

Where did they go?

Scoping the ability to track social assistance outcomes for injured workers

Prepared by Amanda Richards, with interviews conducted and compiled by Sara Penny
with the editorial assistance of Jennefer Laidley, Terry Copes, Steve Mantis and John McKinnon
and for the research team: Injured Workers' Consultants, the Sudbury Community Legal Clinic, the
Ontario Network of Injured Workers Groups, and the Income Security Advocacy Centre, as part of
community-based practicums in the Masters of Public Health program, University of Waterloo.

November 2017

Table of Contents

1	Background and Project Rationale.....	1
1.1	Background	1
1.2	Project Rationale.....	2
1.3	Scope.....	2
1.4	Research Questions	3
1.5	The Meredith Principles.....	3
1.6	Historical Timeline	4
1.7	Life of a Workers' Compensation Claim	4
2	Summary of Findings.....	7
2.1	Legislation, Policies and Practices.....	8
2.2	System-Related Problems.....	12
2.3	Poverty.....	19
2.4	Health and Well Being	21
2.5	ODSP and Permanently Injured Workers	23
3	Suggested research methods.....	32
4	Ethics.....	37
5	Conclusions.....	37
6	References.....	39

1 Background and Project Rationale

1.1 Background

This project arises out of concern about the increasing incidence of poverty among workers who sustain permanent work-related impairments. The concern is that the Workplace Safety and Insurance Board (WSIB), the independent agency that administers compensation for workplaces in Ontario, is leading workers with permanent impairments into poverty.

Many injured worker advocates are concerned that changes to WSIB policies and practices have led to an increase in disentanglement of benefits for workers with permanent impairments, and as a result, workers are left to rely on social assistance programs like the Ontario Disability Support Program (ODSP).

Stapleton (2013) has argued that changes to eligibility criteria for disability income support programs combined with the changing labour market in Canada has led to a disproportionate growth of ODSP expenditures. If this argument is correct, there are several causes for concern:

1. Cutting workers off of WSIB who are unable to return to work as a result of acquiring a permanent work-related impairment, strips them of their right to compensation benefits, which violates the doctrines of the Meredith Principles, specifically the principle that compensation be paid as long as the disability lasts. The Meredith Principles will be discussed in Section 1.5.
2. From a funding perspective, this trend shifts funding responsibilities for injured workers from employers to the public purse. Stapleton (2013) argues that this creates social policy by default rather than by social need, which has serious implications for individuals who require ODSP. Over the last 10-15 years, ODSP has experienced new funding pressures, as caseload sizes have increased at a rapid rate. This has resulted in recommendations to reduce caseloads by implementing austerity measures that surround eligibility; for example, putting in “mutual responsibility” requirements for people with disabilities to engage in paid work, eliminating various discretionary benefits and reducing access to mandatory benefits like the Special Diet Allowance. Advocates argue that measures to reduce budget and caseload size will have negative effects on individuals who require disability income supports. Issues with ODSP will be discussed in Section 2.5.
3. While ODSP provides financial assistance for persons with disabilities, the incomes they receive, from benefit rates and tax-delivered benefits, are lower than what is required to cover the cost of living in Ontario (Canadian Mental Health Association, n.d.). This is important because numerous studies have shown that economic drivers like income security are key social determinants of health (see, for example, Mikkonen and Raphael, 2010); income security shapes overall living conditions, access to nutritious food, adequate housing, and working conditions, which can all impact health (Public Health Agency of Canada, 2008). This is valuable to note because an ODSP recipient receives less than the support he or she would receive from full benefits under WSIB (Stapleton, 2013).

1.2 Project Rationale

There is evidence to suggest that there is a connection between disentanglement from WSIB and the recent growth in ODSP expenditures; however, this relationship/subject area has been under-investigated. There are serious physical, mental and financial consequences for workers with permanent impairments who have been disentitled from WSIB. Recent research undertaken through the Research Alliance on the Consequences of Work Injury (RAACWI) has found high levels of poverty and mental health problems among injured and disabled workers four to five years post injury (Ballantyne et al., 2009-2011).

In February 2016 and March 2016 several injured worker advocates in Toronto, Ontario were consulted for this report about their experiences working with workers with permanent impairments. A primary concern for injured worker advocates stems from their first-hand observation of the decrease in workers' compensation benefits through the WSIB. Advocates report frequently seeing cases where workers who do not function well after their injury, or face serious barriers to getting the treatment they need, are cut off of WSIB benefits. This coincides with the growing concern about the increasing incidence of poverty among those who sustain a work-related injury and a seemingly connected increase in the number of injured workers cut off of WSIB benefits who are forced to rely on the limited income supports through ODSP (see Street Health, 2006).

There is little systemic study of the extent of this problem in terms of what happens to those injured workers whose WSIB benefits are ceased and of how many permanently injured workers who are not able to return to work end up relying on ODSP benefits as their primary source of income. There is also a significant gap in our understanding of what happens to such individuals during the transition from WSIB coverage to receipt of ODSP, and of the cost of this problem, both to injured workers themselves and to the social assistance and other benefit systems.

Given the above, there is a need to gain a better understanding of what happens to workers with permanent impairments who are unable to return to work, and have been disentitled from WSIB benefits.

1.3 Scope

The purpose of this report is to begin to investigate the connection, as a first step to a larger research project that examines WSIB policy change, the increase in ODSP expenditures, and the financial impact on injured workers.

Towards this end, this report examines the WSIB from the year 2000 onward, with a particular emphasis on those changes impacting workers with permanent impairments. It includes sections on legislation, policies and practices; system-related problems; and health and well-being of permanently injured workers. It also addresses ODSP and permanently injured workers; barriers to accessing ODSP, and the inadequate income support for people with disabilities. Excerpts of interviews with injured workers and shelter staff, which were collected in early 2017 following a September 2016 "soft launch" of a first draft of this report, are included to illustrate the issues. Finally, this report provides recommendations for methodologies designed to more effectively investigate the research problem.

The scope of this report includes:

1. A focused literature review of approximately 25 sources to get a better understanding of the lived experiences of permanently injured workers, system-related problems with the ODSP, and WSIB policy and ODSP policy;
2. A historical timeline of changes to WSIB policies from the year 2000 onwards;
3. Methodologies that will be relevant for examining the larger research problem, as well as observed gaps in data. Identifying gaps will serve to prioritize future research needs;
4. Personal accounts from individuals with lived experience and their trajectory through the compensation and social assistance systems;
5. Recommendations for effective methods to track the trajectory of workers whose work-related injuries result in permanent impairment and thus an inability to secure employment and a need for sustained income support and social assistance.

1.4 Research Questions

The following are research questions for consideration:

- What does current literature tell us about the research problem?
- What are some of the main causes that lead to disenfranchisement from compensation benefits for workers with permanent impairments?
- Once disenfranchised from compensation benefits, what path do these workers take to access ODSP? What are their experiences?
- What gaps have been observed in data? Is there any data directly examining disenfranchisement from WSIB and increased reliance upon ODSP?
- What do available data sources tell us about disenfranchisement from WSIB and the growth in ODSP expenditures? What type of data sources can be developed to fill this gap?

1.5 The Meredith Principles

Modern-day workers' compensation systems, such as WSIB, are derivatives of systems developed to quell the tension among worker's injured on job, their employers and the government during the early 1900's (Injured Workers Online, n.d.). In the past, injured workers sought compensation through costly legal action, while employers sought to suppress these actions to reduce costs. The effect was to leave regulators uncertain as to how to appease both groups (ibid). In 1914, Ontario adopted a workers' compensation plan, which was based on the recommendations of a Royal Commission chaired by Chief Justice Sir William Meredith (Arthurs, 2012). The Meredith Principles are the foundation of Workers' Safety and Compensation Commission (ibid). Since the original drafting of the Meredith Principles, there have been modifications; however, the historic fundamental principles include the following (Injured Workers Online, 2015):

1. No Fault Compensation: No need to prove the accident was the employer's fault, and no extra charge to the employer;

2. Employer Pays: Employer pays the rates because the costs can be passed to others (in prices of goods and services, and wage negotiations). Meredith noted that workers cannot pass the cost on and pay in other ways, including some level of income despite compensation;
3. Injured workers receive benefits for as long as the disability lasts: Workers can depend on security of benefits on lost wages and promptly paid. Injured workers were not to become a financial burden on their family or the community;
4. Collective liability: Employers pay into single accident fund and do not suffer financial consequences from the cost of a specific accident;
5. Independent Public Agency: A non-partisan organization set up to administer claims and assessments;
6. Non-adversarial: An inquiry system, based on benefit of doubt that “seeks to compensate”, and cannot be challenged in court. No blame.

As outlined in the above noted principles, workers’ compensation programs were developed as a means to provide injured workers with guaranteed compensation in exchange for them relinquishing their right to sue their employers through a no-fault system. These principles were intended to lay a foundation on which employers would be protected from lawsuits by injured workers, and in return, injured workers would receive prompt benefits for as long as the disability lasted (Injured Workers Online, 2016b).

Injured workers and their advocates argue that changes to Ontario’s workers’ compensation system during the 1990’s made it more difficult for injured workers to obtain and maintain adequate compensation after a workplace injury occurred, often times leaving them to rely on social assistance programs (Ontario Network of Injured Workers Groups, 2012).

1.6 Historical Timeline

With the assistance of the Injured Workers' Consultants legal clinic in Toronto, a timeline of significant events in the Ontario Workers’ Compensation program was created, as shown in Figure 1-1. The timeline highlights changes to legislation and policy that have altered the practices of the WSIB.

1.7 Life of a Workers’ Compensation Claim

The “Life of a Worker’s Compensation Claim” was created by the Injured Workers’ Consultants legal clinic. It illustrates some of the scenarios in which problems can arise for injured workers’ when navigating the workers’ compensation system. Much of the trajectory found in the timeline is substantiated through the literature reviewed for this report, which also highlights the complex interactions between the compensation system and injured workers. Figure 1-2 illustrates the points in the workers’ compensation claim process where workers can encounter problems that may result in a delay or termination of claims.

