

**The Workers' Compensation System of British Columbia:
Still in Transition**

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EXECUTIVE SUMMARY

This inventory addresses eight core issues in the British Columbia workers' compensation system:

- How is the system administered?
- How do claims flow through the system?
- What dispute resolution procedures are used, and to what effect?
- What benefits are paid?
- How are vocational rehabilitation services provided?
- How is the system financed?
- What are the actual costs of administration, benefits, claims processing, and appeal?
- What aspects of the system deserve further attention?

These questions are addressed for the British Columbia system as it existed in July 1995, but historical data are generally presented for the period 1981 to 1994. Because of the change in governance structure in 1991, this study offers a unique opportunity to review the operation of a workers' compensation system under two distinct governance regimes, as well as over varied economic and political climates.

We conducted this study using a 4-step approach. The elements are: (1) an examination of the Act and the policies developed for its implementation, (2) relevant data gathering and analysis, (3) interviews with individuals knowledgeable about the system and its operation, and (4) reconciliation of the observations we have made about the system with the viewpoints of others.

WCB Organization

The Workers' Compensation Board (WCB) is charged with the responsibility to pay the benefits specified by the Workers' Compensation Act to injured workers, their dependants and survivors. The WCB also has the right to assess employers subject to the Act for the monies necessary to "meet all amounts payable from the accident fund during the year" and to "provide in each year capitalized reserves sufficient to meet the periodical payments of compensation accruing in future years." Earnings of these reserves have been a very significant income supplement in

recent years. Thus, the WCB does not administer a “pay as you go” system, but one that is intended to be fully funded and actuarially sound.

The governance structure of the WCB was substantially overhauled by Bill 27, which was enacted in 1989 and took effect on June 3, 1991. It replaced the old system of Commissioners with a Board of Governors and created a new Appeal Division, headed by a chief Appeal Commissioner. This amounted to a separation of the policymaking and appellate functions of the old Commissioners. Bill 27 amendments also created the new position of President and Chief Executive Officer to administer the day-to-day functions of the WCB. This meant that the administrative function of the old Commissioners was also split off and handled separately.

The Board of Governors was suspended by the Minister of Skills, Training and Labour in July of 1995 due to widespread perceptions of counter-productive interest group squabbling and ineffective decision-making. While there are various interpretations of this action, it remains true that the stakeholder communities were deeply divided over certain legislative and policy issues and the governance of the WCB, and their differences could not be bridged, even by the most skillful leadership. At this point, the experiment that put representatives of workers and employers at the table to govern the WCB together must be regarded as a failure.

Compensation Services Division

The Compensation Services Division, consisting of six departments, is the largest division of the WCB. Compensation Services has responsibility for administering wage-loss, pension and health care benefits to injured and occupationally diseased workers. Thus, Compensation Services adjudicates claims for compensation by disabled workers, including the responsibility for determining the right to compensation, the benefits due and whether vocational rehabilitation services could usefully be employed to return a disabled worker to gainful employment.

Finance/Information Services Division

The Finance/Information Services Division is responsible for financing the WCB through its Assessment Department and the management of the Board’s substantial investments by the Treasurer. Financial Services also includes the offices of the Controller, the Actuary, and

Statistics. The Actuary and the Statistics Department work closely with the Assessment Department in analysing the experience of British Columbia's employers, both individually and collectively, and in setting assessment rates that reflect their experience.

Prevention Division

The WCB also administers the occupational safety and health program in British Columbia. The Prevention Division of the WCB administers a program of standards setting, enforcement, consultation, and education throughout the province.

Appeal Division

The Appeal Division was established by Bill 27 of 1989. The Division consists of a Chief Appeal Commissioner appointed by the Board of Governors and an unspecified number of Appeal Commissioners appointed by the Chief Appeal Commissioner, selected in accordance with policies established by the Board of Governors. The Appeal Division has authority to hear appeals from Workers' Compensation Review Board findings by employers or workers (or their dependants), referrals of Review Board findings from the President/CEO of the WCB, reconsideration of previous Appeal Division or Commissioners' decisions, occupational safety and health penalty appeals, appeals of assessment matters, and appeals of decisions under the Criminal Injury Compensation Act.

Adjudication

A WCB Claims Adjudicator determines whether compensation is payable in any particular instance. This includes the decision as to whether the claimant was employed under the terms of the Act, was injured in covered employment, whether the injury arose out of and in the course of that employment, whether the claimant is suffering from an occupational disease caused by his/her employment, and any other issues that might affect compensation. Medical Advisers are available to assist Claims Adjudicators in reaching these decisions. Of course, all such Claims Adjudicator decisions are subject to appeal to the Workers' Compensation Review Board and the Appeals Division, and in the case of a medical judgment, to a Medical Review Panel.

