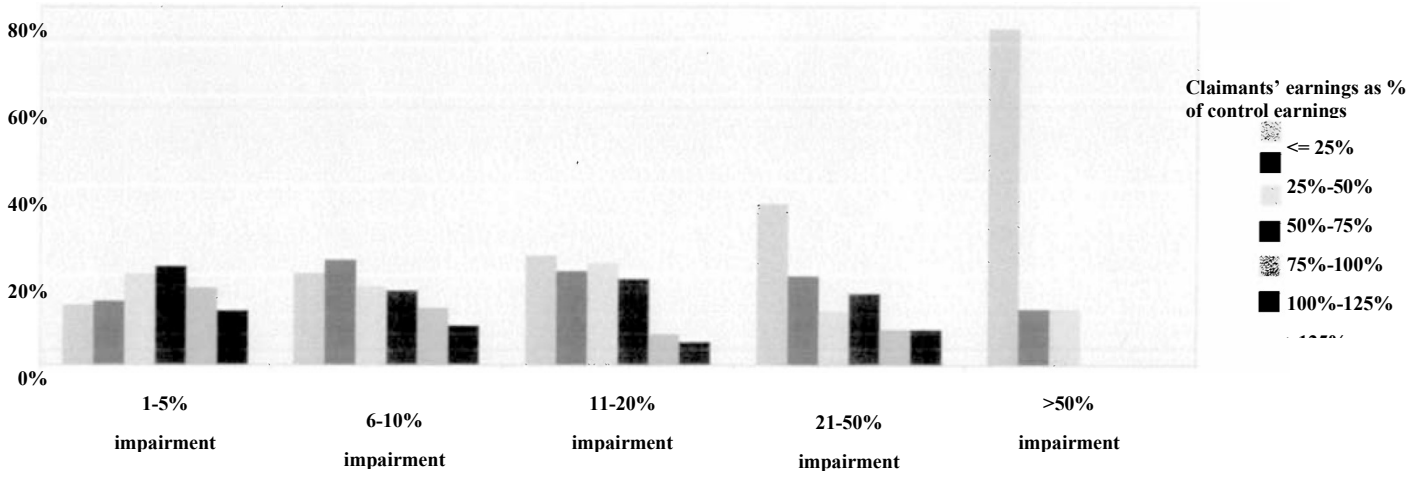
[See the data table for Chart 1]

Chart 2: Distribution of earnings losses of claimants compared to controls over 10 years, by level of impairment, ***Ontario Loss of Earnings Capacity Program***



[See data table for Chart 2]

Chart 3: Distribution of earnings losses of claimants compared to controls over 10 years, by level of impairment, ***British Columbia Bifurcated Program***



See data table for Chart 3

The balance between the two in any category depended, as expected, on the degree of impairment. However, it is noteworthy that even minor impairments resulted in significant earning losses. In the 1-5 per cent impairment category, almost half had an earnings loss of at least 25 per cent (earnings ratios of under 75 per cent). Reville (1999) reported a similar finding in his study of workers' compensation in California: significant earnings losses of close to 30 per cent, occurred even for those with the disability ratings of 1-10 per cent.

To examine earnings variability in the labour market generally, the research team selected one member of each control group and compared the earnings of the selected controls over the 10-year period with those of the rest of their control groups. As expected, a higher percentage of the controls than claimants had very high (over 125 per cent) earnings ratios and a smaller percentage of controls than claimants low (under 25 per cent) earnings ratios. As was the case for claimants, a minority of the selected controls had earnings ratios between 25 and 75 per cent. These findings suggest, that, much of the variability in the post- injury earnings of claimants is inherent in the labour market.

Findings: comparison of workers' compensation earnings replacement rates

Tompa et. al. calculated earnings replacement rates by first adding after-tax earnings and workers' compensation benefits. This sum was compared with the earnings of the control groups over the 10-year period beginning with the year of injury. This calculation was done for each of the three workers' compensation schemes that were examined, by impairment category. The results are shown in Table 2.

Table 2: Average after-tax earnings replacement rates by degree of impairment

Degree of permanent impairment (or NEL rating)	Ontario pre-1990	Ontario post-1990	B.C. bifurcated
1-5%	98%	95%	99%
6-10%	99%	99%	106%
11-20%	98%	99%	113%
21-50%	102%	100%	123%
Over 50%	107%	112%	124%
Entire sample	99%	99%	104%

On average, all three programs achieved a high level of earnings replacement: over 90 per cent in each impairment category. The lower impairment, categories had a somewhat lower earnings replacement rate than did the higher impairment categories. The overall average rate was 99 per cent for the two Ontario programs and 104 per cent for the BC program. The percentage of claimants in the overall sample that achieved at least, a 90 per cent earnings replacement rate was 50 per cent for the pre-1990 Ontario program, 54 per cent for the post-1990 Ontario program, and 60 per cent for the B.C. bifurcated program.

However, it is important to keep in mind that these figures are averages. To examine variation within impairment categories, the research team looked at claimants' earnings replacement rates using the following breakdown:

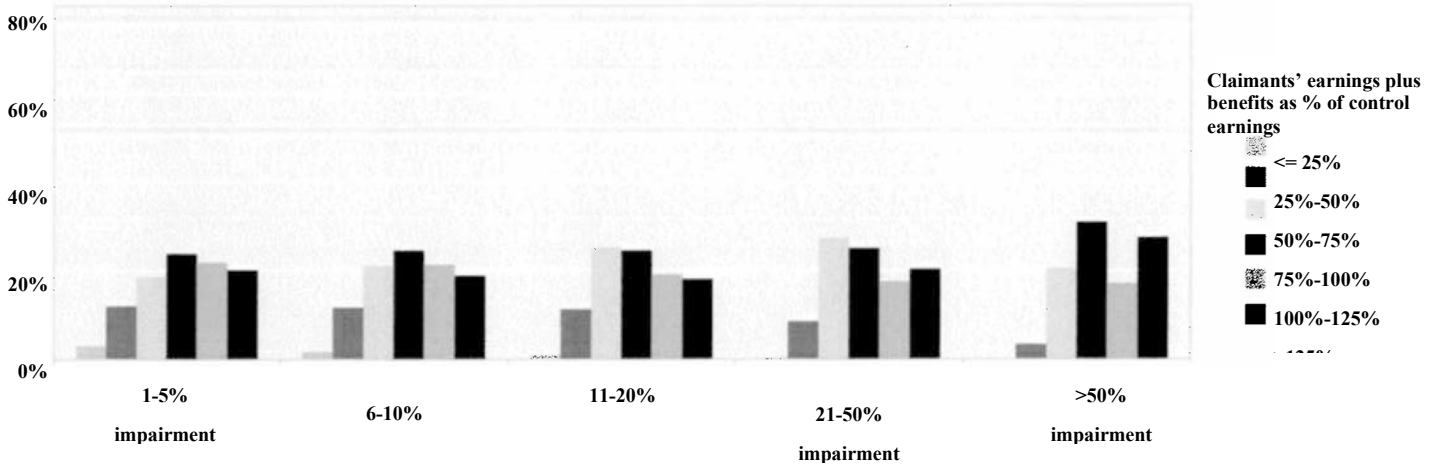
- less than 25 per cent of control groups' after-tax labour market earnings,
- between 25 and 50 per cent of control groups' earnings,
- between 50 and 75 per cent of control groups' earnings,
- between 75 and 100 per cent of control groups' earnings,
- between 100 and 125 per cent of control groups' earnings, and
- over 125 per cent of control groups' earnings.