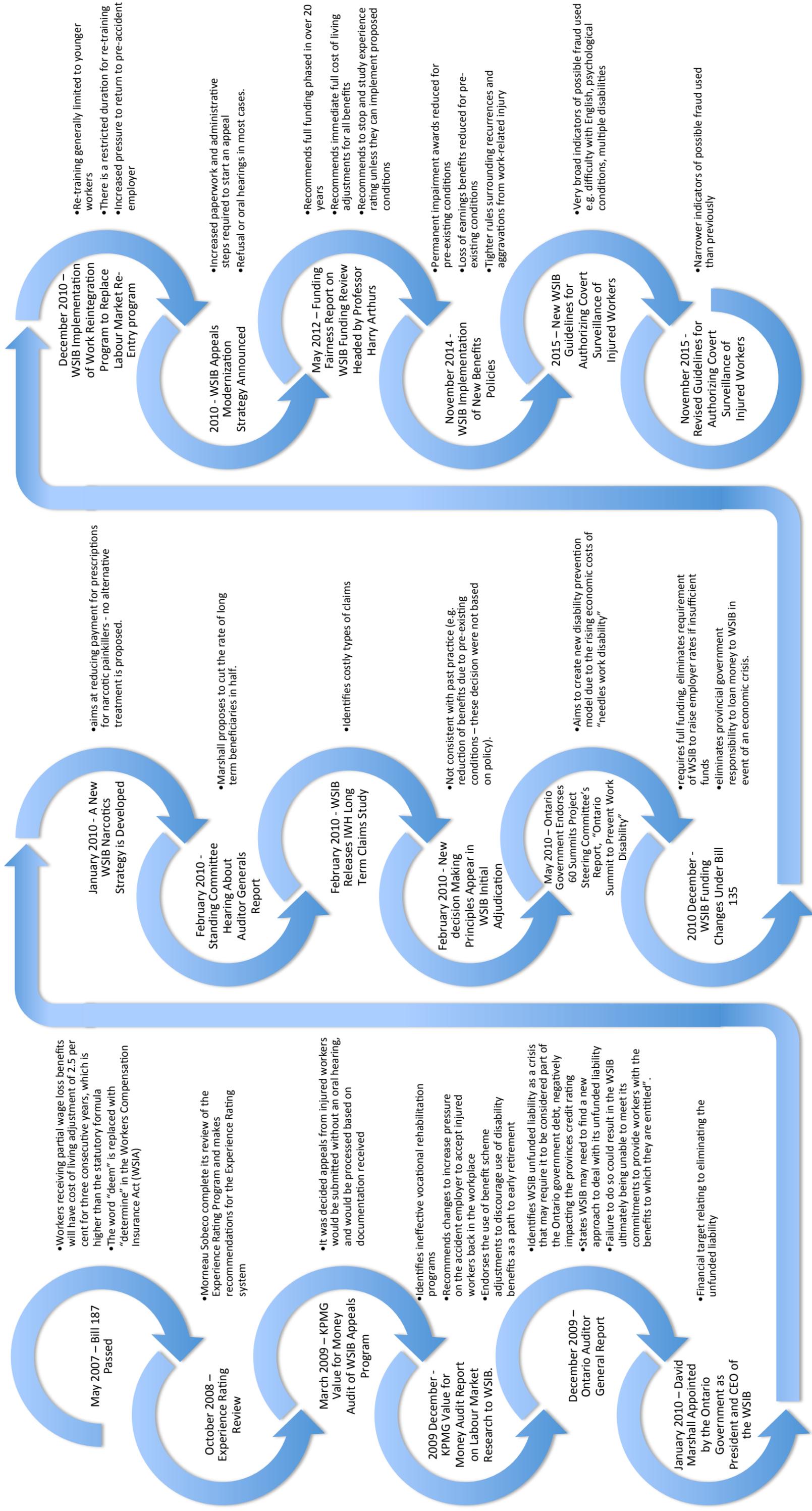


Figure 1-1 – Timeline of Significant WSIB Events

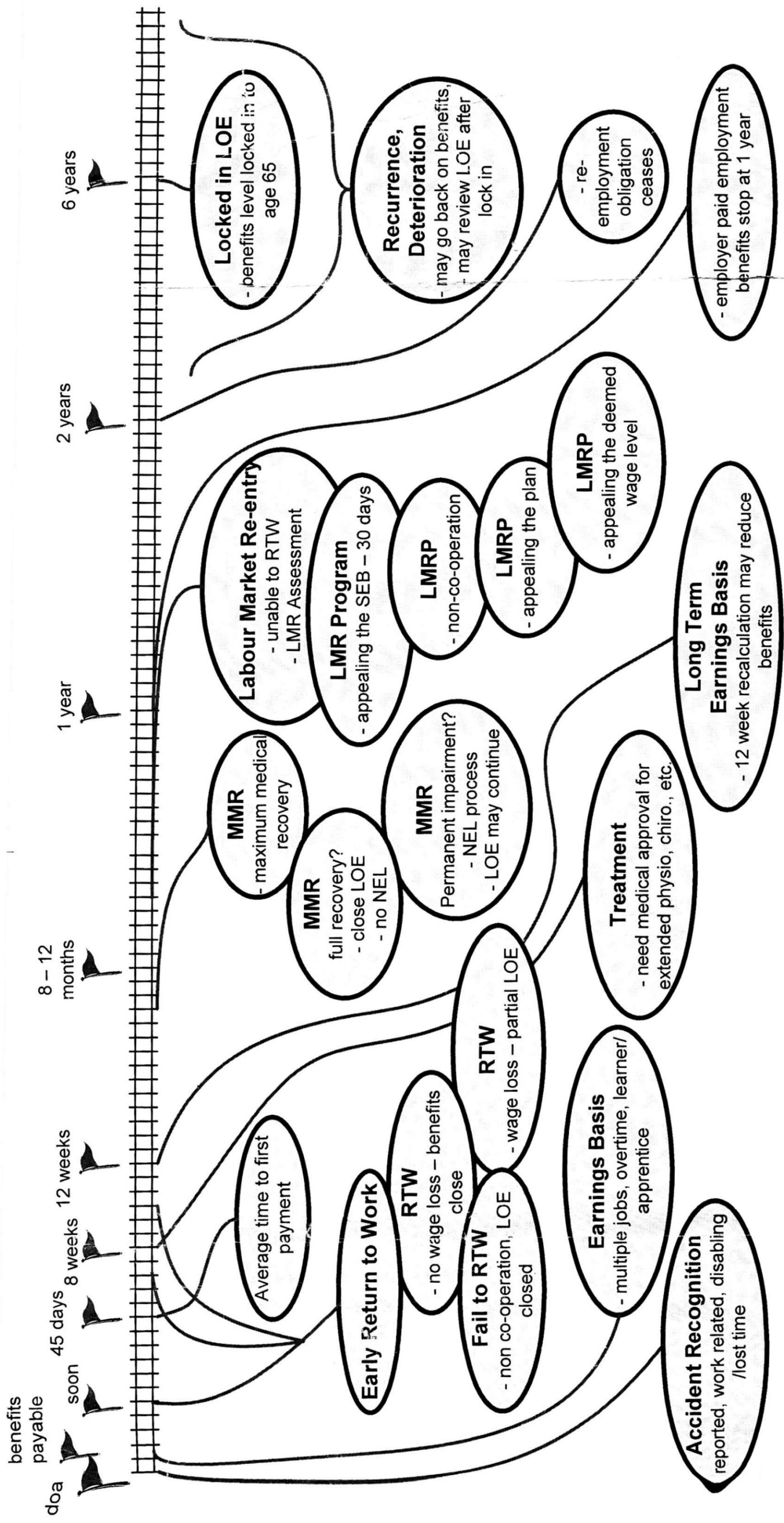


Figure 1-2 – The Life of a Workers' Compensation Claim

2 Summary of Findings

The literature examined focuses on the experience of workers with permanent impairments, red flag areas within the compensation system, and WSIB policies and practices that have had negative outcomes for workers with permanent impairments. The literature also examines various components of the Ontario Disability Support Program (ODSP), such as the disproportionate growth in ODSP expenditures, problematic elements of the ODSP system and concerns surrounding ODSP benefit levels. The findings were then organized into five categories: legislation, policies and practices; system-related problems; poverty; health and well-being of injured workers; and ODSP and permanently injured workers.

The literature makes clear that the WSIB system works relatively well for the majority of claimants with short-term/uncomplicated claims. According to the WSIB (2011), between 2002 and 2010, there were approximately 250,000 claims accepted by the WSIB annually. Of those claims, a small percentage, 6% (15,000), were for workers with a serious injury or disease that caused a permanent impairment. However, the literature examined also shows that permanently injured workers who are unable to return to work, or who have complicated claims, experience serious hardships due to the practices of the WSIB.

Marco enjoyed his career as a truck driver until injuring his back in 2008 in a work-related fall. He was not able to keep his job as it was too physically demanding after his injury, and was forced to retire from trucking. He outlines his journey through the compensation system and his return to complete his high school degree at the age of 38. “[I]t was a real struggle from the time of my injury all the way through. Workers compensation was very difficult - a lot of push back around the recommendations from the doctor, and I had a number of decisions overturned [...]. Eventually I fought my way to surgery, and then a post-recovery that included schooling.”*

Marco had never attended high school, instead choosing to work from a young age. After finishing high school, he attended college in a sales and marketing program. “My intention was because I loved the trucking industry so much that maybe if I can’t drive trucks that I would try selling them.”

**All names have been changed*

The literature speaks to the experiences of injured workers who have had difficult return-to-work trajectories, and how system-related problems create these adversities. However, there is a noticeable gap in literature that focuses on the outcomes for injured workers who have been unable to return to work post-injury and have been disintitiled from compensation benefits. It is notable that there is no literature that has been found that explicitly looks at the connection between disintitilement from compensation benefits and reliance on social assistance benefits like ODSP.

Elijah worked in logging and was injured in a work accident in 1985 when he was in his 20s. “[A]t that time, [...] the (compensation) system wasn’t the world’s greatest, but it was a golden age compared to what it is now.”

After connecting with the WSIB and having his file opened and closed several time for a variety of reasons, he managed to find employment at the Canadian Broadcasting Corporation (CBC). After 5 years, he lost his job due to a series of layoffs at the CBC. “Then the pension I was supposed to get (from WSIB) got changed, there was no more pension for me when I got laid off from CBC. So then I applied for ODSP.”

2.1 Legislation, Policies and Practices

The discrepancies between the intentions of the workers’ compensation process as prescribed by written policies and the lived experiences of injured workers subjected to these policies are discussed in this section. Further, this section provides an overview of how some of the policies, such as deeming and experience rating, have led to poor outcomes for injured workers.

Deeming

In March 2007, the Ontario government introduced Bill 187, the *Budget Measures and Interim Appropriation Act*, which included several amendments to the *Workplace Safety and Insurance Act* (Workplace Safety and Insurance Board, 2007). This bill was passed in May 2007 (Workplace Safety and Insurance Board, 2007). One of the amendments to the Act included removing the word "deeming" and replacing it with "determine" (Workplace Safety and Insurance Board, 2007).

‘Deeming’ refers to WSIB’s practice of adjusting the income used to quantify an injured worker’s compensation for loss of earnings (Injured Workers Online, 2014). With this practice, WSIB reduces a permanently injured worker’s loss of earnings benefit under the pretense that the worker is employed in a position that accommodates their injury, even if the worker in reality is unemployed and unable to find employment of this nature (Injured Workers Online, 2014).

Replacing the word “deeming” with “determining” and introducing the concept of availability was intended to allow for better assessment of injured workers’ post-injury earning potential and paid benefits based on realistic job opportunities. However, injured worker advocates insist that the practice of ‘deeming’ by WSIB persists. They argue that it puts injured workers in positions where they have little to no income security because once considered 'job ready' by the WSIB, compensation benefits are deemed no longer necessary, and are reduced or stopped (MacEachen et al., 2010). The WSIB has been criticized for continuing this practice, rather than looking at what an injured worker is actually able to earn in suitable and available employment (Injured Workers Online, 2014).

Yasmin was injured at work in 1999 when a heavy box fell from a shelf, hitting her in the head. "I went directly to the doctor's to get an x-ray, and was diagnosed with compression of the cervical spine. I was off work for two weeks and I had my company calling me every day, I had WSIB calling me every day." She returned to work two weeks after her accident, but found she was still experiencing side effects. It seemed her condition was worsening over time. "I have nerve damage going down both my arms now that's getting worse everyday and every year." She left her job for this reason, and received non-economic loss benefits from the WSIB for the original injury.

Yasmin says her condition is getting worse, and she is not being compensated. "I'm supposed to be reassessed every year which they (WSIB) haven't been doing, and I've gone through numerous MRIs, numerous tests, and they've proved it's getting worse. I can barely move my hands anymore. I'm dropping things all the time, shaking, it's really getting bad, headaches are constant, all the time, and they have never given to me any kind of accountancies on that. Nothing was ever really done about that, and that's pretty much where I'm at with it right now. I haven't worked since 2001."

Advocates argue that the WSIB should implement an assessment process that looks at the circumstances of the individual worker to determine what is fair (Injured Workers Online, 2016a). Numerous studies have shown that persons with disabilities are at a systemic disadvantage and are underemployed at a higher rate than persons without disabilities (MacEachen et al., 2010). The amendments in Bill 187 do not appear to eliminate the potential for reducing or cutting off benefits to injured workers with a permanent impairment (Injured Workers Online 2016a), and does not address the issue of limited employment opportunities for permanently disabled workers.

*After graduating from sales and marketing in college, **Marco** ran into some difficulties in the field of sales. "It wasn't the fact that I wasn't qualified or able to apply for jobs. Some of the difficulty was that for a number of the interviews [...] I wasn't able to hide my disability. I walked with a cane. So, people are looking at a guy in his early forties who has no job experience in this field who is trying to get in because he's been an injured worker and he's been retrained and I think a lot of them just didn't see me as a legitimate candidate for these jobs. They saw me as an injured worker, an injured truck driver, not as a salesman. Getting experience at that age is tough."*

In addition, the WSIB does not have a method for tracking workers when benefits have been deemed no longer necessary. As a result, the WSIB is unaware if workers were able to find gainful employment, maintain employment, or no longer have any source of income as a result of decisions made on claims.

Experience Rating

The New Experimental Experience Rating (NEER) program is another subject of controversy in much of the reviewed literature. The NEER is an experience-rating program that is group-based (Workplace Safety and Insurance Board, 2016). The program provides employers with rebates if

their individual accident performance is lower than expected, or a surcharge if claims are higher than expected (Arthurs, 2012). The program aims to encourage employers to reduce injuries and occupational diseases and to encourage workers' return-to-work.

Advocates argue that in many cases, the NEER program does the opposite of the above-noted aims, noting that rather than creating safer work environments, employers under-report injuries to the WSIB and/or suppress compensation claims to avoid workers' compensation premium costs (MacEachen et al., 2010). According to Arthurs (2012), there were two general outlooks when it comes to the NEER program. The first suggests that adopting experience rating violates the Meredith Principles' "collective liability" provision. The other argues that experience rating is a form of "equity", and a necessary inevitable element of every insurance scheme, including WSIB.

In 2010, Harry Arthurs was appointed by the WSIB to chair an independent review of its funding and related matters. In the report prepared for the review, Arthurs addresses the experience rating system. The funding review conducted twelve days of public hearings in six Ontario cities. Most of the criticism directed at employer incentive programs focused on those that were experience-based, like the NEER program. Approximately fifty first-hand and second-hand accounts of workers victimized by employers intent on avoiding surcharges or claiming rebates were shared at hearings. The main issues are highlighted in the following quote from the report:

“These workers testified that they had not been told of their right to seek compensation, had been offered inducements not to report their injury, ostracized or threatened with loss of their job for doing so; told to misrepresent their workplace accident as having occurred off the job; forced to return to work before they could safely resume their duties; offered no or insufficient accommodation in respect of their injury; called back to work to perform “non-jobs” (non-productive work), only to be fired or made to quit after their chance to “lock-in” their claim had passed; and/or confronted with hyper-aggressive employer opposition during the WSIB’s processing of their claims” (ibid: 79).