The WCB is not bound by legal precedent, but decides each claim according to the merits and natural justice of the case. Board officers (Managers, Claims Adjudicators, Claims Officers, and Vocational Rehabilitation Consultants) making decisions on claims are guided by WCB policies, as promulgated by the Board of Governors.

Dispute Resolution

There are three bodies, excluding the court system, that constitute appellate bodies of the Workers' Compensation system. These are the Workers' Compensation Review Board, Medical Review Panels, and the Appeal Division. Additionally, there are procedures that allow for decisions to be reconsidered or changed, adding more opportunity for review of a decision.

Workers' Compensation Review Board (WCRB)

The WCRB is made up of panels, each consisting of 3 persons. Single person panels can also be constituted. A 3-person panel almost always consists of one person with a background in organized labour, another person with a background on the management side and a Vice Chair, often a lawyer, who is not of a management or labour background. In special circumstances, a panel consisting of three neutrals can be named.

The WCRB may overturn an adjudicator either because it believes an error in law or policy has been made, or because it exercises a different judgment of the facts. In most cases, it is the latter that leads to a reversal of the WCB decision. On occasion, this difference in judgment arises because the claimant or his or her representative provides some information that has not been communicated previously to the claims adjudicator, not surprising since the adjudicator has not had the benefit of a hearing with professional representation for the appellant.

From 1981 to 1994, there have been only four years where the WCRB disposed of more appeals than were filed. To cope with the backlog and with the growth in appeals from 1986, the WCRB has grown in size and added more panels. Delay at the Review Board has been a widely held concern. A 2-part appeal process was initiated in 1994. The new procedure helps focus attention on the source of the delays at this step in the appellate process.

Appeal Division of the WCB

The Appeal Division is authorized to hear appeals emanating from multiple sources, and to consider several additional matters. The procedures employed may vary depending upon the type of appeal in question. The rule that decisions be issued within 90 days, or the longer period designated by the Chief Appeal Commissioner, has been rigorously observed by the Appeal Division. Approximately 90-91 percent of Appeal Divisions decisions are based on written submissions only.

The volume of decisions by the Appeal Division involving Review Board findings has been consistently higher than in earlier years under the former Commissioners. The Appeal Division has generated two or three more times the number of decisions than did the Commissioners during their last three calendar years. A second feature is the much higher allow rates for worker/dependent appeals under the Appeal Division than under the Commissioners.

Though a party may seek satisfaction in the courts the likelihood of this is remote. By March 1995, there had been only ten judicial reviews of Appeal Division decisions since June 1991 in the Provincial Supreme Court, with nine of the petitions dismissed thereon. The tenth was dismissed at the Court of Appeal. This is consistent with Section 96(1) of the Act which states that the decisions of the Board are “final and conclusive and not open to question or review in any court.”

The impact of the Appeal Division extends well beyond the numbers of its reported findings. On a day-to-day basis, the truly critical impact of the Appeal Division is where it affects the decisions made by Board Officers. Some officers, adjudicators, and managers undoubtedly allow their decisions to be shaped by the findings that flow down from the Appeal Division. We noted marked differences of opinion on the extent to which Review Board or Appeal Division reversals impact subsequent adjudication decisions.

The issue of whether or not the Appeal Division may be “making policy” was also raised. It seems clear that the function of the Appeal Division, as it relates to its role in interpreting WCB policies and practices and the underlying statute, is viewed very differently by contending parties.

Medical Review Panels

In a dispute over a medical issue a worker or an employer may appeal a WCB decision to a Medical Review Panel. The appeal may be made subsequent to a decision by a Board Officer, or a finding of the Review Board, or the Appeal Division. Though relatively few injured workers or dependant survivors have any reason to utilize the Medical Review Panel process, it represents a highly significant avenue of appeal where disputes occur over medical issues. Since the determination of a panel is decisive on the matter(s) in dispute, it is the last opportunity for an appellant.

Benefits

British Columbia pays benefits that are found in most jurisdictions in North America, that is, health care, short term disability, long term disability, disfigurement, survivor's, and rehabilitation benefits. Most, though not all, benefits for compensable injuries or illnesses are associated with the worker's level of earnings at the time of the injury.

Health Care Benefits

WBC health care costs in British Columbia have exploded in recent years. On an incurred basis, aggregate health care costs increased by 90 percent from 1991 to 1994 or 24 percent per annum. Over the same time period, incurred health care costs per newly registered claim rose by 95 percent (25 percent per annum). The economic incentive created by the renegotiated fee arrangements beginning in late 1991 may have raised the cost of health care benefits. If more subsequent visits were provided after 1991, both the costs of the visit and payments for the form fees would have increased. However, if some physicians were induced to schedule added subsequent health care visits, this would have contributed also to two other phenomena that were occurring at this time, i.e., a lengthening in duration of short term disability and the increasing costs of providing those benefits.

