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*Specializing in the Management of Workers' Compensation Issues*

July 19, 2019

Attention: Janet Patterson  
Reviewer

Baillie & Associates Consulting Ltd. represents approximately 50 employers, small to large, across a wide range of Industry.

With this letter, I, on behalf of my client base, fully endorse the Employer Community Submission to the Worker's Compensation System Review, dated July 19, 2019.

In particular, I would like to reinforce the sentiments of the employer community as addressed in Item V. Recommendations for Dealing with improved case management of injured workers, sub sections ii) and iii) concerning return to work support and initiatives.

For 20 + years, I have been hearing the Board and the general medical community tout the virtues of early return to work for injured workers. The employer community as a whole has responded overwhelmingly and enthusiastically with the development and accommodation of early return to work programs. "Light Duty" or other such terms for early return to work programs are more common place than not amongst small, medium and large employers. Awareness of the virtues and availability of early return to work is also rampant amongst the worker and physician community. Unfortunately, support for and participation in such initiatives is significantly lacking on the part of the Board, the worker community and the attending physicians.

It is well known by all parties that the longer a worker remains off work, the chances of a full recovery and return to pre-injury status dwindles. If the goal of this review is sincere in its purported intent to improve the benefit to the injured worker, success can not and should not be measured by dollar amounts paid, timely payments and friendly customer service. The measure of a successful Workers' Compensation system should be in its return to pre-injury work results. Where the large majority of claims involve soft tissue injury, an average duration of disability of six months is unacceptable. As is the ridiculously large number of these soft tissue and other injuries resulting in permanent chronic pain and an inability to return to pre-injury roles. The current system encourages disability and creates disability entrenchment where it should be promoting recovery and maintaining a useful connection to the work force as early as the day following injury. Expeditious recovery and returning to useful employment with the injury employer as soon as reasonably possible is ultimately in the best interests of the injured worker. A true "worker centric" approach would focus its efforts on early return to work issues.

Policy Item 34.11 in its current form, provides Board officers with tools to enforce early return to work for the benefit of the injured worker yet it is rarely utilized appropriately and the Guidelines are rarely followed in full. There is over reliance on an attending physician's tick of the box on the current prescribed forms and an under reliance on medical evidence. It would be my suggestion to change the prescribed physician forms to enforce the requirement for providing objective and medically supported limitations, perhaps similar to an occupational fitness assessment format. Further, a physician being required by the Board to complete a Board prescribed functional



assessment form to be given to the worker and in turn, provided to the employer, would be a reasonably achievable and progressive initiative. The "Road Map" to injury management on the WCB website already has such a form that could be readily adapted to a prescribed form requiring completion with each visit to a physician and/or other treatment provider.

Board officer's must also be reminded they are the adjudicators/decision makers, not the physicians that are too often subjectively advocating for their clients. Medical evidence should be relied upon, not unsupported vague medical opinion indicating participation in return to work/stay at work programs is not suitable. Even BMA opinions should be reviewed by the decision maker and quality of opinion assessed before reliance is placed. As well, for the majority of injuries, recovery gains are made more frequently than every 2 weeks and return to work opportunities should be re-assessed on a weekly basis. Worker's must also be encouraged, if not directed, to be mindful of the fact it is their responsibility to return to work as soon as they are able and not over rely on a physician's prediction of injury improvement/resolution or timing preference. The number of return to works of any kind delayed until a Monday (or equivalent of) as routinely supported by physician "recommendations", defies medical rationale.

Far too often, an employer's early return to work offer is dismissed by the Board and appeal bodies for minor imperfections or omissions in the written communication of the offer. No onus is on the worker, physician or Board to make reasonable inquiry should clarification of any item be needed. Policy does not provide a prescribed form or detailed criteria for what a formal early return to work should look like in order to gain support from the decision makers. Policy does not even require a formal written offer yet in practice, the bar for the perfect written offer from the employer is high. As the bar is largely invisible in Policy and ever changing in practice, it is most difficult for employers to meet. More and more employers are adopting the Board's suggestion for early return to work programs as "advertised" through its injury management/stay at work "Road Map" yet even using the Board's suggested forms and formats has failed to gain its' support. If the Board finds the employer's self initiated programs lacking, perhaps it should be clear in its communication to the employer of what a supportable early return to work offer should look like.

The employer community has done its part and will continue to do its part in promoting and accommodating early return to works. The onus must now shift to the worker community to fulfill its responsibility in the return/stay at work process. It is well over due for the Board to do their part in supporting, encouraging and enforcing, when necessary, early return to works for the true benefit of injured workers. The number of time loss claims, the duration of time loss, the number of permanent chronic pain occurrences and the number of failed permanent return to works with the injury employer could be significantly decreased with reasonable Board support for early return/stay at work initiatives.

Sincerely

BAILLIE & ASSOCIATES CONSULTING LTD.

Shannon Baillie  
Consultant