

Janet Paterson  
President



Willy Noiles  
Vice-president

Eugene Lefrancois  
Treasurer

June 2, 2022

Mr. Jeffrey Lang – President and CEO, WSIB  
200 Front Street West  
Toronto, Ontario M5V-3J1

Dear Mr. Lang,

**Re: Claim Suppression, Non-Reporting and Abandoned Claims**

I am sending this letter to request a meeting to discuss injured workers' concerns regarding the interrelated and often overlapping issues of claim suppression, the non-reporting of claims, and abandoned claims. For decades, the injured worker community has raised these issues with the WSIB; however, these injustices have not been rectified. We hope that under your leadership the WSIB can formally research and investigate these wrongs and enact common sense solutions to eliminate this fundamental unfairness. Below, I will provide a brief explanation of claim suppression, non-reporting, and abandoned claims with reference to past reports.

**Claim Suppression:** Since the advent of experience rating in the 1980s, the injured worker community has warned the WSIB about claim suppression. The Ontario Network of Injured Workers' Groups (ONIWG) longstanding position is that the WSIB should transition from experience rating to a modified flat rate formula (with 3 or 4 rate groups), modelled after rates for OHIP, Employment Insurance and the Canada Pension Plan.

For the purpose of this letter, we use the Institute for Work and Health's definition of claim suppression: "actions undertaken by an employer that hinder the appropriate reporting of a worker's injury or illness resulting from work. This includes instances where the employer induces the worker not to report the occurrence to a provincial workers' compensation authority."<sup>ii</sup> This could include actions such as paid short-term leave, a threat, sanction, or dismissal.

Claim suppression was identified to be a "moral crisis" by Professor Harry Arthurs in his 2012 "Funding Fairness" report to the WSIB.<sup>ii</sup> According to Prism Economics and Analytics 2013 report, "the most important conclusion to be drawn from the research is that claim suppression appears to be a real problem. It is unlikely that claim suppression is restricted to a small number of anecdotal cases".<sup>iii</sup> The WSIB Operational Review Report from 2019 by Speer and Dykeman, pronounced that there was evidence of claim suppression in the system, even if challenging to quantify.<sup>iv</sup> More concerning, was the fact that the transition to the new experience rating framework would enhance the incentives for claim suppression. It was stated in the report, that depending on the size and the rate group, the percentage of individual experience considered in establishing the rate would range from 2.5% to as much as 100%. Speer-Dykeman noted that presumably, employers would have an increased incentive to suppress claims in cases where the individual experience will have a significant impact on the rate.<sup>v</sup>

The WSIB introduced administrative monetary penalties in 2015; however, it was noted that claim suppression audits would be far fewer than revenue-related audits.<sup>vi</sup> We agree with the Speer-Dykeman recommendation that ultimately, a massive increase in the number of audits is required to seriously curtail the predatory practice of claim suppression.

**Worker Non-Claiming and Employer Under-Reporting:** Regarding worker non-claiming, the general consensus is that approximately 20% of all plausibly compensable claims are not claimed. Evidence also exists pertaining to the demographics of those non-claimants: young workers, individuals with a high school or lower education level, workers in small businesses, and immigrant and agricultural workers.<sup>vii</sup>

Furthermore, when it comes to employer under-reporting, two surveys provided estimates of 7%-8% as the rate of employer non-reporting potentially compensable claims. Prism, who reviewed these surveys, noted that this was likely an underestimate.<sup>viii</sup>

The Institute for Work and Health released a report in 2022 in which it was determined that approximately 35% to 40% of emergency department visits for the treatment of work-related injuries/illnesses in Ontario do not show up as work-related claims at the WSIB. This amounts to approximately 50,000 accidents/illnesses that are not reported to the WSIB annually.<sup>ix</sup> These enormous figures reveal that immediate action is required.

**Abandoned Claims:** An FOI request was made to the WSIB to determine the number of registered claims and the number of abandoned lost-time/abandoned no lost-time claims from the 1990s to the present. Once we received the data, we constructed a spreadsheet to determine the percentage of abandoned lost-time/no lost-time claims as a percentage of registered claims for the years provided. Both documents are enclosed for ease of reference.

Abandoned claims are defined in the WSIB FOI request as, “claims that have been withdrawn by the worker or claims for which the WSIB could not gather sufficient information to make an entitlement decision.” This does not include denied claims or claims in which the worker is not covered under the *WSIA*.

There are two points from the spreadsheet that we would emphasize:

1. The absolute and relative number of lost-time abandoned claims has increased in recent years. There were over 1,500 more abandoned lost-time claims in 2020 compared to 1993, despite the fact that there were 167,000 fewer registered claims in 2020 compared to 1993. Moreover, as a percentage of registered claims, the number of abandoned lost-time claims doubled from 1993 to 2020.<sup>x</sup>
2. Despite the onset of administrative monetary penalties in 2015, the absolute and relative number of total abandoned claims has generally increased since 2015.<sup>xi</sup> These trends are cause for concern.

In short, based on the evidence, tens of thousands of claims are not reported or are abandoned every year. On top of that, claim suppression is identified as a legitimate and credible concern by numerous reports and experts. Ultimately, these issues are significant and warrant an immediate investigation by the WSIB. Furthermore, in the short-term, a substantial increase in the number of audits and a significant increase in follow-up calls/correspondence with injured workers should be completed to begin to address these injustices.

To reiterate, we would like to urgently meet with you to discuss these issues and proposals. I look forward to hearing back from you soon.

Yours Truly,

Steve Mantis  
Chair – Research Action Committee

Cc

Premier of Ontario

Auditor General of Ontario

Ontario Ombusman

### Endnotes

- 
- <sup>i</sup> Institute for Work and Health, “Suppression of workplace injury and illness claims: Summary evidence in Canada”, 2014, page 1.
- <sup>ii</sup> Harry Arthurs, “Funding Fairness”, 2012, page 81.
- <sup>iii</sup> Prism Economics and Analysis, “Workplace Injury Claim Suppression: Final Report”, 2013, page 2.
- <sup>iv</sup> “Linda Regner-Dykeman and Sean Speer, “Workplace Safety and Insurance Board Operational Review”, 2019, page 17.
- <sup>v</sup> Ibid, 28.
- <sup>vi</sup> Ibid, 18.
- <sup>vii</sup> Institute for Work and Health, “Suppression of workplace injury and illness claims: Summary evidence in Canada”, 2014, page 1.
- <sup>viii</sup> Ibid.
- <sup>ix</sup> Institute for Work and Health, “Over a third of work-related ER visits in Ontario don’t show up as WSIB claims”, 2022, page 1.
- <sup>x</sup> ONIWG, “Spreadsheet re Abandoned Claims”, 2022.
- <sup>xi</sup> Ibid.