The results are shown in Charts 4-6 and in the tables on page 10. Once again, there were substantial variations within impairment categories, but less so than for labour market earnings alone, since the addition of benefits reduces the percentage of those with poor outcomes compared to controls.

The results varied by impairment category and across the three workers' compensation programs. For example, in the pre-1990 Ontario program, in most, impairment categories between 60 and 70 per cent of claimants had earnings replacement rates of at least 75 per cent. About three-quarters of those in the 50+ per cent impairment category acquired this level of replacement. These percentages were higher for the post-1990 Ontario program: near 70 for most categories and over 80 for those with a 50+ per cent impairment rating. The bifurcated program in British Columbia had the highest rate of achieving over 75 per cent earnings replacement. B.C. figures ranged from about 70 per cent, for the 1-5 per cent impairment category to 100 per cent for the 50+ per cent impairment category. All three programs had sizeable percentages of claimants with replacement rates over 100 per cent, especially among those with the highest degree of permanent impairment. For example, in the post-1990 Ontario

Note: Figures were converted to 1994 constant dollars and a 3 per cent rate was applied to discount earnings and benefits to the accident year.

Chart 4: Distribution of claimant labour market earnings plus benefits over 10 years relative to control labour market earnings, *Ontario Permanent Impairment Program*



[See data table for Chart 4]

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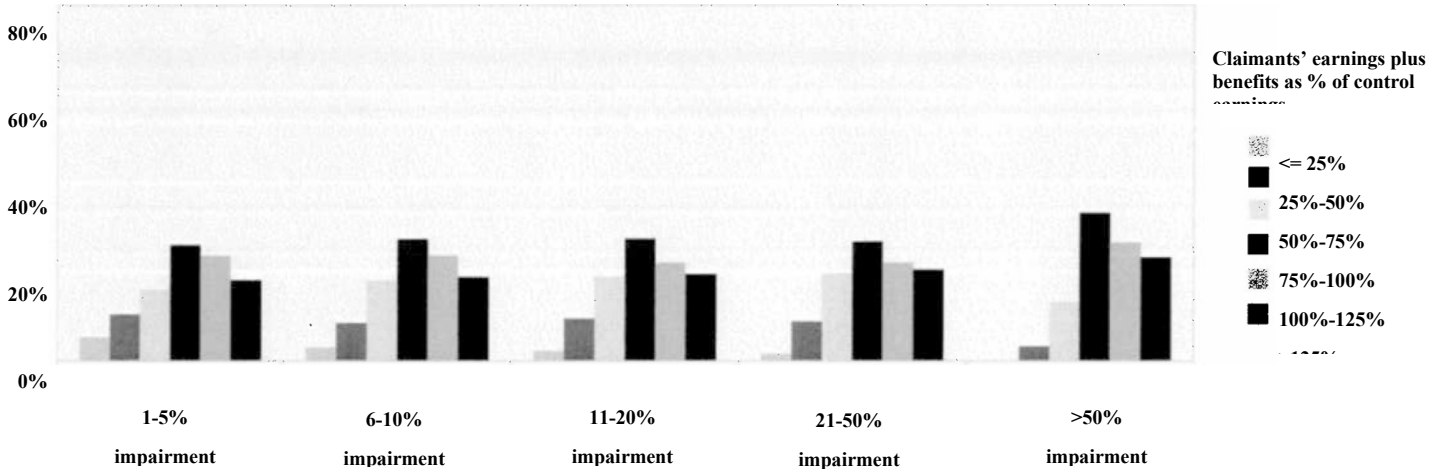
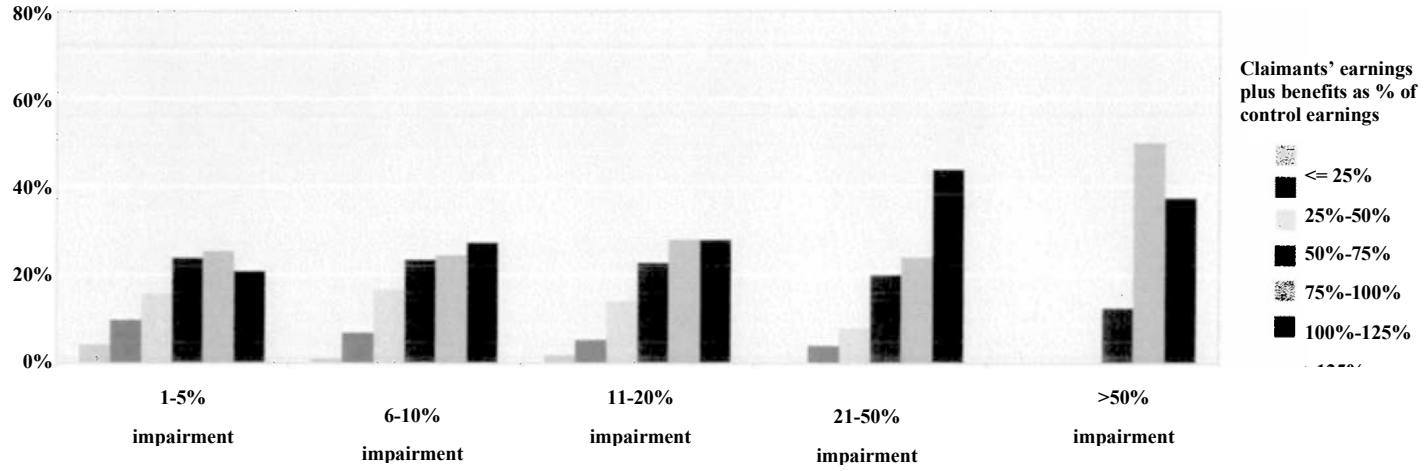


[See data table for chart 5]

Chart 6: Distribution of claimant labour market earnings plus benefits over 10 years relative to control labour market earnings, *British Columbia Bifurcated Program*



See data for chart 6

program, 50 per cent of those with a 50+ impairment rating had an earnings replacement rate of over 100 per cent (the sum of the figures for the top two sextiles shown in Chart 5). On the other hand, in the other impairment categories, replacement rates were below 75 per cent for about one-third of claimants in the two Ontario programs, and 15-30 per cent in the B.C. program.

Conclusion

The findings of Tompa et al. indicate that for all three of the workers' compensation programs examined, benefits for permanently disabled claimants were adequate on average. For every category of physical impairment, the average after-tax earnings replacement rate was at least 90 per cent. The average earnings replacement rate was slightly higher in the B.C. program than the two Ontario programs.

However, there is considerable variation in post-injury earnings within each impairment category. There is also some variation in the earnings replacement rates, especially in the lower impairment categories. For levels of physical impairment. of 50 per cent or more, about eight in 10 claimants in the two Ontario programs, and all claimants in the B.C. program had an earnings replacement rate of at least 75 per cent, and many had a replacement rate exceeding 100 per cent. However, sizeable numbers in the lower impairment categories had replacement rates below 75 per cent.

These findings suggest that individual and contextual factors are very important to consider in the workers' compensation process. Factors such as gender, age, level of impairment, transferable skills, and labour market conditions may all bear on earnings capacity. Particular attention might be paid to the adequacy of earnings replacement among those with low levels of impairment, as earnings losses appear to be sizeable even for those assessed as having impairment levels of 5 per cent or less.

This briefing was prepared by Senior Scientist Dr. Ron Saunders.

