

Injured Workers' Consultants

Representing injured workers free of charge since 1969

3 February 2014

Elizabeth Witmer, Chair
Workplace Safety and Insurance Board
200 Front Street West
Toronto, Ontario
M5V 3J1

Dear Mrs. Witmer:

Re: proposed changes to benefits policies

We wholeheartedly agree with the Ontario Federation of Labour's demand that the proposed Benefit Policies be abandoned. Our organisation has participated, in good faith, in both the Funding Review process and the Jim Thomas consultation. We have said from the beginning that these are not the policies that need reform, and these reforms appear designed solely to implement the proposals for benefit reductions made by the KPMG review.

These Benefits Policy proposals disregard all that was said and learned in these processes. It appears to us that the "consultations" were simply a public relations' exercise and the WSIB is forging ahead in its single-minded goal of reducing costs, at the expense of fair compensation. The unfunded liability is being resolved on the backs of injured workers.

We have recently participated, alongside many labour and legal representatives, in celebrating the 100th anniversary of Sir William Meredith's Final report which created our compensation system. We urge you to consider whether you want to be remembered as the Chair of the workers' compensation board that abandoned the Meredith principle of fairness? The same question can be asked the Premier of Ontario, under whose watch our compensation system is being stripped of justice and humanity.

Sir William Meredith specifically rejected the notion of reducing compensation based on speculative "pre-existing conditions," as the Benefits Policy proposal now intends to do. During the 1912 hearings, the employer representative Frank Wegenast attempted to introduce this concept. It was sternly rejected by Justice Meredith:

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Mr. Wegenast:

Take a man who has been earning two dollars a day. You pay him if he is incapacitated, we will say, one dollar a day. Now he gets that till he is sixty five, seventy five or eighty years old. In the natural course of things, he would not have earned two dollars a day for all that time. He might have been killed or otherwise injured. He might have been injured outside the employment altogether. What the employer would be asked to do...would be to insure that man not only against the result of occupational injury but also against unemployment for the rest of his days, against accident for other reason, against old age, against invalidity.

Justice Meredith:

You have injured the man; why should all these problematical things enter into it that he might possibly have been injured in some other way if he had not been injured in that way? He was all right until he got hurt in your establishment!

(Sir William Meredith, Interim Report on Laws Relating to the Liability of Employers to Make Compensation to their Employees for Injuries Received in the Course of their Employment which Are in Force in Other Countries (Toronto 1912, Minutes of Evidence, August 1912: 75)

The Benefit Policy proposal disregards 100 years of legal and policy development. It is a direct attack on the Meredith principles. This attack is happening ironically, as the WSIB itself is celebrating Meredith's centenary. We hope this contradiction is not lost on the WSIB and the Government watching over it.

To add insult to injury, the WSIB has refused to fund a meeting of the Ontario Network of Injured Workers' Groups to study and comment on the changes. In his report to the WSIB entitled "Funding Fairness" Prof. Harry Arthurs observed the imbalance of ability to provide input between employer and injured worker stakeholders. He strongly recommended that the WSIB provide funding to enable injured workers to provide input on policy changes. The Standing Committee on Government Agencies has also endorsed this very recommendation. The WSIB's rejection of this recommendation only confirms our understanding that the Benefit policy "consultation" is just window-dressing. The WSIB sees no point in funding injured workers to provide input when it has no intention of seriously considering any input at all. We are saddened by this attitude and must speak up for a workers compensation system and principles that have stood the test of time for 100 years.

In asking that the draft Benefit Policies be withdrawn, we ask the current WSIB leadership, and the Government, once again, to consider how they want to be remembered. We hope that you and the government can pause and reflect before effecting change that will permanently compromise our workers' compensation system.

We agree with the observation of OFL President Sid Ryan that these proposals have led to the most serious disruption in many years between the worker/injured worker community and the WSIB. Change can be strong-armed, but have the consequences been properly considered?

Yours truly,
Injured Workers' Consultants,
per:



John McKinnon
Executive Director

copies: Premiere Kathleen Wynne
 Minister of Labour Yasir Naqvi
 Andrea Horwath, ONDP Leader
 Sid Ryan, President, OFL
 Michele McSweeney, President, ONIWG