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The Workers Compensation Act Legislative Review 2025-2026
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Executive Summary

CN appreciates the opportunity to provide input to Manitoba's Workers Compensation Act Legislative Review. Our submission focuses on four priority areas:

1. Wage Loss Benefits: Manitoba's maximum assessable earnings and current average-earnings methodology distort the Workers' Compensation system by assessing premiums on an inflated earnings base, impacting fairness and long-term sustainability. CN recommends aligning Manitoba's maximum earnings cap with Canadian norms and adopting day-one use of 12-month average earnings.

2. Injury Presumption (Section 4(5) and Policy 44.05): CN supports the statutory presumption when one limb is established, but recommends clearer thresholds for triggering it, a brief employer-input step before confirmation, and explicit guidance on what constitutes "proof to the contrary."

3. Psychological Injury System Reform: Manitoba currently has only an adjudication policy for psychological injuries (Policy 44.05.30). CN recommends a full management framework, including standards for case management, treatment pathways, provider expectations, RTW milestones, collaboration protocols, and a clinic pilot.

4. Administrative Cost Allocation: CN supports WCB Manitoba's current administrative cost formula and does not recommend changes.

CN is committed to a Workers' Compensation system that is fair, sustainable, and effective for all stakeholders. The following recommendations are designed to enhance the long-term health and predictability of the system, ensuring its ability to protect workers while fostering a competitive business environment in Manitoba.

ISSUE 1: Wage Loss Benefits: Maximum Earnings Cap and Average Earnings Calculations

Context & Evidence

At $167,050, Manitoba's 2025 maximum assessable/insurable earnings is the highest in Canada, exceeding the next-closest province (British Columbia) by 37.49% and the national average of $105,285, by 58.57%:

Rank (2026)	Jurisdiction	2026 Maximum Assessable /Insurable Earnings
1	Manitoba (MB)	$171,500
2	British Columbia (BC)	$127,500
3	Ontario (ON)	$121,700
4	Nunavut (NU)	$117,300
5	Northwest Territories (NWT)	$116,000
6	Alberta (AB)	$110,900
7	Saskatchewan (SK)	$108,223
8	Yukon (YT)	$107,599
9	Québec (QC)	$103,000
10	Prince Edward Island (PE)	$89,300
11	New Brunswick (NB)	$85,800
12	Newfoundland & Labrador (NL)	$80,935
13	Nova Scotia (NS)	$79,900

Manitoba's Maximum Assessable Earnings (MAE) is a significant outlier in Canada, and drastically higher than that of comparable provinces. This creates a cascade of financial risks that impact the stability of the entire system.

The root of the problem lies in a multi-step methodology mandated by *The Workers Compensation Act*. The formula begins with Statistics Canada wage data but then applies a statutory multiplier of approximately 275%, resulting in an MAE that is far removed from the actual earnings of the average Manitoban.

This flawed formula perpetuates an imbalance in the system that the Board itself has previously sought to correct. For fifteen years (2006-2021), Manitoba operated under a fundamentally asymmetric system where premiums were capped at a much lower level than the uncapped wage loss benefits payable to injured workers. The Board recognized this and reinstituted a cap on benefits in 2022. While we commend this as a step in the right direction, the current MAE remains an outlier and continues to expose the system to significant risk.

From an actuarial perspective, a single claim from a high-income earner creates a massive long-term liability for the Board. These high-cost claims have a disproportionate and negative impact on the Board's funding ratio, which is the primary measure of its financial health. To hedge against this risk and protect the funding ratio, the Board must consider potential spikes in liability when setting premium rates, contributing to volatility for all employers. A system that is over-exposed to a small number of high-cost claims is, by its nature, less stable and predictable.

Manitoba's compensation level also materially increases indemnity exposure for higher-earning claimants, especially for Individually Assessed Employers (IAEs), who bear their own claim costs. This produces multiple system-wide concerns:

- The outlier cap elevates wage loss payouts for high earners well beyond levels in other provinces, directly increasing employer indemnity costs.

- The elevated maximum disproportionately impacts Individually Assessed Employers (IAEs), such as CN, because they pay actual claim costs rather than pooled class rates.

