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11 May 2016

Kathleen Wynne, Premier
Legislative Building
Queen's Park
Toronto ON
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Dear Premier Wynne:

**Re: WSIB Misuse of IWH update on “Adequacy of Workers’
Compensation Benefits in Ontario**

We are deeply offended by the WSIB’s post, on its website, of the above study “update”. The WSIB is boasting that that “on average”, in the period between 1998 and 2008, injured workers with permanent impairments had income replacement rates of over 100%. Instead of looking critically at the update and realize they need to address many failures of the system, the WSIB chose the comforting road of self-congratulation. We believe that for an organisation created to address the income losses of injured workers, ignoring its failures is irresponsible.

What did the WSIB Ignore?

We do not intend to get into the methodological issues we have with the study, which we will address separately. But taken at its face, the study update paints a disturbing, yet unsurprising picture for us. As we all knew, some injured workers (48%) return to work after injury and replace, and sometimes surpass, over time, their pre-injury earnings. But a majority do not (52%: Table 3). In this group of ‘wage-losers’, 25% lose significantly: they replace less than 75% of pre-injury earnings. Another group (9%) are ‘extreme wage-losers’: they are able to replace less than half of pre-injury earnings.

Does Public Relations trump responsibility?

The WSIB seems delighted with the magic of “average numbers”. In its summary it says that “on **average**, [injured workers do] as well as, or better than, uninjured workers if we

look at their income over the 10 years after their injury. Building on a similar study from 2011, the IWH has now found that workers injured between 1998 and 2002 earn, on **average**, 104 per cent of what a group of uninjured peers earned. Compared to the injured workers' own pre-injury earnings, the **average** level of earnings replacement was even higher, at 111 per cent, well above the 85 per cent rate set out in Ontario legislation to determine benefit payments" (emphasis added).

However, the issues and failures hidden under the mathematical "average" go unnoticed. Half the injured worker population does well regarding income replacement. We are pleased by this. But what about the other half? Thousands of injured workers are swept under the rug of this mathematical average. Can the WSIB be happy about this?

Questions for a Responsible WSIB:

These would have been important reflections and questions for a more responsible WSIB approach:

- **Learning from "success:"** What can we learn from the injured workers who "do well" by replacing their pre-injury income? For example, does having a union help? How can we use the factors that help this group help the group that is failed by the WSIB?
- **Addressing "polarization:"** The 2011 study that has been updated in 2016, noted the "polarization" of the group that does well and the group that does not. How will the WSIB address this polarization? How can it amend its policies and practices to better serve the "income losers"? The 2016 study does not address this.
- **Addressing extreme loss:** Among the "income losers," there is a group (9% or about 1,500 people/families every year) with extreme income loss. They replace less than half of pre-injury income. What will the WSIB (and government) do to reach out to them and help this group financially?
- **Addressing low levels of impairment with significant income losses:** The 2011 study said: "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% or less". What has the WSIB done since 2011 to address this problem signalled by the IWH? What will it do now and in the future?
- **Addressing women:** A related study by the IWH called "Work injury and Poverty: Investigating Prevalence across programs and Over Time" (July 2014) had indicated that **women** injured workers had a particular vulnerability to poverty: "Increased levels of poverty due to work injury and permanent impairment are particularly a concern for female claimants, though both female and male claimants have a higher chance of near poverty compared to non-

injured workers” (p. 71). Has the WSIB addressed the particular vulnerability to poverty of its female injured worker community?

- **Addressing Current Data on Injured Workers:** The WSIB says the recent study was undertaken to consider benefits adequacy for injured workers under “Ontario’s current compensation rules.” This is misleading. The study data only includes workers injured up to 2002. As you know, the WSIB began major changes in claims adjudication in 2010 with the appointment of I. David Marshall as president. These practice changes were formalized by suite of 7 new benefits policies implemented in November 2014. What are injured workers’ wage losses under the current compensation rules? The WSIB knows, they collect Canada Revenue Agency income statements from all injured workers on wage loss benefits for 6 years after the injury. Premier, please ask the WSIB to report current information.

