

Ontario Building Trades

WSIB Rights and Responsibilities Seminar What Workers Should Know!

Legislative Compensation Acts

- Pension pre 1985 75% Gross
- Pension 1985 – 1989 90% Net
- Dual Award FEL/NEL
 - 1990 -1997 90 % Net
- Dual Award LOE/NEL
 - 1998 - Present 85% Net

Workplace Compensation Acts - Pensions

Pre Bill 101

- Accident Dates
 - Prior April 1, 1985
- Earnings Basis
 - 75% of 4 Weeks Gross earnings prior to accident
- Benefit Type
 - Temporary Benefits
 - Pensions

Bill 101

- Accident Dates
 - April 1, 1985 – January 1, 1990
- Earnings Basis
 - 90 % of NAE (Gross less income tax, UI, and CPP)
- Benefit Type
 - Temporary Benefits
 - Pensions

Workplace Compensation Safety and Insurance Acts Dual Award Systems

Bill 162

● Accident Dates

- January 2, 1990 – December 31, 1997

● Earnings Basis

- 90 % of NAE
(Gross less income tax, UI,
and CPP) + 10% LRI

● Benefit Type

- Temporary Benefits
- Non Economic Loss (NEL)
- Future Economic Loss (FEL)

Bill 99

● Accident Dates

- January 1, 1998 to present

● Earnings Basis

- 85% of NAE
(Gross less income tax,
UI, and CPP) + 5% LRI

● Benefit Type

- Loss of Earnings (LOE)
- Non Economic Loss (NEL)

Life of a WSIB Claim

1. WORKER:

- Worker becomes injured/ill. Reports ASAP to employer. Seeks medical attention if necessary. Worker can file their own Form 6.

2. EMPLOYER:

- Worker reports to employer. Employer to file Form 7 within 72 hours, if medical aid or more serious.

3. MEDICAL:

- Worker visits health care professional. Form 8 sent to WSIB. Initial choice of doctor does not have to be emergency physician.

Life of a WSIB Claim

4. WSIB Registers Claim:

- WSIB upon receipt of a report will register a claim and assigns an eight digit number. If the WSIB requires more information or some is missing, they will contact the worker/doctor or the accident employer. *Any delays in full reporting can cause delays in decisions/payments.*

Life of a WSIB Claim

5. DECISION MADE BY WSIB:

- WSIB upon receipt of a report will register a claim and assigns an eight digit number. If the WSIB requires more information or some is missing, they will contact the worker/doctor or the accident employer. Any delays in *full reporting can cause delays in decisions/payments.*

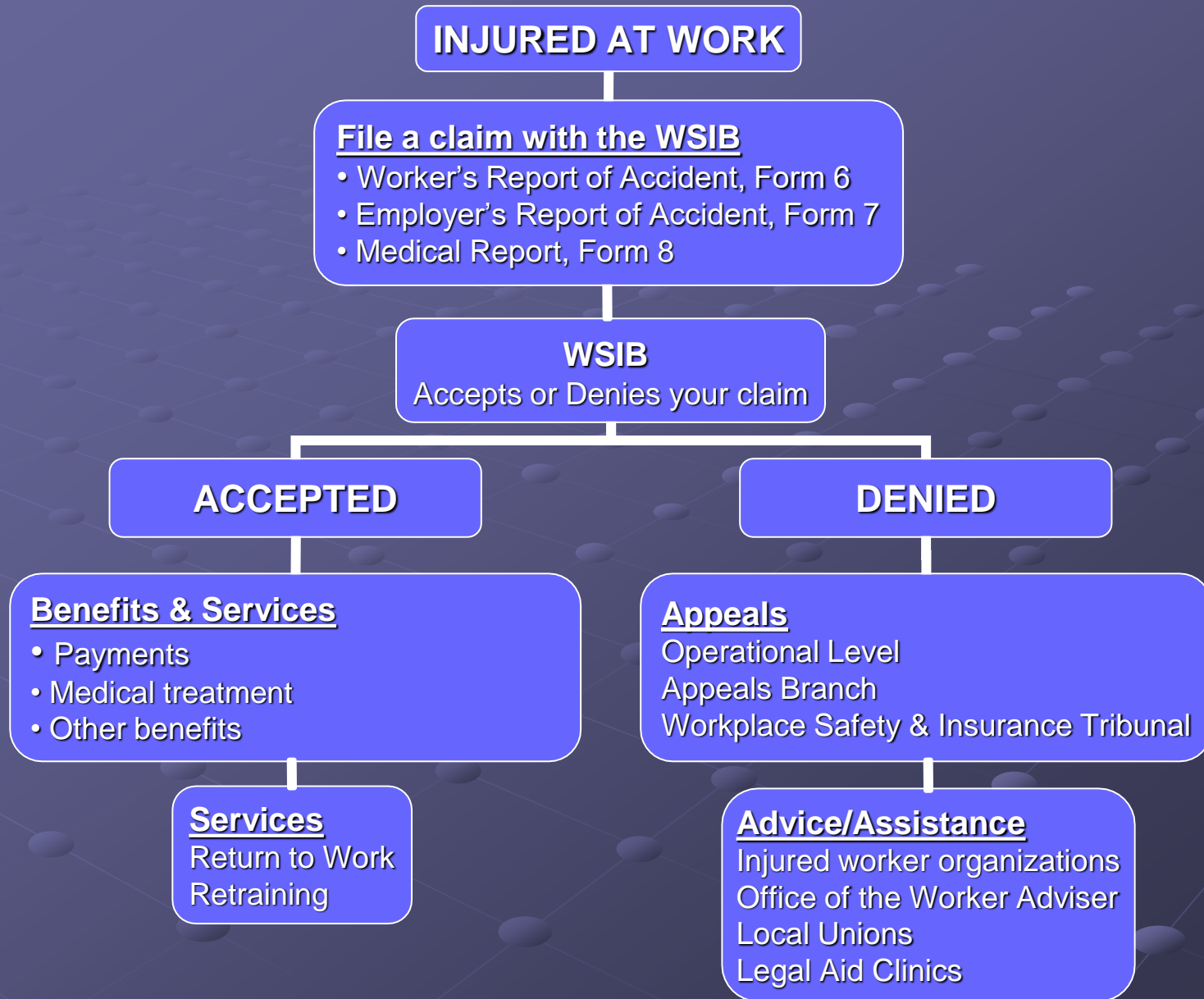
a) Claim not accepted:

