

On Occupational Health and Safety

IMPROVING WORKERS COMPENSATION

OHC briefs to the WCB Review Commission

This spring the Manitoba government conducted an extensive review of the Manitoba Workers Compensation Act. The MFL Occupational Health Centre presented a detailed brief to the review commission, which was chaired by Wally Fox-Decent. In addition, the Centre participated in the preparation of the Workplace Stress Initiative brief and the Cross Cultural Advisory Committee brief. (Details of those briefs are provided in articles on page 2).

The Centre started from the position that workers in Manitoba deserve a compensation system that is fair, and easy to access with sufficient benefits that the worker and the worker's family do not suffer financial hardship. The brief identified a number of barriers to these goals.

DEFINITION OF OCCUPATIONAL DISEASES

The definition of "occupational diseases" in the Workers Compensation Act is inconsistent with current concepts of causation of disease. The Workers Compensation Board (WCB) accepts a disease

as occupational when occupational factors are deemed the dominant cause of the disease. Although on the surface this may seem reasonable, operationally this creates too

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high a level of proof to show occupational causation for multi-factorial diseases when workplace and non-workplace exposures interact in the development of the disease. In this situation, many cases of disease where workplace factors played an important role are not recognized as work related.

PERMANENT PARTIAL DISABILITY AWARDS ARE TOO LOW

Many individuals want to appeal their impairment ratings because the awards they receive are too small for the permanent impairment they are living and working with. It is important that the WCB bring the awards up to appropriate levels.

INJURY DISABILITY AND CHRONIC PAIN

Musculoskeletal injuries (MSI), such as acute strain, sprain, contusions or fracture are among the most common workplace injuries in Manitoba. WCB claims for such injuries are often closed with "full return to work," however short-lived, and whether or not there was full recovery.

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WORKERS COMPENSATION AND THE NEEDS OF IMMIGRANT WORKERS

Access to interpretation services was a key recommendation of the Cross Cultural Community Advisory Committee in its brief to the Workers Compensation Act review commission.

The MFL Occupational Health Centre established the Cross Cultural Community Advisory Committee with the support of the Workers Compensation Board.

According to the brief, workers who do not speak English or French are often asked to provide their own interpreter.

The brief took the position that the

responsibility for ensuring the worker understands issues surrounding workers compensation and receives their fair benefits lies with the Workers Compensation Board, not the worker.

The brief noted that the Ontario Workers Safety Insurance Board has an internal staff team of eight language specialists. It also contracts directly with a bank of 500 freelance interpreters and translators.

Quality of interpretation is assured in Ontario's compensation system because all contracted freelance interpreters are accredited to provincial

interpretation standards and undergo testing by the Workers Safety Insurance Board. Translation and interpretation are provided in all areas of service from filing a claim to medical assessments.

In light of the current need for services, the brief recommended that the WCB hire its own language specialists, develop its own testing system for internal and freelance interpreters, and implement procedures for using qualified interpretation consistently across all areas of service within the WCB.

PROVIDING COMPENSATION FOR MENTAL ILLNESS

In its brief to the Workers Compensation Review Commission, the Workplace Stress Initiative called on the provincial government to extend workers compensation coverage to medically diagnosed mental illness when it can be demonstrated that stressful working conditions have played a significant role in the development of the illness.

The Workplace Stress Initiative, which brings together organizations concerned about the impact of workplace stress on the health of working Manitobans and communities, was formed by the Occupational Health Centre in 2001.

The brief listed a number of research studies that have documented the link between specific work factors and psychological ill health.

Even though mental illnesses caused by chronic stressful working conditions can be diagnosed and treated, the current provincial Workers Compensation Act specifically excludes workplace stress as an occupational disease. Stress is only compensated if it is an "acute reaction to a traumatic event," such as life-threatening incidents that occur in the workplace.