Where ONIWG Stands

We welcome our discussions with the Premiers’ Office, initiated by Kirsten Mercer. At our first meeting, she asked us whether we were against the WSIB system and who we were concerned about. We clarified that we are very much in favour of a strong and public workers’ compensation system. We said we speak for, particularly, permanently disabled injured workers who suffer loss of employment and income after injury. The study of 2011 and the update of 2016 provide a useful statistical picture of that.

Our system was created in 1915 in order to, in the words of Justice William Meredith, preventing the injured worker to “become a burden upon his (or her) relative or friends or the community at large”. We have a “wage-loss system” in place that was introduced by then Labour Minister Greg Sorbara in 1989 (Bill 162). However, our “wage-loss system” is only serving half of the permanently disabled. Thousands of injured workers suffer significant income losses. We believe that the cuts by the Marshall administration after the study window of 2008 have produced a much harsher situation for the injured. How can the WSIB be satisfied? How can it be boastful about “average” figures?

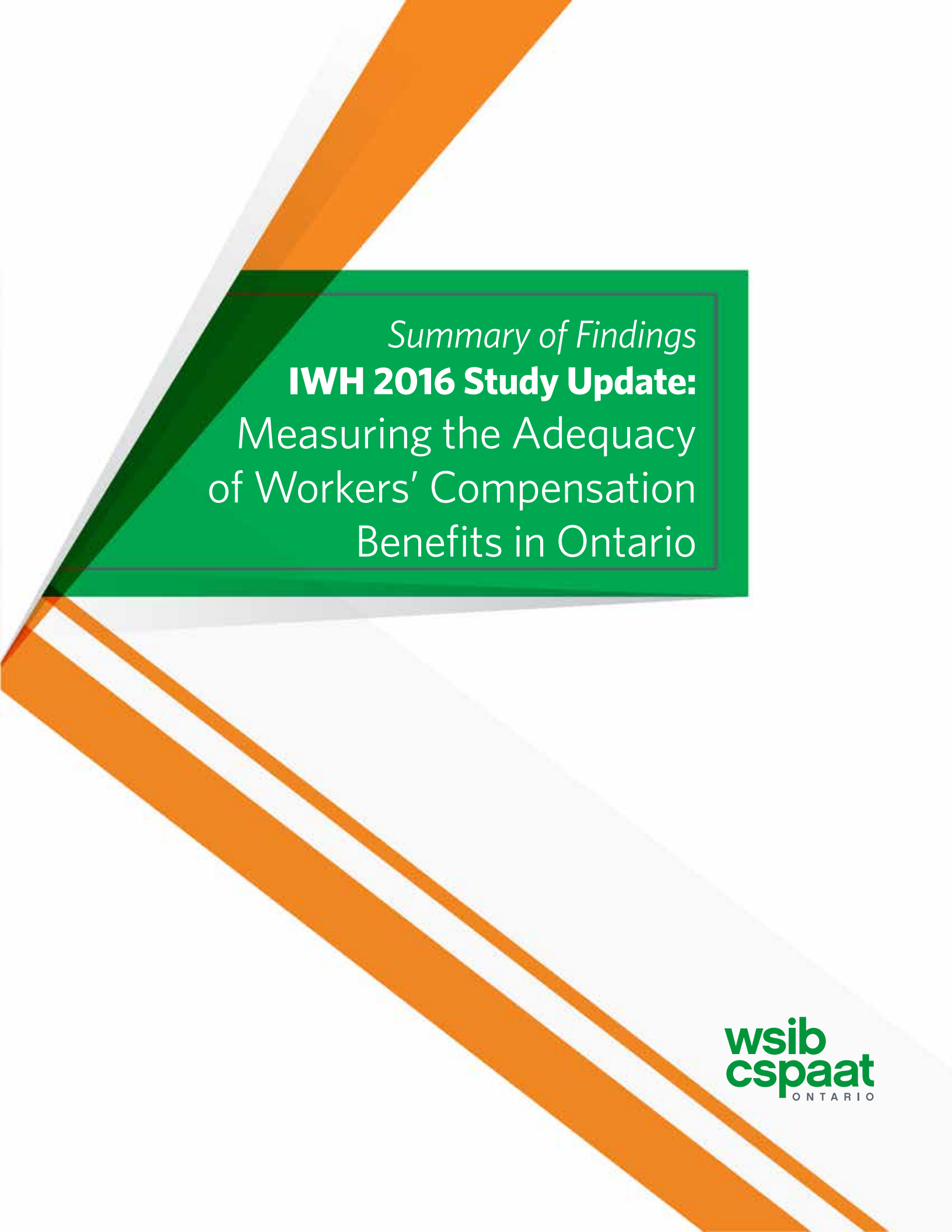
ONIWG challenges the government and the WSIB to own up to their responsibility to **all** injured workers of Ontario. We are offering to help address these issues.