Issue Briefings summarize, in plain language, research findings on topics expected to be of current interest to the policy community. Where appropriate, they also explore the policy implications of the research. ***Issue Briefings*** are designed to give readers a quick overview of key findings on a topic, and to stimulate a continuing conversation on the issues. While they do not attempt to be systematic or comprehensive in their review of the relevant literature, they do pay attention to the quality of the research. They also consider existing reviews of the literature when available. IWH does conduct reviews of literature that are more comprehensive and/or systematic, but these are also necessarily more time-consuming to produce.

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Data tables

Data for Chart 1 on page 5:

Distribution of earnings losses of claimants compared to controls over 10 years, by level of impairment,
Ontario Permanent Impairment Program

	Claimants' earnings as a per cent of control earnings					
	<=25%	**25%-50%**	**50%-75%**	**75%-100%**	**100%-125%**	**> 125%**
1-5% impairment	**15%**	**16%**	**18%**	**23%**	**16%**	**13%**
6-10% impairment	**26%**	**21%**	**17%**	**19%**	**11%**	**7%**
11-20% impairment	**41%**	**19%**	**15%**	**13%**	**7%**	**4%**
21-50% impairment	**53%**	**19%**	**11%**	**9%**	**4%**	**3%**
> 50% impairment	**62%**	**21%**	**7%**	**7%**	**0%**	**3%**

Data for Chart 2 on page 5:

Distribution of earnings losses of claimants compared to controls over 10 years, by level of impairment,
Ontario Loss of Earnings Capacity Program

	Claimants' earnings as a per cent of control earnings					
	<=25%	**25%-50%**	**50%-75%**	**75%-100%**	**100%-125%**	**> 125%**
1-5% impairment	**15%**	**16%**	**17%**	**23%**	**16%**	**12%**
6-10% impairment	**20%**	**19%**	**16%**	**21%**	**14%**	**9%**
11-20% impairment	**30%**	**20%**	**17%**	**17%**	**10%**	**7%**
21-50% impairment	**49%**	**18%**	**13%**	**11%**	**6%**	**3%**
> 50% impairment	**71%**	**10%**	**6%**	**6%**	**3%**	**3%**

Data for Chart 3 on page 5:

Distribution of earnings losses of claimants compared to controls over 10 years, by level of impairment,

British Columbia Bifurcated Program

	Claimants' earnings as a per cent of control earnings					
	<=25%	**25%-50%**	**50%-75%**	**75%-100%**	**100%-125%**	**> 125%**

1-5% impairment	**13%**	**14%**	**20%**	**22%**	**17%**	**12%**
6-10% impairment	**21%**	**24%**	**18%**	**17%**	**13%**	**9%**
11-20% impairment	**25%**	**21%**	**23%**	**19%**	**7%**	**5%**
21-50% impairment	**36%**	**20%**	**12%**	**16%**	**8%**	**8%**
> 50% impairment	**75%**	**13%**	**13%**	**0%**	**0%**	**0%**

Data for Chart 4 on page 7:

Distribution of claimant labour market earnings plus benefits over 10 years relative to control labour market earnings, *Ontario Permanent Impairment Program*

	Claimants' earnings as a per cent of control earnings					
	<=25%	**25%-50%**	**50%-75%**	**75%-100%**	**100%-125%**	**> 125%**
1-5% impairment	3%	12%	19%	24%	22%	20%
6-10% impairment	2%	12%	21%	25%	22%	19%
11-20% impairment	1%	11%	25%	25%	19%	18%
21-50% impairment	0%	9%	28%	25%	18%	20%
> 50% impairment	0%	3%	21%	31%	17%	28%

Data for Chart 5 on page 7:

Distribution of claimant labour market earnings plus benefits over 10 years relative to control labour market earnings, *Ontario Loss of Earnings Capacity Program*

	Claimants' earnings as a per cent of control earnings					
	<=25%	**25%-50%**	**50%-75%**	**75%-100%**	**100%-125%**	**> 125%**
1-5% impairment	5%	10%	16%	26%	24%	18%
6-10% impairment	3%	9%	18%	27%	24%	19%
11-20% impairment	2%	10%	19%	28%	22%	20%
21-50% impairment	2%	9%	20%	27%	22%	21%
> 50% impairment	0%	3%	13%	33%	27%	23%

Data for Chart 6 on page 7:

Distribution of claimant labour market earnings plus benefits over 10 years relative to control labour market earnings, *British Columbia Bifurcated Program*

Claimants' earnings as a per cent of control earnings

	<=25%	25%-50%	50%-75%	75%-100%	100%-125%	> 125%
1-5% impairment	4%	10%	16%	24%	25%	21%
6-10% impairment	1%	7%	17%	24%	25%	27%
11-20% impairment	2%	5%	14%	23%	28%	28%
21-50% impairment	0%	4%	8%	20%	24%	44%
> 50% impairment	0%	0%	0%	13%	50%	38%

April 2013

EXAMINING THE ADEQUACY OF WORKERS' COMPENSATION BENEFITS

SUPPLEMENTAL ANALYSIS:

CANADA PENSION PLAN DISABILITY BENEFITS AND WSIB BENEFITS IN THE 1992-1994 NEL/FEL CLAIMANT COHORT

IWH Project 0418

Institute for Work & Health | Research Excellence Advancing Employee Health

A key objective of workers' compensation programs is to provide adequate compensation for lost earnings to people who experience work-related injury or illness.

A workplace injury or illness can lead to lower post-injury earnings for several reasons, including physical impairment of the worker, disruption of career progression/seniority, a weakened relationship with the employer, and the stigma that may be attached to injured workers.

In this report, we describe the findings of a supplemental analysis of the adequacy of workers' compensation earnings replacement benefits. These analyses supplement the findings of a study recently completed by the Institute for Work & Health (Tompa et al., 2010) that measured the adequacy of earnings replacement benefits for permanently disabled workers under two workers' compensation benefit regimes in Ontario.

In our earlier report, we found that the earnings replacement rate, after taxes, for permanently disabled claimants was at least 90 per cent on average for every category of physical impairment under two workers' compensation benefit programs in Ontario (Ontario pre-1990; Ontario 1990-1997). In addition, within each category of impairment, there was much variation in post-injury earnings. There was also variation in earnings replacement rates, especially for those with less impairment. In the Ontario programs, about one-third of those with less than 50 per cent impairment had an earnings replacement rate of less than 75 per cent. At the same time, a sizeable percentage of claimants had earnings replacement rates above 100 per cent.

In this report, we describe the incidence of disability income security benefits provided by the Canada Pension Plan (CPPD) received by permanent impairment beneficiaries in Ontario. In addition, we estimate the contribution of CPPD benefits to the assessment of the adequacy of wage replacement benefits provided by the Ontario WSIB. CPP disability benefits were not included in the assessment of benefit adequacy in our earlier report.

What did we find?

This study used administrative records of income tax files as the source of information on labour market earnings and CPP disability benefits. The average annual amount provided by a CPP disability benefit is in the range of $8,000-$10,000. Although the CPP disability benefit has been available since 1970, the receipt of CPP disability benefit income has been reported on income tax forms only since 1992. Accordingly, the information we describe in this supplemental analysis applies to a sub-set of permanent impairment beneficiaries: those injured in 1992-1994.

