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The WCB Review Act Public Hearings

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Speaker(s): Chasity Remillard and Karen James

Speaking Time: 715pm-730pm

Good Evening Minister Responsible for the Administration of the Worker's Compensation Act, Review Board Committee Members, Injured Workers, Family, Friends, and Concerned Members of the Public. My name is Chasity Remillard and I am here today at the WCB Review Act Public Hearings to voice my concerns not only as a family member directly affected by the struggle of rehabilitation of the injured worker, but as a concerned member of the public at large and to speak on behalf of those people whom undoubtedly feel the same way my father does. That of being the injured worker; unjustly abandoned by the employer, discarded by the adjuster, left to run the gauntlet that is the WCB system, wondering what has happened to his life and where can he possibly go from here. Left injured, in pain and unable to work and not being compensated for that injury because of technicalities written in some Act of Government that really has no meaning in the injured Worker's day to day experience in relation to a compensable injury.

I am fully aware of that fact that the mandate of these public hearings is not to hear the plight of the injured worker, nor is it an appeals commission hearing. However, in order to give example and demonstrate what I feel to be the misgivings of the Worker's Compensation Act as it currently exists; I must draw upon my father's personal experience with the WCB Act and its administration, and the consequences that that administration has caused in the life of my family. The issues I wish to address today surround issues of public accountability, integration of the Worker's Compensation Act with the current day health care system, navigation within the two aforementioned systems, and the expansion of the Worker Advocate role and/or the creation of Rehabilitation Coordination Services.

I would first like to begin with stating in today's day in age, within the political climate in which we live, where the catch phrase of the day is public accountability, I would like to believe that this value, this notion of public accountability would be paramount, and inherent in the redrafting of the Worker's Compensation Act. I am not talking about public accountability in the sense of dollars and cents within a public

auditing capacity, as these things are a given. I am talking about public accountability in the sense of whom is it that will be held responsible for the neglect of the injured worker in relation to the treatment and rehabilitation process? Who will be responsible for grievous bodily harm done to the injured worker where because of neglect in response to the original injury, a chronic condition develops worsening the injured worker's chances of the originally expected recovery in relation to the prognosis of the injury?

To begin to ferret out the answers to these questions I have posed I would like to draw attention to *Section 22 of the Worker's Compensation Act* entitled *Practices delaying an injured worker's recovery* which states: "where an injured worker persists in insanitary or injurious practices which tend to imperil or retard his or her recover, or refuses to submit to such medical or surgical treatment as in the opinion of the board is reasonably essential to promote his or her recovery, or fails in the opinion of the board to mitigate the consequences of the accident, the board may in its discretion, reduce the compensation of the worker to such a sum, if any, as would in its opinion be payable were such practices not persisted in or if the worker had submitted to the treatment or had mitigated the circumstances of the accident." This section in laymen's terms basically stipulates that every worker has an obligation to help mitigate the consequences of a compensable injury, and that the injured worker has the responsibility to fully participate in all medical treatments and procedures deemed necessary to facilitate the rehabilitation of the injury, moreover the worker must partake in all graduated return to work options, and submit to examinations by those professionals the board deems necessary to aid in this rehabilitation process.

This does not seem to be an unrealistic expectation to say the injured worker has a responsibility to partake in rehabilitating themselves. **What is unrealistic** is the notion that somehow the adjuster that is assigned to assist the injured worker in relation to their compensation claim has no part in ensuring this outcome either? Where does the Act speak about the responsibilities of the adjuster as an agent of the Board to provide access to those same services that the injured worker has to submit to and partake in fully less compensation for that injury cease? What is expected of the role of the adjuster, what is the relationship of the adjuster in relation to the injured worker needs to be clearly defined in the Worker's Compensation Act.

I, as a Canadian naturally assume the wage loss benefits provided through Worker's Compensation is a social program there to aid in my recovery from injury so I need not concentrate on financial stressors but put my full effort into the rehabilitation process. However, with the experience my father has had it seems like WCB adjusters feel this is not their role; facilitators of rehabilitation, rather they seem to view their role as defenders of the bottom line. Looking for any reason to cut an injured worker off of their wage loss benefit even when their condition has not yet improved in a meaningful, medically measurable way? If with the review of the WCB Act you address the shortcomings of the lack of clearly defined roles of the adjuster in relation to the injured worker I believe you will find a statistically significant number of injured workers making a full recovery to the workplace because they would have an adjuster equally committed to the goal of recovery because they would be held accountable maybe even liable in some way as agents of the Board to ensure this recovery is met in a timely, reasonable fashion; and in cases where recovery is prolonged or unachievable an expectation of fair and equitable treatment is not unrealistic.