Yours truly,



Steve Mantis, Chair
ONIWG Research Committee

cc. WSIB, IWH, NDP, OFL, Provincial Building Trades Council



Summary of Findings
IWH 2016 Study Update:
Measuring the Adequacy
of Workers' Compensation
Benefits in Ontario

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IWH 2016 Study Update:
Measuring the Adequacy
of Workers' Compensation
Benefits in Ontario

A new study by the Institute for Work and Health (IWH) has found that workers injured on the job in Ontario who experienced permanent impairments do, on average, as well as, or better than, uninjured workers if we look at their income over the 10 years after their injury. Building on a similar study from 2011, the IWH has now found that workers injured between 1998 and 2002 earn, on average, 104 per cent of what a group of uninjured peers earned. Compared to the injured workers' own pre-injury earnings, the average level of earnings replacement was even higher, at 111 per cent, well above the 85 per cent rate set out in Ontario legislation to determine benefit payments.

Background: What was the IWH's 2011 Benefits Adequacy Study?

In 2011, the IWH published a study of the adequacy of benefits to injured workers in Ontario, followed by supplemental analysis released in 2013. The study and its supplement compared how well injured workers in B.C. and under two different sets of compensation rules in Ontario (due to legislative changes in 1990) fared during the 10 years after their injury. In particular, the IWH looked at how well earnings for injured workers from combined after-tax income sources (employment earnings, workers' compensation, and Canada Pension Plan Disability (CPPD) benefits) compared with those of uninjured workers having similar profiles.

Overall, the IWH researchers concluded that "on average, all three programs achieved a high level of earnings replacement: over 90 per cent in each impairment category." Ninety per cent of the worker's after-tax, pre-injury earnings rate was used in the post-1990 Ontario legislation to determine adequacy. In fact, for workers injured between 1992 and 1994, IWH's supplemental results showed that the average after-tax earnings replacement rate was 105 per cent of the non-injured control group when CPP disability benefits were included in the analysis.

Why was the 2016 update needed?

In 2016, the IWH released the results from a new study building on their 2011 work. The new study was undertaken to consider benefits adequacy for injured or ill workers under Ontario's current compensation rules which have been in place since legislative changes were made in 1998. Compared to the 2011 study, the 2016 study considers a more recent cohort of injured workers (injury years 1998 to 2002).

The 2016 study also looks at earnings replacement rates based on the worker's own pre-injury earnings, in addition to earnings replacement rates compared with the earnings of a control group of uninjured workers.

What were the key conclusions from the 2016 update?

Workers injured between 1998 and 2002 received an average of 104 per cent of the earnings of uninjured workers with similar profiles, after tax and once combined sources of income (employment earnings, workers' compensation, CPPD benefits) are taken into account. Earnings replacement tends to be higher the greater the level of impairment, with the most seriously injured workers receiving 128 per cent relative to the control group.