In a typical year following a work-related injury resulting in a permanent impairment, approximately 14% of workers' compensation beneficiaries also received CPP disability benefits. In contrast, among a matched control group of workers who did not experience a work- related injury, approximately 2% of workers received CPP disability benefits in a typical year. Among permanent impairment beneficiaries, there was a higher probability of receiving CPP disability benefits over the nine year period following work injury among workers assessed a higher impairment rating. See Tables 1 to 4 for more details.

The inclusion of CPP disability benefits had a minor influence on the calculation of earnings replacement rates (see the following background information for a definition of the earnings replacement rate). In this cohort of 6,700 permanent impairment beneficiaries, the average earnings replacement rate was 102% excluding CPP disability benefits and 105% including CPP disability benefits (Table 7).

We might have expected that the inclusion of CPP disability benefits would have had a more substantial influence on the group of permanent impairment beneficiaries whose combined labour market earnings and WSIB benefits result in a low earnings replacement rate. This was not what we found. As an example, the proportion of beneficiaries whose combined labour market earnings and WSIB benefits were less than 50% of control group earnings was approximately 14% before the inclusion of CPP disability benefits (Table 5) and was 12% following the inclusion of CPP disability benefits (Table 6).

Background:
Adequacy of Benefits in Ontario's workers' compensation system

A study recently completed by the Institute for Work & Health, led by Dr Emile Tompa, measured the adequacy of wage replacement benefits for permanently disabled workers under two workers' compensation regimes in Ontario (before and after the 1990 change in the system) For a more detailed discussion of the research, see Tompa, Scott-Marshall, Fang, and Mustard (2010) and see Institute for Work & Health (2011).

Ontario's pre-1990 scheme compensated workers with permanent impairments according to the percentage of physical impairment. Benefits were based on 90 per cent of the pre-injury after-tax earnings multiplied by the percentage of impairment.

The scheme in effect in Ontario from January 2, 1990 to Dec. 31, 1997, involved a two-part benefit for long-term or permanent impairments. First, a non-economic loss (NEL) benefit, usually awarded as a lump sum, was based on the worker's degree of impairment. Second, a future economic loss (FEL) benefit was provided. It was based on replacing 90 per cent of the difference between earnings before injury, and earnings capacity after injury (both figures after taxes). FEL benefits were reviewed at 12, 36 and 60 months post-injury to re-evaluate the calculation of earnings capacity. (As of January 1, 1998, the target changed to 85 per cent of this difference.)

Our analysis used control groups to measure wage loss, and using earnings replacement as the measure of adequacy. The use of control groups provides a better indication than pre-injury earnings of what claimants would have earned had they not been injured. The earnings replacement rate is estimated as the sum of labour market earning and workers' compensation benefits, divided by the labour market earnings of a control group. As an example, if the average control group labour market earnings was $50,000, and the permanent impairment beneficiary had labour market earnings of $35,000 and compensation benefits of $5,000, the earnings replacement rate would be 80% ($40,000 / $50,000).

Studies of the adequacy of workers' compensation benefits require the research team to link data from workers' compensation claims to data on the earnings of injured workers (and matched controls) before and after the injury. The IWH study team linked workers' compensation data with earnings data from Statistics Canada's Longitudinal Administrative Databank (LAD). This databank contains information on the earnings of a sample of 20 per cent of Canadian tax filers.

Workers' compensation records for injuries occurring between 1986-1989 and 1990-94 were linked to the LAD data for the pre-1990 and post-1990 Ontario schemes, respectively. In each case, earnings information was available for at least four years prior to, and at least nine years following, the injury year.

The study selected up to 10 controls for each claimant linked to the LAD. The selection of controls was based a number of characteristics, including wage and salary earnings in each of the four years prior to the injury year, gender, age, and province of residence. Most controls had pre-injury labour-market earnings within 10 per cent of their claimant counterparts, and the remainder had earnings within 10-20 per cent of their claimant counterparts.

The before-tax earnings of claimants and control groups were compared annually over a nine- year period after the year of injury, for each of five categories of permanent impairment (under 5 per cent; 5-10 per cent; 10-20 per cent; 20-50 per cent; and over 50 per cent)

On average, claimants in each impairment category in both compensation programs experienced lower levels of labour-market earnings after injury relative to their control counterparts. As expected, those in the higher impairment categories experienced greater earnings losses. For more detailed information on the study's findings concerning post-injury labour market earnings, please refer to Institute for Work & Health, (2011).

The study team calculated earnings replacement rates by adding together after-tax earnings and workers' compensation benefits (note that income from the Canada Pension Plan disability benefit program was not included in the original calculations). This sum was compared with the earnings of the control groups over the 10-year period beginning with the year of injury.

On average, both programs achieved a high level of earnings replacement: over 90 per cent in each impairment category. The lower impairment categories had a somewhat lower earnings replacement rate than did the higher impairment categories. The overall average rate was 99 per cent for the two Ontario programs. The percentage of claimants in the overall sample that achieved at least a 90 per cent earnings replacement rate was 50 per cent for the pre-1990 Ontario program and 54 per cent for the post-1990 Ontario program

The results varied by impairment category and across the three workers' compensation programs. For example, in the pre-1990 Ontario program, in most impairment categories between 60 and 70 per cent of claimants had earnings replacement rates of at least 75 per cent. About three-quarters of those in the 50+ per cent impairment category acquired this level of replacement. These percentages were higher for the post-1990 Ontario program: near 70 for most categories and over 80 for those with a 50+ per cent impairment rating. Both Ontario programs had sizeable percentages of claimants with replacement rates over 100 per cent, especially among those with the highest degree of permanent impairment. For example, in the post-1990 Ontario program, 50 per cent of those with a 50+ impairment rating had an earnings replacement rate of over 100 per cent. On the other hand, in the other impairment categories, replacement rates were below 75 per cent for about one-third of claimants in the two Ontario programs.

Conclusion

The findings of Tompa et al. indicate that for both Ontario workers' compensation programs, benefits for permanently disabled claimants were adequate on average. For every category of physical impairment, the average after-tax earnings replacement rate was at least 90 per cent. However, there is considerable variation in post-injury earnings within each impairment category. There is also some variation in the earnings replacement rates, especially in the lower impairment categories. For levels of physical impairment of 50 per cent or more, about eight in 10 claimants in the two Ontario programs had an earnings replacement rate of at least 75 per cent, and many had a replacement rate exceeding 100 per cent. However, sizeable numbers in the lower impairment categories had replacement rates below 75 per cent.

These findings suggest that individual and contextual factors are very important to consider in the workers' compensation process. Factors such as gender, age, level of impairment, transferable skills, and labour market conditions may all bear on earnings capacity. Particular attention might be paid to the adequacy of earnings replacement among those with low levels of impairment, as earnings losses appear to be sizeable even for those assessed as having impairment levels of 5 per cent or less.

