

April 14, 2020

By Email

Mr. Tom Teahen, President  
Workplace Safety and Insurance Board  
200 Front Street West  
Toronto, Ontario  
M5V 3J1

Dear Mr. Teahen:

**Re: WSIB Response to COVID-19 pandemic**  
**How can the WSIB help injured workers in “physical distancing”?**

The WSIB has announced its financial relief plan for employers but has yet to announce any assistance for injured workers. We wish to add our voice to those emphasizing how important it is that the WSIB play a proactive and precautionary role in ensuring the well-being of injured and ill workers during this critical time. No one should be left behind in this.

We would like to endorse the letters sent to the WSIB by the Hamilton Community Legal Clinic, (March 11, 2020), IAVGO (March 17, 2020), ONIWG (March 24, 2020) and the OFL (April 3, 2020) regarding full compensation and health care coverage to workers exposed to COVID-19. We would also like to add our comments and proposals for action by the WSIB.

### **Injured workers are particularly vulnerable to COVID-19**

We all know that injured workers live with vulnerable health, especially those with long term disabilities. Many of them are older and are affected by co-existing conditions. Additionally, we point you to the 2017 study from the Journal of Occupational and Environmental Medicine (abstract below on p.4), which demonstrates that permanently injured workers face cascading health issues stemming from their injury. Many of these conditions – such as diabetes, asthma, depression, and of course being more homebound – involve potentially compromised immune systems.

Now that all government and health authorities are stressing “physical distancing” to avoid the spread of the disease, the WSIB must take steps to ensure that injured workers, who are at higher risk of serious illness because of their compensable injury, have the resources to practice physical distancing.

### **Examples of barriers to physical distancing**

Many injured workers take public transport to medical appointments, to go to the pharmacy and to the grocery store. Under the current circumstances, the responsible decision for many of those injured workers would be to take a taxi to safely travel to and from these things, or pay delivery costs to get items delivered to their house. With a limited income, however, public transit may remain the only option – putting workers and the general public at higher risk. In these cases, if the WSIB does not agree to cover taxi fare or delivery costs, it is knowingly putting injured workers in harm's way – the very opposite of its mandate. This could be addressed by a supplementary benefit for permanently injured workers during the COVID-19 state of emergency.

There are other examples of barriers to physical distancing, and we would invite you and Mrs. Witmer to talk to the Ontario Network of Injured Workers Groups (ONIWG) and other injured worker organizations to hear directly from those who are most affected about how these unprecedented times are playing out in the unique circumstances they face. Now more than ever, we must keep in mind that injured workers with permanent disability are generally isolated and in physical and psychological distress.

### **The WSIB can make a difference in the containment of COVID-19**

WSIB practice and procedure should be guided by the precautionary principle: Where there is reasonable evidence of an impending threat to public health, it is inappropriate to require strict proof of causation before taking steps to avert the threat.

This principle was applied by the WCB in the 1970's and 80's to extend workers' compensation benefits to workers who should be removed from their workplace exposure to avoid illness. The Special Rehabilitation Assistance Programs (SRAP) were developed for the uranium miners in Elliot Lake and the asbestos workers at Johns Manville in Scarborough. The workers were not sick and not willing to leave their jobs for no income. The SRAP put them on full workers' compensation benefits until they returned to employment. The precautionary principle was endorsed by Justice Krever in the report of the Commission of Inquiry on the Blood System in Canada and the recommendations of the Ontario SARS Commission Report by Justice Archie Campbell.

We urge the WSIB to apply the precautionary principle by extending compensation to all workers who must be removed from the workplace and isolated due to work exposure to COVID-19, whether they become symptomatic or not.

In addition, we believe that this would be an appropriate time for the WSIB to use its mandate to recommend legislative change and insist that all workers in Ontario be covered by the WSIA. Surely this crisis puts into perspective how important it is that every worker in our province requires protection from the hazards associated with work. For example, the workers caring for the elderly

in private residential and group homes where the pandemic is particularly acute, should not be left behind.

### **Review of LOE decisions based on availability of suitable work**

The COVID-19 pandemic and various declarations of a state of emergency clearly amount to a material change in circumstances that affects the availability of suitable work. Over 1 million workers have been laid off in recent weeks. Many permanently injured workers who are not employed are receiving reduced or no loss of earnings benefits on the basis that there is suitable work available for them in the general labour market. That is no longer the case. Where there is a material change in circumstances such as this, the WSIB should review payments to workers for loss of earnings and restore full LOE benefits in those cases until such time as suitable employment is again available.

### **Education and Psychological Support**

In addition, the WSIB should support injured workers with education and psychological support in these unprecedented stressful times. Injured workers have always said that an injury to one is an injury to all. We are convinced that the WSIB can make a difference in the interest of all of Ontario.

We anxiously await the WSIB's announcement of its injured worker relief package, comparable to that which it announced for employers. We furthermore request the WSIB make an explicit commitment that the \$1.9 billion employer relief package will not at any time lead to detrimental impacts on the entitlements of injured workers.

Sincerely,

**Injured Workers Community Legal Clinic**

Per:



John McKinnon  
Lawyer/Director

**Abstract for Diagnosed Chronic Health Conditions Among Injured Workers With Permanent Impairments and the General Population.**

Dr. Rebecca Casey, *Journal of Occupational and Environmental Medicine*. 2017 May. 59(5), 486-496.

**OBJECTIVE:**

To profile chronic health conditions of an injured worker sample before and after workplace injury and compare injured workers to a matched community sample.

**METHODS:**

Logistic regression analyses compared risk of certain chronic health conditions for permanently disabled injured workers in the pre- and post-injury periods to comparator subsamples from the Canadian Community Health Surveys 2003 and 2009/2010.

**RESULTS:**

There were notable health differences between the injured worker and comparator samples for the post-injury period. Injured men and women were more likely to report arthritis, hypertension, ulcers, depression, and back problems than the comparator sample. Injured women were also more likely to report migraine headaches and asthma.

**CONCLUSIONS:**

The observed differences suggest that permanently impaired injured workers experience more rapidly accelerated health declines than other aging workers, and this outcome is gendered.