

COPY



## WOMEN OF INSPIRATION

Offering Support, Knowledge Transfer & Education  
and Outreach to Women Injured at Work

October 1, 2012

Ms. Slavica Todorovic  
Executive Director, Appeals Services Division  
Workplace Safety and Insurance Board  
200 Front Street West  
Toronto ON M5V 3J1

Dear Ms. Todorovic:

**Re: Proposed Changes to the Appeals Program**

The Women of Inspiration, an injured worker women's group, met on September 21, to learn about the proposed changes to the Appeals system to our workers compensation system in Ontario (WSIB).

While we agree that the Appeals system needs improvement, we cannot find that your proposal will in anyway speed up access to justice nor does it serve well "the case for change". We are highly concerned because these proposed changes will significantly reduce services to injured workers and many will be discouraged and will renounce to their right to appeal.

Please find attached our submission on this matter.

Yours truly,  
Women of Inspiration per:

A handwritten signature in black ink, appearing to be a stylized name, written over a horizontal line. The signature is fluid and cursive.

cc Hon. Dalton McGuinty, Premier of Ontario  
Hon. Ms. Linda Jeffrey, Minister of Labour  
Hon. Mr. John Gerrestsen, Attorney General of Ontario  
Mr. Harry Arthurs, author of Funding Fairness

C/O Injured Workers' Consultants - 815 Danforth Ave., Suite 411  
Toronto, Ontario M4J 1L2



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## **Submission to the proposed changes to the Appeal System**

At our last meeting of the Women of Inspiration, we studied and discussed the proposed changes to the appeal system to the Workplace Safety and Insurance Board (WSIB). We are very concerned about these proposed changes; we find the points made in the proposal are cumbersome, difficult to follow, and we have had a hard time understanding how these changes will meet the points made in “the case for change”. In addition, we think that the proposal will severely affect access to justice to injured workers.

Our comments on the consultation paper are as follows:

We would like to begin by expressing that although the existing appeal system is far from being a good system, we find it much better than your proposal.

### **I - Modernization of the Appeal System**

We find that the term “modernization” is being misused here. After reading the proposal we find this is not modernization but rather a way to cut costs and discourage injured workers from appealing.

### **II - The case for change**

1. The proposed goal is to have “timely, fair, and transparent final resolution to objections”. In our view fairness should come first.
2. We note in the following point, “Several Systemic inefficiencies have been identified as contributing to the delay”. We find that the main contributing reason for the large number of cases at the Appeals Branch is the increasing numbers of denials at the operating level. We see this problem all the time among members of our group.
3. Several other points you identified in “The Case for Change”, such as “initial decisions that sometimes do not outline the reasons for a decision clearly enough”, or “the absence of a central depository for recording Objection Forms to ensure they are properly addressed and they are referred to the appropriate front-line decision maker or to the Appeals Services Division”, or “withdrawal of approximate 20% of appeals...” These are all relevant concerns that can easily be addressed within the WSIB and at the Appeals Branch by hiring more staff, and

- by educating your staff to make sound and informed decisions; not by proposing such major restructure of the appeals system.
4. With regards to the point of the “Appeals Resolution Officers performing administrative tasks to get cases ready” this could also be resolved internally by hiring more administrative staffs within the Branch who will endeavour cases are ready for a Hearing.

### **III - Jeopardizing access to justice**

We are highly concerned because our rights to appeal are being eroded. Please note our specific points on this issue are as follows.

1. **The Forms:**

The proposed forms are difficult to understand and to follow; they are too cumbersome. Too many pages of explanation on how to fill the forms is a bad idea, they will discourage injured workers from pursuing their appeals. For those of us whose English is a second language or have poor literacy skills, these proposed appeal forms are a major barrier to access to justice. In order to fill the forms properly and ensure that justice is correctly done, we will have no other recourse but seek the assistance of injured worker representatives more than we already need.

**Intent to Object Form** is unnecessary and we can anticipate that many injured workers will simply not be able to follow. For many injured workers this represents a risk, they might miss the 6 months time limit mark.

**Objection Form** that you have proposed has many problems. Again, this form is difficult to follow and complicated to fill in. However, we are mostly concerned about the “Downside Risk” that you have introduced in this form which creates unnecessary burden to the appeal process.

2. **“Down Side Risk”**

We find is a direct attack to our right to appeal. Our group believes that signing the “acknowledgement of risk” is the biggest threat, and is detrimental to our right to appeal. In addition, we find it is an insult to our already difficult lives caused by an injury at work and it is a blow to our only hope for justice.

We all agree that this “acknowledgement of risk” has nothing to do with fixing or improving the appeal system, it is simply an attack to our rights. Moreover, we find this is deeply embedded in the WSIB’s efforts to cut costs in any way, shape or form. We injured workers will have a hard time consenting to the down side risk. As such, this will discourage us from pursuing any appeal whatsoever.

#### **IV - Written appeals versus oral hearings**

This is also a major problem. In your proposal, you limit the oral hearings by reducing them to those that are complex cases. In our experience, we find most of our cases are complex. How would you determine what is complex and what is not complex? In addition, we have not been provided with statistics that show the outcomes of decisions of allowed versus denied. However, in our experience, those of us who have gone to a hearing the outcome of the decision is much better than those whose appeal were done in writing. We want a face-to-face system where we have the opportunity to present our cases orally, and have the chance to show our side of the story which often is not well understood on a piece of paper. We appreciate the opportunity to have in front of us a human being who will actively listen and weight the importance of our side of the story.

#### **V - Women of Inspiration's suggestions for improvement of the Appeal System**

1. Need for improvement of decisions at the operating area by hiring more qualified case managers, specially, in the area of medical matters.
2. Case managers should improve their decisions by applying more reasoning in the substance of the case.
3. Decisions should be based on the merits of the case, not as a measure to reduce costs.
4. Keep the existing method of intent to object with a simple objection letter.
5. Hire more appeals officers.
6. Improve the number of administrative staff at the Appeals Branch by hiring more staff.
7. Simplify the proposed Objection Form.
8. Eliminate the "acknowledgement of risk" of the Objection Form.

We would like to conclude our submission by letting you know that we strongly feel that when the WSIB embarks on making a proposal for changes to the system, you do remember about the "historical compromise"; injured workers gave up the right to sue for fair compensation, and all that is implied including the right to appeal.

**Access to justice is a right, and should not be taken away.**

Respectfully submitted,  
**Women of Inspiration;**