Arthurs reported that some employers who participated in the review admitted to claim suppressing; however, the prevalence of this practice is still undetermined. Considering that the WSIB encourages early return-to-work, and provides financial incentives through the NEER program, Arthurs argues that this can encourage abuse of the system.

He also tried to determine whether the workers' or the employers' estimate of the extent of abuse was more accurate, but was not able to determine how often employers had been found guilty of claim suppression. He argues that prosecution for claim suppression is quite rare and convictions even more rare for the following reasons:

- The WSIB has a “snitch line” for workers who have been asked to avoid going through with the process of filing their WSIB claim, but the WSIA does not provide protection for individuals who report illegal employer behavior, potentially reducing reporting;
- Audits to investigate instances of claim suppression are not completed by WSIB;
- WSIB does not prosecute employers unless the prospect of securing a conviction is strong, as intention must be proven beyond a reasonable doubt.

Arthurs concludes by stating the following:

“In my view, the WSIB is confronting something of a moral crisis. It maintains an experience rating system under which some employers have almost certainly been suppressing claims; it has been warned — not only by workers but by consultants and researchers — that abuses are likely occurring. But, despite these warnings, the WSIB has failed to take adequate steps to forestall or punish illegal claims suppression practices. In order to rectify the situation, the WSIB must now commit itself to remedial measures that might otherwise require more compelling justification. Unless the WSIB is prepared to aggressively use its existing powers — and hopefully new ones as well — to prevent and punish claims suppression, and unless it is able to vouch for the integrity and efficacy of its experience rating programs, it should not continue to operate them” (ibid: 81).

MacEachen et al. (2010) present similar findings about workplace problems surrounding the NEER program. The researchers examine the systemic process-related problems affecting injured workers who failed to return to work as intended. In their analysis, they found numerous workplace problems injured workers encounter. They also found that most of the problems were related to the absence of connection between the WSIB’s early return-to-work policy requirements and the financial incentives of workplace owners and managers. The study concluded that businesses were financially motivated through experience-rated programs to bring injured workers back to modified work. Some of the overarching issues were related to ways in which employers attempted to avoid or reduce workers’ compensation costs. Some participants interviewed in the study noted that employers avoid workers’ compensation premium costs incurred with a work injury because it can pose a financial burden to businesses — the more claims reported to the WSIB equates to greater surcharges from the WSIB. The researchers observed that claim suppression occurred by disallowing workers to be absent from work, meaning that an injured worker could be brought back to work immediately after injury, even if they were unable to perform the job function. Another practice used by employers to keep compensation costs down was by not reporting the incident, or by contesting the worker’s accident claim.

There are parallels between reports from injured workers in the Arthurs’ Report (2012) and the MacEachen et al. study (2010), where injured workers’ feel unsupported by their employers and the WSIB because of the increased effort for them to return to work before they are fully recovered. Arthurs (2012) makes several recommendations about the current NEER program, and advises that the program should be abolished if these recommendations cannot be implemented immediately. While it is unknown how widely claims suppression is occurring, there is enough evidence to show that workers’ rights are being violated.

Unfunded Liability

The unfunded liability facing the WSIB was defined by Arthurs (2012) as “the extent to which the WSIB’s estimated and projected liabilities (the cost of paying for awarded claims, administering the system and meeting other responsibilities mandated by the statute), exceed its estimated and projected assets” (2012: 17).

As Arthurs reports, in 1984, the WSIB resolved to eliminate its unfunded liability within 30 years; however, this plan failed. Arthurs attributes this failure to the role the government and the WSIB played. Some of the reasons include:

- From 1996 to 2001, the government reduced employer premium rates by almost 30%;
- The cost and/or incidence of several kinds of claims appear to be on the rise;
- The WSIB's employer experience rating programs yielded a cumulative off balance of \$2.5 billion, i.e. it paid out 2.5 billion more in rebates than it collected in penalties.

Arthurs (2012) acknowledges that the WSIB seems to have accepted the need to resolve past mistakes. For example, the WSIB raised average premium rates from \$2.26 in 2009 to \$2.40 in 2012. However, many advocates worry that the WSIB's resolve to eliminate the unfunded liability has affected WSIB's policies and practices and has a negative impact on injured workers (see, for example, Injured Workers Online, 2014). Furthermore, they argue that the concept of an unfunded liability has no place in a public compensation system. The concept was adopted from the private insurance industry, in which companies may close down or go bankrupt at any time and therefore must have reserves to cover all existing claims. As long as there are employers and businesses in Ontario, they argue, the WSIB will collect enough in assessments to make payments to injured workers.

2.2 System-Related Features that Result in Negative Outcomes for Injured Workers

In 2009, the auditing firm KPMG conducted a value-for-money audit on labour market re-entry programs for the WSIB (KPMG Advisory Services, 2009). The report identified what it considered to be ineffective vocational rehabilitation programs, and recommended changes to increase the pressure on the accident employer to accept the injured worker back to the workplace. This section focuses on issues with the interaction between injured workers and WSIB, and return-to-work and labour market re-entry, as a result of some of the recommended changes in the report.

Interaction between Injured Workers and the WSIB

MacEachen et al. (2010) identified common systemic issues confronted by injured workers navigating the compensation system, such as low literacy and language barriers. In addition, they found significant problems associated with the WSIB's return-to-work policies and practices, especially for workers who have not fully recovered from work-related injury, and/or where English is not their first language. The researchers point out how these systemic flaws have negative consequences on injured workers' financial stability, physical and mental health.

A common issue identified was the manner in which the compensation system communicates with injured workers, appearing to protract and obfuscate claims. These difficulties included a lack of direct and in-person contact between injured workers and adjudicators, letters with language that is challenging for injured workers to understand, and the slow speed at which claim entitlement decisions are made.

*The Thunder Bay Injured Workers' Support Group helped **Elijah** navigate the compensation system. "[I]t was really a good thing because with talking to the other injured workers you kind of knew what was coming."*

He met many other injured workers and learned about the mental health aspects of not being able to work. "Confusion, being unsure, a time where you were thinking suicidal thoughts because you were thinking is this life? Is this as good as it's going to get? There's no hope, you feel like you're in despair [...] You had all these feelings, all the people who you used to know, who you used to be with, they no longer had time for you because you weren't at the workforce anymore."

While the WSIB usually provides information to injured workers via telephone and letters, the researchers determined that telephone communication can be problematic for some injured workers because they felt that it prevented them from building a rapport with adjudicators, particularly considering the sensitivity of the information being exchanged. Communication by letters was also identified as a problem as it prevented back-and-forth exchange that could clarify issues for workers. Similar to issues with telephone communication, letters were difficult for workers' where English was their second language or where low literacy was an issue, potentially limiting the worker's comprehension of compensation procedures. In addition, the researchers argue that the physical and emotional condition of workers following a work injury and medications they might be consuming can affect memory and concentration and render telephone and letter interactions ineffective.

Similar results were found through a systematic review of qualitative literature conducted by Kilgour et al. (2015) that centered on interactions between injured workers and workers' compensation boards. This review identified written communications, incomplete communications, and delayed decision-making as problematic areas for injured workers. Issues with written communications, particularly for workers with language barriers and low literacy skills, included the receipt of letters that workers found to be impersonal, difficult to comprehend, and/or threatening.

When receiving letters referencing rules and obligations, workers felt that the compensation board was attempting to use legal jargon to intimidate them into compliance with treatment requirements and/or retraining programs.

***Elijah** outlines his communication struggles with WSIB: "I can't remember exactly what day it was, but they cut me off - I don't know how many times the board cut me off because I didn't answer a phone call, they didn't like the tone of my voice, the way I answered a question."*

MacEachen et al. (2010) reported that incomplete communications between workers with return-to-work issues and adjudicators left workers feeling they had been denied an opportunity to comprehensively explain their circumstances to the decision-makers, who ultimately approve or deny income benefits and medical supports. Lengthy decision-making

processes experienced by workers led to financial hardship immediately after injury for those living paycheck-to-paycheck. Significant financial difficulties for workers, who are challenging a denial of benefits and awaiting result of the appeals tribunal, were identified by both workers and adjudicators.

It is clear that workers with language barriers have greater difficulty navigating an already complex disability system. A study conducted by Premji (2015) adds to this by exploring how a lack of English proficiency can leave workers vulnerable to abuse by employers, and incomprehension and misperception by care providers and adjudicators, which is reflective of systemic policies. These workers tend to experience misunderstandings with adjudicators and employers over return-to-work schedules. The disconnect between injured workers, adjudicators, and sometimes employers have great potential to create negative outcomes for a worker's eligibility for benefits and medical services, especially surrounding labour market re-entry.

Return to Work and Labour Market Re-Entry

The WSIB's work re-integration process was identified as one of the red flag areas within the compensation system. The literature revealed that practices surrounding work re-integration presents the potential for negative outcomes for injured workers who have not recovered as anticipated, or who have become significantly impaired by their work-related injury.

The WSIB's work re-integration program aims to provide suitable employment for injured workers by developing a service plan to employment following a period of disability (Workplace Safety and Insurance Board, 2012). The re-integration process can take many forms; for example, return-to-work with original employer or the general labour market. When a worker loses pay due to a work-related injury or illness, the worker is usually entitled to loss of earnings benefits. The WSIB bases compensation on 85 per cent of take-home pay, up to an annual maximum.

Marco describes that at first, the WSIB was very involved with his recovery. "They're very involved throughout the program. There are constant updates and reports that they get on attendance and grades and whatnot, because they're the sponsors. They're made aware of all my progress and I was in constant communication with them. Then I took a job skills training program through them after that, even after I graduated the college program."

Financially, his experience with job-seeking did not match up with what he was receiving in compensation. "[A]fter my retraining, workers' comp (WSIB) only provided me with assistance for a few months and once that ran out I was on my own and I didn't have a job yet, and I couldn't return to my old job as tempting as that was."

The injured worker must cooperate in the health care treatment and return-to-work efforts as prescribed by the WSIB. There are many issues surrounding how the WSIB views "cooperation", which will be explored.

Elijah has three children and says it was hard to provide basic meals for them at times. Prior to his job at the CBC for five years, he was making just 10% of his original pre-injury salary, which came to approximately \$180 a month. "Where we lived there is no public transportation. I'm 30km from the nearest bus stop. We're rural! And then if the board (WSIB) asks you to come in, well then you've got to come in, for a doctor's appointment, or anything else, you have to go in, and now you're making trips and you have to try to plan all your trips so you can get everything done in one shot."

Issues surrounding the current return-to-work and labour market re-entry process by the WSIB were apparent in many studies. Problems can arise for injured workers at various stages, for example, when the worker returns to original employer, when the WSIB deems that the injured worker can find suitable employment or business, or during vocational re-training.

As per the "Life of a Workers' Compensation Claim" in Figure 1-2, some workers experience problems with the return-to-work process, where an injury is recognized but the worker is not given the appropriate amount of time to recover. Premji (2015) reported instances where workers with language limitations were given modified work arrangements, but due to language barriers, workers did not understand duties surrounding modified work. The researcher observed that in some cases, the employer took advantage of the workers' vulnerability and required them to work without accommodation. The researcher also found that, while workers' early and safe return to work (ESRTW) with their pre-injury employer in a suitable occupation is prioritized and promoted by WSIB through financial incentives and penalties, both employers and workers have a duty to cooperate with ESRTW.

MacEachen et al. (2010) also identified problems with return-to-work, surrounding employers bringing injured workers back to work before they have healed because of the costs incurred with a work injury prompted through experience-rated compensation programs. In this study, a service provider describes how return-to-work processes can be costly to some business:

"For a small employer, they have to have somebody there being [productive]. They can't afford to have somebody in there working at a modified basis and then hiring someone else to do the other half. So it becomes a financial issue for small [business] workers" (Service provider, quoted in MacEachen et al., 2010: 354).

The researchers also found that employers may attempt to reduce compensation premium surcharges by disallowing the injured worker to be absent from work by requesting immediate return after work injury, and that employers may make misleading reports to the compensation board about what modified arrangements are in place.

When a worker with a permanent impairment can no longer be accommodated by their original employer, they are provided with a labour market re-entry plan (Workplace Safety and Insurance Board, 2015). The labour market re-entry program provides retraining to workers to restore their wage-earning ability (MacEachen et al., 2010). This is another point where things can become problematic for workers with permanent impairments, and where there can be disagreement between the injured worker and the WSIB. Some of the problems with labour market re-entry plans surround deeming what an injured worker can earn in a suitable

employment or business when they have not fully recovered from injury or have impairments that prevent them from finding employment, language barriers surrounding labour market re-entry assessment, and assessments that are incompatible with the worker's abilities.

Vocational Retraining

Through interviews with injured workers, MacEachen et al. (2010) identified vocational retraining as a problem with the workers' compensation system. Permanently injured workers are often sent to vocational retraining programs when their employer can no longer accommodate them. The idea is that once retrained, the worker will be able to find gainful employment, and compensation benefits are deemed no longer necessary, and as a result reduced or terminated. The authors argue that this practice is problematic for many reasons.

