

Good advice from the WSIB is not necessarily always good advice for your company!

- Understanding the financial impact to your experience rating when making return-to-work decisions.
- We discuss why December 15th is important for “NEER” companies.

When your company has a workplace accident both your company and the WSIB have the same goal: to return the injured worker into a modified work assignment which will allow them to return to their pre-accident job.

Your company will ask a question that the WSIB will not be able to answer: What is the true cost of this workplace accident, and will placing this worker into a modified work program save my company money?

All companies that pay WSIB premiums are **experience rated**, which means their base contributions are affected by their own performance. In Ontario there are three experience rating systems:

MAP: for all employers, regardless of industry, with annual average premium of less than \$25,000. Premium rate contributions increase or decrease based upon the number and severity of accidents.

CAD-7: for all construction companies that contribute in the “700” series rate groups.

NEER: all other companies.

One of the interesting quirks of **experience rating** is that it protects companies with poor accident performance more than it rewards companies that are accident free.

In NEER:

- If your **Maximum Rebate** is \$25,000
- Then your **Maximum Surcharge** is \$75,000.

In CAD-7:

- If your **Maximum Rebate** is \$25,000
- Then your **Maximum Surcharge** is \$100,000.

the amount of accident cost paid on your behalf by the WSIB.

NEER and CAD-7 both work on the same principle: based upon your premium contributions you have a predetermined best potential (maximum) rebate and worst potential (maximum) surcharge.

When we review our clients experience rating statements, we often see companies that would have incurred surcharges 5 to 10 times greater than their maximum surcharge if not for the limited liability of their experience rating.

The focus of this newsletter will be for NEER and CAD-7 as they represent far greater financial risk.

Contributing to the WSIB mitigates two significant Risk Management problems:

- 1) Injured workers cannot sue your company if they accept WSIB Loss of Earnings benefits
- 2) NEER and CAD-7 are limited liability programs. There is a maximum surcharge your company can pay regardless of

So what does this all mean?

The WSIB generally does not train its adjudicators to understand experience rating. Their purpose is to make decisions strictly on the merits of each claim. Therefore the advice you receive is limited to your responsibility to provide modified work to your employees when necessary.

The WSIB are working very hard at reducing their costs so that they can begin the work of decreasing the unfunded liability. This

means a greater emphasis on Return to Work, which means more effort will be made by the WSIB to get injured workers into modified work assignments as soon as possible.

This however does not mean that the Board has taken into account the financial impact of the advice they have provided to your company, the financial impact of a workplace injury is left to the employer to determine.

Please note that we are not

advising your company to stop participating in Return to Work programs. In fact, we endorse this practice as a significant cost saving measure: Accident Prevention and Modified Work programs save your company money! Reducing claim duration reduces all costs of WSIB claims.

Get All the Facts!

When working with a third party WSIB consultant or legal services provider such as a Lawyer

or Paralegal, the question employers need to ask is: “What is the financial impact to my NEER or CAD-7 experience rating with all of my options regarding this claim?”

Before making your decision to proceed, it is important to have the knowledge that the advice you receive from your service provider considers both policy and how your decision will affect in particular, your current experience rating situation.

New Rate Group for construction: 755

Recently the WSIB announced that Owners and Executive Officers would for the first time have to contribute to the premiums their companies pay to the WSIB.

This caused great concern throughout the construction industry as most Executive Officers earn more than the maximum WSIB insurable earnings (\$83,200 for 2012). For a Roofing contractor this would have meant more than \$12,000 in additional premiums for each

executive officer who was previously exempt.

The new rate group 755 is for **Non-Exempt Partners and Executive Officers in Construction.** The premium contribution for this rate group is **\$0.21 per \$100 in earnings.**

This means (assuming a salary at or in excess of \$83,200) that the premium contribution will be \$174.72 per executive officer.

It is hoped by adding this new rate group that many com-

panies that participate in the underground economy will begin to contribute premiums to the WSIB.

This change in premium reporting falls in line with the WSIB’s efforts to increase revenue as a means to reduce the unfunded liability. Further to that, the WSIB has increased the annual premium contribution by an average of 2.5% across all rate groups.



Follow us on Twitter @SEGAWorkersComp

Why is December 15, 2012 important for NEER companies?

One of the peculiarities of NEER is that claims increase in cost while they are “open” (the worker is receiving Loss of Earnings Benefits) and decrease in costs once the claim is “closed” (the worker is no longer receiving Loss of Earning Benefits).

All claims remain open (or active) during the year of the accident and are not closed until December 31 of that year. Therefore an injured worker can be back to full duties but still have an **open claim. If claims are closed before the end of the year the money held in reserve will fall drastically in the following year.**

The WSIB reserves funds when claims are open (also known as PFC or Projected Future Costs) and over time de-

creases the money held in reserve for closed claims.

This will be most noticeable if you compare the PFC for each “active” 2012 claim on your De-

Failure to act properly concerning closing current year active files results in a one year interest free loan to the WSIB. The surcharge paid in 2013 creates a rebate in 2014.

cember 31, 2012 against the same “inactive” claim on your March 31, 2013 NEER statements.

However if a company rolls over a 2012 claim into 2013, meaning the claim remains active, the PFC will continue to rise. This will have a direct impact on your NEER costs and will likely turn an expected rebate into a large unexpected sur-

charge.

It is very important to get every injured worker into a modified work program and **pay their full days wages**, even if they are only working partial days, by **December 15, 2012** for the WSIB to consider a claim inactive by December 31, 2012.

Where this becomes tricky is for accidents that occur in late November or December for companies that traditionally have a lay-off for the Christmas break. Once the injured worker receives loss of earning benefits in January 2013 (including the statutory holiday on New Year’s Day) the claim will remain open for all of 2013 and this loss will not be recouped until the issuance of the September 30, 2014 NEER statements.



Follow us on Twitter @SEGAWorkersComp

Laying off workers who are participating in a Modified Work assignment

Many employers experience fluctuating employee levels throughout the course of the year due to the nature of their business activity.

If the company lays off a worker who is participating in a modified assignment but can **not** demonstrate to the WSIB that this worker is otherwise employable at a similar wage rate the WSIB will reinstate that claim and begin paying the worker Loss of Earnings Benefits. **This is particularly costly (for NEER companies) if the worker was injured in a previous year.**

There are the many factors that will allow the injured worker's claim to be reinstated by the WSIB:

Common questions in these situations often include:

- Is the accommodation to the injured worker minor in na-

ture compared to their pre-accident duties?

- Is the worker receiving all of their wages from the employer and not receiving any loss of earnings "wage top-ups" from the WSIB?

NOTE: SE-GA has a separate newsletter for Construction companies that are affected by **Seasonal Layoffs**. It is available at <http://www.segaconsulting.com/newsletters/>

- Has the employer moved the injured worker into a lower paying position and the WSIB is paying the difference between the pre and post accident wage rates?
- Is the date of accident is not very close to the date of the layoff notice?
- Is the worker employable, albeit somewhere else, at similar wages?

- Is there a recall date at the end of the layoff period?
- Is the worker aware that the job was seasonal in nature?

To ensure that the injured worker is not reinstated by the WSIB but instead receives Employment Insurance benefits it is imperative that the employer demonstrate that the worker is completing the bulk of their pre-accident duties and that they are not at a disadvantage when seeking alternative employment during the layoff period.

The information contained in this newsletter is general in nature and every workplace injury and experience rating costs are specific to each individual company. Call SE-GA Consulting at **1-866-973-7342 ext. 3** to discuss your WSIB concerns.

