



**ISSUE DATE:
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Early and Safe Return to Work policies under review by WSIB – public consultation period now open and proposed new policies published on website

The WSIB is re-writing the book on Early and Safe Return to Work (ESRTW). Since the concept was introduced into the Act in 1998, the WSIB has largely stood back to watch how employers and workers have managed their obligations. Now they are ready to introduce ESRTW changes based on their analysis of what they've seen.

They have tried to measure how successful current policy has been in helping return injured workers to meaningful work, how well employers have provided return to work services to their employees, and what techniques or tools have been useful in reducing incidences and costs of lost time. WSIB has now posted on its website eight proposed new policies, along with explanatory documents, and is inviting public consultation on the issues.

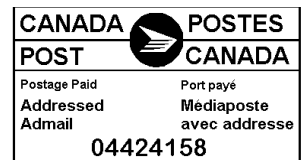
There is at least one proposal that will not sit well with employers: WSIB intends to require that 'modified work' consist of a job that you would normally have hired someone to perform. In other words, creating temporary tasks to enable a worker to transition back to work won't be good enough. It is questionable if the WSIB has legal authority to introduce some of their proposed changes. They do have absolute right to make policy, but those policies must meet the requirements of law.

Other proposals will see the WSIB returning to its historical posture of paternalism rather than collaborative partners as envisaged by the legislation. And penalties will not be doled out evenly to employers and workers for failure to comply, especially in human rights issues.

See their website for details.

**FREE
INITIAL
NEER
ANALYSIS!**

Ask us for details!



OSG acquires WSIB services firm

M.C. Warren & Associates Inc. was acquired by OSG in December 2005.

Long a leading consulting firm emphasizing workplace injury management, MCW's staff bring us a wealth of experience in the fields of workers' compensation, finance, accident and fraud investigation, disability management and labour relations.

OSG is now able to offer training courses in the areas of workplace injury management, WSIB financial management and accident

investigation from a WSIB perspective. And we can offer day-to-day claims management for employers. Some of the new services include:

- ✓ Claims Management: recovery of historical claims costs, accident investigation, entitlement review, return to work coordination, ongoing cost containment
- ✓ Cost Management: payroll and classification review, experience rating, cost relief management

- ✓ Dispute Management: return to work and re-employment, appeal representation at all levels
- ✓ Program Design: highly effective 'early and safe return to work' programs, pre-injury planning, accident investigation reporting
- ✓ Audits: WSIB compliance, Special Investigation Branch, pre-Workwell
- ✓ Training: employee orientation, accident investigation, case management, legal compliance, supervisor training

Upcoming Seminars!

Introduction to Worker's Compensation Claims Mgmt.

This 1 day seminar will provide the participant with an understanding of the fundamentals of managing workplace injury management

Seminars will run:

London	Mar 1 '06
Mississauga	Mar 8 '06
Cambridge	Mar 27 '06

Advanced Workers' Compensation Claims Mgmt.

This 1 day seminar expands on the introductory course & provides a deeper understanding of claims management, addresses the financial aspects of workers' compensation management, developing best practices & enhancing return to work outcomes.

We explore the WSIB/WSIAT appeal structure, the WSIB's various incentive programs & how all of this interfaces with other workplace legislation.

Seminars will run:

London	Mar 2 '06
Mississauga	Mar 9 '06
Cambridge	Mar 28 '06

Accident Investigation – OHS & WSIB

The OHS & best practices require an investigation of ALL accidents. If you have WSIB coverage, accidents should be investigated from the WSIB's perspective as well. These investigations are not the same. This 1 day seminar will cover the obligations of both OH&S and WSIB.

Seminar will run:

London	Mar 3 '06
Mississauga	Mar 10 '06
Cambridge	Mar 29 '06

For inquiries about these seminars or any other OSG seminar/service, please contact 1-800-815-9980.

"I am now equipped with the tools to make a positive impact on my workplace environment."

*George Mathers,
C&C Programmer/Operator
JHSC Representative
Panigas*



New rules in WSIB experience rating

The WSIB is going to ask employers to dig much deeper. It has revamped its experience rating programs (NEER and CAD-7) as of January 1, 2006 and the changes will be costly for business.

In the cases of both CAD-7 and NEER, rebates will be much harder to come by and surcharges will be much easier to obtain. The WSIB says the changes are needed to balance their experience rating accounts and to ensure that these programs provide incentives to employers to maintain safe workplaces. The programs have always been called 'incentive

programs' by the WSIB, and they are. But there is diminished incentive when the employer knows that there are many factors beyond their control, including poor or delayed decision-making by the WSIB.

WSIB is willing to provide any employer with a simulation (or 'impact

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Upgraded Confined Space Regulations

On September 3, 2006 the long-awaited changes to the regulations covering confined space entry will come into effect.

