

## **Jump Start your WSIB year off on the right foot with 15 Cost Avoidance strategies!**

With the many potential changes being discussed at the WSIB to policies, classification and experience rating, we wish to reiterate to all employers that now is a good time to review your WSIB program. Effective programs that are reviewed on an annual basis provide the Best Practice outcomes for their organizations, since they are updated to not only reflect the current legislation and policies at the Board, but also take into consideration the changes at your organization.

An integral component of an effective claims management program is understanding the financial drivers and the legislative dynamics of each file. As we sometimes say to clients, “You should measure your decision to accommodate and/or mitigate the impact to your experience rating.” SE-GA can help you benchmark your Return to Work program’s effectiveness and help you avoid costly mistakes by helping you fill in the gaps and ensuring your organization is in compliance, and is fully prepared in the event of your next accident.

### **1) WSIB claim costs are much higher than the costs of “unproductive” wages.**

Many employers bemoan the cost of having workers on modified work “doing nothing and getting their full pay.” While there is some truth to that statement, it is the net savings that must be remembered.

A Worker whose normal rate of pay is \$600/week can cost a company as much as ten times more if the WSIB is replacing their lost wages with **loss of earnings** benefits.

The lowest cost solution is to provide suitable accommodation during their recovery period and to find as much as productive labour as possible while they recover.

Paying the full wage rate and “closing” claims, is the best solution to avoiding Surcharges.

### **2) “We can accommodate any restrictions.”**

Many workplaces say they can accommodate most restrictions placed on their injured workers during the recovery period. This implies that there may be restrictions that you may not be able or want to accommodate. This can lead the WSIB to doubt your capabilities and side with the injured worker in the event of a dispute.

Always focus on the worker’s abilities to illustrate your flexibility to the worker and the

WSIB.

### 3) Be aware of the 8 day rule for CAD-7 employers.

CAD-7 frequencies (lost time claims) can cost a construction employer as much as \$32,000 over two years.

A lost time frequency is charged when a worker receives Loss of Earnings benefits for eight or more days. The days do not have to be consecutive. If the employer pays the worker for only part of a work day and the WSIB pays for the remainder of that day, that counts as a lost time day.

Every construction company should be prepared for their “next accident” and have a host of offers of modified work ready before that accident happens.

### 4) WSIB is not Insurance; it's Experience Rating.

It is important to understand the financial impact your company faces under experience rating (NEER and CAD-7).

#### For NEER Employers:

For every dollar you can “win” on your rebate you can “lose” three dollars on your surcharge.

That means if Company X had a potential best rebate of \$100,000 then their potential worst surcharge is \$300,000.

#### For CAD-7 Employers:

If Company Y's best potential rebate is \$100,000 then their worst potential surcharge is \$400,000.

### 5) Know the difference between a Return to Work (RTW) Policy and a Return to Work Program.

A policy is simply a written statement; a program is written processes and procedures. Many companies have a Return to Work **policy**; few have a Return to Work **program**.

Always assume your company will have a significant injury in the future and you will be required to provide a Return to Work accommodation. *Does your RTW tool box have every tool necessary for that job, including a Physical Demands Analysis (PDA) for each?*



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## **6) The Doctor says my injured worker cannot return to work for 4 weeks!**

In Ontario, the doctor's responsibility is to complete the Functional Abilities Form; they cannot say the worker can stay home. It is the responsibility of the employer to provide suitable modified duties based upon those restrictions.

## **7) Do not allow the WSIB to pay for the worker's wages for medical appointments in subsequent years.**

If a worker incurs loss of earnings benefits for things like doctor's appointments, then closed claims get reopened, **causing costs to spike!** If such an event occurs it is much less expensive to treat the day as you would for any other medical appointment.

## **8) The Three Strike Rule! Decisions can be appealed, up to the Tribunal.**

Employers often disagree with the decisions of the Case Managers assigned to their files. You can ask for reconsideration by that Case Manager and, if necessary, appeal that decision to the Appeal Resolution Officer.

## **9) Bookmark your Appeals.**

If your company disagrees with a WSIB decision, always notify the WSIB that you intend to appeal that decision at a future date. This will allow you to appeal that decision after the normal six month deadline.

## **10) You can still get cost relief, but it's a lot of work.**

To gain Second Injury Enhancement Fund (SIEF) Cost Relief it is necessary not only to show that a pre-existing condition exists but also how that condition was impacted by the current accident.

In many cases it has been necessary for SE-GA to appeal to the Workplace Safety Insurance Appeals Tribunal (WSIAT) to maximize the degree of cost relief. The submissions to WSIAT often include independent medical information, citing previous decisions, and appealing the classification of the accident and pre-existing conditions.

*Next Month our newsletter will focus on significant decisions SEGA has achieved for our clients in 2012.*

## **11) Apprentices receive the journeyman's rate of pay when they receive Loss of Earnings Benefits.**

This WSIB policy creates secondary problems. It is very important to place your apprentices into modified work programs to avoid them receiving LOE. When the apprentice receives the full journeyman's rate, they likely will be difficult to get into a light duty program

and take a “pay cut” in the process.

### **12) Recognize when an injured worker has a recurrence and does not have a new claim.**

WSIB policy recognizes in specific circumstances that workers may be reinjured as a recurrence of the original injury. Understanding the mechanics of NEER and/or CAD-7 companies allows employers to benefit on these type of requests.

### **13) Put everything and request everything in writing.**

Verbal communication is never enough. Always provide a written offer of modified work and provide that correspondence to the Board. Always ask that any information you get from the Board be sent to you in writing. In the event that it becomes an appeal situation, this information is invaluable.

### **14) NEVER say “Our workplace is unique, we can’t offer modified work!”**

Failure to contain WSIB costs will lead directly to **surcharges**; there are no exceptions! It is the employer’s responsibility to provide a safe workplace and to provide modified work to their employees who incur workplace accidents.

### **15) Focus on prevention and avoid accidents!**

Always contact SE-GA with any of your WSIB questions. Remember procrastinating over decisions on what to do is your worst enemy in WSIB matters. “Due diligence” by the employer in all facets of claims management is paramount in these changing times.

**NEW FOR 2013:** SE-GA will be hosting a series of “Understanding your NEER” and “Understanding your CAD-7” seminars across Ontario. If you are interested in attending or hosting a seminar, or would like to book a 30 minute Cost Containment Jump Start Session, please contact us at **[info@segaconsulting.com](mailto:info@segaconsulting.com)**.

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.