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Table 1

Count of CPPD receipt for claimants by impairment bracket and injury year, Ontario 1990-1994 claimant sample*

	pre_2	pre_1	inj_yr	post_	post_	post_	post_	post_	post_	post_	post_	post_9
1-5% impairment (CPPD receipt);	5	20	55	125	175	165	155	145	150	150	145	150
1-5% impairment (present and eligible)	485	1015	1690	2385	2990	2925	2805	2730	2645	2560	2475	2400
6-10% impairment (CPPD receipt)	0	15	60	150	235	225	220	220	205	200	170	170
6-10% impairment (present and eligible)	435	965	1570	2185	2720	2620	2570	2510	2435	2315	2220	2130
11-20% impairment (CPPD receipt)	0	5	130	380	600	580	555	540	510	480	460	425
11-20% impairment (present and eligible)	660	1345	2180	3215	4225	4105	3985	3915	3840	3660	3540	3405
21-50% impairment (CPPD receipt)	0	0	135	420	700	715	705	720	690	665	665	635
21-50% impairment (present and eligible)	485	1000	1490	2080	2740	2660	2600	2525	2455	2375	2315	2185
>50% impairment (CPPD receipt)	0	0	20	50	70	70	70	75	75	70	70	65
>50% impairment (present and eligible)	40	65	100	130	155	145,	140	140	140	130	120	115
all claimants (CPPD receipt)	5	40	400	1125	1780	1755	1705	1700	1630	1565	1510	1445
all claimants (number present and eligible)	2105	4390	7030	9995	12830	12455	12100	11820	11515	11040	10670	10235

overall percentage receipt of eligible	**0%**	**1%**	**6%**	**11%**	**14%**	**14%**	**14%**	**14%**	**14%**	**14%**	**14%**	**14%**

* CPPD variable available from 1992 onward- therefore show only data from 1992 onward

[PP]Includes only claimants from 1994 included in this column

[#P]Includes only claimants from 1993 and 1994 in this column

[†] Includes only claimants from 1992, 1993 and 1994 in this column

Table 2

Cumulative count of CPPD receipt for claimants by impairment bracket, Ontario 1990-1994 claimant sample

	CPPD receipt	number eligible	percent receipt
1-5% impairment (count of CPPD receipt)	310	3115	10%
6-10% impairment (count of CPPD receipt)	390	2885	14%
11-20% impairment (count of CPPD receipt)	850	4395	19%
21-50% impairment (count of CPPD receipt)	1035	2850	36%
>50% impairment (count of CPPD receipt)	95	155	61%
all claimants (count of CPPD receipt)	2680	13400	20%

Table 3

Count of CPPD receipt for controls by claimant impairment bracket and injury year, Ontario 1990-1994 control sample*

	pre_2	pre_1	inj_yr†	post_1	post_2	post_3	post_4	post_5	post_6	post_7	post_8	post_9
1-5% impairment (CPPD receipt)	0	10	20	45	60	65	60	65	60	60	60	70
1-5% impairment (present and eligible)	520	1080	1775	2540	3250	3235	3140	3100	3075	2890	2840	2770
6-10% impairment (CPPD receipt)	0	10	25	45	65	65	65	60	60	60	65	65
6-10% impairment (present and eligible)	470	1000	1665	2340	2985	2925	2885	2805	2750	2580	2535	2450
11-20% impairment (CPPD receipt)	0	5	25	55	90	95	100	95	105	105	105	110
11-20% impairment (present and eligible)	690	1400	2310	3465	4655	4595	4505	4425	4405	4140	4075	3955
21-50% impairment (CPPD receipt)	0	0	15	40	60	65	65	60	60	65	65	70
21-50% impairment (present and eligible)	535	1045	1580	2275	3025	2995	2960	2870	2825	2675	2620	2525
>50% impairment (CPPD receipt)	0	0	0	0	0	5	0	0	0	0	0	0
>50% impairment (present and eligible)	35	75	110	160	190	185	185	180	180	165	170	150
all claimants (CPPD receipt)	0	25	85	185	275	295	290	280	285	290	295	315
all claimants (number present and eligible)	2250	4600	7440	10780	14105	13935	13675	13380	13235	12450	12240	11850

	pre_2[#]	pre_1	inj_yr[†]	post_1	post_2	post_3	post_4	post_5	post_6	post_7	post_8	post_9
overall percentage receipt of eligible	**0%**	**1%**	**1%**	**2%**	**2%**	**2%**	**2%**	**2%**	**2%**	**2%**	**2%**	**3%**

* CPPD variable available from 1992 onward- therefore show only data from 1992 onward

[#]Includes only controls from 1994 included in this column

[#]Includes only controls from 1993 and 1994 in this column

[†] Includes only controls from 1992,1993 and 1994 in this column

Table 4

Cumulative count of CPPD receipt for controls by claimant impairment bracket, Ontario 1990-1994 control sample

	CPPD receipt	Number eligible	percent receipt
1-5% impairment (count of CPPD receipt)	**125**	**3135**	**4%**
6-10% impairment (count of CPPD receipt)	**125**	**2870**	**4%**
11-20% impairment (count of CPPD receipt)	**195**	**4435**	**4%**
21-50% impairment (count of CPPD receipt)	**130**	**2865**	**5%**
>50% impairment (count of CPPD receipt)	**10**	**180**	**6%**
all controls (count of CPPD receipt)	**585**	**13485**	**4%**

Table 5: Distribution of claimant labour market earnings plus WSIB benefits compared to control labour market earnings, by level of impairment

FEL/NEL Program 1992-1994

Claimants' earnings plus benefits as a percent of control earnings

	<=25%	25-50%	50-75%	75-100%	100-125%	>125%	Count
NEL 1-5%	**6%**	**11%**	**15%**	**25%**	**24%**	**19%**	**1,625**
NEL 6-10%	**4%**	**9%**	**17%**	**27%**	**23%**	**19%**	**1,485**
NEL 11-20%	**4%**	**10%**	**17%**	**26%**	**23%**	**20%**	**2,140**
NEL 21-50%	**2%**	**11%**	**19%**	**25%**	**22%**	**21%**	**1,445**
NEL >50%	**0%**	**6%**	**11%**	**33%**	**28%**	**22%**	**90**
Total	**4%**	**10%**	**17%**	**26%**	**23%**	**20%**	**6,785**

Table 6: Distribution of claimant labour market earnings plus WSIB benefits plus CPPD benefits compared to control labour market earnings, by level of impairment

FEL/NEL Program 1992-1994

Claimants' earnings plus benefits as a percent of control earnings

	<=25%	25-50%	50-75%	75-100%	100-125%	>125%	Count
NEL 1-5%	4%	10%	17%	25%	24%	19%	1,625
NEL 6-10%	3%	9%	18%	27%	24%	20%	1,485
NEL 11-20%	2%	8%	17%	27%	23%	22%	2,140
NEL 21-50%	2%	7%	16%	26%	24%	25%	1,445
NEL >50%	0%	5%	5%	21%	37%	32%	90
Total	3%	9%	17%	26%	24%	21%	6,785

Table 7: Average after-tax earnings replacement rates by degree of impairment

	92-94 without CPPD	92-94 with CPPD
NEL 1-5%	95%	97%
NEL 6-10%	98%	99%
NEL 11-20%	100%	103%
NEL 21-50%	116%	124%
NEL >50%	112%	126%
Total	102%	105%