The authors identify systemic problems that relate to system coordination in determining when the worker is ready to start the training program, and a built-in assumption about workers being able to participate in re-training and to obtain employment in the labour market. Problems were found when workers were sent to retraining programs despite experiencing difficulty with recovery. For example, some workers were still undergoing treatment such as surgeries and were sent to retraining programs before they were recovered from their injury. This disconnection between the workers' requirement to participate in a re-training program and their injury disrupted their ability to participate and learn. While workers and providers both described pain as a barrier to participating or completing the retraining program, the authors found that the compensation system has not addressed the problem. Premji (2015) found similar issues related to injured workers experiencing difficulties learning from or participating in training programs due to pain, which affected ability to concentrate and memory.

Yasmin was enrolled in training programs through the WSIB, however due to the pain in her neck and head, she could not sit for long in classes, and therefore could not physically attend. "They didn't send anybody down to give me a proper (rehabilitation) treatment, so I wasn't going certain days and then they kicked me out of the school."

Furthermore, problems with re-training also occurred when workers were ill-suited for education because of the background and aptitude. In an analysis of barriers for linguistic minorities by Premji (2015), workers were not consulted about the choice of suitable employment or business, which at times were made without consideration of their limitations, including language limitations. Workers reported that they lacked basic English literacy skills to obtain or maintain employment in their suitable employment or business. The researcher found that the WSIB used a one-size-fits-all approach for re-training programs, which ultimately weakened the effectiveness of employment programs for injured workers. As well, she found that workers with language limitations may have a higher rate of underemployment or unemployment post injury. It is notable that other studies have found that injured workers experience a higher rate of under employment and unemployment after their injury (Ontario Network of Injured Workers' Groups, 2012).

Premji (2015) also found problems with the service providers that injured workers were referred to during the training process. For example, workers found issues with the quality of English as a Second Language training. Workers also reported that program instructors at times inflated marks or removed assignments to ensure they passed. The researcher observed that some workers were unable to find or maintain work in their suitable employment or business. In addition, there were also problems identified with on the job training for workers with limited English. Workers who failed to comply with or succeed in upgrading/training saw their labour market re-entry plans altered or discontinued.

Management of Medical Care

The management of medical care by the WSIB was identified as a major problem in the literature reviewed, particularly in terms of the way the WSIB handles medical advice from medical professionals. Some of the reports reviewed accused the WSIB of systematically ignoring the advice of medical professionals.

Elijah's doctor identified his injury as severe enough to warrant an increase in compensation from the WSIB. "My doctor said I was injured enough, but the one that heard the appeal said I wasn't injured enough so my doctor's words didn't matter enough back then."

He applied to and was accepted by Ontario Works (OW). "So I got that for about 3 or 4 years, I was on welfare, and then I appealed my decision, my injury rate. I was getting worse. I broke my ankle at the time (from his knee giving out) and I had a whole bunch more surgeries at the time for my knee. It was all related to the original injury. So, according to my records I had 14 surgeries from 1985 to 2001." It was at this point that Elijah was able to get an increased rate of compensation from the WSIB.

Many workers with permanent impairments have experienced severe barriers when trying to access benefits. Some problems arise when workers are deemed eligible to return-to-work, even when their treating physician and medical professionals have clearly stated the opposite (MacEachen et al., 2010). The researchers attribute some of these problems to the disconnection between health care providers, the WSIB and the injured worker. Consequently, this disconnection has led to negative outcomes for injured workers.

Allegations of mismanagement of medical information are included in a report produced by the Ontario Federation of Labour and the Ontario Network of Injured Workers Groups, which documents the concerns of medical practitioners in regards to the WSIB's interference in medical care (2015). The report also documents stories of injured workers, which demonstrate how WSIB's management of medical care and medical care evidence harms injured workers.

Some of the issues presented include the WSIB's failure to follow the treating health care provider's medical advice regarding an individual's readiness to return to work, blaming 'pre-existing' conditions for ongoing illness, or using medical reviews by external consultants who look at the file but not the injured worker and that claim injured workers are healed, despite evidence to the contrary from the attending medical practitioners. Further, medical

practitioners are unable to provide adequate care to their patients because their opinions are being ignored by the WSIB and, as a result, their patients are not able to access or fully access adequate services required for treatment. This report suggests that this practice by the WSIB has severe physical and mental consequences for injured workers. The report brings forward difficulties injured workers and medical professionals encounter with the WSIB, specifically eligibility, re-integration into the workforce, and WSIB's management of medical advice.

There is some additional evidence that these types of situations are occurring with the WSIB with some frequency. For example, on April, 21, 2016, the Toronto Star reported that Dr. Brenda Steinnagel was fired after refusing WSIB's demands to reverse her medical opinion on a claim by a hospital security guard, who was suffering from head injuries after trying to restrain a patient (Gallant, 2016). Dr. Steinnagel was given the go-ahead to sue her employer and the WSIB. As of the writing of this report, the case has not yet been decided.

Storey (2009) examines several issues that injured workers with complex injuries encounter when going through the process of reporting and/or filing their compensation claims. He examines these issues through interviews with injured workers. Common themes that arise surround the feeling that for injured workers to be successful with their claims they are forced to persuade a wide array of decision makers that they are telling the truth about their injury, and that their injury is a direct result of their work-related accident. Decision makers include medical doctors, specialists and WSIB adjudicators. One of the major issues injured workers expressed was that WSIB doctors and specialists make their decisions solely on the basis of examining the injured workers' file, in the absence of personal examination. Furthermore, the impersonality of the contact was heightened by the frequent rotation of adjudicators. Injured workers expressed that they felt like "files" or "numbers" of the workers' compensation system.

Injured worker advocates argue that in recent years there has been a significant decline in the number of people who receive recognition for permanent impairments. Instead, they argue, the WSIB tends to blame impairments on 'pre-existing conditions', or ignore the advice of medical professionals, and also decides on an injured worker's maximum medical recovery (Injured Workers Online, 2016a). A work-related impairment is considered permanent when it continues to exist after maximum medical recovery has been reached; this is the point when the injured worker's condition is not expected to improve (Workplace Safety and Insurance Board, 2015).

When language limitations were considered, systemic problems were also found for workers where English is not their first language. Premji (2015) found that workers experienced difficulties communicating with health care providers, which sometimes resulted in wrong histories and diagnoses, incomplete or subjective assessments, and assumptions about their attributes or motivations, which impacted their eligibility of benefits and services. And, as noted above, many workers experience language barriers with health care providers, which can hinder their rehabilitation.

2.3 Poverty

Injured worker advocates have become increasingly concerned about the degree to which workers who have sustained a permanent work-related impairment live in poverty. Some of the studies reviewed support the notion that when a worker suffers a permanent impairment, they become more vulnerable to falling into poverty than workers who recover well from injury and are able to return to work.

Marco's financial struggles eventually led to loss of assets and health. "I don't own anything anymore. I lost everything, vehicles, money, everything. I was homeless for a while. [T]he support (from WSIB) had run out and then I kept trying, saying I needed more support, I need help getting a job, and there just wasn't any. Then they just cut off communication. [...] I was so depressed that I wasn't taking care of myself. I ended up losing all my teeth in my upper jaw. Luckily my parents were able to buy me a denture. [I]f it weren't for that I wouldn't even have teeth - and then try and get a job in sales!"

The injury affected his personal relationships as well. "I had a girlfriend at the time, but the difficulties being financially strapped put a lot of pressure on me and that eroded the relationship."

The Ontario Network of Injured Workers' Groups published a study in 2012 that explores the lived experiences of people who have acquired a permanent work-related impairment, and their perception surrounding the issue that an increasing number of injured workers are facing poverty. In order to explore this topic, a survey was created to investigate variables such as employment situation, wages and income, and housing and means of transportation. A total of 291 survey responses were gathered for the study. Results from the survey allowed for in-depth analyses of a number of questions of concern to the injured workers' research community. This report analyzed key poverty indicators, such as amount and sources of personal income, employment status, car ownership, food bank usage, housing situation, and access to health care services and pharmaceuticals. Findings from the report concluded that permanently injured workers are at risk of job loss, income loss and poverty. The study found:

- "Before work injury, 89% were employed full time; after injury, 9%;
- Nearly one in five lost their homes after injury;
- Nearly one quarter had moved in with family or friends at some point after their injuries;
- One in five injured workers could no longer afford a car;
- Food bank use rose from 5 to 77 people after work injury;
- 20% reported an overnight hospital stay within the previous 12 months (most because of the work injury) compared with 7% for the general population of Canadians;
- Over half had not been able to afford medications in the previous 12 months;
- 57% of injured workers in the study were unemployed." (Ontario Network of Injured Workers Groups, 2012: Fast Facts, p.5)

Jen and Kelly are registered nurses employed by a family health clinic in Toronto. They work specifically with past and present residents at a homeless shelter in the city. Throughout their service, it is not uncommon for them to work with individuals who have lost their homes and livelihood due to an injury at work. They specify how often injured workers are often caught in a downward spiral of physical and mental health issues following a work injury.

“[T]he biggest piece is often the mental health piece and not being able to work anymore and not being properly compensated or getting enough money to be able to live. Feeling like you don’t have a purpose anymore - it takes a huge toll mentally. Never mind the physical pain that people are still living with!”

While the study conducted does not represent the whole injured worker population in Ontario, its findings help to reinforce the notion that many injured workers are not supported appropriately by the system designed to do so, a concern raised by injured workers and their advocates for many years. The study also highlights that injured workers face a higher rate of under/unemployment after their injury and are more vulnerable to falling into poverty.

The Thunder Bay & District Injured Workers’ Support group also conducted a study that examined the effects of workplace injury (Brotchie and Casey, 2008). Forty participants were involved in the study. The group examined indicators such as the extent to which workplace injury affects income, income makeup post-injury, industry and injury, practices of reporting workplace injury, and injury and familial relations. Similar to the study conducted by ONIWG, this study concluded that work-related injury can significantly affect income and leave workers vulnerable to poverty.

At the homeless shelter, Jen works with an individual who sustained a head injury while at work, and consequently acquired a cognitive impairment. “He definitely can’t work, there’s absolutely not enough cognitive support out in the community for him now, he’s very forgetful [...] and there’s no appropriate housing for people with cognitive impairment.” She says that in Toronto, the waitlist for supportive housing for people with cognitive impairments is years long.

Ballantyne et al. (2015) explored the degree to which injured workers who have sustained an injury live in poverty. The authors used two poverty indicators to describe the poverty levels of injured workers in Ontario: proximity to and/or depth of poverty, and factors associated with poverty in the post-injury period. This study found the following:

- 46% of this diverse sample of permanently injured workers live in close to the low income measure (LIM), which is a fixed percentage (50%) of the median household income, adjusted to number of household members; and 9% live in deep poverty, which is defined as having income at or less than half of the LIM cut-off;
- Important factors like employment advantages, such as having longer pre-injury job tenure, protect workers from the risk of poverty after injury;

- Urgent action should be taken in the following areas:
 - Identify workers' compensation claimants who are in poverty and who experience the isolating and exclusionary forces of poverty;
 - Take dedicated action to redress the rights of workers who are permanently impaired on the job to provide income security – including providing work accommodations when employment is not attainable or retainable;
 - Incentivize workplaces where harm to workers is predictable and measurable.

Jen and Kelly speak to the logistical details of living in a shelter and trying to find a job.
“People may just be taking a shower and their bags are stolen. When your place of residence has the shelter address on it, and [your] ID, cellphone, cash gets stolen, it’s extremely difficult to get back on your feet.” Shelter residents are often unreachable for an interview. “A lot of our [residents] don’t even have a phone. They get stolen or they run out of minutes.”

While the studies mentioned in section 2.3 examines rates of poverty among injured workers who have sustained a permanent injury, there is a need for further research that examines the reliance on ODSP as a direct result of workplace injury.

2.4 Health and Well Being

A common theme identified in the literature relates to the mental health issues experienced by workers with permanent impairments that arise due to a combination of loss of function and their dealings with the compensation board. Lippel (1998) speaks to this problem in an investigation of aspects of non-tort / no-fault¹ compensation systems where there is no legal liability, like the WSIB, that can be improved while maintaining the premise that no-fault or non-tort systems are nonetheless more equitable and therapeutic than tort² systems. The author describes several anti-therapeutic features that have been created in the no-fault systems. These include the practice of blaming the victim, accusations of occupational malingering, the practice of using covert surveillance of claimants, inconsistent definitions of work accidents, and a system that encourages multiple medical exams with no therapeutic purpose. The author concludes that workers' compensation systems should value the workers' health and should promote an adjudication process that avoids harm.

Storey (2009) examines a variety of issues that injured workers with complex injuries encounter when going through the process of reporting and/or filing their compensation claims. Through interviews with injured workers, the author presents common themes that were prevalent in interviews. As noted above, some of these themes include the feeling that for workers to be successful with their claims they are forced to persuade a wide array of decision-makers that

¹ No-fault or non-tort is a designation for legislative programs that provide compensation for injury regardless of civil liability of the claimant or the insured party. Employers assume the cost of compensation insurance in exchange for protection from suits based on their liability (Lippel, 1998).

