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Manitoba WCB case determination is based upon a "Balance of Probability" on the a) existence of information, and b) the non-mathematical determination by the case representative. Where there is a probability of insufficient evidence, and a use of non-mathematics in a determination of statistical "probability", the case determination (under statistical mathematical methods) is defined as "biased". Therefore, if the term 'Probability' is used, then it must be adhered towards the statistical procedures within mathematics to be of sound fact. Therefore, mathematically, if the claim acceptance is denied, it would be denied not on a mathematical basis of mathematical proof, but assumed to be just based upon an 'opinion', and without fact. This makes the Manitoba WCB ACT unfair in the preservation of the right to health and safety for the Manitoba citizen. Civil actions are not used within the WCB Act, but the civil action 'tool' (Balance of probability) has been written into the Manitoba WCB Act to determine an outcome of a claim. This is considered to be unfair towards the injured employee, and not the employer.

It would be unconstitutional for a person, whom has been charged with a criminal offence, to be subjected to the legal system of jurisprudence of a Civil Tort proceeding. Indeed, we can succumb to the conclusion that the "basic test" of Compensability, is unconstitutional, and does not allow for the full use of legal evidence jurisprudence, where the outcome, as does criminal law, have life-long consequences to an individual's basic constitutional rights.

Where the gathering of evidence is required to come to a decision of claim, there are no systems of check-and-balance, and the mandated requirement for the (full) use of WCB resources to gather further evidence based upon all medical professional 'rule-out' procedures. This is unconstitutional towards the Canadian Health Act.

There are no systems of check-and-balance for the case representative to further acquire and request testing for outstanding medical observations made by medical professionals that may impact a specific claim. Changes must be implemented in the code to from "may", to "must" find the full extent of injury(s) prior to making case judgment. All avenues to retrieve medical evidence must be exhausted for the constitutional right of health for all Canadians.

Once the full extent of all injuries are collected, a mathematical calculation is started to mathematically calculate the statistical probability of the injury being compensable, or not. All acquired inputs, and mathematical values will be shown to credit the decision.

Civil law takes into consideration the 'individual(s)' characteristics within it's(Tort Law) Circumstances. The Manitoba WCB does not provide a personal characteristic of 'truthfulness',

in the WCB Act where the determination of compensability is determined.

Where Compensability determination is made from a legal practice of 'balance of probabilities' acquired from Canadian Tort law, it must be processed with all other sub-Civil-Tort processes, and constraints, with which Tort law is based upon. This was designed for fair balance by our legal system. When the Canadian Civil 'Balance of Probability' process is not followed accordingly to designed processes, and without any statistical mathematical basis of proof, the use of the 'Balance of Probability' within the Manitoba WCB Act is unconstitutional, and infringes upon the Canadian Human Right of Health and Safety.

Specific Case representatives have been empowered under the Manitoba WCB Act, to make decisions that can actually destroy the livelihood of an individual, with repercussions that may span on throughout the individual's personal family generations. This empowerment has the equal repercussion effect of authority equal to a legal sitting judge, where the same outcome is based upon his or her decision.

Given this same outcome, one is bound by the rules of law, the other is by no law. One is a registered professional, whereas the other may not even have any formal, completed, post-secondary education. The contrast is enormous, but the outcome, is the same.

Indeed, the life of an injured worker literally hangs upon someone that has no registered body to police ethical rules of conduct. Does this seem fair to the injured worker? Even the Canada Pension Plan Disability process, has recognized this, and have case workers that are registered for ethical constraints. The possible outcome to an individual and his, or her family, in the process of the CPP Disability, is the same. A degradation of health, and the destruction of livelihood.

This is serious business, and Canadian citizens require serious people.

Therefore, because the implications are so enormous, it is recommended that all Manitoba WCB case adjudication decisions, as a minimum requirement, be made by a Registered Nurse. There must be ethical responsibility within processes where health of individuals is considered.

More to come