Institute for Work & Health (IWH) Benefit Adequacy Study - 2011

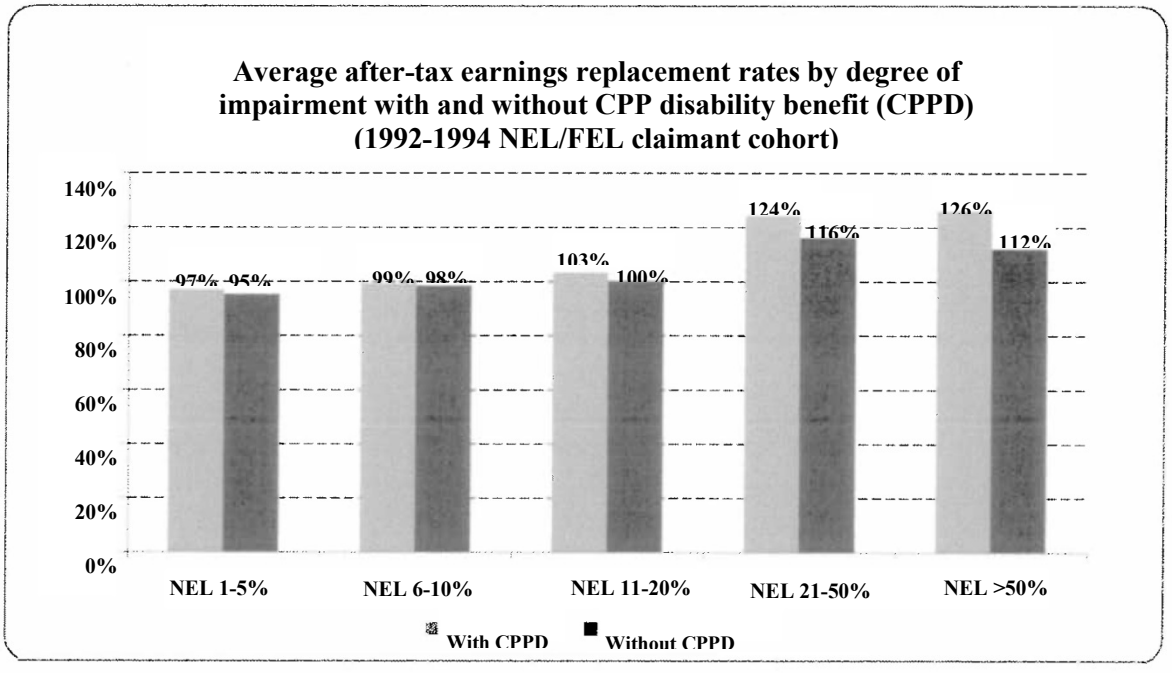
Purpose of the IWH Study

A key objective of workers' compensation programs is to provide adequate compensation for lost earnings to people who experience work-related injury or illness. The IWH recently issued an update to its earlier study of the extent to which injured workers were able to replace their pre injury earnings using a combination of income replacement awards from the WSIB, employment income and income from the CPP disability benefit program. These post-injury income sources were then compared to the earnings of a control group of workers who had similar pre-injury income but had not been injured.

What was the principal study finding?

Although there was considerable variation in post-injury earnings replacement within each permanent impairment category, the average after-tax earnings replacement rate was 105% of the non injured control group for workers injured between 1992 and 1994. Among different levels of permanent impairments (NEL)[1], the average rates varied from 97% (NEL 1-5%) to 126% (NEL >50%). The earnings replacement was based on the combination of labour market earnings, WSIB benefits and CPP disability benefit income (CPPD) over the 10-year period beginning with the year of injury. The workers' earnings replacement was compared to their uninjured peers during the same period of time (the Control Group). The earnings replacement rate exceeded the study's adequacy target of 90%. This is a very significant achievement in the administration of a complex disability income replacement program.

Chart 1 - Average after-tax earnings replacement by degree of impairment



[1] NEL= Non Economic Loss award awarded under the WSIA to recognize a worker's degree of permanent

impairment

Source: *Examining the adequacy of workers' compensation benefits - Supplementary Analysis: Canada Pension Plan Disability Benefits in the 1992-1994 NEL/FEL claimant cohort*

Table 1: Average after-tax earnings replacement rates by degree of impairment

	With CPPD	Without CPPD
NEL 1-5%	**97%**	**95%**
NEL 6-10%	**99%**	**98%**
NEL 11-20%	**103%**	**100%**
NEL 21-50%	**124%**	**116%**
NEL >50%	**126%**	**112%**
Total	**105%**	**102%**

Source: *Examining the adequacy of workers' compensation benefits - Supplementary Analysis: Canada Pension Plan Disability Benefits in the 1992-1994 NEL/FEL claimant cohort*

Some beneficiaries exceeded the average and some beneficiaries were below the average. Over the 10-year period beginning with the year of injury, approximately 29% of permanent impairment beneficiaries received less than 75% of control group labour market earnings and approximately 45% of permanent impairment beneficiaries received more than 100% of control group labour market earnings.

Chart 2: Distribution of claimant's total earnings compared to control labour market earnings by level of impairment (1992-1994 NEL/FEL claimant cohort)

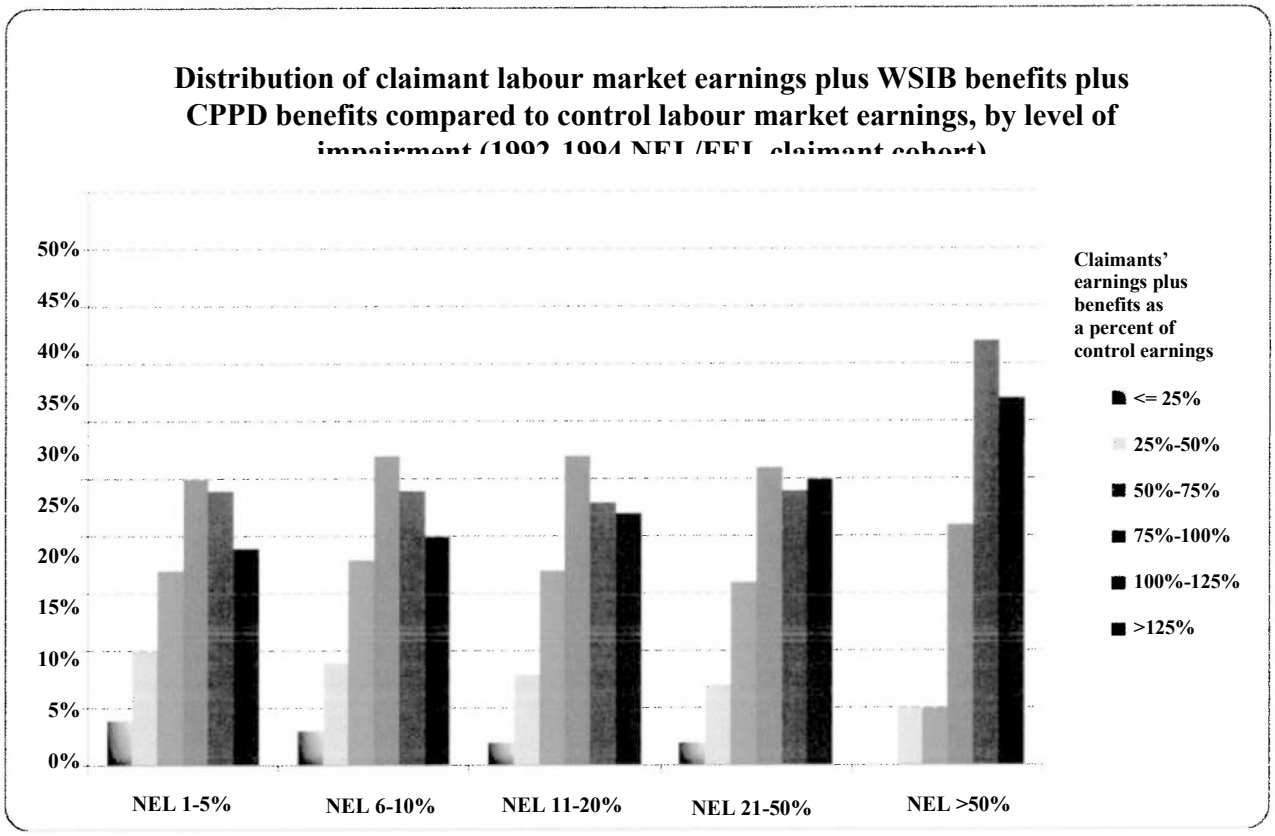


Table 2: Distribution of claimant labour market earnings plus WSIB benefits plus CPPD benefits compared to control group labour market earnings, by level of impairment (1992-1994 NEL/FEL claimant cohort)

