Unifor Consultation

Workers' Compensation Board of Manitoba

Legislative Review 2025-2026

WCB of Manitoba
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Submitted by Gavin McGarrigle on behalf of:

The Unifor Prairie Regional Council

Health and Safety Committee

Introduction

Unifor is pleased to offer stakeholder comments in response to Manitoba's Workers Compensation Act Legislative Review 2025-2026 consultation.

Unifor is Canada's largest private sector union, with more than 320,000 members across the country, and over 12,000 in Manitoba.

Protecting workers' health and safety in the workplace is a fundamental role, which is everyone's responsibility. Unifor's Health, Safety and Environment Department campaigns for better laws and enforcement, provides information on workplace substances and programs to eliminate and control hazardous workplace conditions.

Our members rely on a workers' compensation system that is fair, transparent, and responsive to the needs of injured and ill workers. A strong compensation system is essential to ensuring that workers who are injured or made ill at work receive timely support, appropriate benefits, and meaningful assistance in returning to work where possible.

Questions and Answers

1. Assess whether the current workers compensation system is fair to both workers and employers, providing adequate compensation in a sustainable, no-fault, collective liability system.

What changes to the workers compensation system do you recommend to ensure the system is fair to both workers and employers and remains sustainable?

To ensure the workers' compensation system remains fair for workers, several key improvements should be considered. First, access to benefits should be improved and administrative delays reduced so that injured workers can receive timely support after their injury and during periods of recovery. The system should also strengthen the adequacy of benefits and wage replacement to ensure that workers who are injured or made ill at work are not pushed into financial hardship while unable to work. In addition, stronger safeguards are needed to protect workers from unsafe or premature return-to-work arrangements, ensuring that recovery and following their practitioner's medical advice remain the primary considerations. Together, these improvements would help reinforce confidence in the workers' compensation system.

Is the current coverage model appropriate? If not, what changes to the Act or the system do you recommend regarding coverage?

The current coverage model should be strengthened by expanding coverage to include all workers. A comprehensive workers' compensation system should ensure that every worker who is injured or becomes ill due to their work has access to benefits and protections, regardless of their employment. Expanding coverage would help close existing gaps that leave some workers without adequate protection, while also supporting a more consistent and equitable system.

3. Examine emerging issues and assess the WCB's readiness to respond to them.

What emerging issues do you see impacting the workers compensation system?

There has been a noticeable increase in psychological injury and stress-related claims, highlighting the growing importance of addressing mental health in the workplace and ensuring the compensation system is equipped to respond appropriately. The workforce is also aging, which may lead to more complex injuries, longer recovery times, and the need for more adaptable and personalized return-to-work supports. In addition, the growth of non-traditional and precarious work arrangements, including contract and gig work, presents challenges for ensuring consistent coverage and protections for all workers.

What changes to the system do you recommend to respond to those issues?

To respond to these emerging issues, several improvements to the workers' compensation system should be considered. Recognition and adjudication of psychological injuries should be strengthened to ensure that workers experiencing mental health impacts related to their work are treated fairly and have timely access to benefits and supports. Return-to-work expectations should also be individualized, recognizing that workers recover at different rates and that medical circumstances, age, and the nature of the injury must be taken into account when developing a safe and sustainable return-to-work plan. In addition, coverage should be expanded to include all workers to address the growing number of individuals employed in non-traditional or precarious work arrangements.

4. Examine legislative provisions related to coverage specifically related to psychological injuries.

Does the system adequately address coverage for psychological injuries?

The workers' compensation system does not consistently provide adequate coverage for psychological injuries. While coverage for post-traumatic stress disorder (PTSD) is generally considered adequate, the system falls short when it comes to claims arising from work-related activities. This gap highlights the need for a more comprehensive approach that fully recognizes and supports all forms of psychological injury in the workplace.

If not, what can be done to improve coverage for psychological injuries?

To improve coverage for psychological injuries, the system must close the gap between how work can actually harm mental health and how an "accident" is currently defined. Many psychological injuries develop as a result of ongoing workplace stressors, harassment, or traumatic exposures that do not fit neatly within traditional definitions of a workplace incident. Expanding the definition of "accident" to better reflect the realities of many modern workplaces would help ensure that workers experiencing legitimate work-related psychological harm are able to access the support and benefits that they need.

