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Submission to the Standing Committee on Social Policy regarding Bill 149, An Act to amend various statutes with respect to employment and labour and other matters.

Submitted on behalf of the Research Action Committee of the Ontario Network of Injured Workers' Groups (ONIWG), Steve Mantis, Committee Chair

February 2, 2024

We would like to focus this submission on amendments to Schedule 4 in Bill 149 that could address the crisis affecting workers with a work acquired injury, illness and disability. Workers with a serious injury or disease, those that last a lifetime of permanent disability, are at high risk of a life of poverty.

Our recommendations could help restore these workers and their families to a future they would have had but for that injury or illness at work. They include:

- Adjusting the WSIB Loss of Retirement Income so it equals the losses in contributions to the Canada Pension Plan (CPP).
- Restoring the WSIB benefit level to 90% of net income as this government suggested before the last election.
- Establish an independent agency to track long term outcomes for workers with work acquired *permanent disabilities* and their families.

Introduction

The Ontario Network of Injured Workers' Groups (ONIWG) was founded in 1991 and since then has actively advocated on behalf of injured, ill, and disabled workers; this is done primarily on a systemic basis. We intervened in five Supreme Court of Canada cases that affected the rights of injured workers including the Martin & Laseur v Nova Scotia; which involved a Charter challenge to the strict limits to the Nova Scotia chronic pain regulation. We also routinely meet with senior levels of the Ministry of Labour, including the Minister of Labour and also with senior management at the Workplace Safety & Insurance Board (WSIB) and participate in public consultations on issues that affect injured workers. At these meetings, the Ontario Network of Injured Workers' Groups advocate for systemic change to benefit all workers and their communities.

Our group members are injured worker organizations in the province of Ontario. ONIWG is a democratically governed organization, with 22 member groups from all parts of Ontario. These individual groups also work closely with other groups and agencies in their individual communities in order to advance the interests of injured and disabled workers.

The ONIWG Research Action Committee (RAC) was formed in 2013 following an eight-year project, the Research Action Alliance on the Consequences of Work Injury (RAACWI). The RAC has been an active participant in workers' compensation research, policy, and administration discussions.

Thank you for addressing the first step in the cost of living crisis among injured and disabled workers in Schedule 4 of Bill 149, the additional indexing factor.

Adjusting the WSIB Loss of Retirement Income so it equals the losses in contributions to the Canada Pension Plan (CPP).

I want to draw your attention to an important issue. That is, the poverty experienced by thousands of workers with a work acquired disability upon reaching the age of 65. This cohort of workers includes those with the most severe injuries and diseases which last a lifetime and creates barriers to sustained employment post injury.

When these workers are unable to return to sustainable employment and must rely on benefits from the WSIB, the WSIB puts aside an additional 5% as a Loss of Retirement Income (LRI) that was meant to replace contributions to CPP.

Recent research from the University of Waterloo (attached) identifies that the present LRI falls far short of replacing CPP contributions. The attached article reviews the history of the LRI as well as the experiences of disabled workers after aged 65.

Currently, contributions to CPP are 11.9% of gross income for all workers. The LRI is only 5% of 85% of *net income*. You can easily see that injured workers, especially those with a permanent, lifelong disability are losing out every month they are unemployed due to the work acquired disability and are becoming particularly vulnerable when turning 65 years old.

I encourage you to consider addressing this issue by amending Bill 149 by increasing the percentage of the LRI so is it equal to the pre-accident CPP contributions.

Restoring the benefit level to 90% of net income as this government suggested before the last election.

Benefit levels were reduced in 1998 as a measure to restore the WSIB's financial status to a more secure footing. The Ontario WSIB now has a surplus of \$5 billion and a reserve fund of approx. \$35 billion. It is now the time to restore those losses experienced by workers with disabilities to pre 1998 levels.

Establish an independent agency to track long term outcomes for workers with permanent disabilities and their families.

Over the last 15 years, we have seen a radical shift at the WSIB as they have focused on cost containment and reducing costs to businesses and corporations. A recent correspondence from the WSIB to employers noted a savings to corporations of over \$8,000,000,000 since 2019.

This has meant that thousands of workers¹ with *work acquired permanent injuries and illnesses* each year are being left with little or no financial support or health care from the WSIB. These are workers that already have their claims accept by the WSIB.