	Claimants' earnings plus benefits as a percent of control earnings						
	<=25%	25-50%	50-75%	75-100%	100-125%	>125%	Count
NEL 1-5%	4%	10%	17%	25%	24%	19%	1,625
NEL 6-10%	3%	9%	18%	27%	24%	20%	1,485
NEL 11-20%	2%	8%	17%	27%	23%	22%	2,140
NEL 21-50%	2%	7%	16%	26%	24%	25%	1,445
NEL >50%	0%	5%	5%	21%	37%	32%	90
Total	3%	9%	17%	26%	24%	21%	6,785

Source: ***Examining the adequacy of workers' compensation benefits - Supplementary Analysis: Canada Pension Plan Disability Benefits in the 1992-1994 NEL/FEL claimant cohort***

The study also looked at earnings excluding CPP disability benefit income as a source of income for permanent impairment beneficiaries injured between 1990 and 1994, in which not all claimants' CPP benefit data were available. In this expanded group of beneficiaries, the earnings replacement rate was 99% excluding CPP benefits. For the 1992-1994 injured group that had more complete data, the rate was 102% when CPP benefits were excluded.

How was the adequacy of benefits assessed?

The earning replacement rate used in this study estimates the extent to which the combination of post-injury earning and workers' compensation benefits replaced the earnings that the worker would have had if not injured. Target replacement rate is often used as a test of adequacy. The post-1990 Ontario legislation had a target replacement rate of 90 percent of after-tax pre-injury earnings.

For comparison purposes, the study selected up to 10 uninjured workers for each claimant based on a number of characteristics, including wage and salary earnings in each of the four years prior to the injury year, gender and age. The use of these uninjured workers as control groups provided a good foundation to measure the outcomes of injury and the compensation system.

Why was this study conducted?

Ontario's Workplace Safety & Insurance Board (WSIB) has a legislated obligation to provide income replacement benefits to workers who are disabled by a work-related injury or illness. This study was conducted to assess the adequacy of benefits provided to disabled workers in Ontario who were awarded a permanent impairment benefit.

What is a permanent impairment benefit?

If a worker who is injured or becomes ill as a result of a work-related exposure and does not fully recover from the injury or illness, they are eligible to receive a permanent impairment benefit for the remainder of their working career.

What is a CPP Disability benefit?

Canada Pension Plan (CPP) Disability Benefits provide a monthly taxable benefit to contributors who are disabled and to their dependent children. When a worker receives CPP/QPP disability benefits and WSIB FEL/LOE benefits, the WSIB offsets 100% of the CPP/QPP disability benefits paid in relation to the work-related injury/disease from the FEL/LOE benefits. This legislated calculation requires CPP Disability benefit being included in the analysis in order to assess post-injury earnings in a comprehensive manner.

How many workers receive a permanent impairment benefit?

In the period of this study (workers injured between 1986 and 1994), approximately 10% of workers who received wage replacement benefits following a work-related injury or illness were awarded a permanent impairment benefit.

How valid are the study's findings?

This is the largest study of workers' compensation benefit adequacy ever conducted in Canada. The study sample was representative of permanent impairment beneficiaries. One of every five beneficiaries was included in the linkage to income tax records. The size of the study sample and the representativeness of the study sample were designed to provide reliable results.

The data come from claims that date from 1994 or earlier. Why weren't more recent claims studied?

To provide reliable results a study of this kind requires worker's earnings to be tracked over a long period. This study designed a 10-year period beginning with the year of injury to track outcomes. **The study is currently being updated.**

Source documents

Supplemental Analysis: Canada Pension Plan Disability Benefits and WSIB benefits in the 1992-1994 NEL/FEL claimant cohort. May 2013, Institute for Work & Health.

Examining the adequacy of workers' compensation benefits. Issue Briefing, January 2011. Institute for Work & Health.

Comparative benefits adequacy and equity of three Canadian workers' compensation programs for long-term disability. Tompa E, Scott-Marshall H, Fang M, Mustard C. Working Paper# 350. Toronto, ON: Institute for Work & Health; 2010.

The full IWH study and its supplement are available at the following link on the IWH website:

1. Supplemental Analysis: Canada Pension Plan Disability Benefits and WSIB benefits in the 1992-1994 NEL/FEL claimant cohort. May 2013

http://www.iwh.on.ca/briefings/supplemental-report-the-adequacy-of-workers-compensation-benefits

2. Examining the adequacy of workers' compensation benefits. Issue Briefing. January 2011

http://www.iwh.on.ca/briefings/benefits-adequacy

ITEM 4

FOR STANDING COMMITTEE ON GOVERNMENT AGENCIES
IN RESPONSE TO MAY 17, 2013 LETTER, CLERK'S OFFICE

June 18, 2013

wsib
cspaat
ONTARIO

Workplace Safety and Insurance Board

COMMITTEE REQUEST #4

The Committee recommends that the draft report contain a summary of Workwell initiatives and inspections in the last five years and the WSIB's planned role for the program over the next ten years.

DATA PROVIDED (PLEASE SEE ATTACHMENT: 1 PAGE)

List of Workwell initiatives in the past 5 years as well as plans for the next 10 years. The following information for 2008-2012 is also provided:

- number of risk plans completed
- number of 1st audits completed
- number of 2nd audits completed

Workwell Initiatives in the Past 5 Years

- Developed, piloted and implemented a Small Business Audit Tool
- Developed/ Implemented Hazard Management Tools for Small and Medium/Large Companies
- Developed/Facilitated Workwell Workshops for companies selected for a workwell audit
- Developed/Implemented Health and Safety Performance Review Program and Tool
- Revised/Updated the Workwell Core Audit Tool
- Developed and piloted an Agriculture Audit Tool (did not implement)
- Developed a Workwell Core Audit Tool for federally regulated companies (did not pilot/implement)
- All Workwell staff trained in CSA -Z1000 and ISO 19011 audit standards

	2008	2009	2010	2011	2012
Risk Plans completed	**128**	**22**	**53**	**73**	**195**
1st Audits completed	**36**	**110**	**111**	**176**	**105**
2nd Audits completed	**145**	**259**	**207**	**708**	**420**

WSIB's Planned Role For The Program Over The Next 10 Years

Regarding the future of Workwell, the WSIB is working closely with the MoL-Prevention Office as they review WSIB prevention programs including Workwell with a goal of piloting a new prevention program(s) in the Spring of 2014. Once the details of the pilot program(s) are clear the WSIB will make a decision on the future of Workwell.

APPENDIX 2

DISSENTING OPINION OF THE PROGRESSIVE CONSERVATIVE MEMBERS OF THE COMMITTEE

Standing Committee on Government Agencies

Agency Review:

Workplace Safety & Insurance Board

Ontario PC Caucus Dissenting Opinion

Ontario's Workplace Safety and Insurance Board is the government agency that provides injury and disability benefits to workers. WSIB coverage is compulsory for most businesses and industries in Ontario. Employers fund the WSIB through payroll taxes in the form of premiums based on the earnings of their employees. The WSIB sets these premium rates, while the government sets benefits and coverage through legislation.