Wage-Loss Benefits

Where a worker has incurred a compensable impairment, physiological or psychological, he/she is entitled to a wage-loss benefit, beginning the first working day after the day that the injury or illness occurred. Benefits are paid where the worker sustains a temporary total or a temporary partial disability. Indemnity benefits for temporary total disability are set at 75 percent of the worker's average earnings, subject to the statutory maximum and minimum benefits. This benefit is paid only where the worker suffers a loss of wages and are tax free. There is no maximum period of time for which such benefits can be paid.

Permanent Pensions

British Columbia employs a "dual" approach to benefits for permanent partial disability. A claimant receives benefits based on an assessment of either the degree of physiological (or psychological) impairment, called a permanent functional impairment, or the loss of earning capacity. A worker's pension benefit is based on the alternative that provides the larger award.

Permanent disability awards are the responsibility of the Disability Awards Department within the Compensation Services Division.

The Claims Adjudicator Disability Awards has four basic sets of information to utilize, that is, the worker's previous earnings level, the functional impairment assessment from the Disability Awards Medical Adviser, the Functional Evaluation Unit report or other supplementary information, and the Vocational Rehabilitation Consultant's employability assessment. Based on these four elements, the Claims Adjudicator Disability Awards makes a recommendation to a 3-person Disability Awards Committee, made up of a manager from the Disability Awards Department, a senior Disability Awards Medical Adviser, and a Vocational Rehabilitation Manager. It is this committee that has the responsibility to determine the size of any projected earning loss benefit, or loss of earnings pension, that will be paid.

Over the past 13 years, the number of pensions has grown vastly more rapidly than has the number of new wage-loss claims. Though this growth has been substantial for functional awards, it has grown even more rapidly for the more expensive loss of earnings (LOE) cases. The likelihood of a wage-loss claim resulting in a functional award is about three times greater today

than 12 or 13 years ago. It is five times more likely that a LOE pension will be awarded. Unless the case is made that more serious injuries and illnesses have been developing, it seems reasonable to argue that the standards for gaining a pension have been lowered over time, especially for LOE pensions. One could argue, further, that the aging of the workforce and the downsizing of some industries have played a contributory role in the growth of the LOE pensions.

Vocational Rehabilitation Services

Vocational rehabilitation services are provided to injured workers, and in some cases to the workers' dependants in order to offset the effects of compensable injuries, industrial diseases and fatalities in accordance with Section 16 of the Workers' Compensation Act. Services provided include vocational assessment and planning, counselling, skill development, job readiness and placement assistance, and employability assessments.

The Vocational Rehabilitation Services Department is located within the Compensation Services Division of the Workers' Compensation Board (WCB). During the past 4-year period (1991-1995) there have been numerous organizational changes that have affected services provided to injured workers and the support required by the Vocational Rehabilitation Consultants in carrying out their multifaceted role.

In terms of eligibility for services, it is the Vocational Rehabilitation Consultation (VRC) who makes the determination and identifies the nature and extent of vocational rehabilitation services to be provided, based on whether it appears that such assistance may be of value to a WCB client. As a result of the discretionary nature of eligibility decisions and service provision, the philosophy and values of the Department (in the form of both formal and informal policy) take on great importance in the delivery of services to injured workers.

Structural and management changes appear to have contributed greatly to the general loss of focus and morale among the consultant group, a significant and sustained increase in spending patterns, and what is generally perceived to be an overall decline in the quality and accountability of vocational rehabilitation services provided to clients during the past four years. The manager's role has been adversely affected by leadership limitations. There has also been a lack of formal training available for new and continuing management staff. The complexities associated with

managing a professional vocational rehabilitation staff are daunting, particularly within a matrix management system. At the manager level, there has also been a great deal of turnover, even prior to the formal dissolution of the Department in 1993.

Given the fact that there was virtually no structure to provide supervision over the past two years combined with the limited experience of a number of consultants, systematic clinical supervision, ongoing training and quality assurance appear critically deficient. Addressing this concern appears to be a high priority of the new management structure in the Department. However, even with the newly designed organizational structure there are serious barriers to effectively carrying out these important supervisory tasks.

One of the principle issues that emerges when discussing the vocational rehabilitation process is expected outcome. While a great deal of divergent opinion exists among consultants, managers, and worker advocates, the issues appear to centre around whether the WCB's mission is to provide services to injured workers to enhance "employability," or to focus on "placement" and the return to actual employment. A related and even more relevant question is at what point in the process have sufficient services and resources been applied to terminate the case without an employment outcome?

