

Fall 2021 Newsletter



THE FINANCIAL OPPORTUNITIES OF MANAGING THE END OF NEER & CAD-7

While these experience rating models closed December 31, 2019 there is still opportunity to recover money from your claims.

It is recommended, to show due diligence on the part of the part of the employer, that cost relief appeals be launched before December 31, 2021 in order to maximize the recovery for your company. It is also important to note that the ability to achieve recoveries includes persuading the WSIB's ACTUARIAL SERVICES that the company can prove their due diligence.

For all claims between January 1, 2016 and December 31, 2019 successful cost relief decisions result in a (using a 2018 claim with a successful decision in July 2022 as an example) **may result in a triple win:**

- 1. SE-GA will appeal for a Manual recalculation of your final NEER/CAD-7 evaluation (September 2020 statement)**
- 2. Manual recalculation of your premiums paid from the date of the decision back to January 1, 2020 – 30 months of premium rate reduction**
- 3. Lower premium rate until the end of the 6-year life of the claim – for the remaining 42 months**

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Evidence of the cost relief decision is seen by comparing your prior Claims Detail statement to your current statement and recalculating your Premium Rate Extended with the lowered Weighted Claim Costs - the variable - your SE-GA representative can show you how to read these statements and how to calculate the impact of cost relief/ improved performance

It is recommended (suggested) employers NOT launch internal new cost relief appeals without considerable in-house experience:

- The appeal process - from initial appeal to the Tribunal - will exceed two years, and knowing how to manage this process is as critical to the appeal as the information in the file
- A cost relief appeal is a medical argument - without an Independent File Review from a Doctor (who is familiar with the arguments for cost relief) - it is more than likely your appeal will be denied or the quantum of cost relief will be less than what should be applied to the file
- It is crucial to the success of the appeal to be able to argue the significance of the workplace accident against the measurement of Minor, Moderate and Major
- Being able to call on PRECEDENT and JURISPRUDENCE arguments are also critical to maximizing the quantum of cost relief applied to the appeal

It is strongly recommended companies discuss the benefits of using a third-party supplier, such as SE-GA, and strongly consider this course of action due to the complexity of the appeals process and the pending year-end deadline.

Please contact your SE-GA representative to discuss how to take advantage of this opportunity while maximizing the cost savings available to your company.

2021 EXPERIENCE RATING STATEMENTS COMING SOON

Many of our readers were in the **NEER program** and received their updates from the WSIB quarterly (*CAD-7 only applied to construction companies - and were in the 700 series of rate groups - and received their updated experience rating statements annually*).

As of January 1, 2020 all companies, regardless of size or industry group, are in the in (universal) Rate Framework experience rating model (RFM). This model issues reports annually and your company should receive your updated 2021 reports on or around September 25, 2021.

The program itself and the reports you receive are very different from what you received in the prior program(s):

EXPERIENCE RATING all claims from January 1, 2015 through December 31, 2020 are within the 6-year experience rating window.

NOTE: only the direct costs of the claim - Loss of Earnings, Health Care and any Pensions are charged to your account in RFM.

CLAIMS DETAIL STATEMENT (CDS) this report lists all claims, in chronological order, within the six-year window.

How this report differs from NEER is that all claim costs are charged to the year the WSIB made payment on that claim (in NEER all claim costs were charged to year of the accident).

NOTE: it is important to compare last year's CDS to this year's to see if there any changes to the individual claim costs (either a reduction through cost relief or an increase in the total cost of the claim due to new charges). The report issued in 2020 covered the 2014-2019 claim years.

This report totals the claim costs, by year, to determine your total weighted claim costs for the 2015 - 2020 experience rating window.

PREMIUM RATE EXTENDED STATEMENT (PrExs) compares your 2021 premium rate to your 2022 premium rate based upon cumulative weighted claim costs in the current six-year window (2015-2020) to the prior window (2014-2019).

This complicated formula (contact your SE-GA representative to review your new statements with you upon receipt in late September) tells you premium rate for the coming year.

NOTE: this can be very confusing as there are limits to the amount your premium rate can increase on a year-to-year basis.

The maximum amount your premium rate can increase from 2021 to 2022 is 5%.

While your report may indicate a much larger increase in your premium rate, due to exceptionally high claim costs in 2020, that high amount can only be reached with consistently poor performance on an on-going basis.

The critical part of this formula is your weighted claim costs (found on both the last page of your CDS and in Section D of your PrExs). This is the only part of the formula your company controls.

The Variable, the Fixed and the Math

Your weighted claim cost is the variable: it can be reduced through cost relief and good performance; it increases with high accident costs.

The Fixed element of this equation is your Insurable Earnings and your rate group.

All other components of your premium rate calculation are the math of this equation. It is not critical your company understands the math. What is critical is the driver of change.

The only way to reduce your CURRENT (2022) premium rate is to reduce the existing claim costs from 2015 through 2020.

The only way to reduce your future premium rate is through improved performance.

As your variable shrinks your premium falls; As your variable rises so does your premium rate.

FALL 2021 RATE FRAMEWORK EDUCATION WEBINAR OCTOBER 20TH

Understanding the Rate Framework EDUCATION webinar on the new model and the new statements will be OCTOBER 20th at 10 am. To reserve your seat, please register at <https://segaconsulting.com/seminars/> (limited to 100 virtual chairs). The virtual session is no-charge to all attendees.

PRIVATE SESSIONS are available as well. SE-GA can host a virtual or in-person session with your management team (it is highly recommended FINANCE and OPERATIONS attend) using your statements to explain how the WSIB determined your current premium rate and what to expect as your company moves forward in the model. Please contact your SE-GA representatives to discuss fees, documents and availability.

