



August 7, 2009

Karen O'Brien  
Partner  
Deloitte & Touche LLP  
900 – 2103 11<sup>th</sup> Avenue  
Regina, SK S4P 3Z8

Dear Ms. O'Brien:

Please accept this letter as our response to your letter of July 24, 2009 in which you asked us to comment on the Workers' Compensation Board's Claims Administration and Service Review.

As indicated to you in our letter of July 27, 2009 we must repeat that while we value the need for some rapid movement in conducting reviews or commissions, the three week turn around in consulting with our affiliates and preparing a proper response is quite limited. It inhibits and restricts our ability to seek feedback from our thirty-seven affiliates and the other interested parties we consult with on compensation issues. The time restrictions are anti-democratic to the workings of our Federation.

We also ask, once again, what other labour organizations (or businesses) have been asked to comment on this Administration and Services review? Have injured workers been consulted? How was this achieved?

Over the past decade, there have been two WCB Committees of Review conducted in Saskatchewan. The last review presented the government with a consensus report from business and labour (some of these recommendations have never been acted on). Why the need for another review at this time, when another Committee of Review is scheduled for next year?

Before addressing your inquiries, it should be stated that the SFL office has limited direct contact with the WCB claims officers or claimants. If someone with a WCB problem appears at our office, we listen and, if unionized, we direct him/her to their union. If not unionized, we try to guide the worker forward or even find someone to assist them. We often feel the frustration of those who are experiencing difficulties with the Saskatchewan WCB system.

We hear about problems and witness some of them first hand, but we don't face these problems ourselves on a daily basis.

It is important for us to emphasize the priority we must place on Occupational Health and Safety training and education for all workers. This should be started upon employment and be continued through until retirement. Fewer injuries results in less pain and suffering, and will ease the strain on our compensation system.

While all efforts, to date, are appreciated, there is much more to do. Recent statistics show that our injury rate was the second highest in Canada, and that Canada had one of the worst records of industrialized countries.

We are prepared to continue to work to reduce workplace injuries and deaths.

To Comment:

**1. *What are your overall expectations of the SWCB? Do you feel they are being met?***

We expect the SWCB to ensure that workers who are injured in the course of their employment be provided for while recovering or in case they cannot return to work. The family of a worker killed should also be provided for in a fair and decent fashion, with compassion. A victim must not be further victimized!

We support the principles put forward in the early 1910's by the Chief Justice of Ontario, Sir James Meredith, in his report to the Royal Commission of Inquiry into a better means of compensating injured workers.

He made the following practical and brilliant decisions:

- No fault compensation, so that workers are not required to prove someone is to blame for their injuries in order to obtain benefits.
- Security of benefits guaranteed by a dedicated fund that provides for all future costs of injuries.
- Collective employer liability so that costs are shared through compulsory mutual insurance wholly paid by employers.
- An independent Board representing workers and employers, deciding claims and collecting assessments entirely autonomous from government control.
- Exclusive jurisdiction, protecting against the cost, delay and uncertainty of litigation by making Board decisions final and conclusive.

We expect that the Workers' Compensation Board must accept Workers' Compensation Board claims without delays and undue challenges. The Workers' Compensation Board scrutinizes and denies too many claims unnecessarily and without proper rationale. We believe the Workers' Compensation Board focuses on minimizing the cost of claims when the focus should be on providing income for injured workers and supporting their safe return to work.

Overall we have to believe that the majority of claims are handled in an efficient, proper and timely fashion. A worker is injured, rests, heals, or is rehabilitated and returns to work as a productive citizen. However, over the years, even though we deal with only a modest number of claims, we have seen or heard of many examples where injured workers suffered further from the actions of the SWCB.

Worthy claims have been denied, doctors advice/orders ignored by WCB. Delays in accepting claims have ruined lives and families. Educational opportunities lost for children whose family income has disappeared (a claim reversal four to five years later doesn't help when your life has been altered). Deeming continues to exist despite numerous past announcements of its demise. All such instances can be documented time and again.

The recurring claims/complaints we hear come from workers whose claims are denied, appeals bogged down and finances short. The onus to prove injury seems to be on the workers and even physician support doesn't help sometimes. Physiotherapists often appear to out rank family doctors or specialists, acting as gatekeepers to the compensation system. Once a decision is made to deny a claim, support from within appears and barriers are built. Such decisions are difficult to reverse.

Again, in the cases we see, communication appears to be a problem – both ways. Injured workers seem to hear one response, only to have it changed soon thereafter. In some instances, medical reviews were booked, only to have them cancelled at the last minute.

Recently, we have been hearing of more and more cases where injured workers who are heavily medicated (paid for by WCB), are deemed employable and forced back to work where they are a danger to themselves and others. Doctors have disagreed with this practice, yet appear to be ignored. We don't feel SWCB is practicing due diligence in such instances. We have written and still await a response to our concerns.