² Tort refers to an action that wrongly causes harm to someone but that is not a crime that is dealt with in civil court (Merriam-Webster, 2016)

they are telling the truth about their injury, and that their injury is a direct result of their accident that occurred at work. The author also discusses the negative implications these interactions have on injured workers with complex injuries.

The systematic review conducted by Kilgour et al. (2015) identified and synthesized findings from qualitative studies that investigated first-person accounts of injured workers' experiences with the compensation systems. They found that the majority of interactions between injured workers and the compensation system were negative. Some positive interactions were identified; however, they were less common. The main themes identified in the review highlighted the relationship between injured workers and the compensation board. They included: counterproductive actions; perceived claim manipulation; psychological consequences; access to treatment (the only theme where injured workers' interactions with the compensation system had both positive and negative effects); co-operative relations; and cyclical and pathogenic interactions.

'Counterproductive actions' refers to the attitudes of the compensation board that creates a distrust of injured workers and undermined positive relations and create hostile interactions. 'Perceived claims manipulation' refers to workers who felt that methods employed by the compensation board were intentionally designed to influence claim outcomes. 'Psychological consequences' refers to both negative mental health consequences and social and vocational consequences as a result of interacting with the Board. 'Co-operative relations' refers to injured workers having positive interactions with the Board. Lastly, 'cyclical and pathogenic interactions' refers to the idea that interactions between the Board and the injured worker did not lead to one outcome; rather, workers are entangled in a cycle (cyclical). The pathogenic component suggests the interaction between the injured worker and the Board could influence the development of disease.

Similar to observations by Storey (2009), the work by Kilgour et al. (2015) found that "injured workers complain that organizational attitudes seem to foster a mistrust of injured workers" and that insurers use "tactical and coercive practices of surveillance and monitoring that reinforce stereotypes and stigma about workers' compensation claimants" (177). Studies have also shown that "an individual's perception of injustice is important because it can present in psychological symptoms of lowered self-esteem, depression and self-derogation, as well as anger" (Miller, 2001 cited in Kilgour et al. 2015) and that "perceptions of injustice can also manifest physically and have been associated with higher levels of reported pain intensity and self-reported chronic pain" (Brown et al., 2012 cited in Kilgour et al., 2015).

Jen and Kelly believe that many of the people they see have reached "absolute bottom" and were once fully functional in society. "We see engineers, architects [...] Often people get injured and they don't have the coverage for the pain medication so they start self-medicating, and then the addiction starts, and then whatever money they had saved is gone.... One thing leads to another, they may have had support (from family) but their support is now gone because of the addiction."

For injured workers with long-term claims who are most likely to have diminished emotional resilience, the propensity for suicidal ideation and behavior is an additional concern (ibid). The link between suicide, work-related injury and chronic pain has been investigated in several studies. A positive association between pain intensity, pain duration and suicidal ideation has been identified, and it has been reported that sufferers of chronic pain have doubled the suicide rate compared to the general population. Factors such as feeling loss of control and hopelessness, impaired interpersonal relationships, including feelings of alienation from important social groups and perceptions of being a burden to others, are also associated with suicidal behavior.

Jen and Kelly note: “A workplace injury extends far beyond the physical health, there’s a huge mental health toll as well and you really don’t know where somebody is going to end up. They can lose a lot of their friends and family members as a result, and they can end up potentially in the shelter system and then it’s really hard to get back on your feet.... And chronic injury. Often it’s lifelong. Acute pain turns into chronic pain.”

The synthesis of qualitative review studies can be summarized as having identified that significant mental health, social and vocational consequences arise as a result of the interactions between injured workers and the workers’ compensation system.

2.5 ODSP and Permanently Injured Workers

As noted in section 1.1, the Ontario Disability Support Program (ODSP) has experienced disproportionate growth in expenditures relative to other disability income programs in Ontario (Stapleton, 2013). In February and March 2016, several injured worker advocates in Toronto, Ontario were consulted for this report about their experiences working with workers with permanent impairments. A primary concern for injured worker advocates stems from their first-hand observation of the decrease in workers’ compensation benefits through the WSIB. Advocates report frequently seeing cases where workers that do not function well after their injury, or face serious barriers to getting the treatment they need, are cut off of WSIB benefits and often end up relying on ODSP for financial support. As mentioned previously, this trend is concerning because the transition from WSIB to ODSP shifts responsibility for injured workers’ from employers to the public purse, in many ways violates the Meredith Principles in regard to ‘no fault compensation’ and ‘collective liability’, and, most importantly, leaves permanently injured workers reliant on a benefit program that provides below-poverty level income.

The hardships faced by injured workers when disintitiled from WSIB can be insurmountable. Additionally, injured workers also experience significant barriers when applying to and living off of ODSP benefits. This section will review the existing literature that outlines the most problematic aspects of the ODSP system, particularly: barriers experienced by injured workers (who have been disintitiled from WSIB benefits) applying for and in receipt of ODSP, including the asset-stripping stipulations that go into eligibility requirements; the poverty experienced by people in receipt of ODSP; and recommendations made in the 2012 report of the Commission for the Review of Social Assistance in Ontario, which if implemented could leave individuals with disability in deeper poverty.

It is important to note that the documents reviewed in this area are relatively old; nonetheless, advocates report that significant changes to the system have been rare over the past ten years. However, they also report that the Ministry of Community and Social Services is currently working with stakeholders to improve the disability adjudication and medical review processes, as well as the collection of forms that make up the Disability Determination Package (J. Laidley, Income Security Advocacy Centre, personal communication, July 22, 2016). Nonetheless, difficulties with the ODSP system persist and continue to have an impact for injured workers who are forced by virtue of being deemed ineligible for WSIB to apply for ODSP and end up relying on it.

Background

In 1998 the Progressive Conservative government of Ontario introduced new legislation that replaced the *General Welfare Assistance Act*, the *Family Benefits Act*, and the *Vocational Rehabilitation Service Act* with the *Ontario Works Act* and the *Ontario Disability Support Program Act* (Income Security Advocacy Centre, 2003). The purpose of the government's social assistance reform was to create an income and employment support program for people with disabilities, which would be separate from a social assistance program for all others, Ontario Works (OW). While the ODSP system provides more benefits, both financial and supplementary, than OW there is evidence to show that ODSP does present a number of systemic problems that have an impact on both applicants to and recipients of the benefit program, including injured workers who are found ineligible for WSIB benefits.

Barriers to Access

Since the creation of ODSP in 1998, many reports and investigations have documented a variety of barriers faced by people trying to access and/or maintain benefits (ODSP Action Coalition, 2008). The barriers encountered by individuals trying to navigate the ODSP system span from the application process, to disability determination, to the appeal process, and the periodic reviews of eligibility experienced by program recipients ("medical reviews") (Income Security Advocacy Centre, 2003).

According to the ODSP Action Coalition (2008), many reports have indicated that there is a need to simplify and speed up the application process, shorten the time for eligibility decisions, and streamline administration by eliminating unnecessary rules.

A person can apply three ways for ODSP: online, in person, or over the phone in some instances. The initial application looks at financial eligibility based on factors such as income, assets, housing costs, employment and training (Ministry of Community and Social Services, 2012). An applicant must apply through Ontario Works if already using their services; otherwise, they must apply through their local ODSP office. In addition to meeting financial eligibility requirements, an applicant will also be required to submit a package to establish that they meet the definition of disability under the Act. This package consists of forms to be completed by a medical practitioner, consent forms, and a self-report that can be completed by or for the applicant (Income Security Advocacy Centre, 2003).

It should be noted that many Ontario Works offices will not take an application over the phone and will re-direct applicants to attend an office in person. The online application is problematic for those with memory and concentration issues, as well as language and literacy difficulties, as information on an incomplete page is lost after fifteen minutes.

To determine disability, the applicant will be issued a Disability Determination Package (DDP) and have an electronic referral made to the Disability Adjudication Unit (DAU) on their behalf (Income Security Advocacy Centre, 2013). People who apply directly to ODSP will only receive financial assistance once they have been determined to be eligible by the DAU. Since it can take up to 6 months for the DAU to determine the eligibility of an applicant, persons with disabilities most often apply for ODSP through OW because they can receive some income from OW during this process. It can be expected that injured workers who end up relying on ODSP take this path. It should also be noted that applicants who have been denied assistance through ODSP can appeal the decision of the DAU and may have to rely on OW during the appeal process. Ultimately, this can lead to people having to rely on a very limited income that does not cover the basic cost of living.

Many advocates have argued that the rules surrounding asset and income levels unfairly impoverish recipients (ODSP Action Coalition, 2008). Until very recently, a single individual applying for ODSP was not financially eligible if they had more than \$5,000 in liquid assets. For couples, the limit was \$7,500. In cases where assets levels exceed the legislated limits, a failed applicant must liquidate their assets and re-apply. For example, an individual that has become disabled and has a liquid asset like a Registered Retirement Savings Plan would have to spend down these savings before being able to reapply for support. While government raised these limits significantly as of September 1, 2017 in response to years of advocacy (to \$40,000 and \$50,000 respectively), injured workers who are already in the system have already liquidated their assets and have little ability to amass more savings. Many injured workers will have had much more in savings than these new limits allow.

Ultimately, injured workers are forced to survive on the very low benefit levels offered by social assistance programs. This requirement guarantees ongoing hardship for permanently injured workers beyond the age of 65 as they will no longer be eligible for ODSP but will not have savings to draw upon. Maintaining savings is critical for individuals who rely on ODSP as a long-term source of income as they approach the age of 65, given their inability to accumulate retirement savings through work-related contributory programs (i.e. Canada Pension Plan contributions) and their ODSP benefit terminating once they reach the age of 65 (ODSP Action Coalition, 2011).

There are numerous other reasons an applicant can be denied at this stage.

Stigma is an often hidden and unmentioned barrier to access. Some injured workers are reluctant or even refuse to apply for ODSP or Ontario Works because of the stigma associated with being on social assistance. They simply do not want to face becoming seen as a “welfare bum” after having worked all their life. If they do finally apply, their decreased feelings of self-worth are exacerbated with resulting effects on their mental health.

Disability Determination Process

As noted above, after long-term advocacy by legal clinics and other advocates, the Ministry of Community and Social Services is currently reviewing the entire disability determination process, including revising the Disability Determination Package, through a working group made up of representatives from community legal clinics, income security advocate groups, mental health advocacy groups, health care practitioners and researchers, and Ministry staff (Monsebraaten, 2016; J. Laidley, Income Security Advocacy Centre, personal communication, July 22, 2016). The current process, however, will continue to cause problems for injured workers and other people applying for ODSP until these issues are resolved.

“Generally, ODSP claimants are denied when the medical evidence has weaknesses in terms of demonstrating that the applicant has a substantial disability – for ODSP the disability does not have to be severe, but must be substantial. Also, various conditions may have a cumulative effect on the person’s health.”

- Yasmin’s Community Legal Worker discussing her 3 attempts to access ODSP.

Disability Determination Package

After financial eligibility has been met, the disability determination process begins. The applicant is provided with a Disability Determination Package (DDP), which has to be completed by both the applicant and their medical practitioner, and returned to the Disability Adjudication Unit (DAU) within a 90-day time period. At least three specific issues have been identified with the disability determination process: the complexity of the forms, the timeframe for completion, and the time a person has to wait for a decision to be made on their application.

Oftentimes, individuals applying for ODSP require assistance with the application process; however, the degree of assistance one can get with completing the required components of the DDP varies between OW offices. Completion of the DDP has been identified as one of the most prevalent barriers for applicants (Income Security Advocacy Centre, 2003; ODSP Action Coalition, 2008). Street Health (2006) identified serious issues with the application process, such as getting medical forms filled out accurately by health care providers, inability to accurately capture the description of the applicant’s disability due to how the forms are written, and there are many people who do not have access to health care providers.

Additional concerns surround the 90-day time limit in which the DDP must be completed, as well as the complexity of the forms in the DDP. For many applicants, the time frame of 90 days is simply not sufficient. The time allotted does not allow people the time it takes to gather all documentation required, and it does not take into consideration barriers people may face, like limited access to a health care provider. The 90-day time limit is also impractical for individuals who are homeless, especially if the applicant does not have the appropriate identification or access to financial records, and/or no assistance with the process (Street Health, 2006).

It should be noted that up to two 90-day extension periods can be granted in the event that applicants have difficulty meeting that timeframe. However, many applicants are unaware of this, especially if they do not have support from a community agency (ibid). A study conducted

by Street Health, a community-based health care organization working with homeless people in Toronto, found that individuals with severe mental health and cognitive disabilities had difficulty following through with all the steps needed to complete their application in time (Street Health, 2006). Many advocates argue that there is a need to eliminate the 90-day limit, as it poses a major barrier for many individuals applying for ODSP (ibid).

Components of the DDP were also identified as a barrier to applicants. In order for an ODSP application to be assessed, applicants are required to have the following forms completed: The Health Status Report (HSR); the Activities of Daily Living (ADL) form; and the Consent to Release Medical Information Form (Income Security Advocacy Centre, 2003). Each of these forms poses particular difficulties for applicants and the health care providers who must complete them.