Figure 1: Average after-tax earnings replacement rates by degree of impairment, with and without CPP Disability (CPPD) benefits (1998-2002 claim cohort)

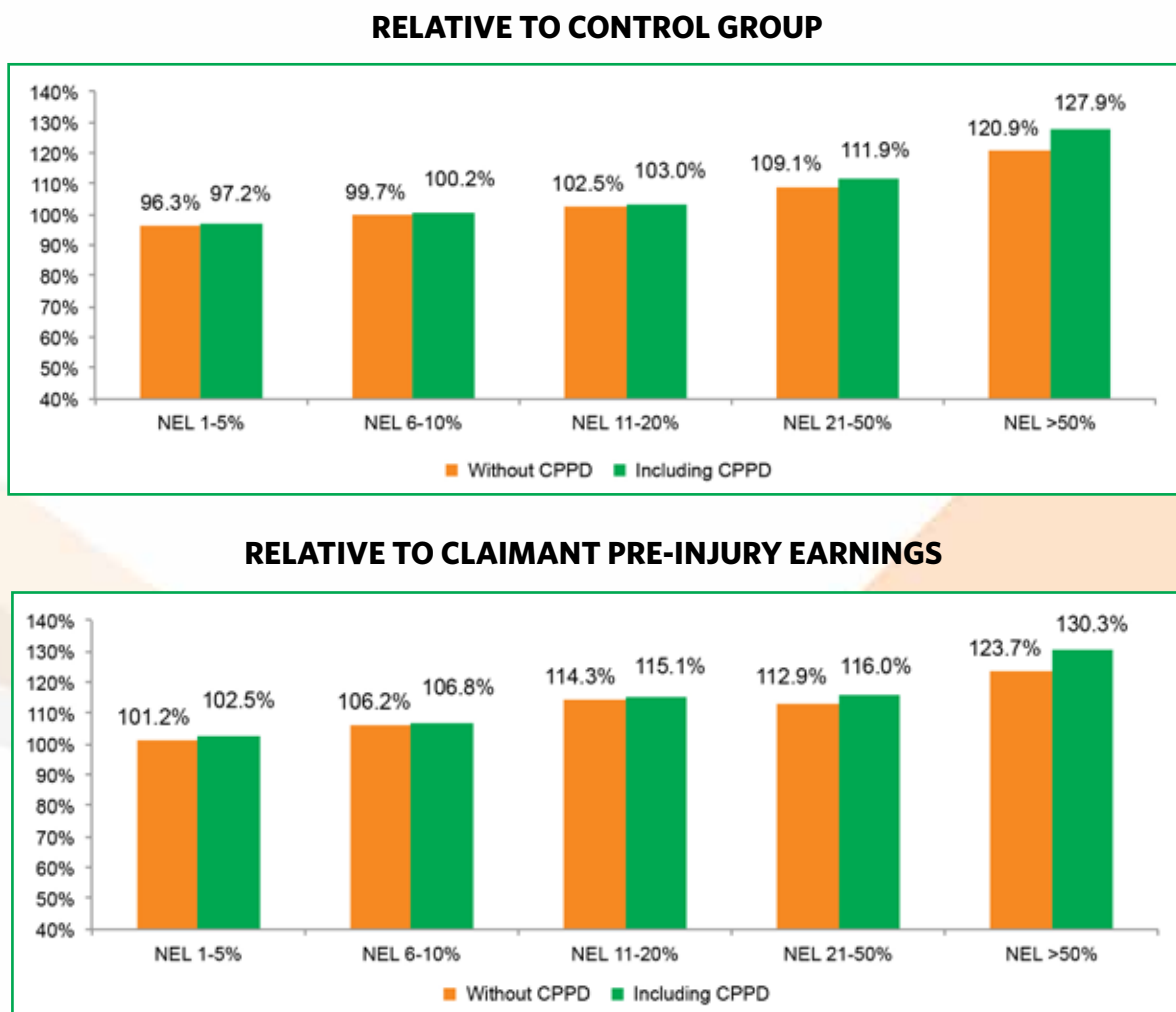


Table 1: Average earnings replacement rates of claimants over 10 years post-injury, by impairment rating (NEL category), Ontario LOE program, injury years 1998-2002

	Relative to control group earnings		Relative to claimant pre-injury earnings	
	Without CPPD	Including CPPD	Without CPPD	Including CPPD
1-5% Impairment	96.3%	97.2%	101.2%	102.5%
6-10% Impairment	99.7%	100.2%	106.2%	106.8%
11-20% Impairment	102.5%	103.0%	114.3%	115.1%
21-50% Impairment	109.1%	111.9%	112.9%	116.0%
>50% Impairment	120.9%	127.9%	123.7%	130.3%
Entire Sample	102.8%	104.1%	109.9%	111.5%

Note:

Earnings replacement for claimants combines after-tax income sources including labour-market earnings, workers’ compensation benefits and interest payments, Canadian Pension Plan Disability benefits.

