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The United Steelworkers of America represent more than seven hundred thousand workers throughout North America. Our members are employed in workplaces that are extremely adverse. We, as a Union, have a strong interest on how workers need to be protected, not only through strong safety and health legislation, but also a fair and equitable workers compensation system, to protect them when they suffer work related injuries or occupational diseases.

Every day millions of people innocently go to work and do the jobs they were hired to do. They will be the fortunate workers who never suffer serious workplace injuries or illnesses. They have control over their futures and the futures of their families. They have control over their jobs, where they will work and when. They have control over their financial destiny. They decide when they will retire or when they will not. They have years of employment to plan for retirement.

What about the less fortunate? Where are the options for injured workers? I've been told by some injured workers that when they fall under the umbrella of the WCB, for whatever reason, they feel a sense of hopelessness. We, collectively, have to correct the way injured workers are treated.

I would like to thank the Review Committee for the opportunity to voice our concerns about the WCB Act. It provides us with hope that policies and procedures will change for the betterment of injured workers.

I will now talk about some important issues and concerns we, as a Union, have with the present Workers Compensation Act and we will also offer recommendations for change.

### Review Office

When warranted, Review Officers must conduct field investigations when considering an appeal at that level and actually meet with the claimant in an effort to clarify issues and concerns prior to adjudication of a claim. Presently, a claim undergoes a “paper review” in Winnipeg, with no input from the claimant. Adjudicators need to meet face to face with claimants to get their perspective in an effort to understand what happened to cause their accidents. Field officers should conduct on site investigations, when warranted. There may be times the Review office does not have all of the relevant information to make an informed decision for a claim. As a result, the WCB claim may be turned down because they do not have enough information. Field investigations could go a long way to facilitating correct decisions.

In addition, during the appeal process, files that are referred back to adjudication by the Review Office, as a result of new medical evidence must be given top priority. At present, adjudication reviews the file, makes a decision, sends it to the Review Office, but the file is not given preference. This is a disservice to claimants.

Here is a novel idea, why not hold appeals in northern workers’ home towns or for example, at the northern WCB office?

### Medical Review Panels

Questions put to Medical Review Panels are drafted by the WCB. Injured workers have no control in drafting questions that a Medical Review Panel can consider, as they have the final decision. Presently, this process is at the discretion of the WCB. A difference of medical opinions may arise from the claimant’s appointed physician or other physicians on the Panel. Adhering to such a rigid process gives the claimant no latitude should he or

she want to bring specific questions that may arise during the review process. A claimant should have the right to put questions before the Medical Review Panel to help resolve differences in opinions. Workers must have a say in drafting of questions to the Medical Review Panel, after all, it is the injured workers Medical Review Panel, not the WCB!!!

Since we are on the topic of workers rights, after an Appeal Commission decision has been made and new medical evidence is brought forward, injured workers should have the right to call for a Medical Review Panel. Under the existing system, they do not have that right.

### Appeal Process

When an injured worker is cut off WCB benefits, these people living in Northern Manitoba must travel to Winnipeg to see specialists in order to get their claim reinstated. The expenses policy needs to be revised, due to higher living costs incurred by injured workers living north of the 53<sup>rd</sup> parallel.

### Chronic Pain Policy

The WCB chronic pain policy must be revised. Chronic pain affects most injured workers in one way or another. Chronic pain is also subjective. Each person handles pain differently. I have seen lots and lots of injured workers who suffer from chronic pain as a result of their injuries. Some injured workers recover quickly from their pain and suffering, while the majority of injured workers do not and many develop chronic pain. I have seen injured worker suffer from chronic pain from months, to years and years. Yet, when they do not meet the chronic pain criteria, as determined by the WCB, they are cut off benefits.

The WCB's chronic pain policy must be revised to reflect a more humane approach to injured workers suffering from the effects of chronic pain. Every effort must be made to help injured workers suffering from chronic pain return to their pre accident condition.

As it stands now, injured workers suffering from chronic pain are being cut off benefits because of the WCB's chronic pain policy.

This is a grave injustice that must be rectified, as soon as possible.

### Income Levels

When workers suffer a work related injury they are entitled to wage loss benefits for the day of their accident and any other days their injuries prevent them from returning to work. Wage loss benefits are 90% of worker's net income. When calculating wage loss, the WCB takes off deductions for CPP, EI and income tax. These deductions are not submitted on behalf of injured workers to the respective agencies. As these deductions do not qualify to be submitted to their respective agencies, these amounts must not be deducted from wage loss benefits.

To add insult to injury, after injured workers have been on wage loss benefits for two years, their benefits are reduced to 80% of net, in addition to CPP, EI and income tax deductions.

These policies disgust me. Injured workers do not receive anything close to 90% or 80% of net. It is closer to 65 or 66% of net income.

### Wage Loss Benefits

Injured workers have enough problems recovering from the effects of their injuries without worrying about their families' basic financial needs. Neither injured workers, nor their families, need to experience financial hardship. We have many workers who make more than the present imposed cap on earnings. When they become injured and have to be off work, they not only suffer physical effects of their injuries, they suffer financial hardship as well.

We need a system that is based on injured workers entire income.

### Impairment Awards

Workers suffering injuries that result in permanent disabilities are compensated on a flat rate basis. Under the existing act, the impairment rate is \$500.00 for the first 5% of impairment, \$500.00 for the next 5% of impairment and \$1,000.00 for each additional per cent. This amount is reduced by 2% per year, for each year injured workers are over 45 years of age to a maximum of 40%.

