

**O W A**

Office of the Worker Adviser

Helping Injured workers

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Bureau des conseillers des travailleurs

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# Opportunities for disability program coordination: workers' compensation

Centre for Research on Work Disability  
Program

National Symposium

Alec Farquhar, OWA Director

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# Objectives

- Outline main elements of workers' compensation/workplace insurance programs
- Identify challenges and potential opportunities for improved coordination with other disability programs

# History

- 1915 is the 100<sup>th</sup> anniversary of the implementation of Canada's first workers' compensation legislation. In 1914, following the Meredith Commission, Ontario workers gave up their right to sue their employers in exchange for no fault benefits. So injured workers have the right to expect that their workers' compensation benefits will make them whole.
- Generally speaking, the Ontario and other Canadian workers' compensation systems are founded on the Meredith Principles.

# Meredith Principles

- **No Fault**

No need to prove the accident was the employer's fault.

- **Non-adversarial**

An inquiry system, based on benefit of the doubt, and supported by statutory presumptions, that recognizes workplace realities and cannot be challenged in court.

- **Compensation for as long as disability lasts**

Worker can depend on security of benefits based on lost wages and promptly paid. The injured worker should not become a financial burden on their family or community.

# Meredith principles - 2

- **Employer pays**  
Employer pays for the system through assessment rates.
- **Collective liability**  
Employers pay into single accident fund and do not suffer financial consequences from the cost of a specific accident.
- **Independent Public Agency**  
Set up to be a non-partisan organisation to administer claims and assessments.

# Main elements of workers' compensation programs

- Compensation is paid for disabilities which arise out of and in the course of employment. So all benefit recipients begin as members of the workforce.
- Injured workers and disease victims receive wage loss benefits based on pre-injury earnings and in some jurisdictions receive non-economic loss awards.
- Survivors' benefits are provided for the families of workers who die of traumatic injuries or diseases.
- Health care related to the work related disability is also paid for. However, health care related to non-work related disabilities is not.

# Main elements - 2

- The majority of workers' compensation claims are short term. The injured worker returns to work with little involvement from WSIB. Where necessary, support is provided for return to work, including sometimes very significant programs for severely injured workers.
- Claims costs and employer assessment rates are often linked through experience rating.
- Some programs in Canada include health and safety regulation and prevention, while other programs (such as Ontario's) are limited to workers' compensation.

# Current challenges

- There are three main public disability income support and employment programs operating in Ontario – Ontario Disability Support Program (ODSP), Workplace Safety and Insurance Board (WSIB) and Canada Pension Plan – Disability (CPP-D).
- The eligibility criteria, income support levels and processes for the three main public programs differ significantly. With ODSP, there is also the complicating factor that entry is through the Ontario Works program, which is municipally administered.



# Challenges - 2

- It is not uncommon for applicants to begin with one of these programs and then eventually, either through denial of claim or referral, to end up dealing with one or more other programs.
- Referrals and information exchange among the problems are currently not systematically coordinated. As a result it is not uncommon for a disabled person to experience disconnects and delays between programs. This can be complicated if there are delays in entitlement adjudication and/or appeals within any of the systems.

# Challenges - 3

- Additional problems may result from financial arrangements when a claimant receives and/or applies for benefits under more than one program. Sometimes this relates to assignments and reimbursement when a claimant receives one benefit (e.g. ODSP) and later on receives retroactive benefits from another program (e.g. WSIB).
- There may also be complexities in whether and to what extent benefits from one program are deducted from benefits from another program (e.g., WSIB and CPP-D).

# Challenges - 4

- All of the programs rely on information and reports from health professionals. Many health professionals don't understand the requirements of the various programs. Some don't want to get involved.
- Since most injured workers will experience a decline of income if moved to another program, program interface issues can sometimes exacerbate pressing situations of financial need and psychological crisis.
- In general, disability programs are struggling to deal with an increase in claimants with mental health problems or other psychological conditions, which are often combined with physical disabilities.

