

A Closer Look at Cleaning up the Costs of WSIB Claims for Employers

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This article written by Diane Laranja (a lawyer with COCA associate member Sherrard Kuzz LLP) appeared in the Daily Commercial News. We wanted to share it with you as it offers some very valuable suggestions for employers to help minimize the costs associated with an injury.

While spring is often highly anticipated, it's also the time when construction employers receive their first quarterly cost statement from the Workplace Safety and Insurance Board (the "WSIB"). The statement, typically referred to as a CAD-7, outlines the surcharge (or rebate) the employer can expect to pay (or receive) at the end of the calendar year. Fortunately, there are ways an employer can minimize the expected surcharge, or better yet, position itself for a rebate.

Stay Involved and Participate

The key to managing the cost of WSIB claims is to stay actively involved. Many employers mistakenly believe the WSIB will ensure claim costs are kept to a minimum, or that there is nothing that can be done to affect the process. Nothing could be further from the truth.

Where appropriate, an employer should consider challenging a worker's entitlement, managing the return to work process, and actively participating in all claim proceedings.

Ask for Medical Information

Medical information drives the WSIB claim management process. A worker's entitlement to coverage and benefits should be supported with objective medical evidence provided by a certified health professional. An employer is not required to accept a medical note that merely states "patient cannot work for two weeks".

Such notes are inadequate and do not support a continued absence.

Instead, an employer should actively seek meaningful information related to the nature of the worker's condition, workplace restrictions and expected recovery time. The requested information also does not have to be on a standard WSIB form.

Offer Suitable Modified Work and Accommodate

Failing to accommodate an injured worker with suitable modified work adds significant costs to an employer's CAD-7.

If suitable modified work is not provided the WSIB will award loss of earning benefits and the employer's frequency rating will be impacted after eight days of lost time. Suitable work means work that is safe, productive, consistent with the worker's functional abilities, and, to the extent possible, restores the worker's pre-injury earnings.

Relying on medical documentation, or even standard restrictions for the area of injury, an employer should immediately begin to explore available duties within its workplace (or at another appropriate location). Regardless of whether the worker accepts an offer of suitable work, an offer acts as an important end to the continuation of loss of earnings benefits, and to the resulting impact on the CAD- 7.

Ask for Cost Relief

In some cases, the WSIB may agree to transfer a percentage of an injured worker's claim costs to what is called the secondary enhancement and injury fund.

This relief is available if the injured worker has a prior disability that caused or contributed to the workplace accident or prolonged or enhanced the recovery time.

In such cases, the WSIB will remove a portion of the claim costs from the employer's CAD-7. The key to this relief, is to know when and how to ask. If you're not sure, consult with experienced WSIB counsel.

Closing Notes for Employers

Managing a WSIB claim, while it may appear to be time-consuming and cumbersome, is fundamentally important to your organization.

Not only will managing claims help bring employees back to the workplace more quickly and efficiently, but it will very likely result in significant cost savings.

Is it time for some WSIB Spring cleaning in your workplace? What are you waiting for?

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To learn more and for assistance managing your organization's WSIB disability claims, contact a member of Sherrard Kuzz LLP or visit www.sherrardkuzz.com.