- Worker and employer advised in writing if claim accepted or denied. If either party wishes to object, time limit will be fully explained.

b) Claim accepted:

Benefits and Services may include:

- 85% loss or earnings;
- Health care coverage;
- Permanent Disability (NEL);
- Return to Work.



What is Workplace Safety and Insurance Act

- Workplace Safety and Insurance Act is legislation passed to provide employers with a workplace “no fault” insurance program.
- Approximately 70% of all Ontario’s employers are covered.
- There is mandated coverage and voluntary coverage including owner operators.

Workers Rights

If you have been injured at work you have the right to:

- Claim for compensation;
- Choose your own doctor;
- Have any personal/medical information concerning you kept confidential;
- Have a representative present at any meeting to discuss your claim or rehabilitation (eg. Union, advocate, solicitor)

Rights

- Be provided with copies of your complete WSIB file;
- Seek a second opinion if dissatisfied with the treatment that you are receiving;
- Challenge decisions about your claim (Appeals);
- Have an interpreter at meetings and appointments;
- Timely decision making; and
- Fair treatment by Board staff.

Responsibilities

- If you are injured at work you must:
 - Report injury to employer or supervisor, preferably within 24 hours, no later than six months from known onset of injury or illness.
 - Provide your employer with medical, functional abilities form (FAF) if time is lost from work or you have received medical attention.

Responsibilities

- Seek proper medical treatment for your injury;
- Make sure that your doctor promptly gives the necessary information to the WSIB;
- Co-operate with the Board and your employer in all reasonable return to work and health care initiatives;
- Keep a copy of all your papers and notes of discussions with the Board.

Entitlement

Who is eligible for Workplace Insurance?

- If you have been injured while in the course of your employment, and your employer has WSIB coverage or is required to have coverage, you are eligible for benefits.

Six Month Rule

Six Month Limit to Claim for Benefits

- You must bring your workplace injury to the attention of the WSIB within six (6) months of the injury or learning of the disease;
- If you do not, the WSIB will, in most circumstances, deny your claim for benefits and it can be time consuming and expensive to get the time limit extended.

Accident Definition

● Definition of an Accident

- Wilful and intentional act, but not an act of the worker;
- Chance event resulting from a physical or natural cause;
- A disablement arising out and in the course of employment.

Establishing a Claim

- Complete a worker's report of injury/disease to the WSIB, Form 6.
- Report the injury to your employer as soon as possible. Employer has three (3) days to report your claim to WSIB.
- Advise your employer that you are going to or have sought medical treatment.

Medical Reporting

- Seek medical attention and report your injury as work-related.
- Treating physicians, health care practitioners are required by law to submit a report to the WSIB, Form 8.

Accessing your WSIB File

- You or your representative can write to the WSIB and access your file under the Freedom of Information Act.
- You or your representative can write to the WSIB and access your file by appealing a decision that was not in your favour.

Time Limits

- The Workplace Safety and Insurance Act has prescribed time limits to appeal. Claims adjudicators will advise of exact limits in their decision letters.
- General Rule
 - Six (6) months on decisions that are not related to Return to Work or Labour Market Re-entry.
 - Thirty (30) days on Return to Work or Labour Market Re-entry.

Recurrences

Can Workers re-open an old claim?

- If an old accident/injury flares-up, or if it is more serious than originally thought you can ask the Board to re-open the claim.
- You will need to establish continuity of complaint, ongoing difficulties since original accident.

How to Prove Continuity of Complaint

You must give the board:

- A list of co-workers (names, addresses, an phone numbers) with whom you have talked about the injury;
- A list of doctor's visits about the injury;
- A list of your complaints to the employer about the injury.

WSIB Benefits

- Loss of Earnings 85% Net
 - Workers hurt on or after January 1, 1998.
- Short-Term Earnings
 - First twelve (12) weeks, in most cases, based on actual earnings at the time of injury.

Earnings LOE – Long-Term

● Long Term Earnings

- Starting 13th week, if the WSIB does not consider you a permanent regular worker your benefits will be adjusted. The WSIB will request earnings information generally for two years before accident and re-determine the average weekly earnings.
- If you are a seasonal worker this will usually result in a decrease in benefits.

Reassessments

What happens if my condition gets worse?

- Workers are entitled to reassessments but they need medical support.
- Medical reassessments for either a pension or a NEL are more readily accepted when a treating physician provides objective measurable results.

Fair Practices Commission

- The commission is an independent neutral office.
- They can resolve individual concerns and can recommend system-wide improvements to services.
- They cannot change WSIB decisions or help with your appeal.

Fair Practices Commission - Contacts

● Contact

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|-----------------|----------------|
| ■ Toll Free | 1-866-258-4383 |
| ■ Telephone | 1-416-603-3010 |
| ■ Fax | 1-416-603-3021 |
| ■ TTY | 1-416-603-3022 |
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