- A high cap amplifies the inflationary effect of Manitoba's current average-earnings practice (initial wage-loss based on a single recent pay period with a 13-week correction), increasing early overpayments, especially in variable-schedule occupations.

- Higher wage loss benefits reduce the financial incentive for timely return-to-work (RTW) among high earners by narrowing the gap between WCB benefits and net employment income, a dynamic not present in provinces with lower caps.

The Legislative Review Committee has asked whether wage loss, pensions and death benefits adequately protect injured workers and families while remaining fair and sustainable, a framing that necessarily includes both benefit ceilings and earnings calculation methods.

CN Recommendations:

1. Reduce Manitoba's maximum assessable/insurable earnings cap to align with Canadian averages ($110,000–$120,000) with transparent indexation (e.g., CPI/AWE).

2. Mandate day-one use of 12-month average earnings (or best longitudinal proxy) for wage loss calculations, eliminating the 13-week revision.

Adopting a fair and sustainable cap is not merely a cost-control measure for employers; it is a crucial reform that also yields significant benefits for the entire workers' compensation system and, by extension, for the workers it protects.

Benefits to the Workers' Compensation System:

- Enhanced Financial Stability: The current inflated MAE creates premium volatility. A lower, more realistic cap provides the WCB with a more predictable and stable revenue stream, allowing for better long-term financial planning. The costs of individual claims are more uniform, and the total assessable payroll is more resilient to economic shifts in niche sectors. This stability allows for smaller, more predictable adjustments to premium rates, which benefits all employers and ensures the long-term health of the fund.

- A More Efficient System: In addition to financial stability, a rationalized MAE helps align incentives for all parties. A cap that is in line with other Canadian jurisdictions ensures a strong safety net while still maintaining a natural incentive for a timely and medically appropriate Return-to-Work, which is the best possible outcome for the worker, the employer, and the system.

- Increased System Integrity and Harmonization: By aligning the MAE with the norms in other provinces, Manitoba enhances the integrity, credibility, and competitiveness of its workers' compensation system. This reform brings our province in line with best practices across Canada, a key goal of this legislative review.

Benefits to the Worker:

- Improved Fairness and Equity: A just system is a strong system. The current formula disproportionately impacts certain industries, forcing them to subsidize the system beyond what is equitable. A revised cap ensures that costs are distributed more fairly across all employers, reinforcing the principle of a balanced system for everyone who relies on it.

- Robust and Secure Protection: The primary goal of the WCB is to protect workers, and a sustainable system is a secure one. The proposed cap continues to provide fair and generous wage-loss coverage for the vast majority of Manitoba's workforce, while most importantly ensuring the long-term health of the fund that protects every worker in the province.

ISSUE 2: Injury Presumptions - Balanced Safeguards

Context & Evidence

Under *The Workers Compensation Act*, benefits are payable where a personal injury by accident arises out of and in the course of employment (two conjunctive limbs). When one limb is established on the balance of probabilities but the other remains unproven, Section 4(5) creates a statutory presumption: if an accident arose out of the employment, it is presumed to have occurred in the course of employment, and vice-versa, unless the contrary is proven. Policy 44.05 (Arising Out of and in the Course of Employment) reproduces this rule and instructs decision-makers on how and when the presumption applies, clarifying that insufficient evidence is not “proof to the contrary.”

CN Recommendations:

CN supports the statutory presumption for injuries. To enhance the integrity of the process, our recommendations are focused on bringing greater clarity and reasonableness to its application. By defining evidence thresholds and requiring written reasoning, we can ensure a fair, transparent, and consistent process, which we believe is a central goal of this review.

1. Define minimum evidentiary thresholds to trigger Section 4(5)

Amend Policy 44.05 to specify the minimum evidence required to establish either limb before the presumption is engaged—e.g., for “in the course of”: credible time/place evidence that the event occurred during work at a location the worker was reasonably expected to be; for “arising out of”: objective evidence of work-related activity/exposure that was a necessary cause (“but-for” standard).

