

**The September NEER and October CAD-7 deadlines are fast approaching. There is still time to improve your pending 2012 rebate or decrease your surcharge by gaining cost relief against your costly 2008 through 2011 claims. However, the days are ticking away! Don't miss out on reviewing the final year of your 2008 claims to identify all the cost saving opportunities before it's too late.**

**SE-GA can provide your management team with NEER and CAD-7 training as well as a projection of your pending NEER or CAD-7 Rebate (or Surcharge). Please contact us to inquire.**

In this issue we provide examples of relevant Case studies involving employers who were initially facing significant surcharges and reduced rebates but through the use of the loss mitigation tools available were able to reverse their results into successful outcomes:

**1. CAD-7:** A construction employer is denied cost relief and

wins at the tribunal.

**2. NEER:** A transportation employer has cost relief granted, then taken away, then finally returned.

**3. NEER:** An employer's claims management success story using modified work as a tool!

**4. CAD-7:** "Third time's a charm!" SE-GA helps our client with a Re-

currence issue as the third employer rep and eliminates a costly CAD-7 frequency.

**5. NEER:** Cost relief granted outside the NEER window **10 years later** and employer receives a retroactive adjustment!

**6. Arthurs WSIB Funding review** forthcoming.

## **1. Construction Employer has Cost Relief denied — until SE-GA wins at the Tribunal!**

A worker was injured during a fall when he was working in a company vehicle. In order to brace his fall the worker extended his left arm and as a result, was diagnosed with rotator cuff tenderness. Further examinations revealed the worker also suffered from severe AC joint arthritis and an acrimonious hook. As a result of his injuries,

the worker was awarded a Non-Economic Loss (NEL) of 11%.

SE-GA applied for Second Injury Enhancement Fund (SIEF) cost relief on behalf of our client. We were denied, at both the operating level (the SIEF team) and by the Appeals Resolution officer on the basis of the Senior unit medical advisor

(UMA) reviewed the file and indicated that there was no evidence of a pre-existing condition.

At the Tribunal hearing, based upon the evidence that had already been presented, it was concluded that worker suffered from a degenerative disease in his injured shoulder. The

worker had undergone an MRI examination that revealed this condition and that this information was known by the WSIB's medical officer. Ultimately the Tribunal was persuaded to disagree with the WSIB's medical and policy arguments.

Accordingly, our client was awarded 50% SIEF cost Relief against all costs associated with this claim.

SE-GA followed this process from initial submission through to this Tribunal decision. Our

success for our client was based upon properly submitting both medical and policy arguments as to why our client was entitled to cost relief.

## **2. Transportation Employer: Cost Relief taken away — and Returned!**

Our client applied for cost relief due to an incident where they felt the worker's injuries were enhanced by his pre-existing hernia. The initial Case Manager determined that the worker had a moderate pre-existing condition and was involved in an accident that was determined to be of moderate severity. The company was granted 50% cost relief.

SE-GA discovered that this decision was never applied accordingly to their NEER costs, and was an unapplied credit. This means the company was **granted** cost relief by the WSIB but that the cost relief was never **applied** to their NEER statement.

When SE-GA applied to have the cost relief applied, the SIEF

Case Manager reviewed the file and determined that the worker's pre-existing condition was minor and that the accident severity was major. As a result of this review, the level cost relief was reduced from 50% to 0%.

SE-GA appealed the decision by ***“The Appeals Resolution officer reviewed all of the information and restored the initial decision...”***

the SIEF Case Manager. Our argument was that worker had a predisposition which required surgery as a result of the workplace accident, but that surgery was delayed as a result of two pre-existing conditions.

The Appeals Resolution officer

reviewed all of the submitted information and restored the initial decision that this case was “moderate-moderate”. Accordingly, the 50% cost relief was restored.

The advent of the SIEF team has created an “appeal chill” as the threat exists that cost relief can be taken away if there is an appeal of their decision. This is what occurred with this case and SE-GA used the appeal process to the benefit of our client.