There are laws in Canada that protect people from discrimination and harassment, yet the WCB chose to discriminate against injured workers because of their age. This does not make sense.

Permanent impairment awards must change to a system that actually compensates the injured for their wage loss and their disabilities. In addition, the WCB must remove the benefit reduction of 2% per year, for workers over 45 years of age.

### Return to Work

When workers suffer work related injuries, they receive medical treatment that hopefully returns them to their pre-accident condition. As the healing process continues, workers may be capable of returning to some type of modified work with their employers, as determined by their treating physicians. There is tons of medical literature out there that supports the fact that injured workers should return to some form of modified work, as soon as they are capable. Yet, this initiative is left up to the employers in the province of Manitoba, which is totally wrong. Some employers are willing to accommodate their injured or incapacitated workers, while other employers could not care less. It is my understanding there are some employers who will not even take back their employees, once they become injured.

The WCB Act must include a section that stipulates employers have a duty to accommodate injured workers.

The United Steelworkers and Inco Limited have taken the pro-active route when it comes to accommodating workers who have been injured, either on or off the job. We have a joint committee made up of management and union personnel to assist returning injured workers to modified work, that is within their restrictions, whether their restrictions are partial or permanent. Our committee also uses an independent health care provider and the northern WCB office as resources in our endeavors to assist injured workers.

We also developed return to work programs and developed functional abilities forms to assist early return to work. In fact, our model has been talked about for some time by the WCB and we would be very pleased to discuss it further with the WCB at some time in the near future.

This partnership works very, very well and this opinion is shared by all stakeholders within our community.

### WCB Policies

WCB policies seem to change frequently. I receive updated policies from WCB on a regular basis. Who is responsible for policy changes? Most WCB policies are very hard to understand. Even when I ask adjudicators to interpret policies, they have difficulties understanding them. We believe policies should be written in clear, easy to understand language and most of all WCB policies have to reflect the WCB Act.

### Deeming

The WCB policy on deeming needs to be reviewed and changed to reflect that when workers are deemed, they should never be deemed higher than the provincial minimum wage rate. The way the policy is written now, adjudicators determine what individuals may be deemed at. This has to change.

The deeming process is the easy fix for WCB, but it is not the correct fix. More emphasis has to be placed on re-training injured workers to recover to their pre- accident income, rather than using the deeming route. We also recommend that no deeming take place until injured workers are fully retrained.

### Minimum WCB Wage Loss

There is a situation that we want to bring to your attention that really upsets us. It concerns people who have little or no employment history. It could be people just getting started in the workforce or it could be for example, people who for whatever reason were on social assistance. They get hired, but two days, three weeks into their job, it does not matter, pick a number, these people suffer workplace injuries that prevent them from working. Because they have little or no employment history to use as a measurement, they receive something like eight dollars per week wage loss. I do not know anyone who can live on eight dollars a week.

We recommend injured workers receive guaranteed minimum wage loss benefits.

### Northern WCB Office

The northern office of the WCB opened in Thompson October 1, 2002 as a pilot project. Since opening, this office has become a focal point for reporting and initial adjudication of claims. Injured workers no longer have to telephone Winnipeg to talk to adjudicators about their claims or seek advice from some voice on the end of a telephone. They now go to the WCB office in the City Centre Mall and talk to live qualified people. It has been a huge success and it is viewed by the public as WCB's commitment to high quality service for Northern Manitobans. Again, we have partnered with WCB personnel in this office in an effort to help injured workers with all aspects of their claims. In my opinion, which is shared by others in our community, this initiative is a huge success. It also ensures all workers in Manitoba have equal access to service from the WCB, no matter where they live in the province.

We highly recommend the implementation of a clause into legislation to keeping a Northern WCB office open on a permanent basis to service Northern communities.

### Worker Advisors

Workers in Manitoba deserve to have a compensation system that works for them. Unfortunately, the present system is not user friendly and in cases where there is a difference of opinion, workers claims are turned down by WCB. Workers then have the right to appeal WCB decisions. The system has become so complex and so difficult to understand, injured workers are at a loss on how to appeal decisions. That is where the Worker Advisors office plays an integral part.

The role of Worker Advisor is to assist injured workers with all aspects of the appeals process. In recent years, the Workers Advisor office has been instructed to reduce their travel to areas they are responsible for, as the WCB has instructed them to reduce their travel costs. Worker Advisors have been given more territory to cover. This directive is unacceptable and it is hard for us to understand the rationale. It is my understanding that government charges the WCB for expenses and operating costs. As a result, there is no cost to the government in terms of operating costs.

The government must increase, not decrease, the number of Worker Advisors in the province of Manitoba.

In closing, we have worked for many years on behalf of injured workers. I believe we have made great strides over the years by working closely with employers and more recently the WCB office in Thompson.

As I have outlined in my presentation, there are still many hoops that we have to jump through in order to help injured and sick workers. We believe that if changes are made, we will be able to better help return workers back to their jobs.

The WCB was originally established to ensure that injured and sick workers would receive their benefits in a timely manner and would alleviate financial stressors during their recovery period.

How hard is it to really fix the workers compensation act? We think the better question is “Who really wants to fix the workers compensation act?” I know the working men and women who become injured each and every day in Manitoba are looking for a fair and equitable compensation system.

Why shouldn't they expect to be fairly compensated?

As it stands today, injured workers become victims twice, once when they become injured and twice when they become post accident victims of the workers compensation system.