

2015: Improving Your WSIB Rebate!

As 2014 closes companies have either received their rebate cheques from the WSIB or written cheques to the WSIB to pay for their surcharge.

Every company not only wants to receive a rebate every year but they also want to know how to maximize that rebate. The simple answer is Zero Accidents, immediate placement into modified work if an accident occurs and seeks 100% cost relief on every claim.

The reality is most companies are limited in the resources required to have a complete Health & Safety/Return to Work program. Here are some recommendations to starting your year off:

Health & Safety

It is a great idea to bring an outside set of eyes into your company to review not only your existing Health & Safety program but also its effectiveness:

- Did you establish and meet goals in 2014?
- Do your Supervisors communicate the importance of accident prevention to your workers?
- Did you complete accident investigations in the past? What did you learn and implement from these investigations?

These points get back to a simple question: Do you have a safety culture?

Ultimately your company exists to generate profit. Accidents cost far more than WSIB dollars as they reduce productivity of everyone involved with the accident (the injured worker, the management staff, your finances).

In 2015 make an investment in safety to see a great return on that investment in your company overall.

Claims Management

While accidents themselves are costly, failing to manage those accidents is a very expensive mistake.

Companies are obligated to, and workers are required to participate in, temporary modified work. The WSIB is not an insurance program and your company does not have coverage. If the WSIB provides Loss of Earning benefits to one of your workers they charge your company far more than the costs they incur.

Failure to accommodate an injured worker means your company is writing a blank cheque to the WSIB

Simple Steps to a Return to Work Program:

1. Communicate to your workers their obligations to participate in modified work.
2. Always have current contact information for every employee.
3. Create an inventory of temporary modified work jobs.
4. Be prepared to pay for their transportation.
5. Provide the worker with their normal rate of pay for their workday even if they are only at work for a partial day.
6. Use internal guidelines to monitor the progress of your injured workers back to their normal duties.
7. Add Return to Work opportunities to the responsibilities of your Joint Health & Safety committee.

NEER: Claims with less than week of lost time are relatively inexpensive; claims increase in costs dramatically when the duration of lost time exceeds one week

In this example the WSIB compensates the injured worker \$200/day for loss of earnings:

5 days lost time: \$1,000 direct cost + \$0.00 reserve costs +50% Overhead Cost = \$1,500 Total Claim Costs

6 days lost time: \$1,200 direct costs + \$9,932.28 reserve costs + 50% Overhead Cost = \$16,698.42 in Total Claim Cost*

By allowing this claim to pass the one week of lost time threshold costs increase at a rate of 11.13 to 1 (6 days lost time vs. 5 days lost time)

**this example assumes the claim is active on the NEER statement one year from the date of accident. If the claim is inactive one year from the date of accident the Total Claim Cost falls to \$4041.72. A ratio of 2.7 to 1 (6 days lost time vs. 5 days lost time)*

NOTE: this relates only to the NEER Costs. The actual direct cost to a company is a function of the NEER Rating Factor. Ask SE-GA how this example would impact your company.

CAD-7: Claims with 7 days or less of lost-time do not count as Lost Time Claim against your CAD-7 results. Claims with 8 days or more of lost-time are a Frequency against your CAD-7.

In this example assume (as most construction companies are) that the CAD-7 rating factor is 2.00 – check the box on the bottom left corner of your CAD-7 to find your Rating Factor.

Using \$200/day loss of earnings benefits:

7 days lost time: \$980 in direct cost for two years – every CAD-7 year counts twice = Total Claim Cost of \$1,960

8 days lost time: \$1,120 in direct costs + \$16,000 cost of the frequency = \$17,120/year for 2 years = Total Claim Cost of \$ 34,240 (A ration of 17.47 to 1 for an 8 day lost time claim vs. a 7 day lost time claim)

NOTE: this example uses round numbers that approximates the average cost of a claim. Ask SE-GA how this example would impact your company.

Accidents might be expensive. Assuming your company will be accident-free and operates without a return to work program is very risky proposition.

Forecasting your 2015 NEER or CAD-7 Rebate or Surcharge

Would you like to forecast and plan for your upcoming 2015 NEER or CAD-7 rebate or be able to accrue for your pending surcharge? We can help you determine what your future costs or rebates are going to be, Contact SE-GA at info@segaconsulting.com for more details.

January
2015

Cost Recovery

Using cost relief as part of your overall WSIB strategy is not recommended. If your company is receiving rebates as a result of cost relief is like painting a rotting wall: it masks the problem.

Cost Relief only applies if/or:

- a pre-existing condition increased the likelihood of a debilitating injury from their workplace accident.
- when a pre-existing condition prolonged the worker's recovery from their workplace injury.