When earnings replacement rates are relative to the workers’ own pre-injury earnings, the average replacement rate is even higher, at an average of 111 per cent. This level exceeds the 85 per cent rate set out in the legislation to determine benefit payments. In fact, the 85 per cent rate is exceeded, on average, across all categories of impairment, whether we are comparing against pre-injury earnings or the control group’s earnings (see table and charts above).

Researchers noted that comparing against a control group is preferred to comparing against pre-injury earnings because the control group approach can better take into account post-injury influences on earnings levels. These influences include the accumulation of work experience, new skills and knowledge acquired by the worker and labour-market conditions. Both approaches yield a similar pattern of results, except when the age of the injured worker is considered. Younger workers’ earnings replacement tends to come out higher when compared against pre-injury earnings instead of the control group.

The researchers also noted that individual earnings replacement rates varied among injured workers; some were higher and some lower than the average. About 46 per cent had replacement rates of 100 per cent or more, while 25 per cent had replacement rates of under 75 per cent. The study selected one member of each control group and compared their earnings over the 10-year period to the rest of the control group, in the same way that the injured workers’ earnings replacement rates had been calculated. The researchers found that the variability in the post-injury experience of injured workers was similar to the variability in labour-market earnings of uninjured workers.

Figure 2: Distribution of earnings replacement rates of claimants over 10 years post-injury relative to income of controls, by impairment rating (NEL category), Ontario LOE program, injury years 1998-2002

