

Claim suppression research project

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Funded by the Social Sciences and Humanities Research Council of Canada

Background

What is claim suppression?

-Actions by employers that hinder the appropriate reporting of work injuries or illnesses to the workers' compensation board.

Why do employers sometimes suppress workplace injuries/illnesses?

-To reduce or avoid increases in their workers' compensation premium costs

How does claim suppression impact injured/ill workers?

-Negative impacts on income, health, recovery and ability to RTW

What is the Scale of Claim Suppression?

- Not easily quantified
- A 2022 report by the Institute for Work & Health determined that 35-40% of emergency department visits for work injuries/illnesses in Ontario do not show up as WSIB claims
- A Manitoba survey of 200 workers found 11.5% experienced or were aware of overt claim suppression practices by employers
- A WorkSafeBC study estimated the incidence of claim suppression to be between 3.7% and 13%

Who is Impacted?

- Workers in any type of workplace can experience claim suppression.
- We speculate that precarious workers and newcomers/foreign workers are the most impacted.

Objectives

- To investigate the laws and policies framing claim suppression across Canada's provinces and territories (Phase 1)
- To understand the diversity in lived experiences of claim suppression (Phase 2)
- To develop solutions for claim suppression that are informed by workers' lived experiences.

Methods

- Documentary analysis of claim suppression laws and policies
- Interviews with 27 key informants representing all provinces and territories
- Freedom of information requests for enforcement data

Findings – Claim suppression legislation

- All but 4 provinces (NB, PEI, QC, NFLD) have claim suppression legislation

Jurisdictions	Year CS* Law Established
ON	2015
MB	2002
SK	2013
AB	2002
BC	1999 and 2022**
NWT&NU	2007
YK	2008***
NS	1996
NB	NA
PEI	NA
QC	NA
NL	NA

*CS = Claim Suppression

** The content now found in section 73(1) was originally enacted as section 177 which was added by amendment via “1998-50-15” and came into force on October 1, 1999, under the OHS part in the Workers’ Compensation Act RSBC 1996, c 492. This former act was replaced by the Workers Compensation Act, RSBC 2019, c 1, and inherited the provision under s 177 from the previous act as s 73 under its OHS part. In November 2022, Bill 41 (Workers Compensation Amendment Act, 2022) amended the legislation by making the existing section as 73(1) and adding a new section 73(2). Bill 41 broadened the definition of claim suppression by adding the subsection 2 which specifically prohibited employers from preventing workers from filing and maintaining a claim, as well as from receiving compensation benefits. This subsection came into effect in May 2023. Claim suppression provision has always been under the OHS part of the workers’ compensation acts in British Columbia.

***Note that in 2021, the Workers’ Safety and Compensation Act, SY 2021, c.11 came into effect and replaced both the Workers’ Compensation Act and the Occupational Health and Safety Act. This Act included Section 90 that prohibits coercion not to claim. The former Workers’ Compensation Act, SY 2008, c 12 included Section 112 with the same prohibition.

Findings – Scope of legislation

- Claim suppression laws capture actions:
 - that are largely overt
 - in initial claim
 - by the employer

Findings – Intent requirement

- Only Ontario has an explicit intent requirement
- Intent is difficult to demonstrate
- Most jurisdictions lack any policy on claim suppression

WHAT IS CLAIM SUPPRESSION?

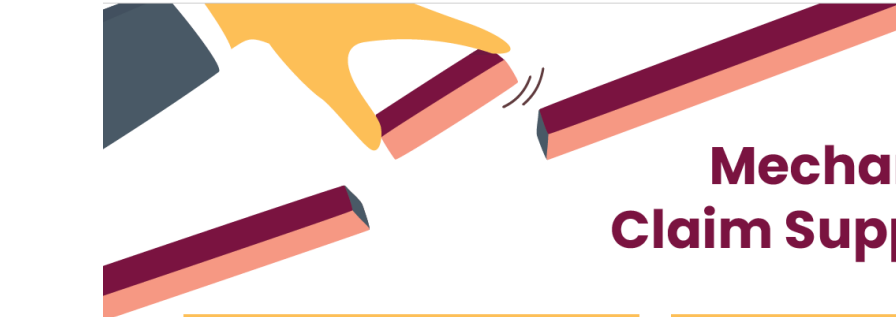


Short definition:

Claim suppression refers to actions or systems that discourage, obstruct, or prevent injured workers from exercising their right to workers' compensation and accessing appropriate benefits, often to protect the employer's financial interests.

Full definition:

Claim suppression encompasses any action, policy, or practice, whether by acts or omission, that discourages, obstructs, or prevents a worker from exercising their right to workers' compensation and accessing appropriate benefits. It may be carried out directly by employers or their representatives, as well as by workers' compensation, health care, immigration, and other systems, and individuals operating within them. It may also be indirectly enabled through these systems or through the broader legal, sociocultural, and policy and economic contexts. Claim suppression can take place before, during, or after a work-related injury or illness, including after a claim has been accepted, when measures are taken to reduce benefits. Although certain practices may be legal, they may nevertheless constitute forms of claim suppression if they impede workers' ability to report injuries or obtain appropriate benefits. A primary driver of employer claim suppression is the experience rating system, which compares employers within the same industry and adjusts their premiums based on whether their workers' compensation costs are above or below the industry average.