That being said, one must consider the terms fair and equitable, and what that means. Fair and equitable, in my mind means the same as. To be treated in the same fashion as any other injured worker. It means complete investigation into the injury before arbitrary decisions are made to change or cease treatment procedures or to cease wage loss benefits. In relation to the injured worker's responsibility to fully partake in their own rehabilitation I ask how can this occur when the injured worker is referred to a certain specialist treatment begins, some progress is being made and because the progress is not occurring at a rate the adjuster deems acceptable; treatment is ceased and the injured worker is shipped off to the next specialist to try some other method, all the while adding time to the recovery period. Waiting times leads me to the next point I wish to discuss today and that is the need for better integration between the Worker's Compensation Act and the current day medical system. In today's medicare system Canadians are dealing with long wait times for referrals to specialists, long waits in diagnostic imaging, and even longer waits in general surgery. Which to a person like an injured worker spells out more time off work, more time to rehabilitate.

In my father's situation he has been injured for 29 months. In that time he has had to await 2 MRI, 2 bone scans, and 2 CT Scans; he has had to wait months at a time to see neurosurgeons, waited months there after for the procedure needed to alleviate pressure and pain from the injury site. In these 29 months he has had surgery, physiotherapy, soft tissue treatment, acupuncture, drug treatments, and now chiropractic treatment. He has seen specialists in four different medical specialties including orthopedics and neurology; 3 physiotherapists, an acupuncturist, and a chiropractor. The Western Canada Wait List Project out of the University of Calgary is currently studying the effects of waiting on the outcome of injury rehabilitation in reference to Hip and Knee replacement Surgeries and has found statistically significant evidence that if the patient is made to wait longer than 20 weeks from the time between the decision to treat and the actual surgery the injured person's chances of fully recovery of mobility and the success of the surgery is inversely affected. In studies of like natures in terms of injury the mean time seems to be 20 weeks with very similar results. So might I pose the question what do you think 29 months waiting would do? Now one might say, it is not within the jurisdiction of the WCB Act to reduce wait times in the medicare system, and it is yet another unrealistic expectation to feel this can be done however, I feel it is a necessity for both systems to work together in order to reduce waiting times and reduce the amount of time the injured worker remains out of the workforce in order to fulfill another aspect of public accountability.

Lastly, because of the feelings my father has experienced in regards to feeling as if he has ran through the gauntlet that is the WCB system, and has been left wondering where to go from here I am proposing that within your scrutinization of the WCB Act as it stands in order to improve and update the legislation I believe that the role of the Worker Advocate be revamped to not just help in regards to the appeals process where an injured worker has an ongoing issue with a decision made by an adjuster in regards to their claim, but to help the injured worker navigate the system and help coordinate efforts in order to expedite the process the injured worker is subjected to. Why must it take a standardized 6-8 weeks to have decisions rendered? If the coordination of services or aiding in the navigation of the system for the injured worker cannot be addressed by a simple revamping of the role of the Worker Advocate possibly through this review

process we might create an area like a rehabilitation coordination services. Whereby those who work in that section have a job description dedicated to helping the injured worker anywhere along the spectrum of onset of injury in such things as processing of claims, to follow-ups from medical appointments, to referrals to specialists, etc. Bureaucracy is always filed with red tape and is one of the main banes to efficiency in a publicly accountable system. Why in our own struggle to resolve my father's claim troubles we have spoken to adjuster, review office commissioners, worker advocates, lawyers, the office of the Minister Responsible for the Administration of the Worker's Compensation Act, the office of the Minister of Health, the office of our Wellington Area MLA, and even the office of the Premier...all of which replied we have no jurisdiction over the WCB itself and we can not interfere with the adjudication of the claim itself. Double all of this with trips back and forth between specialists in four different medical specialties including orthopedics and neurology; 3 physiotherapists, an acupuncturist, and a chiropractor, all the while with no one assisting you along the way. No one with the authority nor the jurisdiction to help rectify an injustice being committed in terms of adjudication of a claim; no ability to have doctor's write the reports you need in order to gain the ability to win a new appeal based on new evidence because you do not have the money to pay the doctor's to write those reports, being stone walled at every turn. Imagine how you would feel if it happened to you, if you were injured at work? The development of a department dedicated to help reduce this frustration and this feeling of hopelessness when one is thrown into the system would help to better serve the injured worker and the tax payer at large that ultimately pays for these social programs.

In conclusion, if the purpose of these public hearings is to hear from the public on issues they feel that should be included while drafting new revisions to the legislation so the legislation is updated so it can work for Manitobans in today's political climate of the call for public accountability, reliable and responsible government, and reduction in waiting times for medical services in this country one can not but stand up and take notice of these things I have spent the last fifteen minutes talking about, because I am sure my father is not the only injured worker to be left in this way. I come here today not just in hopes of someone actually listening to this statement but to seriously contemplate some of these questions in hopes that others that will inevitably follow are not treated to the same experience, but rather are treated humanely and compassionately and are not looked at in terms of cost benefit analysis, in terms of dollars and cents, but treated as a person. A person whose life has real consequences; in terms of financial, emotional, and physical well-being. Consequences I believe the Worker's Compensation Act in its current format does not begin to take into consideration.

Thank you for your time and your consideration.

Sincerely,

Chasity Remillard