## ***2. What are your overall perceptions of service delivery? What drives these perceptions?***

A common complaint that we hear from workers is that there are too many changes in the Workers' Compensation Board staff assigned on the injured worker's file. Workers' Compensation Board staff should provide more explanations of the processes involved in a claim and offer support to the injured worker. The injured worker is treated like a number and little time or consideration is given to the situation that the injured worker is experiencing.

## ***3. How well does the Workers' Compensation Board perform in the following areas:***

### ***(a) Consistency of service across areas of activity, and over time?***

Additional notes on the injured worker's file would facilitate better communication between service areas and a greater understanding of the injured worker's situation to reduce frustration for the injured worker in repeating their situation over and over to various SWCB employees.

### ***(b) Providing you with access to information***

Trying to find a policy on the website can be difficult. Extrapolating statistics regarding Workers' Compensation Board injuries by specific groups within an industry and by the specific injury is very difficult.

### ***(c) Timeliness of communication***

Appeals Committee decisions are often delayed.

### ***(d) Effectiveness of communication***

Communication could more clearly outline the decisions and or directions and the rationale.

### ***(e) Professionalism in service delivery verbal and written***

Occasionally, Workers' Compensation Board staff can be abrupt and challenging in their discussions with injured workers. In some cases, referrals to the Fairness Officer has assisted in resolving these situations.

### ***(f) Knowledgeable staff***

The staff are knowledgeable about the processes, but do not appear to be directed to focus on the well being of the injured worker. Instead the focus seems to be a strict adherence to the goal of reducing any costs to the Workers' Compensation Board system.

### ***(g) Fairness in decision making***

There is consistent denial of certain claims *i.e.* stress claims. They are denied without due rationale or adjudication of the claim.

Numerous claims are denied on the premise of "degeneration" of the specific injured area, without due rationale.

### ***(h) Helpfulness***

Workers' Compensation Board operates in a very strict professional manner and offers minimal assistance. It appears that they have been directed to deal with the injured worker as quickly and minimally as possible to save time and money for Workers' Compensation Board.

## ***4. What are examples of high quality service?***

When a claim is accepted, first payments are issued in a timely fashion with few errors.

## ***5. What are examples where services could be improved?***

Service could be improved by:

- Treating injured workers with more respect.
- Listening to injured workers and offering support and understanding.
- Taking more time to talk to the injured worker.

- Workers' Compensation Board staff not treating the injured worker as someone who is manipulating the system and seeking Workers' Compensation Board income without due cause.
- Consistency of Workers' Compensation Board staff who are working on the injured worker's file as much as possible.
- Workers' Compensation Board staff who have been reported for unprofessional behaviour to injured workers continue to exhibit such behaviours despite being reported. Some are promoted. Workers' Compensation Board staff should be encouraged and expected to treat injured workers professionally at all times.
- Workers' Compensation Board staff should be extensively trained in handling injured workers who are frustrated and/or angry or stressed. Training would allow the Workers' Compensation Board staff representative to not respond to anger with anger and to calm the injured worker.
- Workers' Compensation Board staff should be directed to operate on the premise of assisting an injured worker instead of focusing on minimizing the costs for the Workers' Compensation Board.
- The Fairness Practice Officer involvement should be more readily accepted and his suggestions followed.

### **Injured Workers**

In preparing this response we talked to a number of individuals including some injured workers. For your information I am attaching a response to your questions from Thomas Brown. He is an injured worker as well as an advocate for injured workers.

Thank you for asking our opinions. If you wish to meet and discuss WCB matters further our WCB Committee would be pleased to do so.

Sincerely,



Larry Hubich  
President

cc SFL - WCB Committee

*DA/ka cupe 4828*

*Abel/Committees/WorkersComp/Deloitte – WCB Review (Aug 2009)*

Thomas Brown

July 31<sup>st</sup>, 2009

Don Anderson - Executive Assistant  
Saskatchewan Federation of Labour  
220 - 2445 13<sup>th</sup> Avenue  
Regina, SK. S4P 0W1

Dear Mr. Anderson:

**Re: Administrative and Service Review  
Saskatchewan Workers' Compensation Board (SWCB)**

Thank you for the opportunity to comment on questions posed to the Saskatchewan Federation of Labour regarding the above.

Between Jim Taphorn and myself is some 15 years of advocating on behalf of Saskatchewan injured workers. Over the years we have found numerous disturbing trends in which the SWCB handle work injury claims. The following comments are based on our findings.

**Question 1: What are your overall expectations of the SWCB? Do you feel they are being met?**

Our overall expectation is one of fair and reasonable treatment of injured workers and their families. As indicated in the responses that follow, this expectation has not been met.

**Question 2: What are your overall perceptions of service delivery? What drives these perceptions?**

It is our overall perception that the SWCB has a 2-tier standard for claim acceptance. Claims involving minor injuries with short-term loss of earnings are readily accepted. However, the acceptance of claims involving serious injuries with long-term loss of earnings is significantly lower. We have consistently found such claims are inappropriately scrutinized, leading to months, even years of adjudication. Far too often injured workers and their families receive no SWCB assistance during this adjudication process.