In discussions with advocates there appear to be a number of issues where a general consensus of opinion exists among these representatives in relation to vocational rehabilitation services provided at the WCB. For example, some of the major concerns related to the lack of early intervention efforts with the client and employer, and attempting to maintain worker attachment. These representatives felt that the WCB should put more pressure on employers to participate in return to work efforts. Delays in the system were seen as a significant concern and related to the increased costs of the Department.

Further, the focus of the Department was perceived as centering on wage loss as opposed to rehabilitation service provision. They also expressed concern about the entire claims and rehabilitation process, pointing out the negative effects of the linear nature of the process and the fact that only one issue at a time is dealt with, as opposed to bringing together all available resources to address the issues in an efficient and effective manner. Finally, they expressed

concern about the qualifications, training and credentials of the Vocational Rehabilitation Consultants in providing vocational rehabilitation services to injured workers.

In 1994, which represents the last calendar year of complete data, the WCB spent \$68,606,888 on injured workers through its provision of vocational rehabilitation services. This represents a 50 percent annual rate of increase in expenditures from 1991. Further, this increase occurred during a period where new referrals for services actually decreased by 9.4 percent per year.

The Assessment Department

The Assessment Department determines the assessments against employer payrolls, including classification, monitoring, collections, and administration of the experience rating plan. Overall, the Department is responsible for financing all WCB activities, as determined by the Board of Governors, and doing so in a reasonable and equitable manner.

The growth rate in total assessment revenue from rateable groups from 1982 through 1994 has been rather modest (5.2 percent annual increase), and even more modest in real terms (1.3 percent annually). Revenues from deposit accounts have increased by 3.0 percent annually over the period (declined by 0.9 percent annually in real terms); but have been subject to substantial fluctuation. OSH penalties have increased phenomenally (15.0 percent annually, 10.7 percent annually in real terms) over the period, reflecting changes in WCB policy and practice. Assessment penalties also varied widely from year to year during the period (but declined in real terms by 3.3 percent annually).

Employers in British Columbia report their payrolls, and calculate and send in the WCB assessments on either a quarterly or annual basis. Those firms whose total assessment is expected to be under \$500 file annually; those with larger assessments file quarterly. While the WCB Assessment system is therefore a self-reporting system, there is a demonstrated need for an audit function to ensure that all employers are meeting their reporting requirements and payment obligations in an accurate and timely manner. The audits are the “enforcement” side of the Assessment Department, but they also serve a vitally important equity function by assuring employers that everyone is carrying their fair share of the load.

In 1992, the Administrative Inventory of Assessments reported universal agreement by employers that the Assessment Department was “too secretive.” In 1995 we found this was no longer a problem, due to changes in Assessment Department policy and procedure, influenced in part by Freedom of Information and Protection of Privacy Act requirements. The Assessment Department now makes the WCB classification for all employers available as a matter of public record. This seems to have satisfied the need for more information.

In a random survey conducted by an outside consultant in 1995, the overall performance of the Assessment Department was rated as “excellent” by 6 percent of employers, “very good” by 51 percent of employers, and “average” by 40 percent of employers. This is a substantial turnaround since 1991.

Experience Rating (ERA) Program

The ERA plan in British Columbia is moderate in its provisions; it seeks to encourage individual employers to create safer workplaces, but without unduly compromising the fundamental principle of collective liability. The maximum merit and demerit is 33 percent; that is, the best (worst) employers receive merits (demerits) of 33 percent, and hence are assessed one-third less (more) than the average rate for their sub-class. This means that the worst performing employers in a sub-class pay exactly twice the assessment rate paid by the best employers in that sub-class.

Performance Evaluation

The number of new claims registered at the WCB declined precipitously from 1981 to 1982 (by 19 percent—three times as great as the employment decline), and did not begin to increase until 1987. Then new claims rose rapidly through 1990, only to subside once again with the recession and coincident with the governance changes at the WCB.

This seems to reflect a complex mix of secular, cyclical, and policy trends. The secular trend of employment by sector is leading to declining exposures traditional risks of injury in the workplace. By cyclical labour market conditions hide much of the secular decline. However there seems to be a long-term declining trend in wage loss claims when controlling for

employment levels. Further, the peaks in wage loss claims correspond very closely with troughs in the unemployment rate and vice versa.

When we break the analysis down by type of claim, the same basic trends are apparent. The trend in claims receiving health care only and short term disability claims first paid reflect a similar pattern, with a clear cyclical effect evident. The same is true for fatal claims, although the variation is greater in fatal claims. Long term disability claims, however, clearly increased over the period. The total lost workdays paid by the WCB per 100 workers has trended up significantly since the mid 1980s.