Collecting all of the information required in the DDP can be unrealistic for people with disabilities, especially if the applicant does not have a family doctor or a health practitioner willing to assist them (ODSP Action Coalition, 2008).

Medical practitioners find both the HSR and ADL forms very confusing and difficult to complete, particularly surrounding the grading system that is used in the forms (Income Security Advocacy Centre, 2003). A common complaint about the HSR form is that it does not adequately capture multiple disabilities and their combined impact on applicants (ibid). In addition, the ADL form fails to accurately assess an applicant's ability to function at home, at work or in the community on a daily basis (ibid). A significant number of applications have resulted in a denial of benefits or significant delays during disability adjudication because medical professionals were unable to accurately fill out medical forms (ODSP Action Coalition, 2008).

Lastly, the self-report form, which is completed by the applicant, can pose many difficulties for individuals with literacy problems, those whose first language is not English or French, or those who have cognitive impairments (Income Security Advocacy Centre, 2003). Many community advocates have called for clear information, direction and expectations to be provided to physicians regarding the program, the application forms and information to be provided by medical practitioners (ODSP Action Coalition, 2008).

Disability Decision-Making

Advocates argue that many of the injustices that surround the ODSP eligibility process are associated with the decisions that are made about who qualifies as "a person with a disability" under the legislation, and therefore is eligible for ODSP. These decisions are made by a section of the Ministry of Community and Social Services called the Disability Adjudication Unit (the DAU). It can take the DAU up to six months to make a decision on a disability application. The extensive delays to obtaining benefits often subjects applicants to severe financial hardship in the interim. As noted previously, many applicants, including injured workers, end up relying on OW while they await a decision on their disability claim (ODSP Action Coalition, 2008). This is problematic because OW provides significantly lower income support to people than ODSP. Furthermore, OW assistance is conditional on work or work-related activity, except in cases where people have been specifically exempted from that requirement.

Participants in a study carried out by Street Health (2006) encountered many barriers and delays waiting for a decision to be made about their application. Some participants experienced delays because their application got lost or was held up in one of the numerous decision-making steps (ibid). In addition, applications are often rejected on purely administrative grounds because of the DAU's failure to provide feedback on the completeness of the DDP or request additional information from applicants or medical practitioners (Income Security Advocacy Centre, 2003).

Decisions made by the DAU regarding eligibility have been an area of concern for many community advocates, who have characterized decision-making as aiming to prove ineligibility, as opposed to objectively determining if eligibility requirements have been met under the ODSP Act (Income Security Advocacy Centre, 2003). Street Health (2006) conducted a research project to identify barriers that were preventing eligible homeless people from accessing ODSP. While conducting the study, they helped participants involved in the study to secure the benefits they were entitled to. The researchers reported that 58% of participants who applied for ODSP had to appeal negative decisions when denied by the DAU. Most of the applications were denied because the DAU did not accept the descriptions of disabilities reported by medical practitioners. Project staff worked with participants and health care providers to provide more medical information, such as reports from specialists and medical tests. After this, 88% of cases that were denied were overturned during the appeal process. This raises the question of why so many applicants are denied and how the process can be changed to prevent this occurrence.

Yasmin's struggle for compensation and the application process to ODSP caused both financial and mental health issues. "I was on welfare for probably 10 or 11 years - I applied for ODSP three times, my third time I ended up getting approved. Obviously this was really depressing and there's been so much anxiety there. [N]ow I can at least afford my own apartment and stuff like that, it gives me a little more stability now, but for those ten years it was really, really hard. You get \$350 for shelter. You cannot find anything for that. Even if it was to share a room, it was hard to find something that was clean." This loss of housing was one of many factors in her ordeal that led to depression and thoughts of suicide.

Appeals to the Disability Adjudication Unit

In cases where a person has been denied ODSP benefits, he/she has a right to request an internal review. The notice of decision is communicated via letter to the applicant, and the applicant has 30 days to submit a request to have the decision reviewed (Ministry of Community and Social Services, 2015). The applicant should receive a decision from the Internal Review within 30 days (ibid). While applicants have the right to request an internal review, the method of communication and the timeframe to submit the request for an internal review can be problematic for some applicants. This process for requesting an internal review with the DAU does not take into consideration the varying abilities of applicants to work through the process or the barriers they may face in doing so.

Appeals to the Social Benefits Tribunal

In cases where an applicant is determined to be ineligible for ODSP benefits and does not agree with the internal review decision, he/she has the right to appeal the decision through the Social Benefits Tribunal. Similar to the internal review process, the notice of decision is communicated by letter to the applicant, and the applicant has 30 days to submit a written request to appeal the decision (Ministry of Community and Social Services, 2015). Similar to previously-noted barriers in the application process, this method of communication and the timeframe are difficult for applicants, particularly for those where English or French is not their first language, where literacy is an issue, or where there is a cognitive impairment (Income Security Advocacy Centre, 2003). Further to this, applicants who need assistance with the process may not be aware of community support services that can provide that help. This gap in information can potentially lead to people in need falling through the cracks of the system.

As a part of the process for this report, approximately three meetings were arranged with subject matter experts at community legal clinics in Toronto to gain an understanding of their experiences. The majority of key informants consulted reported that ODSP appeals are the majority of the cases to which they provide support. As the articles reviewed indicated, cases denied by the DAU could have had a different outcome if forms were clearer or the DAU simply requested additional information. Many community legal clinics spend a significant amount of time and resources assisting people with disabilities appeal decisions of the DAU. Furthermore, Street Health (2006) reported that requiring eligible applicants to appeal negative decisions led to significant costs for visits to medical specialists, and additional testing, which puts unnecessary strain on the health care system.

Inadequate Income Support for People with Disabilities

A primary concern surrounding ODSP is the benefit levels provided to persons living with disabilities. The United Nations Convention of the Rights of Persons with Disabilities (UNCRPD) states that persons with disabilities "have the right to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions" (UNCRPD, 2006). However, the amounts of money that people receive from ODSP and associated tax benefits and credits do not keep persons with disabilities out of poverty, as they do not provide enough funds for basic needs like food, shelter and transportation (ODSP Action Coalition, 2008).

The amounts of money people on ODSP receive are not based on actual costs of living (ODSP Action Coalition, 2011). In their basic monthly benefits, people in receipt of ODSP receive funds for basic needs and shelter expenses. According to the ODSP Action Coalition (2008), the rates are not reflective of average market rent costs, nutritious food, communication devices, and basic personal needs, and don't take into account the additional costs incurred by people with disabilities.

According to the ODSP Income Support Directive 6.1, the basic needs amount is intended to assist with the cost of food, clothing, transportation, personal needs and other non-shelter-related items (Ministry of Community and Social Services, 2016). The ODSP Action Coalition (2011b) argues that these rates are not based on the actual costs included in the directive and

that the reality is that the majority of people in receipt of ODSP have no choice but to use part of the basic needs allowance to cover their rent and utilities. Due to the treatment of income by ODSP, people in receipt of benefits are not able improve their financial situations because ODSP reduces income support if the person has other sources of income.

ODSP recipients are required to pursue virtually all other potentially available sources of income; for example, applying for CPP-Disability benefits. However, the program stipulates that income from all other sources is deducted from ODSP benefits unless specific rules “exempt” it in whole or in part. The amount that is deducted depends on the source of the income. Income from employment is treated more generously, with the first \$200 exempt from deduction and the rest deducted at 50%. Income from other sources (broadly defined) is either deducted dollar-for-dollar or completely exempted. Ultimately, ODSP is set up in a way that restricts the ability of recipients to increase their incomes and afford the cost of living. Unfortunately, small increases that government has made to benefit rates since 2004 have not kept up with inflation. Benefit rates are lower, in real terms, than they were when the programs were created in 1998. Advocates argue that income support benefits should be increased significantly and indexed to the rate of inflation so that people do not fall behind when the cost of living goes up (ODSP Action Coalition, 2011b).

The Canadian Mortgage and Housing Corporation (CMHC) publishes a bi-annual report on the housing market in the Greater Toronto Area (CMHC, 2016). This report shows that, in October 2016, the average cost of a private bachelor apartment in the Toronto area was \$957 monthly.

However, when compared to rates issues to a single person in receipt of ODSP, it is obvious that the funds provided are inadequate. According to the ODSP rate tables, a single person received \$479 per month for shelter and \$649 per month for basic needs in October 2016 (Ministry of Community and Social Services, 2015). These rates were increased by only 2% in September 2017. small

The Growth of ODSP

In 2010, the provincial government established a commission to review social assistance programs in Ontario (Commission for the Review of Social Assistance in Ontario, 2012). In 2012, the provincial government received the commission’s report, called *Brighter Prospects: Transforming Social Assistance in Ontario*. A critical focus of the *Brighter Prospects* report pertained to the continued growth of the ODSP caseload. As a result, many recommendations were made that focused on the need to reduce the number of people receiving ODSP benefits. Advocates are concerned that, if adopted by government, the recommendations of the Commission could lead to measures that negatively impact people with disabilities.

The Commission report suggests that by the government reducing the number of people receiving ODSP benefits, money saved from the decrease in expenditures will be available to all low-income people with disabilities, whether they are working or in receipt of social assistance (ODSP Action Coalition, 2013). Many community advocates find that setting targets to reduce the number of people receiving ODSP very concerning, and targets will ultimately result in people with disabilities being disentitled from benefits that they should be eligible for (ibid).

It also appears that there is a push for more people with disabilities to find employment, which would reduce the number of people getting ODSP. As a way to reduce caseload sizes, the Commission recommends that the government should reduce the number of people receiving ODSP and “partner with corporate leaders to champion the hiring of people with disabilities” (Commission for the Review of Social Assistance in Ontario, 2012: 28). However, as mentioned in section 2.1, numerous studies have shown that persons with disabilities are at a systemic disadvantage and are underemployed at a higher rate than persons without disabilities (MacEachen et al., 2010). The recommendations by the Commission to encourage paid employment for people with disabilities do not address the issue of limited employment opportunities for permanently disabled workers.

The ODSP Action Coalition (2013) also argues that persons with disabilities generally have higher unemployment rates and lower average incomes than the rest of the population. In addition, they argue that many of the jobs available to persons with disabilities are in precarious positions that do not have job security, are part-time/short-term, and unable to lift these individuals out of poverty. As well, they address discrimination that persons with disabilities face in the labour market, noting that employers' willingness to accommodate the variety of disabilities is unlikely, and that there continues to be negative attitudes towards people with mental illness and intellectual disabilities.

This advocacy organization examined several factors that they argue have contributed to the increased growth in ODSP caseloads: the economy and labour market conditions; human rights and accessibility laws; how other disability programs affect ODSP; and the relationship between OW and ODSP. They state that due to problems in the economy and labour market, persons with disability have a higher unemployment rate than the rest of the population. They also insist that human rights and accessibility laws, such as the *Accessibility for Ontarians with Disabilities Act* that sets standards to make it easier for people with disabilities to work and participate in society, should be upheld and enforced. Furthermore, the ODSP Action Coalition argues that ODSP has seen recent growth in expenditures because other disability programs are either cutting back benefits or not growing. The Coalition also discusses the relation between OW and ODSP and states that ODSP caseloads are in part a reflection of the shortfall of OW. They suggest prolonged periods on OW, with its inadequate benefit levels, can often cause a decline in health.

Since this report surrounds the connection between disentitlement from WSIB and the growth in ODSP expenditures, it is appropriate to take a look at how other disability programs affect ODSP. The ODSP Action Coalition (2012) discusses how changes to other disability programs in Ontario may have contributed to the growth of ODSP expenditures. Similar to Stapleton (2013), the ODSP Action Coalition attributes at least part of the growth in ODSP caseloads to the cutbacks that have been made in other programs. They recognize that there are many people who will not qualify for disability income programs like Employment Insurance, Canada Pension Plan-Disability, or private disability insurance because they have not worked, making ODSP their only option, or because the changing job market has resulted in many people being engaged in part-time, self- or contract employment and not eligible for programs like Employment Insurance or the Canada Pension Plan. The Coalition also argues that there are a significant number of individuals who should be entitled to WSIB, but have been disentitled and

forced to apply to ODSP. They argue that it is therefore important to understand the extent to which individuals who should be receiving WSIB benefits are now relying on ODSP.

A new report that makes recommendations on social assistance reform has recently been released by the provincial government (Income Security Reform Working Group et al. 2017). This report was produced by a wide variety of stakeholders at the request of the Minister of Community and Social Services in 2016, and takes a very different and much more positive perspective on the kind of change that should be made to ODSP. At the time of writing this report, however, public consultations have just begun and the government has made no commitments about whether or not it will implement the report's recommendations.

3 Suggested research methods

Several researchers were consulted for recommendations on applicable qualitative and quantitative methods to be used for the larger research project. Table 3-1 and Table 3-2 provide a detailed list of possible quantitative and qualitative data sources, respectively, with a description of each source and their strengths and limitations.

