



Executive Director's Report

NEW WSIB RATE FRAMEWORK

IS YOUR COMPANY WSIB PROGRAM READY?



I don't like to wish time away, but the new WSIB Rate Framework will be here before we know it, starting in 2020. Each company, based on their experience (costs and claims), will be assigned to an individual rate group. In other words, one company could be paying more or less premiums than another. There will be no one rate group (719) for all. Accident costs will be the major player for your company's experience in determining which rate your company will end up in. Perhaps now is time for a review of how your company handles claims or if you don't really have anything in place, a chance to do so.

As employer size varies among our members, some may have a staff person that deals with WSIB cases, others not and may have to rely on their supervisor(s) or it may be up to the owner.

How can we keep costs down?

From my experience, it has to be at the start of an accident.

A brief background – people don't intentionally want to hurt themselves. Sure there are some "bad actors" out there, but it is a small percentage – depending on who you talk to, it can range from 5 to 10% of all claims. However, for these bad actors, we seem to spend all of our time on these cases. But having a process in place can certainly lessen their impact. I've talked to several members (big and small) about their horror stories – and it's frustrating to say the least.

So, how can we keep costs down?

First, is communication. There has to be an understanding by the employee (existing and new) that all accidents must be reported and there is a process, whether there is injury or not. Sometimes the injury may not be apparent the day of the accident and the next day the employees calls in, perhaps saying they are sore and is going to the doctor. If this is the case, you may already be behind the eight ball. Communication can be covered a number of ways; some employers do this during an orientation, others during an introduction by the supervisor or owner when the employee shows up at the jobsite. It is also important to tell employees at that time, should they be injured, you have a modified work program. Document this.

Second, all employees must to have access to a WSIB Functional Abilities Form (FAF) should they be injured and have to seek medical treatment. The purpose of this form is to inform the treating health professional they are obligated to complete, identifying to you, the employer, the injured employee's overall functional abilities and work restrictions that will assist them and you in their return to suitable work. You can obtain these from: <http://www.wsib.on.ca/cs/groups/public/documents/staticfile/c2li/mdey/~edisp/wsib012233.pdf> #

These can be with your supervisor, in the company truck or in the jobsite job box. These are to be taken with the injured employee to the treating facility. The employee should be told where they are should they have to bring themselves.

My experience is that the FAF is best accompanied with a company letter indicating that the company has modified work available for almost any circumstance (a sample letter will be emailed to all that you can change and make company specific should you wish to use). This upfront letter formally informs the treating health professional you have a modified work program.

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Continued....

Third, there has to be a process when an employee has an accident. First is treatment of the injury through first aid and depending on severity, taking the employee to emergency or a walk-in clinic. It is always preferable for the employer to take the employee if circumstances permit. Sometimes there may be no supervisor at the jobsite (one to two employees working) and for others there might be a lead hand visiting jobs, or even the owner looking after jobs. From my experience, on small jobs, where we had no permanent supervision, we gave the employee a card with the telephone number of who they were to contact, or even today, text. It is important to get a copy of the FAF after treatment.

Fourth, after reviewing the FAF, you need to document your modified work plan for the employee and give to the employee. Get them to acknowledge they received and sign. If they refuse (most will not), document and contact the WSIB.

I remember one chap (good guy) during the winter, who broke a leg while walking along a salted/sanded walkway. He ended up with a cast. We had reviewed the modified work plan – there appeared no issues, but the employee said he couldn't drive. We informed the worker we would arrange transport for him to and from work. Done.

Fifth, do a proper accident investigation, getting down to the root cause. Far too often, employers fail to get to the root cause. For our chap that broke his leg, many employers would say the cause was that he slipped and fell. You must put on a detective's hat and ask questions followed by questions to get to the root cause. In our case, we found the traction of the sole of the employees work boot had worn off, so smooth it was no wonder he slipped before. Upon further questions, we found out that he had slipped about the week before, but caught his balance and there was no injury. He knew had to replace his work boots but had not, nor brought it to anyone's attention. He knew also, that he should have brought it to his supervisors attention, it was an accident but no injury. You may think I'm crusty, but he was written up for not reporting according to our progressive discipline policy. Incidentally, the employee ended up being one of our most safety proactive employees.

Sixth, if the employee has agreed and does not show up for modified work the next day, document and call the employee to find out why they are not at work. Document again. It is best that the WSIB be contacted too and informed of the situation. Ask to speak with the Case Manager for this claim. All conversations (employer or employee) with the WSIB are documented by the WSIB. At this time, you might also request an early meeting with the WSIB Return to Work Specialist.

