

May 1st, 2015

Corporate Secretary
Workers Compensation Board
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To Whom It May Concern,

Unifor welcomes the opportunity to submit our comments on the *Workers Compensation Coverage for Post-Traumatic Stress Disorder*. We represent over 12,000 women and men throughout the province who work in five key sectors of the economy – communications, transportation, resources, manufacturing and services. Our members in these sectors are exposed to a variety of hazards such as infectious diseases, asbestos, hazardous chemicals, radiation, workplace violence, working alone, ergonomic injuries and almost any other hazard that exists.

We appreciate the Government's commitment to consult with the people of Manitoba in its strategy to recognize the importance of psychological Health and Safety in the Workplace.

Introduction

Mental health disorders cost Canada fifty-one billion dollars per year and take a personal toll on workers through lower job satisfaction, absenteeism, and debilitating medical conditions. Funding and staffing deficiencies in today's workplaces cause high workloads; in effect, workers are required to do more with less. Such high-pressured and lean work environments produce new psychosocial hazards which contribute to mental illness conditions, musculoskeletal disorders, and cardiovascular events.

Manitoba ought to follow Europe's lead and mandate prevention of psychosocial hazards in the workplace and compensate mental illness caused by work through employer-paid compensation systems. Doing so is not only critical to keeping Manitoba's citizens healthy at work and at home, but is also how a government elicits support and participation from its constituents that enable all in society to manage and overcome future challenges.

Any high stress or dangerous environment can place workers at risk of developing Post Traumatic Stress Disorder (PTSD). Another frequent source of work-related PTSD claims involves accidents in which one employee witnesses another employee die or suffer serious injury.

PTSD can be a standalone workers' compensation claim or arise in connection with a physical injury or other mental health condition. Frequently, a worker injured in a severe accident will recover from the physical injuries, but suffer from a lingering PTSD condition for many years following the accident. That worker has a workers' compensation claim that will include compensation for the physical injuries and for PTSD. Sometimes, a worker's only injury was development of PTSD. This happens often when a worker witnesses an accident, but is not involved in the accident. That worker, too, has a workers' compensation claim for the PTSD.

Submission

1. *Have you or your organization been involved in a worker's > compensation claim based on PTSD? Was the claim satisfactorily resolved, and why?*

Unifor has been involved in a worker's compensation claim based on PTSD and it was successfully concluded. The success was based on medical documentation provided by the worker's medical practitioner and the employer was also supportive in the instances where the accidents were catastrophic.

2. *Is there a need to amend the Act to improve the timeliness and > consistency of adjudication in respect of claims based on PTSD?*

The Act needs to be amended to improve the timeliness and consistency of adjudicating PTSD claims. The claimant should not need an objectively traumatic event.

3. *Is a legislative presumption an appropriate method by which to improve the timeliness and consistency of adjudication in respect of claims based on PTSD?*

Timeliness and consistency of adjudication goes hand in hand with providing assessment and treatment in a timely manner.

4. *What are the advantages and disadvantages of a presumption based on particular types of occupations?*

The presumption should not be based on one type of occupation. An injury is equally devastating to the worker, family and colleagues regardless of sector.

Presumptions are created for a number of reasons. They promote fairness by simplifying proceedings and by making it less burdensome for claimants to gather evidence that is more accessible to the party against whom the claim is asserted.

With the increased prioritization of mental health in the workplace, employers should be sensitive to the needs of employees with mental health issues. When the injury leads to a workers' compensation claim, employers should be diligent in proactively investigating the alleged incident, with the goals of preventing and reducing incidents and injuries in the workplace.

5. *If the Act were amended to provide a presumption in respect of PTSD for certain occupations, what occupations should be included?*

Unifor advocates that all occupations are provided a presumption in respect of PTSD.

6. *What are the advantages and disadvantages of a presumption based on the triggering events for, and a diagnosis of, PTSD?*

Basing a diagnosis of PTSD on trigger events may exclude workers who have work-related PTSD but do not fit the narrow definition. We all respond differently so one person may develop PTSD but not be recognized because other co-workers did not.

7. *Should a legislative presumption be made retroactive and for what period of time?*

The legislative presumption should not be made retroactive as not all workers who have suffered PTSD would have knowledge of or the ability to have a reconsideration of or an appeal. As a result, it would not benefit all.

8. *Do you have any other comments or suggestions on the subject of PTSD in the context of the workers compensation system in Manitoba?*

Unifor asserts that workers need access to assessments and treatment early in the onset of PTSD, by their own specialists.

Conclusion

New types and pressures of work need to be accompanied by adopting appropriate strategies to address modern workplace hazards that are less physical in nature but just as devastating in effects. Developing psychosocially safe climates (PSC) at work is essential; doing so promotes the idea that the workplace takes mental hazards just as seriously as safety hazards. Workers are entitled to expect to be free of psychological risk or harm at work and to be able to participate freely at the workplace. Legal principles and emerging case law in human rights, compensation, and tort law are increasingly pointing out that these rights are inherent in the employment relationship. It is therefore paramount that the Worker's Compensation Act recognizes all workers diagnosed with work-related PTSD and provides them with compensation and treatment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ken Stuart", with a long horizontal flourish extending to the right.

Ken Stuart
Area Director