One of the ways that the WSIB reduces their long terms costs is through the process of “deeming” workers to have earnings they don’t have. We have brought this issue forward to government and to the United Nations under the Convention on the Rights of Persons with a Disability (CRPD)²

Occupational injuries and illness can create significant costs to workers, their families, and our public services. Professor Peri Ballantyne did a survey of 494 workers with a *permanent disability* in conjunction with the Ontario WSIB. In her letter to the survey respondents in 2010, she shared some of the results of the study. She wrote:

75% said your health is somewhat or much worse than it had been the day before your workplace accident. Fifty percent of you reported that most days are currently quite a bit or extremely stressful, with work or lack of work being a major stressor for 55% and 56% of you, respectfully. Of concern to us is that 77% and 73% of you indicated that your personal health or your financial circumstances were the major sources of stress in your life.

In terms of chronic health conditions, what stood out to us was the following:

- *55% reported a diagnosis of back pain – for 83% this diagnosis was made after your workplace injury*
- *49% reported a diagnosis of nerve pain – for 94% this diagnosis was made after your workplace injury*
- *44% reported a diagnosis of a mobility impairment – for 96% this diagnosis was made after your workplace injury*
- *42% reported a diagnosis of repetitive strain injury (RSI) – for 89% this diagnosis was made after your workplace injury*
- *41% of you reported a diagnosis of arthritis – for 72% this diagnosis was made after your workplace injury*
- *40% reported a diagnosis of depression – for 80% this diagnosis was made after your*

¹ According to the WSIB 2022 Annual Report, there were 95,218 lost time claims registered in that year.

² Available at: https://injuredworkersonline.org/wp-content/uploads/2019/09/ONIWG_Submission-22nd-Session-CRPD_2019.pdf.

workplace injury

- *39% reported a diagnosis of musculo-skeletal pain – for 92% this diagnosis was made after your workplace injury*
- *26% reported a diagnosis of high blood pressure – for 65% this diagnosis was made after your workplace injury*

In addition to the above diagnosed problems, many of you reported the following additional difficulties:

- *74% of you reported having problems sleeping*
- *69% of you reported having numbness in the limbs*
- *66% of you experienced stigma as an injured worker:*
 - *from a co-worker (69%),*
 - *from a work supervisor (61%)*
 - *from WSIB staff (60%)*
 - *from a medical doctor (31%)*
 - *from a prospective employer (26.5%)*
- *48% reported having problems concentrating*
- *38% of you reported having an anxiety problem*

In terms of health care, we note that 36% of you had been hospitalized during the 5 years prior to your completion of the survey – 63% of you as a result of your workplace injury. Twenty-three percent of you reported having been hospitalized during the year before you completed the survey – a third of these hospitalizations were reported to be the result of workplace injuries. Despite the complex health conditions reported, 17% of you had no contact with a general practitioner or family doctor ‘in the past year’ (in the year prior to the survey).

Forty percent of you indicated that during the past 12 months, you had experienced a need for health care that you were unable to receive;

- *78% of you reported that in the past 12 months, you needed but did not get treatment for a physical health problem*
- *24% needed but did not get treatment for an emotional or mental health problem.*

Eighty percent of you reported using medications on a regular basis (at least once a week), and 61% reported regularly using 4 or more medical drugs. Twenty-three percent of you indicated that in the past 12 months, you had been unable to get medications, or used them less often than directed (25%), because of the cost. Forty-one and a half percent of you indicated you did not use a medication you were directed to use, because of the side-effects.

Since the workplace injury, 40% of you reported having experienced period(s) of unemployment. At the time the survey took place, 55% of you reported being currently employed (mostly in a single job rather than multiple jobs; about half in the same or a very similar job to the pre-injury job; and about half of you with the pre-injury employer). Thirty eight percent of you reported being currently unemployed, with a large proportion of you (78%) indicating that a health condition or disability affects your current ability to look for work.

You can clearly see that most of these workers with serious, lifelong injuries and diseases were in need of ongoing health care and income support. In order to meet the recovery needs of injured and disabled workers, we must understand why there are so many negative outcomes for these workers.

Together we can make our first public social program started over 100 years ago, Workers Compensation, that not only supports workers injured at work but also helps reduce the economic burden in the years ahead.

Thanks for your consideration of our request.

Thank you.

Attached:

Retirement pension poverty among injured workers with long-term workers' compensation claims

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