Over the entire period of 1981 through 1994, lost workdays per 100 workers increased by only 1.1 percent per year. However, the trend from the low point in 1985 through 1994 was 3.9 percent per year. In the mid 1990s the WCB is paying two lost work days per worker per year, up from 1.5 a decade earlier. Given sectoral employment trends and WCB prevention efforts, this figure presents a disappointing picture. One would hope to see a declining burden of disability due to workplace injury and illness. It is important for the WCB and policymakers to gain a better understanding of these trends.

Paylag Performance

The primary measure of promptness of payment that is used by the WCB is the paylag statistic, the percent of wage-loss claims where payment is made within 17 days of the first lost work day. Of course, the performance of an individual adjudicating unit depends largely upon the particular assignment the unit has taken on. The paylag measure is most appropriate for relatively simple short-term disability claims; nevertheless it has relevance for all units because of its direct relationship to perceived customer service performance. In particular, the trend in paylag over time can signal improvement or deterioration in average timeliness.

For the entire WCB, 42 percent of short term disability claims were paid within 17 days in 1994. Individual SDL performance varied from 30 percent to over 70 percent. Historically, lower mainland adjudication units have shown higher paylags (poorer performance) than area offices. The lack of improvement in paylag in recent years, despite increasing staffing levels in the

Compensation Services Department, is a disappointment. Current divisional management has developed a number of initiatives to improve this critical customer service dimension.

Duration of Wage Loss Payment

Data on duration of disability are limited and difficult to compare. However, it seems clear that average durations have been rising, and rising rapidly at the WCB in recent years. Of course, this reflects the relative incidence of temporary and permanent disability claims over time as well as labour market, demographic, and other influences. However, available evidence seems to show that average durations are increasing in every severity category. Such a trend needs immediate attention; it is critical to understand such a powerful cost driver.

Appellate Activity

The British Columbia workers' compensation system is fairly free of litigation, at least by North American standards. However, there is some question about whether recent trends threaten that state of affairs. Appeal activity at the Workers' Compensation Review Board grew rapidly during the period 1981 to 1994. It reflects an annual increase of nearly 9 percent in appeals received at the WCRB, 7 percent annually when corrected for employment levels. In other words, disputed claims are increasing more than four times as fast as employment in British Columbia and more than eight times as fast as new claims registered with the WCB.

Administrative Costs

The WCB performs an invaluable public mission, and the cost of performing that mission is not the only consideration in evaluating the performance of the agency. However, administrative costs are an issue, particularly in these days of scarce resources, and the efficiency of the WCB as an administrative entity is relevant to both injured workers and their employers. WCB administrative costs have grown substantially faster than inflation since 1987. For the entire period, administrative costs grew at an unadjusted rate of 10.0 percent. After adjusting for general inflation and increases in employment, the real growth rate per capita is revealed to be 3.2 percent per year. Again, it seems apparent that this growth began well before the change in WCB

administration in 1991. It is also clear that the upward spiral ended in 1994. Control of administrative costs is a priority of the current WCB management.

System Costs

Total Accident Fund payments have increased by 9.6 percent annually from 1981 through 1994. Further, this represents a sizeable increase of 7.5 percent per year in payments per employed worker. It appears that wage-loss payments, health care benefits and pension payments have all contributed substantially to these increases. However, over the entire period pension payments grew the fastest, at 12.4 percent per year.

Investment Income

WCB annual investment income rose from less than \$150 million in 1983 to around \$350 million in 1993, increasing from 23 percent to 33 percent of total revenues. This greater contribution of investment income reflects the increasing reserves held by the Board for future obligations, as well as improved investment performance. During the latter half of the 1980s, the annual investment return on reserves exceeded the WCB discount rate (2.375 percent until 1993) by more than the rate of inflation. Real rates of return on WCB investment ranged from 5.4 to 7.8 percent annually over this period, making a very tangible contribution to WCB income and permitting lower assessment rates than otherwise would have been necessary.

Assessment Rates

The net impact of the growth in benefit costs, administrative costs, assessment base, and investment income is reflected in average assessment rates. To employers, this figure represents the “bottom line.” Assessment rates came down in the late 1980s as the fund approached a fully funded position in 1986 against a backdrop of reduced employment, declining claims, and falling costs. As claims and costs picked up again in the later 1980s the fund moved back into a deficit position. The surplus was exhausted by 1992 and the Board has been slightly underfunded since. In the early 1990s, the WCB was trying to attain a fully funded position without dramatic increases in assessment rates. However, the drain of rapidly rising pension and health care costs

kept that goal elusively out of reach. Current plans at the WCB call for attaining annual funding balance by 1997 and a return to full funding by the year 2000.