**Question 3: How well does the SWCB perform in the following areas:**

**Consistency of service across areas of activity, and over time**

The SWCB have 2 regions, with a total of 7 districts within those regions. Aside from the standard practices noted elsewhere in this questionnaire, we have found significant differences in the services some districts offer. Whether these inconsistencies are intentional or coincidental is hard to say. They nevertheless present considerable challenges to us as advocates.

**Providing you with access to information**

Without an appealable issue the SWCB will not provide file information to injured workers, or their representatives. Despite that the Saskatchewan Privacy Commissioner has formally reprimanded the SWCB regarding this practice, it currently stands firm on this prerequisite.

In the event an injured worker or their representative meets the above criterion, a common complaint is the exclusion of key information from the file copies they receive. In instances where nondisclosure is detected, SWCB personnel are quick to excuse this as a clerical error. It is our position that firm directives are needed to ensure workers/representatives have complete access to file information.

**Timeliness of communication**

As advocates we hear countless complaints from injured workers regarding unreturned phone calls, and unanswered correspondence. We ourselves have complaints in this respect, and often find it necessary to contact upper management or the Fair Practices Office at SWCB.

**Effectiveness of communication**

Where telephone communication is involved, SWCB personnel routinely file memorandums regarding such conversations. Upon receipt of their file information, injured workers consistently find these memorandum bear little or no resemblance to actual conversations.

With respects to written communication from SWCB personnel, injured workers are often left confused, and despondent. Such correspondence can be very technical in nature, containing various policies and procedures, medical terminology, and recommended

**Re: Administrative and Service Review  
Saskatchewan Workers' Compensation Board (SWCB)  
Page 3 of 4**

modes of treatment. Far too often the recommended treatment is contrary to that prescribed by the worker's physicians.

Such correspondence can also be threatening; suggesting non-compliance with SWCB recommendations will result in a suspension of benefits. We find such ultimatums show little regard for the emotional state of injured workers, which quite often is already compromised by their physical state.

**Professionalism in service delivery (both verbal and written)**

We have consistently found that SWCB personnel prefer to communicate by phone. Injured workers we consult routinely complain of varying degrees of verbal abuse by SWCB staff. These complaints range anywhere from cynicism, to undermining the worker's injury and/or disability. As one might expect, the file memorandums regarding these conversations do not reflect this abuse.

**Knowledgeable staff**

SWCB personnel are undeniably knowledgeable where policies and procedures are concerned. However, we consistently find that policies/procedures intended to assist injured workers are not appropriately applied.

**Fairness in decision-making**

Over the years we have found little by way of fairness in decision-making by SWCB personnel. We firmly maintain that decisions are based primarily on the cost of an injury claim, as opposed to what is fair to injured workers. The degree to which SWCB personnel scrutinize, and manipulate the information of costly claims, is more than sufficient proof of this.

Of all the information scrutinized and/or manipulated, medical reports are the primary focus. The SWCB has its own medical personnel, and these physicians are regularly called upon to refute the reports of an injured worker's physician. The only information considered by SWCB physicians is that provided by SWCB personnel, and this is consistently proven to be incomplete. Regardless of this fact, injury claims are routinely denied based on the reports of SWCB physicians.

Other information routinely manipulated by SWCB personnel, is that of appeal information provided by injured workers, or their representatives. It is a little known fact that when injured workers/representatives file an appeal, SWCB personnel reword these appeals into summary documents. In turn these summary documents are presented to the Appeals Department (or Members of the Board) for decision. Ultimately the decisions



**Re: Administrative and Service Review  
Saskatchewan Workers' Compensation Board (SWCB)  
Page 4 of 4**

rendered are based on the summary information of SWCB personnel, rather than the appeal information submitted by injured workers/representatives. To add to this injustice, under no circumstances will the SWCB disclose this summary information to injured workers or their representatives.

While there are many other examples of unfair decision-making by SWCB personnel, we conclude that the aforementioned are among the more significant.

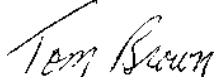
### **Helpfulness**

We find that the level of help offered by SWCB personnel depends primarily on the extent of a worker's injury. Again, minor injuries with short-term loss of earnings are readily accepted, and these injured workers are rarely given reason to complain about the help they receive. It is quite the opposite however where serious injuries with long-term loss of earnings are concerned. Injured workers in these situations consistently find SWCB personnel to be more a hindrance, than helpful.

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On behalf of Jim Taphorn and myself, we once again thank the Saskatchewan Federation of Labour for the opportunity to comment on these issues. If you have any questions at all regarding the aforementioned information, please do not hesitate to contact me at [REDACTED].

Best regards,



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Thomas Brown  
Injured Worker/Advocate

Cc: Jim Taphorn