2. Clarify “proof to the contrary” statement

Create a short subsection distinguishing “insufficient evidence” from genuine “proof to the contrary.” Examples of contrary proof could include verified records showing the worker was not at work or on a work-related task at the relevant time (rebutting “course”), or medical/mechanism evidence demonstrating the injury was caused solely by a non-work factor (rebutting “arising out of”).
3. Insert a brief, structured employer-input step before confirming the presumption

In the Administrative Guidelines to Policy 44.05, prior to applying the presumption under Section 4(5), and invites the employer to submit objective records (e.g., access logs, job assignments, supervisor notes) that may support or rebut the presumed limb. This ensures the WCB has complete workplace facts before confirming entitlement via the presumption.

4. Require explicit reasons when using (or rebutting) the presumption

Decision letters should state (i) which limb was proven, (ii) which was presumed under Section 4(5), (iii) why evidence did not meet the threshold for the presumed limb, and (iv) how any contrary evidence was weighed.

The Benefits of a Clear and Consistent Presumption Process

Strengthening the application of the statutory presumption is not about creating barriers for injured workers. It is about reinforcing the integrity and fairness of the process itself, which provides tangible benefits to workers, employers, and the system as a whole.

Benefits to the Worker:

- Increased Fairness and Consistency: When the rules for evidence and "proof to the contrary" are clearly defined, every worker's claim is assessed against the same consistent standard. This removes ambiguity and the potential for arbitrary decisions, ensuring that similar claims are treated similarly and that the process is equitable for everyone.

- Greater Transparency and Understanding: Requiring explicit, written reasoning for every decision is a powerful benefit for the worker. If a claim is accepted under presumption, the reasoning is clear. If it is not, the worker receives a detailed explanation, empowering them with the information needed to understand the decision and prepare for an appeal if necessary. This transparency is fundamental to a fair process.

- Enhanced Trust in the System: A rigorous and transparent process builds trust. When workers see that decisions are made based on clear evidence and established rules, it reinforces their confidence in the fairness and integrity of the entire workers' compensation system. This trust is essential for the well-being of a system that every worker in Manitoba relies on.

By implementing these recommendations, the presumption is not weakened; it is clarified and strengthened, ensuring it functions as intended, as a fair and efficient mechanism within a trustworthy and transparent system.

ISSUE 3: Psychological Injury System Reform (Policy + Practice)

Context & Evidence

Manitoba's current approach to psychological injuries is framed almost entirely through Policy 44.05.30 (Adjudication of Psychological Injuries), which focuses on acceptance criteria (including how the PTSD presumption under the Act is applied) but does not establish management standards for how claims should be coordinated, treated, measured, or returned to work once accepted. This creates variability in case handling, delays in functional planning, and inconsistent communication with employers in safety-sensitive environments.

At the same time, other jurisdictions have developed full claim-management frameworks:

- British Columbia: legislated mental-disorder coverage (Bill 14), Critical Incident Response, specialized mental-health teams.
- Alberta: Traumatic Psychological Injury (TPI) model, specialized teams, policy with but-for and predominant cause tests.
- Ontario: specialized mental-health units and CAMH partnerships for structured treatment/RTW.
- Saskatchewan: POL 11/2025 requires accredited providers to complete Mental Health Assessments (DSM diagnosis, treatment recommendations, RTW plan).
- Nova Scotia: modernized psychological-injury policy including gradual onset and comprehensive clinical criteria.

The Legislative Review Committee has also identified psychological injuries as a specific focus area, which makes this the appropriate juncture to modernize Manitoba's approach beyond adjudication to management.

CN Recommendations: A Comprehensive Framework

1) Standardized Case-Management Requirements

CN recommends establishing a clear case-management model for psychological claims. This should include specialized psychological claims staff, an early and predictable contact cadence following acceptance, and defined escalation triggers when functional progress stalls. These elements reflect both safety-sensitive operational realities and evidence that early, consistent case leadership shortens duration and improves outcomes.

2) Structured Clinical & Functional Pathways

To close the gap between clinical recovery and work reintegration, Manitoba should adopt structured clinical/functional pathways with a mandatory early functional assessment aligned to job demands and safety-sensitive requirements. Providers should meet accreditation expectations and comply with standardized reporting timelines that deliver clear, actionable information about restrictions, capabilities, and next steps for RTW planning. Saskatchewan's policy architecture offers a practical template; its accredited-provider model and required assessments translate clinical findings into RTW-ready plans that case managers and employers can act on.