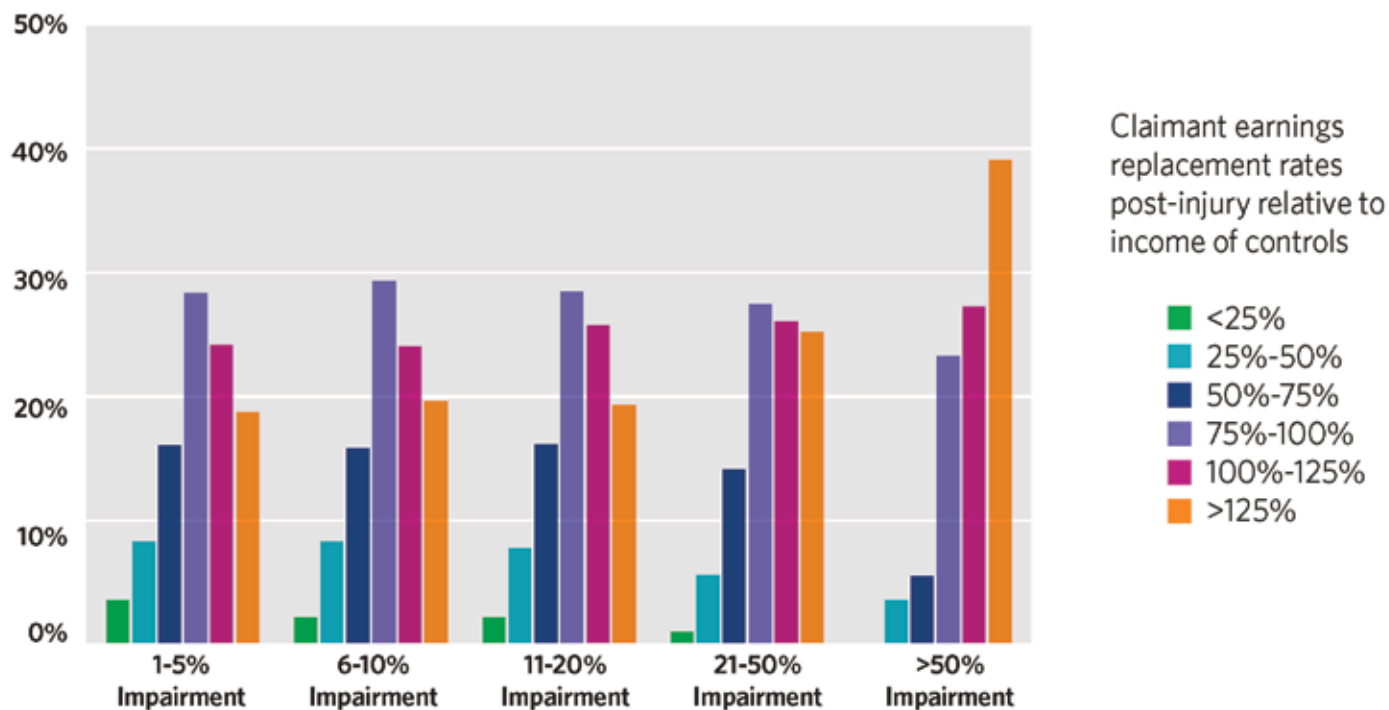


Table 2: Earnings replacement rates of claimants, relative to income of controls

	<25%	25-50%	50-75%	75-100%	100-125%	>125%
1-5% Impairment	4%	9%	16%	29%	24%	19%
6-10% Impairment	2%	9%	16%	30%	24%	20%
11-20% Impairment	2%	8%	16%	28%	26%	19%
21-50% Impairment	1%	6%	14%	28%	26%	25%
>50% Impairment	0%	4%	6%	24%	28%	39%
Entire Sample	2%	7%	16%	28%	25%	21%

Earnings replacement for claimants combines after-tax labour market earnings, compensation benefits, Canadian Pension Plan Disability benefits and interest payments. Control income combines labour market earnings and Canadian Pension Plan Disability benefits.

Figure 3: Distribution of earnings replacement rates of claimants over 10 years post-injury relative to claimant pre-injury earnings, by impairment rating (NEL category), Ontario LOE program, injury years 1998-2002

