

## Is my company getting a **REBATE** or a **SURCHARGE** this year?

### What does your March NEER Statement tell you?

Most companies will have received their March 2013 NEER statements by the time you receive our spring newsletter. So the question remains: what can I learn from this NEER statement?

1. Any claims that remain active (the injured worker drew loss of earnings benefits into 2013) will have very high **Future Projected Costs**. To identify these claims, look for claim codes with odd numbers.

**Sometimes this is the result of a late year accident; often it is an indicator of deficiencies in your Return to Work program.**

If your company has a “trailing” claim, it is very likely your company will be facing a 2013 NEER surcharge.

2. The WSIB reduced the **Expected Cost Factor** substantially in both 2011 and 2012. This means your allowable accident costs to receive a rebate is much lower than it was in 2010.

This places much greater emphasis on your Accident Prevention and Return to Work Programs.

3. Your 2013 experience rating position (are you getting a rebate or a surcharge?) can be estimated with a comparison between your September 2012 and March 2013 NEER statements.

Ask SE-GA if you would like to know what to expect with your September NEER.

## Coming Soon: **SE-GA's NEER Calculator**

SE-GA is developing an on-line NEER calculator so that companies can input their claims information to monitor their NEER positioning throughout the year without waiting for the quarterly NEER statement.

This will allow companies to accurately estimate the following:

- The economic value of prevention and Return to Work programs

- Compare the cost of active claims versus inactive claims
- See year-to-year changes in NEER costs; and
- Project your current year experience rating results

We anticipate the NEER calculator will be available to our clients in July—stay tuned!

## **Case Study: the benefits SE-GA brings to our clients**

In early 2011, SE-GA began providing WSIB management services to an Ontario busing company. This company had offered coach services as well operating the busing services for a large municipality. They also operate a large bus/large vehicle maintenance service operation. The municipal services contract ended in 2010 and the company's workforce was reduced by 50% at the end of 2010.

Our client had previously worked with a large national WSIB/WCB consulting practice for claims management and cost recovery opportunities. They felt their needs had changed with the smaller company and were very interested in our cost recovery capabilities

The company had two claims that were of particular concern. The first involved a driver that had been struck by a commercial vehicle while the driver was away from their vehicle. The driver of the other vehicle had been charged under the Highway Traffic Act for unsafe operation of a vehicle, but the WSIB held our client 100% liable for the cost of the WSIB claims.

The other WSIB advocacy supplier had applied but was unsuccessful in their application for a *transfer of costs* of this claim to the third-party employer. SE-GA immediately appealed that decision and was eventually successful in having 50% of the costs removed from our client.

In the case of the second claim, the company incurred a very costly claim in their much smaller services division, but an error by the WSIB caused the claim to be assigned to their much larger driver division. The cost of this error by the WSIB was well in excess of \$10,000.

When we began our work on this file, there were no submissions by the previous service provider. **There was no attempt to reduce the costs of this very costly claim for the client!** SE-GA was able to prove that the claim was misapplied. The net savings was much appreciated by the client.

Many companies have long standing relationships with their WSIB service provider, but that does not mean they are maximizing your savings. Most WSIB service providers have a specific expertise (access to a medical network, return to work, on-site prevention, etc.) but that does not necessarily mean they have a strong understanding of experience rating or the appeals process.



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Here are three questions you should ask your WSIB service provider:

1. How often have you presented to the Workplace Safety and Insurance Appeals Tribunal (WSIAT) on the issue of Cost Relief?
2. Providing advice on any aspect of WSIB matters, including the FORM-7, constitutes legal advice. Will my assigned contact be a paralegal or a lawyer?
3. Gaining Second Injury and Enhancement Fund Cost Relief is the most common way to reduce past WSIB claims costs. Can they demonstrate other methods of savings?

You can visit [www.canlii.org](http://www.canlii.org) to search for decisions by your service provider (by company or by consultant) at the Tribunal.

## **WSIB acknowledges the pre-existing condition: 0% cost relief**

A young woman was hired by an employer and her duties included customer service, sales, and car cleaning. She quickly developed neck and back pain as well as debilitating headaches which she attributed to the repetitiveness of the cleaning duties.

As her condition did not improve over a three month period of physiotherapy, she was sent for an MRI which revealed a Chiari 1 malformation (a compression of the brain stem and spinal cord which interferes with the flow of spinal fluid).

The WSIB performed an examination on the woman at a Regional Evaluation Centre (REC) for an assessment of her injury and her ability to return to work. They had great difficulty in identifying what precautions she could take at work to prevent re-injury or the onset of the headaches. She elected for corrective surgery and was symptom-free shortly thereafter.

The WSIB denied the application at the operating level and by the Appeals Resolution Officer (ARO), for cost relief on this claim as they noted her absence from work was within the expected time limits for a next strain.

Our argument centred not on **a prolonged absence from work, but on an enhanced degree of injury as a result of the pre-existing condition**. SE-GA asked for 75% cost relief *citing multiple tribunal decisions* and the independent supplemental medical information. The Vice-Chair agreed and noted that all treatment information in the file cited the worker's pre-existing condition versus the effects of the compensable strain. Our client was awarded 75% cost relief.

There are several lessons to be learned from this appeal:

- The Vice-Chair made their decision with same evidence that was before the lower levels of the WSIB
- The impact of the pre-existing condition was not disputed
- Our appeal used Tribunal precedent to our client's benefit

Your company should always file an intention to object to any decision for cost relief that has been denied at the operating level or by the ARO. Much of the success SE-GA has for our clients comes from files where the initial application for cost relief by the employer has been denied. In some cases, the employer has received a SIEF award but our appeal has resulted in a significant increase in the amount of cost relief.

## **CAD-7: It's all about Lost Time Claims**

A company is charged a lost time claim when an worker misses 8 days of work (the days do not have to be consecutive) due to their workplace injury.

The cost of a lost time claim is \$16,000 a year for two years, or **\$32,000!**

The best way to avoid a lost time claim is to have an inventory of Modified Work jobs that can be applied to any workplace injury.

Ask SE-GA if your company need help to create the framework to keep your injured workers on your payroll

- Avoid Lost Time Claims
- Increase Productivity
- Avoid CAD-7 Surcharges

## **Coming Soon: Understanding Your NEER and CAD-7 Seminars**

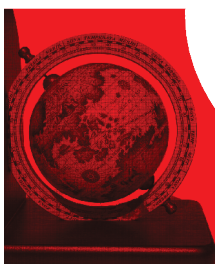
Starting in fall 2013, SE-GA will be hosting seminars throughout Ontario on “Understanding Your NEER and CAD-7 Costs”. If you would like further information, please contact us at [info@segaconsulting.com](mailto:info@segaconsulting.com).

These sessions will focus not only on the calculation mechanisms, but will also include:

- Complex Claims Management
- Employer Obligations: What's changed?
- Modified Duties: Short term and permanent
- The Appeals Process

More detailed information and dates will be available in the July edition of the SE-GA *Advisor*.

**As always, everyone's situation is different. The above is not intended to be legal advice for any particular situation and it is always prudent to seek professional legal advice before taking any decisions on one's own case.**



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