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# ABCs of the WSIB

## NAVIGATING THE WORLD OF CLAIMS AND ACCOUNTS

The first step is understanding the WSIB system; the second is implementing best practices to contain costs.

BY CAROL CHAN AND  
ANDREW EBEJER

To some employers, a Workplace Safety and Insurance Board (WSIB) document looks like a random jumble of letters – LOE, NEL, WT, PI – and it's further complicated by confusing medical terminology. Misunderstanding or mishandling a WSIB matter will be costly, but the good news is taking charge need not be intimidating.

In Ontario, workers' compensation is a compulsory, no-fault insurance program administered by the province. The trade-off is that a worker forgoes the right to sue the employer for damages arising from a workplace injury, but receives benefits from a system that does not consider the fault of the employer or its ability to pay. The employer contributes premiums and is insulated from potentially crippling liability.

An employer is required to report every workplace accident and illness to the WSIB if health care is required; or if either the accident or illness results in the worker not being able to earn full wages because of lost time due to absence, working partial hours or performing modified work. WSIB policy also requires an employer to report if a worker requires modified duties for more than seven calendar days, but only received first aid instead of health care. Thereafter, a worker has six months to claim WSIB benefits.



*Inability to earn full wages occurs when a worker has lost time due to an absence, works partial hours or requires modified duties at less than regular pay.*

PHOTO: THINKSTOCK

The WSIB evaluates a claim to determine whether to allow initial entitlement, which is generally granted to a worker that suffers a personal injury “arising out of and in the course of employment.” This involves the time of the injury (work hours or off-duty), the place (workplace or elsewhere) and nature of the activities being performed (was the activity necessary or incidental to the worker’s employment?).

Granting initial entitlement opens the gateway for the worker to receive a wide range of benefits and services including:

- **Loss of earning benefits (LOE).** Awarded if a worker’s earnings decrease as a result of his/her injury or illness.
- **Healthcare benefits.** Covers healthcare services, prescription drugs, medical devices, orthotics and travel expenses associated with receiving treatment for a workplace injury or illness.
- **Non-economic loss benefits (NEL).** They’re awarded after reaching maximum medical recovery (MMR) to compensate for physical, functional or psychological loss caused by a permanent impairment (PI) arising out of a workplace injury or illness.
- **Workplace transition (WT) plan.** It may include literacy, academic and vocation-

al skills training to help the worker return to work with either the employer or elsewhere in the labour market. (A WT Plan replaces labour market re-entry or LMR).

### Best practices

Understanding how the WSIB system works is important, but the next step is implementing best practices to contain costs. Here are three:

**1 Get out your highlighter.** Managing a WSIB claim or account requires careful review of each letter and decision from the WSIB as well as monthly cost statements and experience rating summaries. Ensure the list of workers is accurate and benefits received are consistent with the claim status. For example, is a worker identified as receiving LOE benefits despite being offered or having accepted suitable modified duties? Contact the WSIB immediately to correct any discrepancies and submit additional information if required.

Consider whether the information in a letter or decision is accurate and complete, the position or steps taken make sense, and any decision made is supported by appropriate evidence. Respond immediately if you have any concerns. When a decision is unsatisfac-

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tory, consider filing an objection. This will trigger the WSIB to reconsider its decision. Even if unsuccessful, filing an objection gives an employer access to the entire WSIB claim file and provides an opportunity to take it to an appeals resolution officer.

**2. Ask for help.** LOE is often the principle cost in a WSIB claim. Avoid it by offering modified duties suitable to the worker's restrictions, but have up-to-date information about those restrictions. In an ideal world, the worker should provide this information voluntarily and regularly. In reality, you may have to pursue it, so have a system in place that tracks, seeks and updates relevant medical information.

Request information in a manner that does not contravene human rights or privacy laws. An employer should not request medical information directly from a healthcare professional without the worker's consent. Ask the worker to obtain it. This information determines when the employee is able to return to work and what, if any, accommodation is required. Only inquire into the nature of the worker's injury or illness, medical restrictions and prognosis for recovery, not the diagnosis. Using a WSIB functional abilities form (FAF) helps identify the required medi-



A claim is granted to a worker that suffers a personal injury arising out of and in the course of employment. PHOTO: THINKSTOCK

cal information.

If the worker refuses to provide medical information or accept modified duties, ask the WSIB claims manager for assistance. If the worker fails to cooperate, the claims manager may deny or discontinue benefits and close the file.

Although often initiated by the WSIB, an employer can also ask the WSIB to conduct a return to work (RTW) meeting. Typically, this is an excellent opportunity to learn more about why the worker objects to the modified duties and demonstrate to the WSIB that the proposed accommodation meets the worker's medical restrictions. If the worker returns to work and is paid at his/her regular rate, or refuses suitable modified duties, LOE should end.

**3. Ask for cost relief.** In some cases, the WSIB may agree to transfer a percentage of an injured worker's claim costs to the Secondary Enhancement and Injury Fund (SEIF). This relief is available if the injured worker has a pre-existing condition that caused or contributed to the workplace accident, or prolonged or enhanced the recovery time.

The key to obtaining this relief is knowing when and how to ask. If you're not sure, consult with experienced WSIB counsel.

Don't blindly accept WSIB expenses as an uncontrollable cost. Carefully scrutinize documents, communicate with the WSIB and worker, offer modified duties when appropriate and object to unfavourable decisions. Doing so will help control and manage WSIB costs.

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## TRAINING

### Don't focus on wrong

Teach by reinforcing the right way

BY HUGH ALLEY

When starting work at new facility, I was required to do some safety training. Good for them! They were taking safety seriously. At the end of the training, there was an online quiz. I had to get a minimum score to be allowed to start work. Also good.

I got the first few questions right, and the system told me so. Then I got one wrong, and that's where the system got it wrong. It told me the answer I'd provided – and it repeated that answer – was incorrect, thus reinforcing the mistake, not the knowledge I needed (the right answer, and why my answer was wrong).

What I experienced is pretty common. I once saw an experienced machinist trying to teach an apprentice, and the instructions were, "Make sure you don't ..." and "Never do ..." Well intentioned, but these instructions didn't tell the learner what he needed to do.

It's like telling a child, "Don't run across



Focus on achieving the objective. PHOTO: THINKSTOCK

the road." It's accurate as far as it goes, but it doesn't help the child achieve the desired outcome, which is to cross the street. We do better to say, "Look both ways to make sure there are no cars coming, before you step into the street," which teaches the child how to achieve the objective safely.

We need to do the same with our workplace training. Note mistakes and state what the correct action should be, and why.

The payoff is faster learning and fewer mistakes.

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