This excludes illness that is caused by chronic stressful working conditions over a period of time. No other illness or disease is excluded from compensation just because it resulted from exposure to the hazard over time. For example, repetitive strain injuries and asbestos-related diseases are both caused by exposure to the hazard over a period of time.

While workplace stress can be caused by life threatening events, it

can also arise from excessive job demands, job insecurity, and lack of support for work-life balance.

The brief also noted that while workers compensation policy will compensate psychological conditions if they result from physical injury to the head or exposure to chemicals or drugs in the workplace, it ignores the fact that psychological illness is often caused by mental stress, not physical injury.

The brief responded to the concern that it would be difficult to prove that the workplace caused the mental illness by noting that the workers compensation system already deals with the issue of causality for illnesses and injuries that are not always straightforward.

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Subsequent recurrences or complications are often denied on the pretext that the condition is “pre-existing” or degenerative and benefits and treatment are cut off.

The Centre’s brief called on the government to consider alternate approaches to the management of chronic pain disability cases. In cases where there is work-related injury but dispute between various insurers (the WCB, Manitoba Public Insurance, or private insurers), the Centre recommended that the injured worker not be denied basic treatment and rehabilitation services.

DEGENERATIVE SPINAL DISEASE

Compensation is usually not granted in the case of degenerative spinal diseases, where osteoarthritic conditions (e.g., spinal stenosis) are

usually deemed to be pre-existing, and unrelated to repetitive work or a history of recurrent strain injuries on the job. Current medical science is demonstrating that, in the case of several degenerative spinal diseases, mechanical overuse like that of repetitive work and cumulative strain causes the degenerative tissue formation. As a result, the Centre is recommending that a worker’s history of previously accepted work injuries should not be discounted as a “pre-existing condition” that disentitles a new claim for the same body part.

The Centre also called for the removal of the restriction on stress-related claims in the Act and that diseases resulting from chronic workplace stress be compensated.

COMING EVENTS

Occupational Health Centre Annual General Meeting

Friday, September 17,
2004

12 noon

Union Centre, 275
Broadway

RSVP required 949-0811

A Global Workplace: Challenges and Strategies for Occupational Health and Safety

October 7 -10, 2004

The Banff Centre
Banff, Alberta

Register: (780) 486-9009
or

www.workershealthcentre.ca/conference/home/index.php



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WORKPLACE HEALTH AND SAFETY FALL 2004 PUBLIC PRESENTATIONS

You are invited to the MFL Occupational Health Centre public presentations at 275 Broadway.

Topics relating to occupational and environmental health will be presented by invited guests and staff of the Centre.

The presentations are from 9:00 a.m. to 10:00 a.m.

Phone: 949-0811 • Fax: 956-0848 • email: phebert@mflohc.mb.ca

October 5

Due Diligence

Guest Speaker

Manitoba Workplace Safety and
Health Division

October 19

Stretch Massage Breathe:
an approach to chronic
pain management for
injured workers

Dr. Rob Chase

MFL Occupational Health Centre

November 2

An introduction to the
Injured & Disabled
Workers' Centre

Shirley-Anne Edmunds

Director, Programs and Resources

November 16

Diabetes in the
workplace

Melani Gillam, Clinical Dietitian
Janie Goodman, Diabetes Nurse
Educator

Diabetes Education Centre

The MFL Occupational Health Centre was established in 1982 by the Manitoba Federation of Labour to help Manitoba workers deal with job-related health issues and to assist those in many sectors of our society who strive for safer work environments. The Centre is a non-profit, charitable health centre funded by the Winnipeg Regional Health Authority and is a member of the Manitoba Association of Community Health and the Association of Occupational and Environmental Clinics.

The MFL Occupational Health Centre has a wide range of health, information, and workplace services available to all workers in Manitoba to assist in determining if a health problem is work-related and how to prevent or reduce the risk of hazardous workplace exposures. The Centre is open Monday to Fridays, 9 a.m. to 5 p.m.

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