WSIB premiums are necessary, but they are also a tax on jobs. The objective should be to keep premiums reasonable while still meeting workers' needs. The WSIB has failed to achieve this goal.

The WSIB currently has an estimated unfunded liability of over $13 billion. This means that the assets in its insurance fund are over $13 billion less than what is needed to meet the estimate of lifetime costs of all claims under the WSIB's coverage. But according to one recent analysis by the independent, not-for-profit C.D. Howe Institute, entitled "The Hole in Ontario's Budget: WSIB's Unfunded Liability," authors Colin Busby and Finn Poschmann found that on a fair-value accounting approach, the unfunded liability could actually be closer to $20 billion. The massive unfunded liability is also the result of establishing premiums and benefits to suit political considerations instead of actual market demands. The WSIB's problems were exacerbated by the recent economic downturn, which exposed a reckless investment strategy, and reduced premium payments due to higher unemployment.

Taxpayers, future employers and ultimately workers are on the hook for the shortfall. This has been a cause of concem not only to the Auditor General but more recently to the WSIB funding review, think tanks and business groups. Yet despite an increasing unfunded liability, the Ontario government recently unilaterally increased WSIB benefits, making the problem worse. The WSIB can be expected to increase premiums yet again, acting as a powerful disincentive for businesses to hire new employees.

The management of the WSIB is not a new concem. Since the early 1980s, every government of all political stripes has tried to "fix" the Board, through legislative reform and administrative action. Yet, core problems persist and worsen. The hard fact is that this system was designed for a post-industrial revolution world a century ago and simply no longer meets the modem needs of Ontario's workers and employers. The time for thoughtful change is overdue.

One solution to this problem is to allow the private sector to compete for providing insurance coverage for workers in Ontario. Most U.S. states already allow private insurers to compete with state insurance funds for the provision of workers' compensation. We

believe that a similar model would work well for Ontario.

Presently, only 70 per cent of Ontario's workforce is covered under the WSIB even though protecting Ontario' s workers for on-the-job injury is the only reason the Board was set up in the first place. Even so, imposing a deteriorating WSIB on the 30 per cent left out makes no sense. In spite of that, next year, the Ontario government will do just that for self-employed independent construction contractors under Bill 119, called the Workplace Safety and Insurance Amendment Act. We will start our reforms by repealing this backward step while still ensuring adequate insurance protection.

Allowing private insurers into the market would provide employers with choices, not just as to which company, but on the specific details of coverage. Mandatory coverage at equal or better terms would still be in place, and an employer would be required to present proof of membership in an altemate plan before they would be allowed to opt out of the WSIB. Private insurance, like WSIB coverage, would remain a 'no-fault' system to maintain the integrity of workplace insurance.

Under this proposai, a streamlined, more accountable WSIB govemed by a competent, non-political board of directors would continue to operate in competition with private sector companies. The WSIB would serve as an insurer of last resort, providing coverage to those businesses that cannot obtain insurance elsewhere. We recognize that these are bold suggestions that must be carefully and thoughtfully introduced. The millstone of the unfunded liability is both the catalyst and impediment for needed reform. A catalyst because the continued presence of the unfunded liability over 30 years shows the system is often captive to short term political interference which must end. An impediment because responsible reform cannot permit employers to abandon the Board's liabilities.

We therefore propose a staged reform process. We would start with the repeal of Bill 119 which forces Ontario's self-employed independent operators to join the WSIB. Instead, we would allow those entrepreneurs to opt for comparable private insurance. Next, as individual business sectors secure an adequate level of funding, we would allow those employers to obtain suitable private insurance. Insurance choice will be respected. Third, we would immediately revamp the Board, replacing a political board of directors with a skills-based board, charged with proper corporate govemance oversight. These reforms will trigger a modemization of Ontario's workplace insurance system, which was once at the vanguard of public policy. Ontario's needs have changed. The Board hasn't. It now must.

APPENDIX 3

Dissenting Opinion of the New Democratic Members of the Committee

NDP Dissenting Report on Government Agency committee

Review of WSIB

Indexation for injured workers on partial benefits

In the Arthurs funding review, the Minister of Labour asked Professor Arthurs to review the issue of benefit indexation for injured workers on partial benefits.

The NDP believes that injured workers on partial benefits have seen the value of the benefits they must rely on eroded by inflation. Professor Arthurs concluded that fairness "clearly involves restoration of full indexation and abandonment of the present ad hoc system of annual adjustments by regulation". Furthermore, Professor Arthurs found that steps could be taken to restore full indexation for injured workers on partial benefits and restore some of the erosion of the value of those benefits at the same time as reducing the Unfunded Liability.

Again, the Arthurs report recommended that benefits for partially disabled workers be fully indexed for inflation. In May 2012, the government announced that the benefits for such workers would be increased by 0.5 percent in 2013 and another 0.5 percent in 2014 - a far cry from the Arthurs' Recommendation.

Based on the Arthurs recommendation, the NDP moved that:

The Committee requests that the WSIB and/or government table with the Committee by May 15, 2013 an assessment of a balanced and fiscal/y responsible timetable to:

- *restore full indexation for injured workers on partial benefits* ;
- *to allow for restore the value of the eroded benefits of injured workers; and*
- *to end the current practice of ad hoc indexing.*

New Democrats were disappointed that the Committee failed to endorse this important Arthurs recommendation.

Experience rating programs

Professor Arthurs made several recommendations for both the Government and the WSIB to ensure that the experience rating (ER) programs are consistent with the requirements of the WSIA.

The Arthurs report recommended that, among other things, the WSIB should state clearly that the purpose of its ER programs was to reduce workplace injury and disease and to encourage return to work; adopt a policy to protect the integrity of these programs and commit the necessary resources to detect,

prevent, and punish abuses; and establish a credible monitoring program to ensure the fulfillment of the above.

Furthermore, the Committee heard concerns about the failure of both the Government and the WSIB to implement Professor Arthurs' recommendations regarding experience rating.

The NDP is therefore disappointed that its motion for both the Government and the WSIB to immediately and fully implement Professor Arthurs' recommendations on experience rating was not approved by the Committee

Coverage

Many workers and employers remain unprotected by Ontario's workers' compensation system.

Professor Arthurs described the coverage issue as "so critical for the future of Ontario's workplace insurance system that it deserves early and extensive study":

The Arthurs report observed that some of the descriptions in Schedule 1 regarding coverage are anachronistic and fail to reflect "today's rapidly changing labour market." It recommended that the government repeal the current regulation and adopt an exclusionary list, wherein employers are covered unless specifically excluded. The report continued that this recommendation is not intended to extend workforce coverage in Ontario, but rather to clarify its nature.

However, the report commented that the issue of workforce coverage "deserves early and extensive study."

Many witnesses appearing before the Committee addressed the issue of workforce coverage. The OFL, CUPE, and OPSEU endorsed the recommendations in the Arthurs report and advocated for broader coverage, stating that employers who are not covered are "getting a free ride" because they do not contribute to the health and safety functions of the WSIB and the Ministry.

The NDP is therefore disappointed that its motion for the Government and/or the WSIB to commission a study on coverage with a view towards increasing coverage and addressing potential problems in implementation was not approved by the Committee.