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# **Practical Tools for Managing *WSIB Claims***

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**Employers' Advocacy Council**

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# Advocacy and Membership

- Representing multi-sector employer interests at the:
  - Workplace Safety & Insurance Board (WSIB)
  - Ministry of Labour (MOL)
- Small, medium and large companies
- 400 plus members from across Ontario
- Policy and Legislation Committee



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# 2009 Safety Groups

- EAC/CME sponsors several Safety Groups:
  - **EAC/CME Multi-sector**
    - 102 companies
  - **Magna**
    - 26 companies
  - **Canadian Vehicle Manufacturers' Association**
    - 16 companies
- In 2007, the Multi-sector, Magna and Canadian Vehicle Manufacturers Association received a rebate from WSIB of \$6.4 million



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# Education and Training

- **Insurance:**
  - Practical Tools for Managing WSIB Claims and the Return to Work Process
  - WSIB Appeals
  - Workwell Audit
  - NEER/CAD-7 Workshops
- **Health and Safety:**
  - How to Manage a Ministry of Labour Visit
  - Applying MSD Prevention Guideline
  - Electrical Safety



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# Agenda

- Claims costs
- Employer and worker obligations
- Why is an Incident investigation important – how does it help with completion of the Form 7
- Managing the claim



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# Experience Rating Program: NEER

- Applies to companies that pay more than \$25,000 per year in premiums and are in a non-construction rate group
- If claims costs are **lower** than would be expected for a company of a specific type and size, a rebate will be received
- If claims costs are **higher** than would be expected for a company of a specific type and size, a surcharge will be assessed
- Three year review window
- Program currently under review at WSIB



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# Triggers for Workwell

- Injury cost / frequency information
- Frequency and non-compliance with orders (MOL)
- Compliance with first aid regulations
- Complaints from workers and others
- Any other information that may come to the WSIB's attention
- Fatality or serious injury



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# **Employer Reporting Obligations**

## **WSIA s. 21**

- (1) An employer shall notify the Board within three days after learning of an accident to a worker employed by him, her or it if the accident necessitates health care or results in the worker not being able to earn full wages
- (2) The notice must be on a form approved by the Board and the employer shall give the Board such other information as the Board may require from time to time in connection with the accident



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# **5 Point Check System**

1. Employer
2. Worker
3. Personal Injury
4. Proof of Accident
5. Compatibility of Diagnosis



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# First Aid vs Health Care

- First Aid :
  - One-time treatment and any follow-up visit for the purpose of observation of minor scratches, cuts, burns, splinters or other minor injuries
- Health Care:
  - Services that can only be provided by one of the following: health care professional, chiropractor, physician, physiotherapist, registered nurse (extended class) or dentist
- Any health professional that provides only first aid, it is not considered health care unless it requires their professional skills



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# Other Considerations

- Recurrences
- Aggravation basis
- Transfer of costs
- Third party rights of action



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## **Recurrences (15-03-01)**

- A recurrence may result from an insignificant new accident or may arise when there is no new accident
- To identify a recurrence, the WSIB must confirm that there is clinical compatibility between the original injury or disease and the current condition, or a combination of clinical compatibility and continuity
- If a significant new work-related accident occurs, the WSIB establishes a new claim



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# Aggravation Basis (11-01-15)

- In cases where the worker has a pre-accident impairment and suffers a minor work-related injury or illness to the same body part or system, the WSIB considers entitlement to benefits on an aggravation basis
- Generally, entitlement is considered for the acute episode only and benefits continue until the worker returns to the pre-accident state



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# Transfer of Costs (14-05-01)

- If WSIB finds that an accident or disease to a Schedule 1 worker was caused by the negligence of another Schedule 1 worker or employer, the WSIB may charge all or part of the claim costs to the negligent employer's cost record
- If negligence is determined and claims costs have already been charged to the accident employer, all or part of these costs are transferred from the accident employer's cost record to the negligent employer's cost record



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# **Third Party Rights of Action (15-01-05)**

- In cases where third party negligence causes an injury, the worker can elect to sue that negligent person or collect benefits
- Third party is anyone not covered in the employment of a Schedule 1 employer





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# Accident Investigation

- Standard noting what documentation needs to be completed
- Determine the root cause of the accident and to prevent similar accidents in the future
- Done by an individual trained in accident causation, investigative techniques and fully knowledgeable of the work processes and procedures
- Findings should be reported to JHSC / management
- Note corrective actions



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# Accident / Incident Reporting Kit

- Incident investigation form including:
  - Worker personal injury statement
  - Witness statement
  - Supervisor statement
- Form 7\*
- Form 6\*
- Health care professional letter
- Functional abilities form
- Modified work plan
- Instructions





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# When do I complete a Form 7?