Table 3-1 below provides information about various government sources that collect health- and income-related data that may be useful for examining the research question. The sources identified provide information about injury, cause of injury and main source of income. None of the sources identified are able to determine the relationship between disentanglement from the WSIB and becoming a recipient of ODSP. In order to examine this connection, it will be necessary to develop tools to track the trajectory of workers with permanent impairments that have been cut off of WSIB benefits and have had to apply for ODSP as a result.

Table 3-2 below includes a recommendation about key informants to be interviewed for the larger research project. The key informants identified would help to gain a deep understanding of some of the barriers injured workers face in dealing with the compensation system, the social and financial impacts of disentanglement, and the implications of applying for and becoming a recipient of benefits from ODSP, and the provincial government policies and policy changes that may have contributed to this transition. Workers with permanent impairments have also been included in this list, as they will be about to provide information about the path they have taken once they lose benefits from WSIB and transition to ODSP.

Given the intent to examine both the extent of the issue of disentanglement from WSIB and resulting reliance on ODSP for permanently injured workers, and the experiences of those workers as they move from WSIB to ODSP, a mixed method approach appears to be most appropriate for a larger study into these issues.

Table 3-1 - Quantitative Data Sources for Consideration

Data Source	Description	Strengths	Limitations
<p>Canadian Community Health Survey (CCHC) (Statistics Canada)</p>	<p>Cross-sectional survey that collects information related to health status, health care utilization and health determinants. CCHC data is collected annually. The sample size is approximately 65,000. CCHC covers populations 12 years of age and over living in the ten provinces (Excluded: persons living on reserves and other Aboriginal settlements in the provinces; full-time members of the Canadian Forces; institutionalized population and persons living in Quebec health regions of Nunavik and Terres-Cries-de-la- Baie-James).</p>	<p>There are components of this survey that will be useful for examining the research problem.</p> <p>The survey asks several questions that address activity limitations and cause of limitation.</p> <p>Workplace accident and workplace condition is provided as a response for cause of limitation.</p> <p>These questions will be relevant for the research project as it helps to identify a part of the population that has experienced activity limitation due to injury at work.</p> <p>In addition, the CCHC collection information related to main source of income. Workers' compensation, Employment Insurance (EI) sick benefits, Canada Pension Plan - Disability (CPP-D), and municipal social services or welfare are among income sources captured in the CCHC.</p>	<p>While the CCHC captures information about activity limitations and cause of limitation, it does not capture information about <i>permanent impairments</i> caused by workplace accidents. This gap of information could make it difficult to identify the population of interest.</p> <p>While some survey questions provide information about income source and work-related injuries, they do not provide direct information about ODSP income.</p> <p>The number of questions on the CCHC that will be relevant for examining the research problem are limited.</p> <p>CCHS asks respondents about how many activity- limiting injuries they had sustained; they were asked to provide details about "the most serious injury". Estimates related to injury severity may be exaggerated, and may not be representative of all injuries that occurred.</p>
<p>The Longitudinal Administrative Database (LAD) (Statistics Canada)</p>	<p>The LAD is a longitudinal file designed as a research tool on income and demographics. It comprises of a 20% sample of annual T1 Family File provided to Canada Revenue Agency. It contains demographic information on income information about labour market participants, including amount of labour market earnings and income from other sources.</p>	<p>LAD provides data on disability tax credits, CPP-D, workers' compensation, and social assistance from 1992 to 2009.</p> <p>It follows people with disabilities over time, which provides information on the length of time an individual has used disability deductions / credits (Stapleton, 2013).</p>	<p>LAD data does not distinguish between regular EI benefits and EI sickness benefits.</p> <p>The information collected from LAD cannot identify people with disabilities unless they are receiving disability tax credits, CPP- D, workers' compensation, and/or social assistance.</p> <p>It is not readily/easily available, but can request special tabulations. It has information from revenue Canada. Can identify the population that is in receipt of workers' compensation benefits.</p>

<p>Canadian Survey on Disability (CSD) Disability Screening Survey (DSSQ) <i>- Preliminary questions are used to identify the nature and severity of a disability – this is an integral part of the Canadian Survey on Disability. Once participant responds “yes” to at least one question, then all questions of CSD are asked.</i></p>	<p>The Canadian Survey on Disability (CSD) gathers information about Canadians age 15 and over whose daily activities are limited due to long-term condition or health related problem. The CSD is a cross-section survey, developed by Statistics Canada in collaboration with Employment and Social Development Canada. The survey collects information on: type and severity of disability, use of aids and assistive devices, help received or required educational attainment, labour force status (included unemployed people), experience and accommodations at school or work and ability to get around the community.</p>	<p>There are several questions in this survey that will be appropriate for addressing the larger research question. Survey questions pertaining to disability and source of disability and income will be relevant for the larger research project. The CSD captures information about people whom are unemployed, which will help isolate individuals that are not able to work due to disability (work-related disability). The CSD provides information that can identify a population of interest - individuals that have a disability caused by a work-related injury. The CSD can also identify the population that relies on specific income supports due to disability (i.e. workers’ compensation benefits, EI-sickness, social assistance, CCP-D/QPP-D).</p>	<p>While the survey asks about income source(s) and lists workers’ compensation benefits and social assistance benefits as a response, it does not ask about disenfranchisement from workers’ compensation benefits or denial of benefits.</p>
<p>Participation and Activity Limitation Survey (PALS)</p>	<p>The PALS is a cross-sectional and post-censal survey that provides data on people living with activity limitations. PALS used a sample size of approximately 45,000 individuals. The last survey is inactive, but data is still available for 1986, 1991, 2001 and 2006. PALS has been replaced by the CSD. PALS provides data on economic characteristics linked to activity limitations; Help needed and specialized equipment used; Impact on limitations on training, employment and social activities.</p>	<p>The last survey was administered in 2006; however, PALS is still valuable as it provides information about two points in time – 2001 and 2006 (surveys were identical). The data from both surveys can be used to give measure of change. Survey asks questions about limitations of daily activities due to health condition or problem.</p>	<p>The last survey was administered in 2006 and injured worker advocates argue that harmful changes to WSIB programs occurred after 2009. Therefore, available data will not be reflective of changes to programs. While the survey provides useful information on activity limitation and employment status, it does not collect information on main source of income. This will make it difficult to identify the population of interest – permanently injured workers in receipt of ODSP.</p>

<p>Survey of Labour and Income Dynamics (SLID)</p>	<p>Provides longitudinal data on more than 30,000 Canadian households. The survey gathers information on the economic well-being of individuals. Two panels of households are surveyed for six consecutive years, and are asked to answer the same questions.</p>	<p>The SLID provides information pertaining to income source (i.e. CPP-D, Employment Insurance sick benefits, social assistance and workers' compensation), which can identify individual receiving workers' compensation or social assistance.</p>	<p>The survey provides data on disability, but it does not provide information on the cause of disability (i.e. workplace injury). This will be difficult to isolate population of interest.</p>
<p>Workplace Safety and Insurance Board (WSIB)</p>	<p>The WSIB collects statistical information from a multitude of sources, such as administrative data and surveys administered to claimants.</p>	<p>Data collected from WSIB can provide information about claimants with permanent impairments. Data collected can provide information about claimants who were able to find employment before case was closed.</p>	<p>The WSIB does not collect any information on claimants once a file is closed regardless of if a claimant has found employment or not. As such, WSIB data will not provide information about a claimant once a file has been closed. There are lengthy timeframes for gaining access to data (minimum of six months).</p>
<p>Ministry of Community and Social Services (MCSS)</p>	<p>MCSS collects administrative data pertaining to information that allows program eligibility determination (residency, financial test, asset level and income level). Both the Ontario Works (OW) program and the Ontario Disability Support Program (ODSP) collect Assignment of Benefit (AOB) for the following income programs: EI, WSIB, CPP, CPP-D and OAS. OW and ODSP capture information related to income source, so data can tell if additional income comes from employment, WSIB, CPP-D, EI. Provides information about social service programs (Ontario Works and Ontario Disability Support Program); Community and Development Services; The Family Responsibility Office (court ordered child and spousal support payments).</p>	<p>MCSS collects data on demographics, assets, income, family size, and persons with disabilities. AOB data will provide information on program participants who are anticipating income from other government income support programs, as well as WSIB. This data can provide information pertaining to administrative delays experiences by workers waiting for WSIB claims to be approved. OW and ODSP capture income deduction information. This data will provide information about OW/ODSP participants who are also in receipt of WSIB, EI, CPP-D.</p>	<p>MCSS does not capture information about individuals who have transitioned from WSIB to ODSP.</p>

Table 3-2 - Qualitative Data Sources for Consideration

Data Source	Description	Strengths	Limitations
<p>Open-ended interviews with permanently injured workers</p>	<p>An open-ended interview guide could be developed to gain a deeper understanding of the experiences of permanently injured workers. Questions could focus on the path injured workers have taken once they lose access to WSIB benefits. Questions could also focus on whether or not injured workers have accessed other types of income replacement programs, and what their experience has been. It may also be beneficial to look at the social supports injured workers have. Overall, questions would address income, health status, experience navigating WSIB program, income, etc.</p>	<p>Data collected would provide a deeper understanding of WSIB and ODSP program supports and the financial impacts of disentanglement, as well as common themes faced by individuals who have been cut off of WSIB benefits, and the path they have taken to secure other income supports. Open-ended interview questions would provide valuable information about the experiences of permanently injured workers, and a nuanced understanding of situations that lead injured workers' to be disentitled from WSIB, or have led them to particular trajectories like ODSP.</p>	<p>Information collected through interviews would not provide information about the frequency of how often these situations occur. Potential for small sample size.</p>
<p>Open-ended interviews with key informants currently working closely with and providing supports to permanently injured workers (e.g., legal aid clinics, injured worker advocacy groups, pain management / injury clinics)</p>	<p>An open-ended interview guide could be developed to gain an understanding about the some of the barriers injured workers face in dealing with the compensation system, the social and financial impacts of disentanglement from WSIB, the administration of income support programs (WSIB / ODSP), common barriers, and the impacts on injured workers in navigating these systems.</p>	<p>Data collected would help explore common barriers experienced by injured workers in navigating WSIB and ODSP. It would also provide more insight into the impacts of disentanglement. The key informants identified would be important for providing information about injured workers as they have higher level of analysis due to what they observe on a daily basis in working with these workers.</p>	<p>Information collected through interviews would not provide information about the frequency about how often these situations occur. Potential for a small sample size.</p>
<p>Open-ended interviews with front line social assistance workers (i.e. ODSP, WSIB, OW)</p>	<p>Interview questions could be developed to gain an understanding about the policies and processes that govern how WSIB and ODSP programs are administered.</p>	<p>Data collected would provide information on the policies that guide decision-making process within WSIB and ODSP bodies.</p>	<p>Potential difficulty in gaining approval to interview front-line staff.</p>

4 Ethics

Research for the larger project will be subject to review and approval by the relevant ethics committee. Approval from the relevant ethics committee must be obtained prior to commencing research activities.

Ethical issues to be considered may include gaining access to participants, building rapport with participants, using data and publishing results. Issues of consent, confidentiality (storage of sensitive information) and privacy should be considered.

5 Conclusions

*Prior to his injury, **Marco** feels he was in a good place. “At the time of my accident I had a very active lifestyle. I rode a motorcycle, I owned a scrap metal recycling business, I owned my own truck, [...] and I did work for other people as well. I built houses and sold them and I hope to do more of that in the future.” Marco says that if it weren’t for the fall at work, he anticipates that by this point he would have expanded his business and done a lot of motorcycling and traveling.*

The literature reviewed provides an understanding of many of the experiences of injured workers who fail to return to sustained employment after a work-related injury. It provides information about some of the challenges injured workers face with regard to system navigation and the system-related problems they encounter. It also provides information about WSIB policies and common practices that have led to negative outcomes for workers, including, but not limited to, deeming, experience rating, ineffective or inappropriate vocational assessment. It also provides information about the problems people face when applying for ODSP income support, such as the application process, the appeal process, and the period reviews of experience experienced by program recipients. Furthermore, the literature provides information about the financial hardships people face when they have to rely on social assistance programs like ODSP, because rates are not high enough to keep people out of poverty.

***Elijah** has been doing advocacy work for injured workers. “I was once president of the Ontario Injured Workers’ Group; I was a board member of the Ontario Injured Worker’s Group. I was a board member of the Thunder Bay Injured Workers’ Support Group. Now I’m a trustee of the Thunder Bay Injured Workers’ Support Group.” He found respite for his chronic pain in painting, and now teaches art to men in the prison system.*

This initial review, however, does not fill in the gap in knowledge about the extent to which injured workers whose WSIB benefits are reduced or eliminated are forced to rely on ODSP benefits, or their experiences during the transition from WSIB coverage to ODSP. There is a need to gain a better understanding of what happens to workers with permanent impairments who are unable to return to work and have been disentitled from WSIB benefits. This understanding should include the implications for both these workers and for the ODSP system

itself, given that pressure on this system could put in jeopardy this important source of income support that advocates know many must rely upon.