Attention Points

We hope that the issues we identify for attention here will resonate with decision makers in British Columbia. In most instances, these “attention points” are identified as such because they represent special strengths of the system or because they may warrant, at least in our opinion, additional attention by those who seek to improve the system. We have specifically not made a special attempt to match the attention points from 1991 or 1992 nor to document all the progress, or lack thereof, since 1991. We prefer to think of this as a fresh look at the WCB, informed by the perspectives of the past.

External Community Relations

The WCB of 1995 is vastly more open and responsive than it was four years ago. More information is available and greater access is provided. Still, while a great deal of effort has gone into improving access for stakeholders at the WCB since 1991, the yield has been disappointing. Attitudes of suspicion and distrust are all too prevalent, particularly between employer groups and worker groups. Neither trusts the motives of the other side when dealing with policy issues. Many times the WCB gets caught in the middle and ends up earning the enmity of both sides.

Thus, the structural changes of 1991 apparently did not achieve the desired result of giving ownership to the system’s stakeholders, at least not in a way that enabled them to govern jointly. Moreover, with partisan critics waiting for any opportunity to embarrass the WCB and the current government, it will be even more difficult to address the legitimate policy concerns of the stakeholders. With the current attitudes of the organized employer and labour communities, it will be hard to reach consensus on desirable system changes.

Policy and Performance Issues

There are a number of system performance issues that will be mentioned here. Some are beyond the reach of the WCB and would require statutory action. Others are a matter of policy

implementation that is under the control of the WCB. One underlying theme that characterizes nearly all of these issues is a lack of adequate analysis about causes and consequences.

Pension Incidence and Cost

Pensions have been growing faster than any other type of claim in the system. While there are many competing explanations for this, none of them can be proven correct. The contributions of secular trends, demographic forces, policy changes, and system performance variables need to be sorted out to establish the causes of the enormous level of growth in loss of earnings pensions. It is difficult to attack the problem in a sensible way without a more adequate understanding of the underlying causes.

Medical Care Costs

The alarming growth in medical care costs is a problem throughout North America, but many jurisdictions have moved more rapidly than British Columbia to implement cost control techniques for medical expenditures. Not only has British Columbia come late to the case management model, but there is evidence of perverse incentives in the substantial form fees negotiated by the WCB with the BC Medical Association in 1991. The relationship between subsequent visit form fees and the apparent increase in subsequent visits needs to be examined.

Durations of Disability

To date there has been no satisfactory explanation given for the rising durations of disability at the WCB. It may be due to an increasing complexity of adjudication issues, it may be due to the form fees incentive for subsequent medical treatment visits, it may be due to the initial/ongoing adjudication model. In truth, it may be due to all or none of these. The problem is that no one knows, so it is impossible to design an effective strategy to reverse the situation. Since the ultimate purpose of the WCB is to prevent disability, not to encourage it, a much greater priority should be given to understanding the rising duration of disability.

Timeliness

Despite the addition of considerable resources to the Compensation Services Division since 1988 (without a significant increase in initial claims activity) the paylag situation seems to continue to deteriorate. It now seems clear that doing the same old things in the same old ways will not turn this situation around. The new WCB management and existing staff deserve credit for having figured this out some time ago, and they are moving to attack the problem in a number of ways. Still, until concrete, tested and proven solutions are implemented, the problem remains critical to WCB performance as experienced on the street.

Vocational Rehabilitation

There are some bright spots in the vocational rehabilitation area. The comprehensive Rehabilitation Centre in Richmond is one of the jewels in the WCB crown. The Functional Evaluation Unit is unsurpassed in its technical sophistication. The broad array of rehabilitation benefits is outstanding. Rehabilitation performance figures seem only average however. Further, vocational rehabilitation expenditures have exploded at rates that no one can adequately explain. The lack of leadership for two years and the fundamental lack of consensus about the mission of vocational rehabilitation mean that there is a lot of remedial work to be done.

The WCB needs to develop a clearer understanding of the mission of vocational rehabilitation and the organizational supports that will be required to accomplish that mission. Greater clinical supervision and more adequate professional development are required for Vocational Rehabilitation Consultants. New models of service delivery and program evaluation are needed as well. In addition, referral relationships and additional service capacity need to be developed in the community. Finally, the Vocational Rehabilitation Department needs to engage in research efforts to inform future policy and practice.

This is a short-term agenda. Over the longer term the WCB also needs to work to raise the professional preparation of Vocational Rehabilitation Consultants, both by supporting efforts in the community to develop additional educational resources and by raising the job requirements for the individuals hired.