The changes include amendments to regulations covering industrial operations, construction, health care and mining, as well as a new confined space regulation, Regulation 632-05, that covers any remaining operations not covered by the listed documents.

The definition of a confined space has been changed to read "a fully or partially enclosed space, that is not both designated and constructed for continuous human occupancy, and in which atmospheric hazards may occur because of its construction, location or contents or because of the work that is done in it."

Requirements include written hazard assessments, written entry procedures and permits, written rescue procedures and documented training, which is reviewed in consultation with the Joint Health & Safety Committee annually, or more often if process changes occur. These changes should ensure safer entry into these spaces for all workers.

Any company that has employees entering confined spaces, or anyone not sure if they have confined spaces, will need to make some determinations and upgrade their programs to meet these new requirements in the coming months to ensure they are compliant prior to September 30.

"Safety always pays for itself, both in financial and in human terms."



A Health and Safety Road Show

A January news release from the Ministry of Labour commented that businesses with excellent health and safety programs have greater profits and higher productivity. While most of us in the health and safety world applaud them for stating the obvious, we wish they had released some real numbers to back up their remarks.

Kevin Flynn, Parliamentary Assistant to the Minister of Labour, will be traveling around Ontario to deliver the health and safety message to small and medium businesses. Although individual communities or Chambers of Commerce may have been alerted to expect him, the Ministry's announcement did not indicate the time frame nor the venues for this tour.

The tour is meant to add support to the Ministry's ambitious goal of a 20

percent reduction in workplace injuries within the next two years: a projected reduction of some 60,000 injuries annually. The government has apparently hired about 130 of the 200 health and safety inspectors announced in 2004, and recruiting for the balance is currently underway.

For the record, it should be noted that the cost of these new inspectors is being underwritten by the Workplace Safety and Insurance Board. About \$28 million of employer premiums have been allocated to this file.

Although not directly related, the tour is being supplemented by a series of radio and television advertisements sponsored by the WSIB. For those who might be interested, the text of their ads can be found on the WSIB website.

Delays in the workers' compensation appeals system

Employers and workers often experience delays in having decisions rendered by the WSIB, especially at the appeals level. But this is nothing compared to the slow pace at the Workplace Safety and Insurance Appeals Tribunal (WSIAT). At the end of September 2005, WSIAT had 5,938 appeals sitting in their inventory at various stages of progress.

Getting to an appeal hearing with WSIAT is a very tedious process. There are several layers of paperwork that must be followed just to confirm that you really do want to appeal, and each layer of paper involves delays

while the various parties respond to each other. On average, from the time an application to appeal is received by WSIAT, an appellant can expect to wait six-months before a case record is prepared and issued. Then there is a further exchange of confirmations that everyone is ready to proceed and a hearing date is set. The hearing will rarely be less than a year after the appeal was first launched, sometimes considerably longer.

Even when the parties get to the appeal, there is no guarantee that a ruling is within sight. According to WSIAT statistics, 16% of the cases

they hear have no decision rendered for at least 120 days after the hearing. Now, that means 84% are decided within those four months; but even in those cases, from start to finish, the appeal is taking up to two years from the day someone first said "I object".



Mandatory Retirement and the WSIB

The provincial government has passed legislation to change the mandatory retirement laws. Effective December 12, 2006, mandatory retirement will be illegal in Ontario.

The government's announcement when the legislation was passed stated the purpose was to give choice to Ontarians in recognition of the fact that many of us are staying healthy to a more advanced age and may want to continue in the workforce. It was noted the Ontario Human Rights Code will be amended accordingly to protect those over age 65.

But not the Workplace Safety and Insurance Act. Employers covered by the WSIB will know long-term loss of earnings (LOE) benefits are payable only to age 65 and workers who sustain injury after attaining at least the age of 63 have limited access to

benefits. The changes to the retirement laws will have absolutely no impact on workers' compensation. As envisaged by the government, the status quo will be maintained with respect to the Workplace Safety and Insurance Act. In other words, LOE will still end at age 65 regardless of any changes in the retirement laws.

At least that's the way they have it planned. But it must be clear that this will not stand. It seems obvious that this will result in age discrimination complaints under the Canadian Charter of Rights and will not withstand the first appeal against it. But if the government does have to alter the workers' compensation legislation, it will be interesting to see how they'll do it ... and how much it will cost employers.

New rules

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statement') to show you what to expect from these changes. But their simulations are highly suspect. For NEER, they use your 2002 accident history to show how charges would be different under the amended formula, but they do not factor in changes to their own future cost reserve tables. We have seen through our own analysis that the WSIB's numbers do not bear much resemblance to how the changes will really affect your business. Under NEER, the full impact of the changes won't be felt until September 2009 but in 2006 you will begin to see the dramatic difference this will make to your bottom line ... and you won't like it.

"The important thing is not to stop questioning. Curiosity has its own reason for existing."

Albert Einstein (1879-1955)



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