

Name of Presenter: Richard Papineau Union Member PACE
International Local 7-1375
Date Received: June 2 2004

Workers Compensation Act Public Review

Dear Committee Members:

Thank you for taking the time to read the material and written presentation I'm about to give. I will attempt to show several areas in which I feel the act is deficient & must be amended.

History: I am a papermaker by trade & have worked at the same location & trade for 35 years. I am union member of PACE (Paper, Allied-Industrial Chemical & Energy Workers) International Union Local 7-1375.

Bullet Points: 4 amendments I would like to see changed in the WCB Act.

1. **Under Definitions “medical referee” Add:** The Act shall define the duties (authority, responsibility & restrictions of the “**medical referee**” Please refer to Sec. 66 (1), Sec. 27 (10) & WCB policy section #42.10.
2. **Presumption 4 (5)L: ADD** – Therefore under this section **Presumption** shall apply to work related injured workers claim. The Act shall say that the onus of proof shall be the responsibility of the WCB.
3. **Maximum earning:** Top up provision under the Act.
4. **Academic, vocational, rehabilitative assistance 27(20):** WCB Act shall define the intent of vocational rehabilitation. WCB Act shall say that Workers representatives and advocates shall be used in the vocational process.

C.C. – Review Committee

Yours Truly;
(signed)
Richard Papineau

June 2/04

Dear Committee Members:

I hope that through my presentation (amendments) the Workers Compensation Act that it will improve the life of all (injured) workers.

There are 4 different issues and or changes I would like to improve in the WCB Act at this time.

The 1st issue pertains to the adjudication of workers claims. Specifically workers claims that are denied benefits because WCB adjudicators and their medical staff deem a worker does not qualify for such benefits because they believe that workers do not have the objective medical proof to establish their claim. Ex: A worker gets injured at work, (back injury) the attending physician initial diagnosis is that his patient has suffered a lower back (work related) muscle sprain. No objective tests are done at the time to determine the damage. The worker at that point is given medication for the pain & swelling. The worker is put on alternate duties (alternate duties for clarification purposes means that workers are required to physically be at work but are not required to perform their regular work related duties) for (3 weeks) a period of time, remaining in contact with his doctor during the three weeks with no improvements. The worker is then given another (3 weeks) period of time on alternate duties. Still the injury (pain & temporary disability) persists. The worker is then referred to a specialist with the hopes of finding what is wrong. This medical specialist does a medical examination of (the worker) his patient. No objective medical tests are done at the time of the examination. The medical examination takes say 20 minutes. The specialist then submits his medical report to the WCB. Sh (he) states that upon examination she (he) could not find anything medically wrong with this (worker) patient. This medical specialist does note that based on this (worker's) patient's medical file he has a history of arthritis. This report is submitted to WCB adjudication & the medical staff. It is at that point that WCB renders a negative decision denying the worker(s) his (their) work related injury claim(s). WCB does not question the medical specialist's medical report. The adjudication department along with their medical staff then concludes, that the work related injured worker(s) is in their subjective (medical) opinion **hereditary and or non-work related**. It has been my experience that based on what I've just described above it leaves me with the conclusion that the WCB system is clearly designed to deny claims. I truly believe that based upon my years of experience that

they are not interested in helping the work related injured workers but instead are pressured to saving money by denying claims. As a result of what I've described above I propose the following changes.

1. Under **Definitions “medical referee”** means a medical referee appointed by the board; **ADD:** The act shall define the duties (authority, responsibility & restrictions) of the **medical referee**. Note: References are made regarding a medical referee in **Sec.66 (1)** of the act affected by this **medical referee’s** decision on a workers claim. I believe that **Section 27(10)** also speak on this issue. Also for reference WCB policy section #42.10 deals with what I believe the medical decisions of a worker’s claim described in the 1st par.
2. Under **Presumption 4(5)**; Where the accident arises out of the employment, unless the contrary is proven, it shall be presumed that it occurred in the course of the employment; and, where the accident occurs in the course of employment, unless the contrary is proven, it shall be presumed that it arose out of the employment. **ADD:** Therefore under this section **Presumption** shall apply to work related injured workers claims. The Act shall say that the onus of proof shall be on the WCB. Ex. If WCB & its medical board believe that in their opinion, a workers work related injury is **non work related and or hereditary**, it shall be deemed under the Act to be the responsibility of WCB to prove otherwise.
3. **Maximum earnings:** Currently there is a max. earnings of \$56310.00. I’m asking that a top up provision be provided and paid by WCB under the Act. If that cannot be agreed to, than allow for a special provision in the Act which would allow employers and or workers to purchase additional voluntary insurance which the premiums would be tax deductible.
4. **Academic, vocational rehabilitative assistance 27(20)**
The final issue is in regards to how the rehabilitation [program is administered & or applied. The WCB act vague at best & does not define the parameters under which the WCB board operates. Therefore I submit that the WCB Act shall define the intent of vocational rehabilitation. The intent shall mean & include that the focus of rehabilitation process of a work related injured worker(s) shall be to bring the workers back to the employment of the employer, where the workers were injured on the job. The WCB Act shall say that workers representatives & advocates shall be

used in the vocational process. I will be submitting additional information on this section of vocational rehabilitation before the Jun 21st deadline.

I hope that the information & or my presentation is helpful to your Committee in your decision to change, improve & or amend the WCB Act.

C.C. – Review Committee

Yours truly;
(signed)
Richard Papineau