Disability Management

In the private sector, disability management techniques are being used to attack, apparently successfully, both the incidence and the duration of disability. It is true that the financial payoff accrues primarily to private employers and private insurance companies, but the injured worker gets back to making his or her living more rapidly, as well. Ultimately, it appears that this also leads to fewer cases of the self-defeating psychology of learned disability. The WCB needs to develop mechanisms to actively manage disability for the benefit of the injured worker and his/her employer. Only in this way can the true cost of disability be minimized for the benefit of the entire society.

Benefit Adequacy and Equity

There has been no general review of the adequacy and equity of the workers' compensation benefit structure in British Columbia. Maximum benefits are among the best in North America, and this is a record to be proud of. But no one knows how injured workers at different earning levels and in varying family situations are faring. A simple comparison of how injured workers in various situations are compensated, particularly as compared to other Canadian jurisdictions, might be very enlightening. A generous maximum benefit is not enough, benefits should be both equitable and efficient across the entire injured worker population.

Classification Issues for Rate-Making

The recent furor over reorganization of class 621, Retail Stores provides an object lesson in the damage an inappropriate classification structure for rate-making can do. There are probably several other sub-classes that have similar, though smaller, problems. The new program of round table discussions with "troubled" industries that has been implemented by the WCB should surface these problems earlier and in a more appropriate environment. However, it would also be appropriate for the WCB to increase its vigilance for sub-class problems and for classification inequities, in the long-term interest of the perceived fairness of the system.

Experience Rating

Experience rating continues to be a controversial subject in British Columbia. This is true despite the near universal endorsement of the concept of experience rating by the employer community. It is controversial because organized labour remains adamantly opposed to the concept. It is troubling that energy still goes into fighting the concept of experience rating in British Columbia, as opposed to designing a more effective program. Perhaps the new WCB study of the ERA program currently underway will promote a more productive dialogue about the policy design issues of experience rating, it is overdue.

Financial Performance

While the size of the unfunded liability is a source of criticism by stakeholders, in fact the performance of the WCB over the last decade has been very good. There is always a tension between benefits for workers and costs for employers in workers' compensation systems. Achieving a balance between these two opposing objectives is difficult. The combination of generous benefits at reasonable costs has been pursued very responsibly in our opinion. British Columbia is among the very best systems in North America for both injured workers and their employers.

Administrative Issues

In addition to the policy and performance issues above, there are a number of observations that relate to administrative issues. We offer these primarily for consideration by WCB management.

Administrative Cost Control

The WCB has compiled a very uneven record in controlling administrative costs. But the annual budgeting and strategic planning process that has been introduced over the past two years at the WCB should make a major contribution by providing the predictability to resolve the stop-go method of funding. This has been long overdue and the WCB deserves credit for this substantial improvement.

The staffing growth in the Compensation Services Division over the last several years cannot be demonstrated to have resulted in significant performance gains in the adjudication or management of claims. The promise of the new initiatives in the Division is great, but past performance must temper our enthusiasm for these changes. The entire SDS effort needs to be carefully managed and nurtured as a critical part of the WCB's long-term commitment to customer service and value, as well as employee satisfaction and productivity.

Staff Development

The WCB has a tremendous reservoir of talent among its staff. Unfortunately, that talent is neither encouraged nor consciously developed as a regular part of doing business at the WCB. Staff development seems to be treated as an add-on; but service-oriented businesses cannot afford to put staff development last on the priority list. The WCB management needs to empower their employees, since they are the ones with the potential to make the WCB a better organization. Admittedly, this is a different style of leadership than has characterized the WCB in the past. However, we believe it is the key to better performance at lower cost in the long run.

Policy Guidance

The WCB is long on rules and handbooks and short on general policy guidance. But it must be pointed out that concentrating on writing procedures down and "doing it by the book" is a conscious organizational choice. The alternative is to train employees carefully in the goals and objectives of the organization, and then empower them to get the job done. Such a change offers the potential for the WCB to move beyond its current organizational limitations.

Collective Bargaining Relationship

There is a great deal of improvement possible in the relationship between the WCB and the CEU. The past tradition at the WCB has been challenged by the New Directions team within the Assessments Department. It needs to be challenged in other venues as well. If the WCB is going to become a high-performance organization, the collective bargaining relationship will need

to become a more cooperative, mutual relationship that focuses on final organizational outcomes rather than narrow self-interest.