Prior to her injury, Yasmin had been managing well. "I lost everything. I was married; I was living in a nice big house [...]. Because of the injury I found myself getting very agitated a lot. My head was hurting and everything was really foggy. I ended up getting a divorce and moving out of the house [...]. So, that was that relationship, and I haven't had a great relationship since. Right now I'm single and I have been for five years." Yasmin worries about her future state of health. She can no longer hold a vacuum or do housework, and has no one to assist her. She knows it is only going to get worse. She is currently being represented by a community legal worker at a non-for-profit legal clinic, and hopes to be properly compensated for her injury.

The studies that were reviewed have shown that workers with permanent impairments are more vulnerable to poverty. Gaining a better understanding of the extent to which injured workers move from WSIB to ODSP, and their experiences in doing so, will help identify further areas of concern with the WSIB compensation system, potentially leading to the ability to reduce the level of poverty experienced by these workers.

6 References

- Arthurs, H. (2012). *Funding fairness: A report on Ontario's workplace safety and insurance system*. Toronto: Queen's Printer for Ontario. Accessed March 31, 2016 from: <http://www.wsib.on.ca/cs/groups/public/documents/staticfile/c2li/mdex/~edisp/wsib011358.pdf>.
- Baker, D. and N. Buffie. (2015). *Rising disability payments: Are cuts to workers' compensation part of the story?: Preliminary results on the empirical relationship between workers' compensation and disability insurance awards*. Centre for Economic and Policy Research. <http://cepr.net/documents/rising-disability-payments-2015-10.pdf>.
- Ballantyne, P., P. Vienneau, F. O'Hagan, and B. Casey. (2009-2011). *Poverty and near poverty of injured worker respondents to the RAACWI Injured Worker Health Survey. Cycle 1: Health and social status comparisons to non-poor injured workers*. Accessed April 20, 2016 from: <http://www.consequencesofworkinjury.ca/products/InjuredWorkerPovertyStudyJan112011.pdf>.
- Ballantyne, P., F. O'Hagan and P. Vienneau. (2015). Poverty status of worker compensation claimants with permanent impairments. *Critical Public Health*; 26(2): 173-90.
- Brotchie, K. and B Casey. (2008). *Poverty in motion: The rippling effects*. Thunder Bay: Thunder Bay & District injured Workers' Support Group. Accessed February 18, 216 from: http://injuredworkersonline.org/documents/reports-articles-and-papers/TBDIWSG_20080200_PovertyInMotion.pdf.
- Brown C., G. Bostick, J. Lim, and D. Gross. (2012). Perceived injustice in injured workers: analysis of public responses to an injured worker who took Workers' Compensation Board employees hostage. *Scandinavian Journal of Caring Sciences*; 26(3): 569–78. In E. Kilgour, A. Kosny, D. McKenzie, and A. Collie., 2015. Interactions between injured workers and insurers in workers' compensation systems: A systematic review of qualitative research literature. *Journal of Occupational Rehabilitation*; 25(1): 160-81.
- Canadian Mental Health Association. (n.d.). *Income*. Accessed February 18, 2016 from: <http://ontario.cmha.ca/mental-health/services-and-support/income/>.
- Canadian Mortgage and Housing Corporation. (2016). *Rental Market Report: Ontario Highlights*. Accessed October 27, 2017 from: https://www.cmhc-schl.gc.ca/odpub/esub/64507/64507_2016_A01.pdf?fr=1509132079381.
- Commission for the Review for Social Assistance in Ontario. (2012). *Brighter Prospects: Transforming Social Assistance in Ontario: A Report to the Minister of Community and Social Services*. Accessed April 21, 2016 from: http://www.mcass.gov.on.ca/documents/en/mcass/social/publications/social_assistance_review_final_report.pdf.
- Gallant, J. (2016). Hamilton-area doctor gets green light to sue WSIB, employer. *The Toronto Star*. Accessed April 21, 2016 from: <https://www.thestar.com/news/gta/2016/04/21/doctor-sues-wsib-employer-after-refusing-to-change-medical-opinion.html>.

Income Security Advocacy Centre. (2003). *Denial by Design: The Ontario Disability Support Program*. Toronto: Income Security Advocacy Centre. Accessed April 14, 2016 from: [http://incomesecurity.org/publications/odsp/Denial by Design - The Ontario Disability Support Program - 2003.pdf](http://incomesecurity.org/publications/odsp/Denial_by_Design_-_The_Ontario_Disability_Support_Program_-_2003.pdf).

Income Security Reform Working Group, First Nations Income Security Reform Working Group, and Urban Indigenous Table on Income Security Reform. (2017). *Income Security: A Roadmap for Change*. Accessed November 3, 2017 from: https://www.ontario.ca/page/income-security-reform?_ga=2.99317595.411146901.1509736602-2116317098.1507753979.

Injured Workers Online. (2016a). *Board's use of pre-existing conditions under scrutiny*. Accessed July 20, 2016 from: <http://injuredworkersonline.org/boards-use-of-pre-existing-conditions-under-scrutiny/>.

Injured Workers Online. (2016b). *Benefits*. Accessed July 20, 2016 from: <http://injuredworkersonline.org/issue/workers-benefits/>.

Injured Workers Online. (2015). *Workers' Compensation*. Accessed February 18, 2016 from: <http://injuredworkersonline.org/workers-compensation/>.

Injured Workers Online. (2014). *Backgrounder: Deeming and the lock-in*. Accessed February 18, 2016 from: [http://injuredworkersonline.org/documents/factsheets/Backgrounder Deeming and Lockin 2014.pdf](http://injuredworkersonline.org/documents/factsheets/Backgrounder_Deeming_and_Lockin_2014.pdf).

Injured Workers Online. (n.d.). *Ontario's system*. Accessed July 20, 2016 from: <http://injuredworkersonline.org/workers-compensation/history/ontarios-system/>.

Kilgour, E., A. Kosny, D. McKenzie, and A. Collie. (2015). Interactions between injured workers and insurers in workers' compensation systems: A systematic review of qualitative research literature. *Journal of Occupational Rehabilitation*; 25(1): 160-81.

KPMG Advisory Services. (2009). *WSIB Labour Market Re-entry (LMR) Program Value for Money Audit Report*. KPMG LLP. Accessed May 12, 2016 from: http://www.wsib.on.ca/cs/idcplg?IdcService=GET_FILE&dDocName=WSIB012209&RevisionSelectionMethod=LatestReleased.

Lippel, K. (1999). Therapeutic and anti-therapeutic consequences of workers compensation. *International Journal of Law Psychiatry*, 22(5-6): 521-46.

MacEachen, E., A. Kosny, S. Ferrier, and L. Chambers. (2010). The "toxic dose" of systemic problems: Why some injured workers don't return to work as expected. *Journal of Occupational Rehabilitation*; 20(3): 349-366.

Merriam-Webster Dictionary. (2016). Simple definition of tort. Accessed September 1, 2016 from: <http://www.merriam-webster.com/dictionary/tort>.

Mikkonen, J. and D. Raphael. (2010). *Social Determinants of Health: The Canadian Facts*. Toronto: York University School of Health Policy Management. Accessed on February 4, 2016 from: http://www.thecanadianfacts.org/the_canadian_facts.pdf.

Miller D. (2001). Disrespect and the experience of injustice. *Annual Review of Psychology*; 52(1): 527–53. In E. Kilgour, A. Kosny, D. McKenzie, and A. Collie. (2015). Interactions between injured workers and insurers in workers' compensation systems: A systematic review of qualitative research literature. *Journal of Occupational Rehabilitation*; 25(1): 160-81.

Ministry of Community and Social Services. (2016). *Ontario Disability Support Program Income Support Directives: 6.1 Basic Needs Calculation and Ontario Disability Support Program Income Support Directives: 6.2 Shelter Calculation*. December. Accessed October 27, 2017 from: http://www.mcsc.gov.on.ca/documents/en/mcss/social/directives/odsp/income_support/6_1.pdf.

Ministry of Community and Social Services. (2015). *Ontario Disability Support Program: How to appeal a decision about your Income Support*. Accessed August 5, 2016 from: http://www.mcsc.gov.on.ca/en/mcss/programs/social/odsp/income_support/appeal/index.aspx.

Ministry of Community and Social Services. (2012). *Applying for ODSP Income Support. Part One*. Accessed August 30, 2016 from: http://www.mcsc.gov.on.ca/en/mcss/programs/social/odsp/income_support/part_one.aspx.

Monsebraaten, L. (2016). Ontario simplifies medical reviews for people on disability support. *The Toronto Star*. Accessed July 21, 2016 from: <https://www.thestar.com/news/gta/2016/02/18/ontario-simplifies-medical-reviews-for-people-on-disability-support.html>.

ODSP Action Coalition. (2008). *If it's still broke, fix it: Reducing poverty by improving the Ontario Disability Support Program: A submission from the Access Committee of the ODSP Action Coalition to the Ontario Cabinet Committee on Poverty Reduction*. Toronto: ODSP Action Coalition. Accessed April 21, 2016 from: <http://incomesecurity.org/publications/odsp/If-Its-Still-Broke-Fix-It-ODSP-Action-Coalition-Access-Recommendations-July-28-2008.pdf>.

ODSP Action Coalition. (2011a). *Dignity, Adequacy, Inclusion: Rethinking the Ontario Disability Support Program*. Toronto: ODSP Action Coalition. Accessed February 18, 2016 from: http://www.odspaction.ca/sites/odspaction.ca/files/dignity_adequacy_inclusion_submission_-_final_-_june_29_2.doc.

ODSP Action Coalition. (2011b). *Income inadequacy for people with disabilities*. Toronto: ODSP Action Coalition. Accessed February 18, 2016 from: <http://www.odspaction.ca/resource/adequate-incomes-people-odsp>.

ODSP Action Coalition. (2013). *Growing caseloads of people on ODSP: Setting targets to reduce caseloads*. Toronto: ODSP Action Coalition. Accessed March 24, 2016 from: http://www.odspaction.ca/sites/odspaction.ca/files/odsp_caseloads_-_aug_7_2013.doc.

Ontario Federation of Labour and Ontario Network of Injured Workers' Groups. (2015). *Prescription Over-Ruled: Report on how Ontario's Workplace Safety and Insurance Board systematically ignores the advice of medical professionals*. Accessed January 2, 2016 from <http://ofl.ca/wp-content/uploads/2015.11.05-Report-WSIB.pdf>.

Ontario Network of Injured Workers' Groups. (2012). Injured workers and poverty survey 2010: A Summary: Many losses, much hardship: The impact of work injury. Accessed February 11, 2016 from: http://injuredworkersonline.org/documents/reports-articles-and-papers/ONIWG_20120300_Injured_Workers_PovertySurvey2010_Report.pdf.

Premji, S. (2015). Barriers to return to work for linguistic minorities in Ontario: An analysis of narratives from appeal decisions. *Journal of Occupational Rehabilitation*. 25(2): 357-67.

Public Health Agency of Canada. (2008). Social and economic factors that influence our health and contribute to health inequities. Accessed August 30, 2016 from: <http://www.phac-aspc.gc.ca/cphorsphc-respcacsp/2008/fr-rc/cphorsphc-respcacsp07a-eng.php>.

Stapleton, J. (2013). *The Welfareization of Disability Incomes in Ontario*. Toronto: Metcalf Foundation. Accessed January 9, 2016 from: <http://metcalffoundation.com/wp-content/uploads/2013/12/Welfareization-of-Disability-Incomes-in-Ontario.pdf>.

Storey, R. (2009). "They Have All Been Faithful Workers": Injured workers, truth, and workers' compensation in Ontario, 1978-2008. *Journal of Canadian Studies*, 43(1): 154-86.

Street Health. (2006). *Failing the Homeless: Barriers in Ontario Disability Support Program for homeless people with disabilities*. Accessed January 9, 2016 from: <http://www.streethealth.ca/downloads/failing-the-homeless-barriers-in-the-ontario-disability-support-program-for-homeless-people-with-disabilities-june-2006.pdf>.

Workplace Safety and Insurance Board. (2012). *Operational Policy Manual: Work reintegration principles, concepts, and definitions*. Accessed March 17, 2016 from: http://www.wsib.on.ca/WSIBPortal/faces/WSIBManualPage?cGUID=19-02-01&fGUID=835502100635000524&_afLoop=3965800269619000&_afWindowMode=0&_afWindowId=4gzfs70yw_35#%40%3FcGUID%3D19-02-01%26_afWindowId%3D4gzfs70yw_35%26_afLoop%3D3965800269619000%26_afWindowMode%3D0%26fGUID%3D835502100635000524%26_adf.ctrl-state%3D4gzfs70yw_51.

Workplace Safety and Insurance Board. (2009). *2009 Annual Report*. Toronto: Workplace Safety and Insurance Board. Accessed February 21, 2016 from: http://www.wsib.on.ca/cs/idcplg?IdcService=GET_FILE&dDocName=WSIB012364&RevisionSelectionMethod=LatestReleased.

Workplace Safety and Insurance Board. (2007). *Changing the way people think about workplace health and safety: Annual Report 2007*. Accessed March 14, 2016 from: http://www.wsib.on.ca/cs/idcplg?IdcService=GET_FILE&dDocName=WSIB012371&RevisionSelectionMethod=LatestReleased.