Hey WSIB: Stop Deeming Injured Workers!
Lobby Kit & Resources to End the Injustice

We know the WSIB’s practices and policies are unfair to injured workers in many ways. One of the most harmful ones is the practice of “deeming.” Deeming is when the WSIB pretends an injured worker has a job that they do not actually have, and cuts their benefits as a result. More often than not, these workers end up on social assistance, resulting in costs to taxpayers that total millions of dollars every month.

It’s long past time to stop this injustice. Recently, the Ontario Network of Injured Workers’ Groups (ONIWG) produced a report called Phantom Jobs and Empty Pockets, which uses secret documents from the WSIB to prove what we have long said: the WSIB’s practice of deeming makes injured workers poor. The report shows that the WSIB knows full well when an injured worker is unable to secure employment after their work injury. But rather than providing people with proper support and compensation, it assigns them a job category, pretends they are working in that job, and cuts their benefits.

To help end the practice of deeming, NDP MPP Wayne Gates has introduced a Bill into the Ontario Legislature. Bill 119 is called the Respecting Injured Workers Act, and if it becomes law, it would prevent the WSIB from being able to pretend an injured worker has a job that doesn’t actually exist.

But the Bill won’t pass unless we build mass support for it. We need to meet with every MPP in Ontario, and get them to commit to supporting Bill 119 and helping injured workers. And at the same time, injured workers are under threat because of the cuts to legal aid. We must get the cuts reversed, or else more injured workers will end up in poverty and on the streets.

So in this package, you will find materials to take to a meeting with your MPP and get their support. If you have any questions, please contact workerscompisaright@gmail.com and we’ll be happy to help.
**What We Are Asking You To Do**

1. Set up a meeting with all MPPs in your area
2. Bring them all of the documents included in this package (after this page)
3. Talk to them about why deeming needs to be stopped and why the legal aid cuts need to be reversed
4. Ask them to sign the Pledge to support Bill 119
5. Take a photo of them with the signed Pledge
6. Email the photo to workerscompisaright@gmail.com

**How To Set Up A Meeting With Your MPP**

You can call or email your MPP with a message like this:

"Hi, my name is [your name] and I live in [name of riding]. I am a constituent, and I am also an injured worker. I’m having major problems with the WSIB and I know lots of other people are too. I’m also concerned that with the cuts to legal aid, injured workers who are being treated unfairly by the WSIB will have nowhere to go for help.

I’d like to make an appointment with [name of MPP] to talk about a campaign I’m involved in to help bring fairness to the WSIB, and also to talk about stopping the cuts to legal aid.

Please let me know when [MPP] would be able to meet. You can call me back at [phone number].

Thank you."

It might take a couple of attempts to secure a meeting. If you need to, call the office again until you get a date set.

**Sample MPP Meeting Agenda**

Sometimes it can be hard to stay on track with an MPP meeting, and to cover everything you need to. Here’s a sample agenda, based on a 30 minute meeting.

1. Tell your story: how you were treated by the WSIB, and how you got help from a legal clinic (10 mins)
2. The problems with deeming: key facts from the report (5 mins)
3. Bill 119 and the Pledge to support the Respecting Injured Workers Act (5 mins)
4. The problems with the cuts to legal aid: why the cuts need to be reversed (10 mins)
5. Thank the MPP for their time and say you will follow up with them on any commitments they made (1 min)
6. Take a photo with the MPP and the signed pledge (1 min)
What happens to people who are injured at work?

Most of the time, workers heal and they return to their regular jobs and lives. But what about those workers who don’t fully recover? Some of those people are looked after by workers’ compensation, but many are not.

By WSIB’s own statistics, almost half of permanently injured workers have neither jobs nor workers’ compensation benefits. Using documents acquired from the Workplace Safety and Insurance Board (WSIB) through a series of Freedom of Information requests, the Ontario Network of Injured Workers Groups (ONWIG) has published a report which shows that – by WSIB’s own numbers – injured workers are being forced into poverty by a practice called “deeming”. Deeming is when the WSIB pretends an injured worker has a job that they do not have, and cuts their benefits as a result.

Did you know?

WSIB benefits are not paid by taxpayers, but rather, by premiums charged to employers. When an injured worker’s benefits are cut they can end up on welfare. Social assistance payments to injured workers cost Ontario taxpayers at least $48 million per year – costs that should be covered by employer’s standard WSIB premiums.

Despite the enormous hardship caused by deeming, the Government of Ontario would only have to change one sentence of the law to fix the problem.