SDL Issues

The reorganization of the SDL's in 1993 seems to have been a positive thing, despite the adjudication crisis that it spawned. This appears to be a significant area of WCB improvement since 1991, according to our interviews. However, the role of SDL management has emerged as a new problem. The combination of the CEU contract provisions, the adjudication emergency, and budget stringency have reduced the scope for manager action. The queuing system of assigning cases to individual adjudicators takes the backlog burden off their desks, but deposits it on the desk of the SDL manager. This is appropriate, but the manager must then be given the resources and flexibility to respond to this situation. Lastly, we continue to question the value of manager reviews. No doubt there are some situations where they are productive, but the bulk of opinion we heard, both inside and outside the WCB, is that they do not serve any useful purpose as an appeal from the original decision. With the manifold other appeal avenues available to WCB claimants, and the increasing burden on SDL management, we do not feel they are worth the effort.

System Support

The WCB has sometimes struggled with its internal services. ISD particularly is the subject of internal resentment; virtually no one at the WCB feels they are getting their "fair share" of computing resources or support. Now, under new leadership, it appears that ISD is becoming more customer oriented. The "market oriented" philosophy of the Division promises a more efficient allocation of resources. These are healthy changes that have the potential to ensure that support services actually serve the ultimate mission more effectively.

Research

There is still no unit at the WCB that is asking the critical policy questions, the "why" questions, and then gathering the information and doing the analysis required to answer those

questions. We believe that this is a major deficit. This has been demonstrated with most of the issues that have been discussed here. The development of a Policy Bureau to serve these needs is under discussion. We urge the establishment of such a unit with both an external and internal mission. Externally, the WCB needs to build credibility with stakeholder interests and with governmental authority. Over time, this can be done only if the WCB becomes the source of truthful, authoritative analysis that informs stakeholder opinion. Internally, the WCB is in desperate need of the analytical capacity to explain its own performance. Ultimately the WCB cannot take control of its destiny unless it can define its own problem areas and ways to resolve them. Without an effective policy research function, the WCB is dependent on others to define its failures.

Appellate Issues

There are a number of issues that arise when considering the appellate process in British Columbia. We will concentrate on those that pertain to the WCB and abstain from making recommendations about other organizations.

Medical Review Panels

The MRP process seems to still be in distress. The delays in securing an MRP decision are unacceptable. Recent changes to the process initiated by the WCB promise substantial relief, but this situation must be continually monitored. Also, the high rate of reversals of medical decisions at the MRP needs explanation. Does this indicate a difference of standards, insufficient information, or the imperfect state of medical knowledge? Again, more analysis of the problem is needed to support design of effective solutions.

Relations with Review Board

Relations between the WCB and the Workers' Compensation Review Board seem to have substantially improved from the situation in 1991. While the adjudicatory demands on the Review Board continue to spiral upward, bureaucratic fighting with the WCB does not provide a further drain on resources any longer. The virtual elimination of "reconsiderations" of WCRB decisions

by the WCB has obviously been very important. The appeal Division treatment of the WCRB as a separate, independent appellate body also seems to have helped.

Appeal Division

The Appeal Division has become very controversial, particularly among employer groups in the province. Yet the Appeal Division has been well run, it may be the best in North America in terms of the timeliness of reasoned, written appellate decisions. The fact that court reviews have been so rare and so unsuccessful, also argues that the Appeal Division is doing its job. Yet, allegations of biased decisions continue to be heard. The issue of whether the Appeal Division is making policy is also raised by employer interests.

It is apparent that the question of the independence of the Appeal Division was not adequately settled in the drafting of Bill 27, nor by the Munroe Commission report that preceded it. The debate over whether the Chief Appeal Commissioner is an independent, external reviewer, or a part of the top management of the WCB, obliged to enforce WCB policy as she interprets it, continues to this day. Employer distrust of the individual selected as Chief Appeal Commissioner in 1991 has contributed to the acrimony of the debate.

Ultimately, it may be beyond the capacity of the WCB Board of Governors, or its replacement, to resolve the issue of whether the structural relationship between the WCB and the Appeal Division, as it exists today, is appropriate. It may require legislative resolution at this point. But the WCB must get beyond this critical structural issue, if it is to re-enlist stakeholder participation and mobilize resources to attack the other problem areas in its mission.

Conclusion

The reason given for the suspension of the Board of Governors in July 1995 was that they could not put aside their narrow interest group identity to make decisions that were in the broader public interest. The gridlock that resulted from a collective bargaining approach to policy making will not disappear overnight. But it may create the opportunity for a more pro-active WCB role that seeks to define and resolve policy issues through leadership and analysis, rather than interest group bargaining. We believe it is time for the WCB to finally shed its paymaster tradition and

develop a more analytical approach to the mission. We sincerely hope that our suggestions will be helpful as the WCB goes through this intense period of recovery and renewal.