



Canadian Centre for  
Policy Alternatives  
Manitoba Office

# work life

## An Ounce of Suppression Prevents a Pound of Cure

**T**his April 28 we will commemorate the National Day of Mourning for workers killed or injured on the job. This yearly tribute is a somber reminder that far too many workers deal with unacceptably dangerous conditions while on the job.

According to the Canadian Labour Congress more than 1,000 Canadian workers a year are killed at work or die for reasons related to their jobs. In 2012 there were thirty nine work related deaths in Manitoba. From violent accidents to illnesses such as cancer caused by exposure to toxins, workplace fatalities are on the increase in Canada, in contrast to what is happening in other OECD countries where rates are decreasing.

We will be thinking of these unfortunate workers and their families on April 28th. In 2012 there were 30,000 workplace injuries in Manitoba. High as that number is, it does not give us an accurate reading of the number of workplace injuries in Manitoba. The faulty data are due to a nasty employer practice called “claims suppression.”

### **The How and Why of Claims Suppression**

Across Canada, Workers Compensation Boards (WCBS) are employer-funded insurance schemes that provide injured workers with wage replacement, medical care, disability benefits, vocational rehabilitation and survivor benefits. Most WCBs, including Manitoba's, began using “experience rating” schemes in the 1980's to determine the rate at which employers will pay into WCB. Employers' WCB premiums are tied to their claims record: the more claims that are made from a particular workplace and the more expensive

the claim, the higher the premiums are for that employer. Experience rating, in theory, provides a financial incentive for employers to keep their workplaces safe and accident-free.

Unfortunately some employers find it cheaper to prevent their injured or sick workers from making a WCB claim, or to force them back to work before they're ready, than to create a safe work environment. Both practices are known as claims suppression and it is a tactic used overtly and covertly. Furthermore, some companies invest considerable resources into figuring out how to game the system. “Loss management” or “disability management” are terms used euphemistically to describe claims suppression strategies offered by consulting firms so that employers can keep their WCB costs down. Whether used on the recommendation of these consultants, or simply as part of a company's normal practice, claims suppression includes:

- Actively discouraging injured workers from reporting injuries;
- Blatantly preventing injured workers from reporting injuries or filing WCB claims;
- Encouraging injured workers to accept cheaper and less comprehensive private insurance compensation rather than going through WCB;
- Pressuring injured workers to return to work before they are fully recuperated;
- Punishing workers for filing WCB claims and/or reporting injuries;

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- Fighting against most WCB claim filed by their employees and thereby creating a hostile environment/ company culture that discourages all workers from filing a claim;
- Establishing incentives for injured workers not to report injuries, including rewards for going so many days without a workplace injury.

In Manitoba most of the above strategies are illegal under section 19.1 the WCB Act. But the Act is not enforced, and even if it were, the fine for breaching section 19.1 of the Act is a pittance: \$450.00. This fine has never been imposed so employers know that they can violate the Act with impunity.

### **Time to fix the system**

The Manitoba Federation of Labour has had concerns about claims suppression and the experience rating system since its inception. The Province called for an external review of the WCB rate assessment model called “Maintaining Fair and Equitable Compensation”. The Province hired Paul Petrie, a WCB expert from B.C. to conduct an external review. Results from that review were published in the first week of April: WCB experts from across the country will be interested in Mr. Petrie’s findings.

Mr. Petrie’s report titled *Fair Compensation Review* was released on the 100th anniversary of the release of the Meredith Report which established what is known as the “historic tradeoff”: workers gave up their right to sue an employer for negligence which caused injury or harm on the job in return for guaranteed no-fault compensation when injury or illness occurred.

The report confirms the growing problems with experience rating, noting that it can actually contribute to unsafe workplaces rather than prevent them. Although he did not go so far as to recommend moving away from the experience rating model altogether – a recommendation that would have been warmly received by worker advocates - Petrie makes 27

recommendations that would help make Manitoba workplaces safer and allow injured workers to seek compensation without fear of reprisal from their employers.

Recommendations are categorized to address broad areas of concern. Too numerous to deal with here, we do want to explain the most important recommendation in the report: that “the first two weeks of any time loss claim be assigned to the employer’s industry sector to be funded collectively by that sector out of the accident fund.”

Smaller companies without alternate duty programs can be inclined to suppress injured workers’ claims even though often workers are back on the job in fewer than two weeks. Paying these claims from an industry-sector collective fund would go a long way to preventing claims suppression by smaller and medium sized firms that do not have the resources to invest in alternate duty programs. This recommendation will also prevent less scrupulous employers from free riding at the expense of those that play by the rules and would protect small employers from big rate swings.

Mr. Petrie’s report needs to be taken seriously by the Province and the WCB: workers’ lives and health depend on them doing so.

For this reason unions, WCBs and worker advocates across the country are paying attention to the Petrie report and watching to see how the Province responds.

Let’s hope they set an example for other Provinces and WCBs to follow – one that will do justice to those workers who have been killed or injured on the job.

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