# Challenges - 5

- This includes situations where a person may initially have a physical disability, but with the passage of time mental health problems develop and may even become predominant.
- There are also situations such as post traumatic stress disorder (PTSD), where the initial disability is psychological.
- Each program provides different supports to persons with disabilities – assistive devices, travel reimbursement, vocational rehabilitation services, medication, so often a benefit recipient will worry about these as well as income levels.

# Coordination opportunities

- Improved data collection – to provide benchmark data, regular reports and help track improvements in outcomes due to collaboration, including improved employment levels for workers with significant impairments.
- Improved information sharing and referral protocols – to improve client service, outcomes and potentially make efficiency savings. This could include (with appropriate confidentiality guarantees), protocols for expedited transmission of medical/impairment information.

# Opportunities - 2

- Better mechanisms for resolving individual system interface problems and crisis situations . Sometimes resolution is relatively straightforward, but there will be cases where more detailed plans with specific accountabilities may be necessary.
- Collaboration on employment initiatives – to improve outcomes, generate savings and contribute to the wellbeing of claimants. This could include WSIB continuing to help injured workers with return to work even after a claim is denied or limited, with appropriate chargebacks to other programs.

# Opportunities – 3

- Improving understanding and participation of health professionals about the differing requirements of our disability programs. This could be addressed by a partnership of disability programs, stakeholders and health professional organizations.

# Case study 1

- A low wage worker in his 50s with a non-working spouse develops lung cancer. He files a claim with WSIB. While there is a history of asbestos exposure, there is also a significant smoking history. The medical evidence documents total disability and the worker's health is declining quickly.
- WSIB has to do significant investigation and there are delays in adjudicating the claim. In the meantime, the couple exhaust their limited savings and apply to Ontario Works. They aren't aware of CPP-D.



# Case study 1

- **Opportunity:** here, the sharing of documentation by WSIB with Canada Pension Plan – D and ODSP could help expedite processing.
- There would need to be carefully communication on the future reimbursement of OW/ODSP if the WSIB claim is allowed and how CPP-D may be taken into account.

## Case study 2

- A worker suffers a significant musculo-skeletal condition in her wrists. She cannot perform the full requirements of the pre-injury employment but could probably work fulltime with sufficient accommodation.
- She has filed a WSIB claim but following investigation it's clear that the health condition is not work-related. In the meantime, WSIB has been assisting the worker in negotiations with her employer for return to work. Normal protocol is for WSIB to cease those efforts once the claim is denied.

## Case study 2

- **Opportunity:** this worker's best chance at sustainable return to work is with the current employer. Perhaps WSIB could continue to assist the worker with return to work, with a later charge back to ODSP.

# Case study 3

- A new immigrant worker who is working as a cleaner develops severe dermatitis. She is unable to work. Her physician suggests that she go to Ontario Works. As the OW/ODSP case goes forward, it appears that the dermatitis may be work related. There are some other factors however.
- **Opportunity:** an information sharing protocol between OW/ODSP and WSIB would allow the medical information to be provided to WSIB to allow adjudication of work relatedness.

# Coordination around disability and employment

- Longer term, there could be tremendous impact if the main disability programs could link with stakeholders and leaders in civil society (like Mayors!) to champion dramatic improvement in the level of employment of persons with disabilities.
- One vital area is to provide a “backpack” of supports to the person with disability, so that the focus can be on inclusion and employment rather than staying with a specific program due to better supports.
- Joint return to work committees in workplaces, which currently focus on injured workers, could take a broader role in supporting disabled employment.

# OWA Website

- English and French
- Public information materials
  - Fact sheets
  - Introductory fact sheet in 21 languages
  - FAQs
  - Self-help kits
  - Glossary
  - Links to other resources
- Office locations, phone numbers
- Summaries of OWA cases
- OWA clinics and events
- Questions via e-mail



[www.owa.gov.on.ca](http://www.owa.gov.on.ca)

# Contact Information

## Alec Farquhar

Director

Office of the Worker Adviser



123 Edward Street, Suite 1300

Toronto, Ontario

M5G 1E2



416-326-9495



[alec.farquhar@ontario.ca](mailto:alec.farquhar@ontario.ca)