5. Evaluate the threshold for causation in occupational disease claims.

Is dominant cause still the appropriate standard for adjudicating both occupational disease claims covered by the presumption and those that are not covered by the presumption?

The dominant cause standard may be appropriate for adjudicating occupational disease claims that are covered by a presumption, as the presumption already recognizes the strong connection between the occupation and the illness. However, applying the same standard to occupational diseases that are not covered by a presumption is problematic. In those cases, requiring workers to prove that work was the dominant cause can create an unreasonably high threshold, particularly for diseases that develop over time and may have multiple contributing factors, which leads to more legitimate claims being denied.

If not, what standard is appropriate?

For occupational diseases that are not covered by a presumption, a more appropriate standard would be the "but for" test. Under this approach, a worker would only need to demonstrate that their work activities or exposures were a factor in the development of the disease. In other words, "but for the workplace exposure", the injury or illness would not have occurred. This standard recognizes that many occupational diseases have multiple contributing factors and ensures that workers are not unfairly denied compensation simply because work was not the sole or dominant cause.

6. Review legislative provisions governing wage loss benefits, pensions and death benefits to assess whether the legislation adequately protects the financial security of injured workers and their families.

Does the legislation adequately protect the financial security of injured workers and their families?

While the legislation provides a range of benefits intended to support injured workers and their families, it does not fully protect their long-term financial security. Wage loss benefits are capped and based on a percentage of net earnings, which can result in a significant reduction in income for many workers and their families. As a result, while the system provides a basic level of support, it often falls short of ensuring the full financial stability of injured workers and their dependants.

If not, what changes to the Act do you recommend?

Wage loss benefits should more accurately reflect a worker's pre-injury earnings by reducing or eliminating earnings caps and ensuring that benefits replace a greater portion of lost income. In addition, the Act should better address the loss of retirement and pension contributions that often occurs when a worker is injured and unable to continue working. This will help ensure that injured workers are not forced to face financial insecurity in retirement as a result of a workplace injury.

7. Review the Act's provisions relating to the role of healthcare advisors.

Are changes to the Act or to policy regarding the role of WCB healthcare advisors necessary?

Changes to the Act and WCB policy regarding the role of healthcare advisors are necessary to improve fairness, transparency, and accountability in decision-making. The legislation or policy should explicitly state that the opinions of WCB healthcare advisors cannot override the opinions of a worker's treating healthcare provider without a clear and well-supported rationale. In addition, when an advisor's opinion is used over that of the treating provider, the WCB should be required to provide a written justification explaining the reasons for that decision. These measures would promote greater transparency in the adjudication process and help ensure that clinical decisions properly reflect the expertise and direct knowledge of the worker's treating practitioners.

8. Examine the current structure supporting the WCB's injury prevention efforts with the aim of maximizing effectiveness to reduce workplace injuries and illnesses.

How can the Act or system be amended to better ensure the WCB fulfills its mandate with regard to improving injury and illness prevention efforts?

The WCB should be required to dedicate adequate and stable funding to prevention initiatives delivered through SAFE Work Manitoba, including education, training, research, and sector-specific safety programs. When financial surpluses exist, they should be reinvesting those funds into prevention activities rather than returning them to employers through rebates. In addition, workers and their representatives should have a formal role in developing prevention strategies and identifying emerging hazards through SAFE Work Manitoba, as workers are often the first to recognize unsafe conditions.

Conclusion

Unifor appreciates the opportunity to comment and offer feedback on Manitoba's Workers Compensation Act Legislative Review 2025-2026 consultation. We hope that the province continues to consult with stakeholders, including workers and their representatives.

We believe that our comments will further enhance and protect the interests of injured workers and their families in Manitoba. Meaningful consultation with workers and their representatives is essential to developing fair and effective workers' compensation policies.

For any further questions regarding Unifor's position on this issue, please contact Joanne Hay, National Director, Health, Safety and Environment (HSE) at (647) 564-3043.

Yours truly,

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