If you continue to have difficulties with the employee not showing up for modified work, you should contact the employee and WSIB daily. You may consider requesting access to the claim file by letter (for both medical and non-medical correspondence) and seek additional assistance from the Office of the Employer Advisor (OEA).

The OEA <http://www.employeradviser.ca/construction-employer/contact-us/> can provide expert, confidential and free advise – it is available to all construction employers who pay WSIB premiums. I've had to use them on a couple of difficult cases in past. They have regional offices in Ottawa, Peterborough, the GTA, Kitchener/Waterloo, Hamilton, London, Windsor, Sault Ste. Marie, Sudbury and Thunder Bay. Contact the OEA head office, tel: 416-327-0020, to get in touch with your regional representative.

Other times, it may require the assistance of an outside claim consultant or legal advice.

Hopefully, by having the points above in place, this will minimize your costs. For those that have sound procedures already in place, perhaps this was a good review.

Mathews Minute



Bill 47 Summary

It always seems that as the political pendulum swings from left to right and back again, labour and employment laws are on the front line. Nowhere was this clearer than in Ontario over the last year.

In late 2017, the then Liberal Ontario government drove through sweeping changes to the Employment Standards Act, 2000 (the “ESA”) and the Labour Relations Act, 1995 (the “LRA”) as well as making amendments to the Occupational Health and Safety Act. The Bill implementing the changes was called Bill 148. The Liberal government positioned these changes in their press releases as designed to ensure “fairness” in the Ontario working world. Not surprisingly, these changes were applauded by trade unions and workers advocate groups and decried by most voices in the business sector.

Last spring’s election brought a change in government, deposing the Wynn Liberals in favour of Doug Ford’s Conservative. While other issues appeared to be the government focus through the summer and early fall, rumours started to be heard that they were now focussing on Bill 148 and that it might be subject to wholesale repeal. While not a wholesale repeal, the plan for Bill 148 saw the light of day on Tuesday, October 23rd when Bill 47 received first readings. The first version of Bill 47 includes the following:

- holding the minimum wage at \$14.00/hr instead of the planned further increase to \$15.00;
- replacing the 10 Personal Emergency Leave days (2 of which are currently paid) with leave for sickness (three days in a year), leave for urgent matters involving family members (3 days in a year) and leave for bereavement (2 days in a year), none of which are paid, and restoring employer rights to require doctor’s notes as proof of the grounds for absence;
- eliminating scheduling rules that allowed employees to request changes to their schedules;
- repealing provisions of the LRA that allowed unions to apply for an employee list with personal contact information if they had the support of 20% of the employees in the unit;
- looking at de-prescribing 24 low volume trades who currently require certificates under the Ontario College of Trades & Apprenticeship Act, 2009;
- lowering apprenticeship to journeyman ratios;
- reducing regulatory burdens for businesses, apprentices and journeypersons.

The response was quick, with most employer groups supporting the proposed changes and worker groups decrying the loss of what they now appear to consider fundamental rights. Sadly, it went so far that the Minister of Labour’s constituency office was broken into and vandalized including furniture being overturned and the message “Attack workers we fight back \$15” spray painted on the building where her office is located.

Many of the provisions of Bill 148 that the government plans to repeal were set to kick in on January 1st, 2019 so the government will have to hurry. Bill 148 went through many revisions as it made its way into law and it will be interesting to see if there are any changes to Bill 47 through this process.

Upcoming Events



February 2019

Carpenters' EBA—Employer Pre-Meeting

CLRAO Toronto, February 15, 2019

(Bob Grassing, Robert Troup, Doug Smith, Domenic Filoso, Joe Liberman, Paul Gunning attending)

Carpenters EBA Meeting

Toronto, February 19-20, 2019

(Bob Grassing, Robert Troup, Doug Smith, Domenic Filoso, Joe Liberman, Paul Gunning attending)

IUPAT Local 1494/1590 Contractors Meeting

Chatham, February 22, 2019

(Windsor/London Contractors, Paul Gunning attending)

Ontario PC Leader's Dinner

Toronto, February 29, 2019

(Bob Grassing, Paul Gunning attending)

AWCI Annual Convention and INTEX EXPO April 22 – 26, 2019 National Harbour, Maryland

FEBRUARY 2019



UPCOMING Mathews Dinsdale Seminars/Webinars

Copy the following URL to your browser to register for new sessions or review archived session videos:

<http://www.mathewsdinsdale.com> (see right side)

Worker's Compensation Bootcamp Level

Wednesday March 6, 2019#

9:00 am to 4:00 pm

If you have any questions, please call me at 519-671-5930.

Paul Gunning
Executive Director