To make things worse, the recent cuts to Legal Aid Ontario are going to make it even harder for workers who have been deemed to access the workers’ compensation system, creating even more pressure on workers, and on social services.
The government has cut $133 million from legal aid this year – that’s 30% of the budget – with more cuts to come next year. This has thrown the lives of marginalized and vulnerable people into chaos.

This is especially insulting in the context of the Ontario Network of Injured Workers' Groups report that we bring you today. **Phantom Jobs & Empty Pockets - what really happens to workers with work-acquired disabilities** uses secret WSIB documents to prove what we already knew: The Ontario's flawed workers compensation system is making people poor - and they know it.

How does this relate to the Legal Aid Ontario Cuts, you ask? **The legal clinics that specialize in workers’ compensation were among the most deeply affected by the cuts.** All of them have had to significantly reduce front-line, direct service work as a result.

Most legal clinics in Ontario don’t do workers’ compensation – they refer injured workers to the three specialty clinics. So the devastation will be felt across the province.

Injured workers who are facing homelessness, have been forced onto social assistance, and are dealing with mental health crises, will be turned away from their last resort for help.

In addition to asking you to help end the poverty-creating practice of deeming, we are asking you to help stop the legal aid cuts that will hurt people who are already suffering.

Will you raise the issue in your caucus, and write a letter to Attorney General Doug Downey, calling on him to respect injured workers and all vulnerable people in Ontario by reversing these cuts?
Will you pledge to end injured worker poverty (and save taxpayers millions)?

Dear MPP,

The Ontario Network of Injured Workers’ Groups (ONIWG) recently released a report called *Phantom Jobs and Empty Pockets*.

The report – which uses secret documents acquired from the Workplace Safety and Insurance Board (WSIB) through a series of Freedom of Information requests – proves what we have long said: **The WSIB’s practice of “deeming” makes injured workers poor.**

Deeming is when the WSIB pretends an injured worker has a job that they do not have, and cuts their benefits as a result. More often than not, these workers end up on social assistance, resulting in costs to taxpayers that total millions of dollars every month.

In recognition of this injustice MPP Wayne Gates has introduced Bill 119 to the legislature. The *Respecting Injured Workers Act*, which would end this harmful practice by adopting a system similar to that used by Employment Insurance: Injured workers who were deemed able to work could not be cut off benefits unless they turned down a job in bad faith.

**Preventing the poverty of thousands of injured workers in Ontario – and saving taxpayers millions of dollars** – only requires changing one line of law.

We are here today to ask you to sign a pledge to support Bill 119, and to help injured workers and our families live with dignity.

Sincerely,

The Ontario Network of Injured Workers’ Groups

For more copies of the report, and the WSIB document it was based on, visit: [injuredworkersonline.org/EmptyPockets](http://injuredworkersonline.org/EmptyPockets)
Bill 119

An Act to amend the Workplace Safety and Insurance Act, 1997 in respect of compensation for loss of earnings

Mr. W. Gates

Private Member’s Bill

1st Reading May 27, 2019
2nd Reading
3rd Reading
Royal Assent
An Act to amend the Workplace Safety and Insurance Act, 1997
in respect of compensation for loss of earnings

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1 Section 43 of the Workplace Safety and Insurance Act, 1997 is amended by adding the following subsection:

No earnings after injury

(4.1) The Board shall not determine the following to be earnings that the worker is able to earn in suitable and available employment or business:

1. Earnings from an employment that the worker is not employed in, unless the worker, without good cause, failed to accept the employment after it was offered to the worker.

2. Earnings from a business that the worker does not carry on.

Commencement

2 This Act comes into force on the day it receives Royal Assent.

Short title

3 The short title of this Act is the Respecting Injured Workers Act (Workplace Safety and Insurance Amendment), 2019.

EXPLANATORY NOTE

In calculating the amount of payments to an injured worker, the Workplace Safety and Insurance Act, 1997 considers the earnings that a worker is able to earn in suitable and available work. Currently, the Workplace Safety and Insurance Board may decide that a worker is able to earn amounts that they are not actually earning, on the basis of suitable and available work they do not actually have. The amendments would prevent that from happening unless the worker refused employment in bad faith.
pledge my support for Bill 119 - Respecting Injured Workers Act
... a bill that ensures dignity for all workers of Ontario by ending the WSIB’s practice of "deeming". Currently, when a worker is injured on the job, the Workplace Safety and Insurance Board (WSIB) may decide that a worker is able to earn amounts that they are not actually earning, on the basis of suitable and available work they do not actually have. This often sends injured workers into poverty. The amendments in the Respecting Injured Workers Act would prevent that from happening unless the worker refused employment in bad faith.