

**Immigrant Workers
and Manitoba's Workers Compensation System:**

**A presentation to Workers Compensation
Public Review Hearings in Manitoba**

June 2004

Presented by

Quan Hai Tonthat

Cross Cultural Community Advisory Committee

Occupational Health Centre

Introduction

We would like to commend the Workers Compensation Board for funding the *Community Initiatives & Research Program* which has supported an important multi-year health & safety outreach and education project with the immigrant and newcomer community in Manitoba through the Occupational Health Centre.

Through this project we have learned many things about the experience of immigrant workers in dealing with Manitoba's workers compensation system.

Purpose, Values & perception of workers compensation

All workers in Manitoba deserve to have a compensation system that meets their financial and medical needs following an injury so they and their families don't have to experience undue hardship. It should not be difficult for workers to go through the system. When it comes to navigating the workers compensation

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system, we have witnessed the need for workers to vigorously advocate for their

right to compensation. This puts immigrant workers at a disadvantage particularly if they do not speak English or are unfamiliar with the system. The perception of the Workers Compensation Board as an adversarial body that assumes workers are trying to fraud the system is widely held among workers from immigrant communities.

Recommendation:

The Workers Compensation Board and all staff should work to assist all workers understand how they may benefit from this coverage when they are injured. Regular public information sessions should be held to provide an orientation to workers compensation for those who may be starting a claim.

Information

There is a lack of information available on what types of injuries and illnesses will be covered by WCB. For example, workers do not know if repetitive strain injuries are normally compensated.

Recommendation:

Informational material from Workers Compensation Board should list the variety of both illnesses and injuries that may be eligible for compensation.

Reporting Requirements

There is a lack of knowledge among immigrant workers about the need to submit a first report to WCB. This can often be compounded by a lack of knowledge among employers regarding the first report, so the employer does not give workers the guidance they need on WCB procedures to follow and may not submit reports on time themselves.

Recommendation:

Employers must be held responsible for timely and complete reporting. A system of progressive administrative penalties should be set up to discourage delays and denials.

Benefit Levels

Due to the wage loss involved with WCB benefits, many workers fail to claim compensation and continue to work while injured, often worsening their injury. In particular, minimum wage and low income earners cannot maintain a basic standard of living on WCB benefits.

Recommendation:

A minimum level of benefits should be established in harmony with the minimum wage of the province.

Job Protection

We have heard of a number of cases in the immigrant community where workers have been fired while receiving workers’ compensation. The fear of losing one’s job becomes another barrier which prevents workers from claiming compensation and continuing to work while injured.

Recommendation:

The employer’s duty to accommodate injured workers when they are able to return the workplace should be clearly outlined in the new Act.

Case Management

In one case we know of, within one week from the time the worker filed his WCB first report, his WCB worker changed three times. This creates confusion and prevents the worker from achieving a good understanding of procedures and her/his case with WCB.

Recommendation:

The same WCB staff person should be assigned to a particular case from start to finish. This helps maintain continuity and builds trust and understanding between the WCB case manager and the worker which is particularly important for immigrant workers.

Interpretation

Confusion and misunderstanding are also created by a lack of quality interpretation for workers with English as a second language. Interpretation service for workers dealing with the Workers Compensation Board is inconsistent in terms of criteria for access, availability, and quality. Workers are usually asked to provide their own interpreter. This will result in many workers choosing to bring a family member rather than using someone unknown to them. While this may save money, it will often result in poor quality interpretation and misunderstandings for both the worker and the WCB that directly impacts the outcome of a claim.

In the attached letter from WCB sent to an immigrant worker, the WCB requests the worker to have an interpreter call the WCB to sort out details of a possible benefit. In this case the WCB puts all responsibility on the injured worker to locate and arrange interpretation which will directly affect his or her access to a particular benefit. No mention is made of where the worker can find a suitable interpreter and what financial assistance may be available for interpretation.

In 2002-2003, the International Centre’s Language Bank provided 89 interpreters for workers compensation cases. This number dropped by over half this past year in 2003-2004 when the International Centre provided only 41 interpreters for workers compensation cases. The case cited above may help to understand the

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reasons for this drop in requests.

We believe the responsibility for ensuring the worker understands issues surrounding workers compensation and receives their fair benefits lies with the Workers Compensation Board, not the worker.

In contrast, the Workers Safety Insurance Board in Ontario has an internal staff team of eight language specialists who provide interpretation and translation services for clients who speak languages other than French or English. They also contract directly with a bank of 500 freelance interpreters & translators. In total, they can provide language services for 77 different languages.

Quality of interpretation is assured in Ontario’s compensation system because all contracted freelance interpreters are accredited to provincial interpretation standards and undergo testing by the Workers Safety Insurance Board as well. Quality control measures are in place at the Workers Safety Insurance Board to seek and receive feedback on the quality of translation provided.

At initial contact with any person, a notation is made on the file if interpretation services are needed and any future staff person who receives the file must use an interpreter. Translation and interpretation are provided in all areas of service from filing a claim to medical assessments.

WSIB in Ontario started this service in 1997 just by offering language services in

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Italian. They later added Portuguese and Spanish and have since continued to add

on languages as the need arises. They currently use language specialists on a daily basis and deal with 150 language assignments per week. While this scale is larger than would be needed in Manitoba, the model is one we believe is worth replicating.

In addition, a new project from the national organization Critical Link Canada will work over the next two years to develop standards for interpreter services in the health care sector and promote policies for accreditation and regulation of interpreters in this sector. The results of this project could be used to guide the provision of interpretation services offered by the WCB. See the attached information regarding this new project.

Recommendation:

The Workers Compensation Board of Manitoba should hire its own language specialists, develop its own testing system for internal and freelance interpreters, and implement procedures for using qualified interpretation consistently across all areas of service within the WCB.