If your company has a claim where you have wanted to appeal for greater cost relief, and were told that cost relief you were granted could be reduced or taken away, contact SE-GA to handle your appeal.

### 3. Transportation: Claims Management Works!

SE-GA began a client relationship in the fall of 2011 with a large trucking company. This company was having great difficulty in providing modified work to their injured workers, as they felt they did not have the capacity to accommodate unless the injured worker could return to their pre-accident duty.

At the time our relationship began, the client had a worker who had been away from work for almost six months due to their workplace injury. SE-GA began the ESRTW process by providing the injured worker a formal offer of light duties that were suitable to their restrictions and in addition, the work

would be of value to our client. The WSIB agreed the worker could perform these duties however prior to start date of the modified work assignment the worker chose to resign from the company and would seek employment elsewhere.

*“Since we were able to conclude this issue before the end of 2011, our client is now expecting a significant rebate this September.”*

In this instance our client was facing the maximum WSIB surcharge for their 2011 NEER due to the excess costs associated with this claim. Since we were able to conclude this issue before the end of

2011, our client is now expecting a significant rebate this September.

We wish to reiterate that it is not enough to have a return to work policy. As we illustrated in our past newsletters, every Ontario company needs a formalised return to work program and must make a reasonable effort to accommodate every workplace injury in order to reduce lost time claims and NEER costs. This is best practise of offering modified work as soon as possible and is even more imperative for construction employers as the frequency component under the CAD-7 experience rating system appears to be more punitive each year.

### 4. SE-GA secures a RECURRENCE for a CAD-7 client as the third employer representative!

The WSIB can grant a recurrence, which means consolidating the costs of two separate incidents for the same worker into the original claim, when there is a clinical compatibility and continuity between the original injury (or disease) and the second incident.

This is of particular importance to construction companies as the

CAD-7 experience rating formula penalizes employers for both claim costs and frequencies.

Our client had applied for the recurrence, as had two other WSIB professionals and was denied.

SE-GA was able to prove the compatibility of the injuries through an examination of the

MRI from the worker’s 2008 initial injury and a second MRI associated with the 2009 recurrence.

As a result, all costs and frequencies associated with this claim were transferred to the original claim number. This is of even greater significance to our client as the original injury occurred with another employer.



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## 5. Cost Relief granted outside the NEER window 10 years later along with a retroactive adjustment!

Our client had a claim that met all of the criteria for cost relief except one: the accident occurred in 2002.

SE-GA, using specific WSIB policies and precedents, requested cost relief for this claim, even though the cost relief would have no impact on their current experience rating position.

Accordingly, we requested that the client be directly compensated

for the cost relief in regards to their previous experience positions. As a result of our tenacity and extensive efforts, our client received a cheque from the WSIB which greatly exceeded their expectations!

*“...our client received a cheque from the WSIB...”*

On contingency SE-GA will review your entire WSIB claims cost history (NEER and CAD-7) includ-

ing claims that are outside of the current experience rating window.

Please note that we are only compensated on our results and not until you receive your actual savings from the WSIB. Our time tested approach has provided a variety of employers across Canada with savings inside and outside their current experience rating position.

## 6. WSIB Funding review forthcoming

Over the last few years the WSIB’s unfunded liability has been a great concern and as such, the government appointed Professor Arthurs—a former dean of Osgoode Hall Law School—to conduct an independent review into the Board’s financial circumstances.

Since last year, Professor

Arthurs has undertaken a detailed study into employer rate groups, employer incentives/experience rating, the funding of occupational disease claims, and indexation for partially disabled injured workers.

Accordingly, he has conducted extensive consultation with all applicable stakeholders and his recommendations are expected to be

presented in the coming weeks. As we all know and expect, there will be significant decisions to be made about the sustainability of the Ontario workplace safety and insurance system. As always, we will endeavour to provide this information along with any relevant commentary as soon as it released.