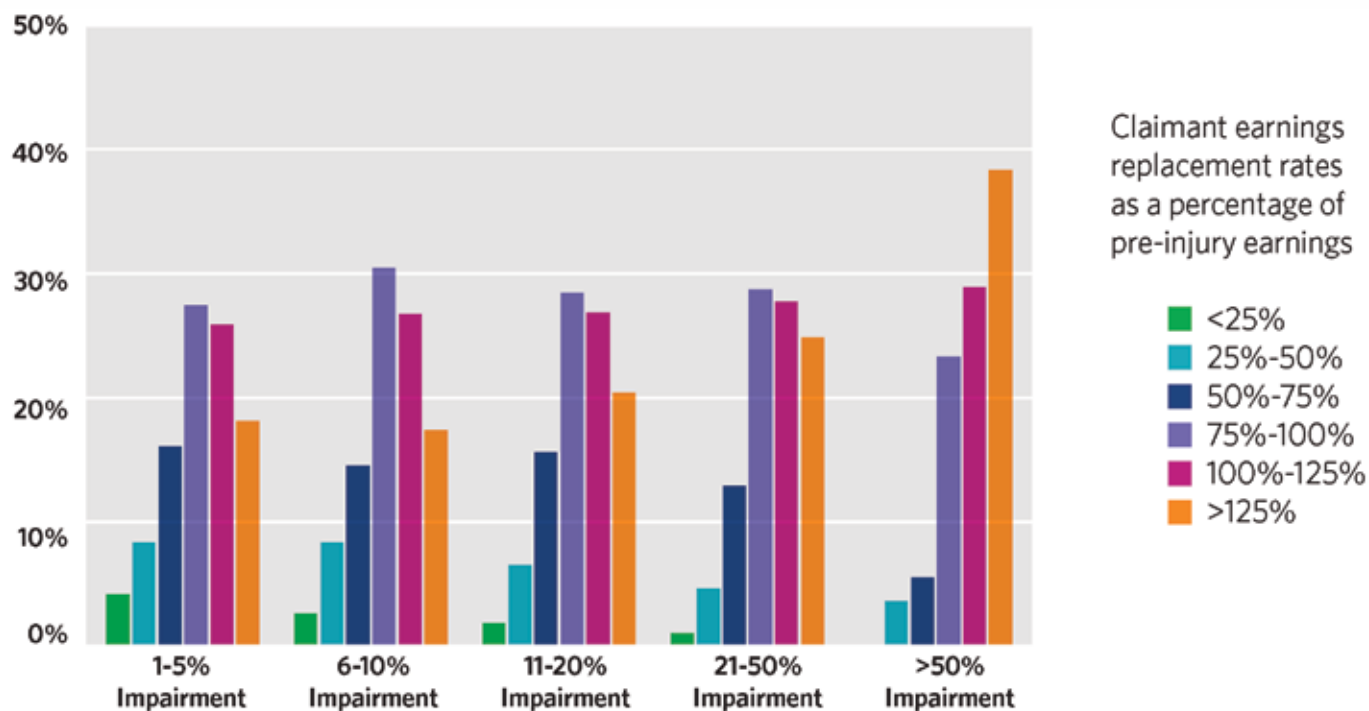


Table 3: Earnings replacement rates of claimants, relative to claimant pre-injury earnings

	<25%	25-50%	50-75%	75-100%	100-125%	>125%
1-5% Impairment	4%	8%	16%	27%	26%	18%
6-10% Impairment	3%	8%	14%	30%	27%	17%
11-20% Impairment	2%	7%	16%	29%	27%	20%
21-50% Impairment	1%	5%	13%	29%	28%	25%
>50% Impairment	0%	4%	6%	23%	29%	38%
Entire Sample	2%	7%	15%	29%	27%	21%

Earnings replacement for claimants combines after-tax labour market earnings, compensation benefits, Canadian Pension Plan Disability benefits and interest payments.

Why does the study matter to the WSIB?

The IWH study uses a robust approach to assessing benefits adequacy (i.e., large sample sizes, decade-long period of follow-up, data from a reliable source (Statistics Canada)). The 2011 and 2016 studies are the largest of their kind ever conducted in Canada. The conclusions of the studies help the WSIB to understand one of the long-term outcomes of return to work: the overall earnings replacement rates at a system level.

How was the study conducted?

Both the 2011 and 2016 IWH studies applied a similar approach. For this latest study, workers' compensation claimants with injury years 1998 to 2002 found in Statistics Canada's Longitudinal Administrative Databank (LAD) were included in the study; the LAD comprises approximately 20 per cent of Canadian taxpayers. These workers' earnings during the year of the injury/diagnosis plus nine years after were examined. These earnings were compared to their own, pre-injury earnings and to the average earnings of a control group of up to 10 uninjured workers also found in the LAD. The uninjured workers were matched to the injured workers based on characteristics such as age, gender, and wages from four years prior to the injury year.

What types of income were included?

The income used to calculate earnings replacement rates included after-tax labour-market earnings and CPPD benefits, workers' compensation benefits and related interest payments. All of these forms of income were discounted to the injury year using a discount rate of three per cent. CPPD benefits are important to consider as part of an injured worker's total income since the WSIB is required, under legislation, to reduce its benefit payments to off-set any CPPD benefits received.

What is the IWH?

The Institute for Work and Health is an independent, not-for-profit organization whose mission is to promote, protect and improve the safety and health of working people by conducting actionable research that is valued by employers, workers and policy-makers.

The Institute for Work and Health operates with the support of the Province of Ontario.

Where can I learn more?

More detail on the study is available on the IWH website at:

1. Measuring the adequacy of workers' compensation benefits in Ontario: An update. March 2016 <http://www.iwh.on.ca/briefings/measuring-the-adequacy-of-workers-compensation-benefits-in-ontario-an-update>
2. 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>
3. Examining the adequacy of workers' compensation benefits. Issue Briefing. January 2011 http://www.iwh.on.ca/system/files/documents/iwh_issue_briefing_benefit_adequacy_s2011.pdf