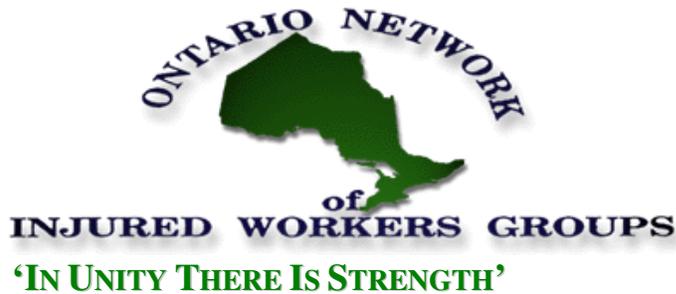


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October 19, 2010

Peter Fonseca,
Minister of Labour
400 University Avenue
Toronto, Ontario,
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Dear Mr. Fonseca:

Funding Review Mandate and Process

The Ontario Network of Injured Workers' Groups has examined the WSIB Funding Review documents of September 30, 2010 and would like to propose that the following steps be undertaken:

- 1) **Ensure that the Board's duty towards injured workers be at the centre, not the perimeter, of the debate.** The review should be consistent with the Meredith principles of full justice", not "half measures" towards a very disadvantaged group in society. Funding issues should not take away from the primary function of the Board towards injured workers.
- 2) **Include the injured workers' community in the panel.** We cannot understand the "rationale" for excluding injured workers from a panel looking into the funding and its repercussions on the Board's primary community of responsibility. The review should not be about numbers only, but primarily about people, in this case injured workers.
- 3) **Expand the scope of the inquiry to partial funding.** During the Standing Committee on Public Accounts hearing in February 24, 2010, David Marshall indicated he was open to debating partial funding of the system. He said "...there are grounds for debate as to whether we should maintain full funding or leave money in the hands of employers to be invested..." We

now note the statement that “the Government has also called on the WSIB to create a path forward to achieve full funding with support from proposed legislation” (September 30 WSIB letter to stakeholders). This important inquiry should not be artificially narrowed by this constraint. The consequences of legislated full funding may have problems that will be identified by the review process, for workers, injured workers and employers that Ontario would be wise to consider and avoid.

- 4) **No legislation on full funding before review is complete.** Legislation in this area is, at the very least, premature. Please allow the process to unfold and study the issue. Likewise, the WSIB is actively considering the expansion of the experience rating window from 3 to 6 years. This is not only a mistake, but another example of decisions being undertaken before the Funding Review examines the issue.
- 5) **Include the examination of universal coverage.** This aspect is not included specifically in the mandate of the review. It should be. The Auditor General mentioned it as an important lever for addressing the unfunded liability.
- 6) **There is only one “fair” inflation adjustment formula.** We welcome the recognition that the Friedland formula is unfair. However, the Funding Review should not be debating any form of inflation adjustment other than what Professor Weiler suggested in 1980. There is only one way to fairness: full automatic cost of living adjustments. While the Funding review is “debating” this issue, there is no corresponding inquiry into what would constitute a ‘fair’ employer assessment rate. Why is this?
- 7) **Inform all injured workers receiving benefits (including NELs) about this review.** In the letter sent on September 30, 2010, the WSIB informed all covered employers about the Funding Review. They were urged to visit the site and told how they can participate – in person and on line- in this important process. No similar letter was sent to injured workers. This further confirms our suspicion that injured workers are not a priority in the review.
- 8) **Injured Worker and Academic Focus Groups.** While we note that “members of the WSIB Executive team may be requested to attend some sessions in order to provide context for various issues and answer questions” for the Panel, no effort is made to allow the panel to get “real life” or

independent context. This makes the process look biased and “self-serving” by the WSIB. The panel should talk to WSIB executives for context, but also to injured workers focus groups and independent academic experts for broader and not only “in-house” perspectives.

- 9) **Posting of Unbiased Background Papers.** In Phase One of the review – October to December 2011- we note that there will be “posting of background papers on the WSIB website”. Since the purpose of the review is to achieve full funding, we are suspicious that only background material that supports this position will be posted. We believe that the background material should be comprehensive and reflect the full spectrum of points of views on this issue. Materials from the Meredith commission and the 1980 Weiler report, for example, should be posted to provide a broader and more independent context.
- 10) **No privatized and narrow value for money audit of adjudication.** We note with great concern that a “value for money audit” will be conducted on the claims administration process. One of its purposes will be to look at “the adequacy of resources, information and systems to support **cost-effective** and efficient decisions” (emphasis added). We believe the purpose of the system is to achieve “fair” or “just” decisions, not cost effective decisions, like if it were run like a penny pinching insurance company. Our experience with the disastrous 1997 KPMG review (recommended privatized outsourcing of adjudication and return to work services) and the recent KPMG review of LMR (declared that injured workers are receiving too much money) is very negative. Any inquiry of the claims administration process should be done by a **public and independent** review. The purpose of it should be fairness, not “cost effectiveness”.

Sincerely,

Peter Page,
President
ONIWG