Mechanisms of Claim Suppression

Pressure, Persuasion, or Coercion

What is it? Using threats, intimidation, or pressure to deter workers from filing or pursuing a claim.

What does it look like? Appealing to loyalty; making threats of deportation; blaming workers for their injuries.



Retaliation

What is it? Punishing workers or witnesses for filing or supporting claims.

What does it look like? Terminating employment; reducing shifts; worsening working conditions; denying meaningful accommodations.



Concealing or Misrepresenting Information

What is it? Failing to provide, or misrepresenting, injury, claim, or policy information to workers or workers' compensation.

What does it look like? Not reporting the injury or illness to workers' compensation; misrepresenting loss-time claims as no-loss-time; failing to inform workers about workers' compensation; misleading workers about what should be reported.



Private Arrangements

What is it? Using informal agreements or payments to avoid claims.

What does it look like? Having workers sign a letter waving their rights; paying workers wages in lieu of filing a claim.



Workplace Organizational Factors or Culture of Suppression

What is it? Fostering a workplace or industry culture that discourages injury reporting and claims.

What does it look like? Reacting negatively to reports of injury or illness; systematically contesting claims; instituting group-based incentives for lack of reporting; systematically drug testing after a report of injury.



Healthcare Manipulation

What is it? Manipulating healthcare-related policies and processes to avoid reporting.

What does it look like? Providing in-house medical care that steers injured workers away from workers' compensation; attending medical appointments; accessing workers' medical records; failing to provide private health insurance to workers on closed work permits.



Return-to-Work Manipulation

What is it? Pushing return-to-work to prevent claims or limit benefits.

What does it look like? Pushing workers to return to work before it is advisable; making false promises of modified work.



Employment Status Manipulation

What is it? Using employment arrangements that reduce or remove employer liability.

What does it look like? Hiring through temporary employment agencies; classifying workers as independent contractors.



Workers' Compensation System Factors

What is it? Policies or practices within workers' compensation systems that enable or cause claim suppression.

What does it look like? Imposing procedural obstacles like strict time limits and delays; establishing a difficult threshold to recognizing occupational illnesses; Failing to investigate certain claims or properly review return-to-work plans; establishing a culture that favours employers; overruling medical advice; establishing age cut-offs for benefits; denying benefits on the basis of a pre-existing condition; engaging in the practice of deeming; excluding workers from automatic coverage; highlighting the cost of claims to employers.



Health Care System Factors

What is it? Barriers within the medical system that prevent or undermine claims.

What does it look like?

Not enquiring about the work-relatedness of injuries and illnesses; not supporting workers in their claims; lack of coverage or access to medical care.



Legal System Factors

What is it? Weak legal protections and enforcement that fail to deter suppression.

What does it look like? Lack of legislative protection or narrow scope; high standard of proof; lack of enforcement mechanisms (lack of proactive investigations, lack of meaningful reporting mechanisms and follow-ups); low penalties or lack of penalties for violations; lack of remedies for workers.



Policy and Economic Factors

What is it? Broader labour market and policy conditions that increase worker vulnerability to suppression.

What does it look like? Government policies that promote precarious work and / or contribute to social vulnerability (e.g. temporary foreign workers program); low unionization; weak job market.



Sociocultural System Factors

What is it? Social norms or values that discourage reporting of injuries.

What does it look like? Ideals of masculinity that deter men from reporting injuries.



Results – Detection and enforcement

- Detection is largely complaint-based
- Only ON, MB and SK have proactive measures to detect claim suppression
- Penalty amounts are typically low



Source: Saskatchewan WCB

FOI Data (2014-2024) - Penalties

- 147 penalties for 89 employers over the last 10 years (there are 1,174,200 employers covered by workers' compensation across Canada)
- A total of \$633,776 fines levied for the same period

Jurisdiction and year of legislation (Data requested for 2014-2024)	BC (1999, updated in 2022)	AB (2002)	MB (2002)	ON* (2015)
No. of Administrative Penalties	7	16	51	73
No. of Employers w/ Claim Suppression Penalties	7	7	42	33
Total Amounts of Claim Suppression Penalties Assessed and Collected	\$47,776	\$12,000	\$134,000	\$440,000
No. of Claim Suppression Convictions	0	0	0	6
Total Amounts of Claim Suppression Court-ordered Fines Assessed and Collected	\$633,776			

* Ontario data missing for 2024

Costs and Benefits of Claim Suppression

	Benefits	Costs / Negative Impacts
Employers	• Reduced premiums and deductibles • Greater access to safety rebates • Improved competitiveness in contract bidding and licensing processes • Reduced risk of inspections and audits	• Exposure to administrative penalties or prosecution, though low likelihood of enforcement and relatively low fines
Workers' Compensation	• Lower administrative and staffing costs	
Workers & Families		• Delayed recovery and worsening health outcomes • More complex and prolonged return to work • Loss of benefits and services • Material, physical, and psychological harm
Society		• Transfer of the cost of workplace injuries and illnesses from employers to social assistance programs and the public health system • Increased reliance on private insurers instead of employerfunded compensation • Distortion of workers' compensation data, undermining injury prevention efforts

Conclusion

- Claim suppression is prevalent throughout workers' compensation systems globally.
- WCBs should commit significantly more resources to enforcement.
- Legislation and policies should be amended to substantially increase penalties and fines for employers so that there is an effective deterrent.
- Workers victimized by claim suppression should receive compensation

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