Employers must report a work related accident/illness to the WSIB if they learn that a worker requires health care and/or:

- Is absent from regular work
- Earns less than regular pay for regular work (e.g. only working partial hours)
- Requires modified work at less than regular pay
- Requires modified work at regular pay for more than seven calendar days



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# Form 7 Completion

- Ensure accuracy of all information on the accident investigation form
- Clarify any and all discrepancies on internal documentation of accidents or incidents prior to completing the Form 7
- Complete **ALL** of the sections on the Form 7
- Available for completion online



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# Completing the Form 7

- Review the sections of the Form 7
- How to effectively raise questions about the claim?
- If we have concerns about the claim – how do we document them?
- Effective use of page 4 of Form 7
- Importance of written offer of ESRTW



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# **Second Injury & Enhancement Fund (14-05-03)**

- Second Injury & Enhancement Fund (SIEF) relief absorbs all or part of the cost of a claim when a pre-existing condition enhances, contributed to or prolongs a work-related disability
- While SIEF relief provides employers with financial relief it is intended to encourage employers to hire workers with disabilities
- SIEF relief only applies to Schedule 1 employers and does not apply to Schedule 2 employers



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## SIEF cont'd

<b>Medical Significance of pre-existing condition</b>	<b>Severity of accident</b>	<b>Percentage of cost transfer</b>
<b>Minor</b>	<b>Minor</b>	<b>50%</b>
	<b>Moderate</b>	<b>25%</b>
	<b>Major</b>	<b>0%</b>
<b>Moderate</b>	<b>Minor</b>	<b>75%</b>
	<b>Moderate</b>	<b>50%</b>
	<b>Major</b>	<b>25%</b>
<b>Major</b>	<b>Minor</b>	<b>90%-100%</b>
	<b>Moderate</b>	<b>75%</b>
	<b>Major</b>	<b>50%</b>



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# **Maximum Medical Recovery (11-01-05)**

- Workers reach maximum medical recovery (MMR) when they have reached a plateau in their recovery and it is not likely that there will be any further significant improvement in their medical impairment
- Workers can reach MMR and still have the ability to do their job



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## **Non-Economic Loss Payments (18-05-04)**

- If a worker suffers a permanent impairment from a work-related injury or illness, they are eligible for a non-economic loss (NEL) benefit to compensate for the physical, functional, or psychological loss the impairment causes
- This benefit is determined when the condition has reached a point where no further improvement can be expected
- The amount paid is based on a legislated base amount times an impairment rating
- See policy for calculation



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# Appeal Time Limits

- Both employers and workers have the right to object to any **written decision** made by WSIB
- From the date of the decision letter:
  - **30 days** for objections regarding **Return to Work** and **Labour Market Re-entry** objections
  - **6 months** for objections regarding **any other issues**
  - **12 months per Appeal Guidelines**



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# **The Paper Trail**

1. Appoint one person to handle all documentations
2. Set-up a separate file for each active claim, apart from the worker's personnel file
3. File all documents in chronological or reverse chronological order
4. Keep copies on file of all documents and correspondence sent to WSIB and the worker



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# The Paper Trail cont'd

5. Record notes of all telephone conversations, meetings, discussions
6. Establish and bring forward / follow-up system
7. Confirm and follow-up in writing all understandings or actions with WSIB



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# **Best Practices in Claims Management**

- Written policy statements for:
  - Incident investigation
  - Return to work
  - Claims / cost management
- Ensure all policies and procedures have been clearly communicated to all workers and education has been provided
- Tracking and documentation ready to report to senior management
- Communication system for the claims manager, supervisor and worker
- Evaluation process in place and reviewed annually



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# Contact

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