HELPFUL TIPS for success in the Rate Framework Model

The change from the prior Rebate/Surcharge models was heralded by most employers as the best thing the WSIB could do for their company. Unfortunately, what most companies do not understand is how RFM has created significant downside long-term risk for EVERY COMPANY in ONTARIO as it is more than likely the majority of companies will see their premium rate rise over time from their initial 2020 premium rates.

NOTE: THIS TOPIC WILL BE DISCUSSED AT LENGTH DURING OUR EDUCATION SESSION USING THE CDS AND PrExs TO DEMONSTRATE THE LEGACY AFFECT OF NEW WSIB CLAIM COSTS.

The best way to think about the different models may be that in NEER/CAD-7 claims were unique unto themselves. Think of them as a snapshot.

The purpose of rate framework is to create an amalgam of six-year claim costs. Think of claim costs as a panoramic 360-degree picture that keeps rotating around and around again.

1. **On the Form-7** write everything from the perspective of “According to the worker” this allows you dispute the information in the Form-7 in the future should new information come to light.
2. **Submit an Intent to Object form** for all WSIB decision letters where you do not agree with the Board’s decision. The appeal deadline without an ITO is six-months; with an ITO the appeals window is open in perpetuity.
3. **Respect the seriousness of the accident** as there are accidents where the worker will need to heal before they can begin a modified work assignment
4. **Record keeping is crucial** as the Board is holding random CLAIMS SUPPRESSION AUDITS with significant fines and premium rate recalculations when there is evidence of suppression.
This is especially important as it is more than likely someone else will be responsible for the companies claim files in the future.
5. Your Return-to-Work Management system is crucial to your success in RFM.
 - a. Have a playbook for step-by-step instructions for all claims
 - b. All offers of modified work must be specific to that claim and that worker
 - c. Train your front-line managers of reporting and accident investigation
 - d. **Review your monthly accident costs statements**
 - e. Follow-Up on all active claims regularly
 - f. Keep a contact log for all claims
 - g. **Have an Inventory of Modified Work Jobs based upon type of injury**
 - h. Focus on the worker’s capabilities but within their restrictions

There are some advantages to RFM:

- The old model was focused on short-term claims and created financial penalties – *RFM: serious injury/long-term claims drive premium rate increases*
- Your premium rate is set for the year and should change during the calendar year – the WSIB has given you a budget number for WSIB expenses
 - But there is a significant gap between current and real-time data
 - By the time your company receives your 2021 statements you will have 20 months of claim cost data that can be used to forecast your 2023 premium rate and years into the future as well
- RFM is a rate setting model using *RISK BANDS* in 5% increments. Your company can take on new claim cost without moving up one risk band. However, using this strategy is short-term thinking as not acting quickly on all new claims can have a significant upward pressure on your premium rate overtime.

Case Study: The importance of continuing Appeals

(Key Words: Slip and Fall, Injury in the parking lot at the end of the workday. SIEF requests denied by the Case Manager and the Appeals Branch)

In October 2015 a nurse slipped and fell in the parking lot of the Hospital where she worked. The fall caused injury to her left hand and wrist. While she was able to begin a modified work assignment the day after the injury her level of pain increased and she was not able to perform her duties.

In October 2018, SE-GA on behalf of the employer, requested cost relief and was denied by the case manager on the grounds there was INSUFFICIENT evidence to suggest the injury was enhanced or prolonged by a pre-existing condition. At this time the file had received 0% Cost Relief.

In January 2020 the file was reviewed by the Appeals Branch for SE-GA's appeal for cost relief. The Appeals Resolution Officer determined the incident should be considered MINOR (it should not have caused a debilitating injury) but confirmed the decision that no pre-existing condition played a role in this claim.

In February 2021 SE-GA presented to the Workplace Safety & Insurance Appeals Tribunal, with an Independent File Review from an Orthopedic Surgeon, the worker provided the following evidence:

1. The worker did not fall from a height and was not pushed, was not running nor walking downhill. As such no debilitating injury would be expected from this incident
2. The worker suffered an extended disability and required surgery to alleviate her symptoms
3. The worker had positive ulnar variance which predisposes them to wrist pathology
4. This condition led to a *degenerative change* and a large tear in the *triangular fibrocartilage due to an ulnocarpal abutment*
5. She had to undergo surgical correction including *shortening osteotomy of the ulna to correct the positive ulnar variance to take pressure off the ulnar carpal structures*
6. The initial treating Orthopedist, based on a review of the injured worker's MRI, determined full recovery should occur within 3-4 months of initial consultation. This did not occur.
7. After seeing a second Orthopedist the worker was referred to the WSIB's Hand and Wrist Specialty clinic where arrangements were made for left wrist arthroscopic surgery. The diagnosis was TFCC debridement, ulnar shortening osteotomy of the left forearm and De Quervain's tenosynovitis release.
8. The Vice-Chair agreed with the evidence presented from the Independent File Review and that the pre-existing conditions played a role in not just the onset of the injury but the prolonged recovery as well
9. The conclusion of the appeal is the Vice-Chair determined this worker had a minor workplace accident with a moderate pre-existing condition and awarded the file 75% cost relief

What is critical to this appeal is that all of the medical information was available to the Case Manager and the Appeals Resolution Officer had the same information as the Vice-Chair.

SE-GA had carriage of this file from 2018 to 2021 and the appeal was eventually successful due to diligence by employer, SE-GA's skill set and the findings of the Independent File Review.

The Rate Framework is complicated. Talk to SE-GA so that your company has a better understanding of your risk factors and potential future outcomes.

SE-GA Workplace Consulting P.C. is a legal services firm specializing in WSIB Cost Management for Employers.





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