3) Early, Function-Based RTW

Return-to-work (RTW) should be positioned as an integral part of recovery rather than a post-treatment milestone. We recommend initiating RTW planning in parallel with treatment, anchored in functional goals and objective markers of capability. This approach reflects practical indicators, including time to first functional conversation, progress checkpoints, and attention to RTW stability, and mirrors the function-forward practices in Alberta's TPI model.
4) Collaboration Protocols

Consistent outcomes depend on timely alignment among all parties. We propose codifying tri-party planning (WCB–employer–clinician) at scheduled checkpoints and to validate functional capabilities, review evolving restrictions, and agree on next steps. Where appropriate, on-site assessments should be used to ensure that provider recommendations are grounded in the actual work context and that feasible, safe duties are identified. These collaborative mechanisms directly respond to current process gaps and are consistent with integrated models showcased in BC.

5) Pilot a Manitoba Psychological Injury Care Clinic

To address persistent pain points, including access, coordination, and consistency, Manitoba should pilot a multidisciplinary, trauma-informed Psychological Injury Care Clinic for complex or high-risk cases. The pilot should provide rapid triage, coordinated psychiatry/psychology with structured weekly programming, an embedded claim navigator to maintain communication cadence, and functional reporting synchronized with RTW milestones. This model operationalizes CN's clinic concept submitted in January 2026 and draws on proven elements from CAMH-style programming in Ontario, the TPI pathway in Alberta, and tertiary/structured services in Saskatchewan.

6) Measurement and Transparency

The framework should include a compact set of metrics to evaluate performance and guide continuous improvement. At minimum, WCB should publish time to first functional assessment, time to first RTW discussion, the proportion of files with tri-party plans by week 4–6, durable RTW at 90 days, recurrence at 6/12 months, and reporting-timeline compliance by provider type. These indicators are consistent with the Review's emphasis on fairness, adequacy, and sustainability, giving stakeholders clear visibility into whether processes are accelerating recovery and stabilizing RTW.

The Benefits of a Modernized Framework

Implementing a comprehensive framework for psychological injuries provides critical advantages for employers and the WCB system by creating a more predictable, evidence-based, and effective process. However, the most significant benefits are realized by the workers themselves:

- Faster Access to Specialized, Effective Care: A structured clinical pathway ensures that an injured worker is quickly connected with healthcare providers who specialize in treating psychological injuries. This eliminates the uncertainty and delay of navigating the healthcare system alone, leading to earlier intervention and more effective, evidence-based treatment.

- Reduced Stigma and a Clearer Path to Recovery: By establishing a dedicated framework and piloting a specialized clinic, the system formally recognizes psychological injuries as the serious health issues they are. This helps to reduce stigma and provides the worker with a clear, predictable, and supportive path forward, from initial claim to final recovery.

- Holistic and Coordinated Support: Clear collaboration protocols ensure that the worker's case manager, healthcare providers, and employer are all working together. This integrated approach means the worker experiences a more seamless and less stressful recovery process, without the burden of coordinating between different, disconnected parties.

- Focus on Functional Recovery and Well-being: Early and proactive Return-to-Work (RTW) planning, when clinically appropriate, is a crucial part of recovery. It helps the worker maintain a sense of purpose, connection, and normalcy. This focus on "getting well" rather than "being off" is proven to lead to better long-term mental health outcomes and a more successful and sustainable return to their professional life.

By investing in a specialized framework, Manitoba can ensure that workers suffering from psychological injuries receive the modern, compassionate, and effective care they deserve, leading to better health outcomes for the individual and a stronger, healthier workforce overall.

ISSUE 4: Administrative Cost Allocation (IAE'S)

Response to the Legislative Review Committee Consultation Question

The Consultation Paper states that IAE administrative costs are allocated using a Board-approved formula and asks whether allocation is fair and equitable.

CN Recommendation:

CN supports the current method of apportioning WCB administrative costs among classes and IAEs, including the use of transaction counts for assigning responsibility. We are not requesting or recommending changes to the administrative cost allocation formula as part of this review.

CONCLUSION

CN appreciates the opportunity to provide a submission for the Review Committee's consideration and hopes that it leads to positive changes to the Workers' Compensation system in Manitoba.

Sincerely,

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APPENDIX - References

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