In many cases cost relief applies as the result of normal working conditions and an accident has not occurred. The worker's pre-existing ailment resulted in an injury while they were performing their regular duties.

The threshold to prove cost relief should apply is very high and will often result with your request being denied even though the evidence points to such a conclusion.

SE-GA was involved in a Tribunal decision from April 15th 2014 that shows the difficulty companies have seeking the proper channels of the WSIB to reduce their costs because of a pre-existing condition.

A construction worker was using a jackhammer to break through concrete so that a door could be placed into an existing wall. The worker had a history of back problems including a previous WSIB claim for back pain. The worker missed in excess of 2 years of work for treatment for his back.

SE-GA sought cost relief from the case manager during the first year of the claim. The Case Manager denied our request. They agreed that there was evidence of degenerative changes in the worker's low back they had not prolonged the worker's recovery.

SE-GA submitted additional information, including an Independent File Review from an Orthopedic Surgeon and received 50% cost relief from the Appeals Resolution Officer. They concluded the accident and the pre-existing condition were both MODERATE.

Based upon the evidence SE-GA felt the company was entitled to a greater degree of cost relief, appealing to the Workplace Safety and Insurance Appeals Tribunal.

The evidence showed that operating the jackhammer was part of the worker's normal duties and that he had been doing so for 2 hours a day for the previous 2 weeks without repercussions. The Vice-Chair determined the accident should be classified MINOR.

It is interesting to note that even though the worker also suffered from obesity and diabetes, and that these pre-existing conditions negatively impacted his degenerative disc disease, the Vice-Chair did not change the status of the pre-existing condition from MODERATE.

The client was awarded 75% cost relief by the Vice-Chair.

Lessons from this Tribunal decision:

1) Persistence is a Requirement

From the date of the decision from the Case Manager to that of the Vice-Chair more than 30 months had lapsed.

2) Evidence is not enough

The Case Manager had the same information as did the Appeals Resolution Officer and The Vice-Chair. Knowing how to present the evidence (this is particularly true of the Independent File Review medical submission) is just as important as the particulars of the claim/pre-existing conditions.

3) Financial Impact

CAD-7 is calculated on a January to December calendar year basis. This decision was rendered in April of 2014, meaning the benefit of the cost relief will not be realized by this company until they receive their 2015 CAD-7 statement.

As this claim affected three calendar years (2010 – 2012) their CAD-7 2015 and 2016 CAD-7s will benefit significantly from this decision

4) The Severity decision of the WSIB was changed

The Appeals Resolution Officer deemed this accident Moderate, meaning the outcome of the work was expected to cause an injury of some kind. SE-GA presented evidence to show that using the jackhammer was the normal and expected work for this person. Changing this decision directly impacted the savings for this client.

January
2015

In order to gain cost relief a company must not only have knowledge of the worker's pre-existing conditions but (even more importantly) they must also have knowledge of the procedures of the appeals process. If the appeal had stopped with the denial by the case manager this company would not have received the substantial financial reward to which it was entitled.

January
2015

Participation in Appeal by Workers

You are going to have WSIB questions in 2015. In order for SE-GA to answer them we will ask you some questions too. The answer likely depends on a number of factors (existing policies, year to date accident costs to a name a couple). Our goal is to provide the right answer for your company, within your company's objectives.

As discussed in our most recent newsletter 2014 saw a dramatic increase in the number of appeals by workers against WSIB decisions to deny/reinstate Loss of Earnings Benefits.

SE-GA recommends the following:

- Always participate in every appeal
 - Failure to participate in the appeal denies your company the opportunity to refute the argument put forward by your worker.
- The hearing is between the Worker and the WSIB
 - But the outcome of the hearing, positive or negative, has an impact of your WSIB costs.
- Your Worker has Representation, Do You?
 - Understanding how to participate, to present evidence, to refute statements is critical to the outcome of the hearing.
- How will this decision impact my NEER (or CAD-7)?
 - To answer that question please ask SE-GA to review your NEER/CAD-7 statements and study the period when loss of earnings would have been paid to provide an answer

Upcoming Understanding NEER & CAD-7 WSIB Seminars in 2015

- Windsor, Fogolar Furlan Centre, 1800 North Service Road - January 22nd
- Toronto, Holiday Inn, Toronto International Airport - February 26th
- Hamilton - March 5th
- Ottawa, St. Anthony's Banquet Hall, 523 Saint Anthony Street - March 26th
- Cambridge, Holiday Inn, 200 Holiday In Drive - April 25th
- Thunder Bay - TBA

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.



3-1750 The Queensway
Suite # 1287
Toronto, ON M9C 5H5

T: 416-463-SEGA (7342)
F: 647-349-8927
info@segaconsulting.com