

[REDACTED]

From:
Sent:
To:

[REDACTED]
Thursday, June 09, 2016 10:57 AM

[REDACTED]

Subject: Comprehensive Review of Workers Compensation Act
Attachments: [REDACTED]

Attached is a copy of correspondence as sent to [REDACTED]

[REDACTED]

Pitblado LLP | 2500-360 Main St | Winnipeg, MB R3C 4H6
P. 204.956.0560 | F. 204.957.0227
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William S. Gardner
Chair, Manitoba Employers Council
2500 – 360 Main Street
Winnipeg, Manitoba R3C 4H6

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EMPLOYERS COUNCIL**

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Winnipeg Chamber of Commerce (The)
Winnipeg Construction Association (The)
Winnipeg Regional Health Authority

Sent by E-mail

June 9, 2016

SA to the Minister of Growth Enterprise and Trade
Room 358-450 Broadway
R3C 1S4

Dear [REDACTED]:

Re: Comprehensive Review of Workers Compensation Act

Further to our discussions and correspondence with respect to this matter and in response to your request, we are writing to set forth the recommendations of the Manitoba Employers Council (MEC) regarding the upcoming comprehensive review of *The Workers Compensation Act*.

Our recommendations are as follows:

1. The Review Commission should examine the 2001 Consensus Report to consider which of the recommendations have been implemented and with what effect.
2. As recommended in the 2001 Consensus Report, Workplace Safety and Health should not be funded by the Workers Compensation Board.
3. The determination of the 2001 Consensus Report regarding non-compulsory industries being allowed the freedom to remain so should be confirmed.
4. All proposals for change should be costed.
5. Value for money is an essential factor in terms of evaluating the effectiveness of the Workers Compensation Board system. As such, this should be considered with a view to increasing value for stakeholders.
6. The funding model should be considered. It is noted that the Workers Compensation Board of Manitoba is funded at approximately 130%, the highest in the country.
7. The absence of a cap on earnings should be reconsidered. This was removed as part of the 2001 Consensus Report. However it is noted that every other insurance scheme in the country, including Manitoba Public Insurance, has a cap on earnings.

8. Stress is a major issue. The Workers Compensation Board should continue to take a very careful approach with respect to allowing claims for stress and other mental health issues. This would include ensuring that only the diagnosis of qualified practitioners be accepted, which in cases involving mental health would mean a psychiatrist or PhD psychologist who is qualified in the particular area. Further, a list of qualified professionals who are acceptable both to Employers and Labour should be developed and then utilized by WCB to advise on applicable claims.
9. The PTSD presumption should be implemented in a manner that is logical and rational. In particular, a diagnosis of PTSD should only be accepted from a qualified practitioner, namely a psychiatrist or a PhD psychologist. Similar expertise must exist within WCB. It is suggested that a pool of qualified practitioners be developed within WCB who have received the support of Labour and Management. This will add credibility to recommendations made by them.
10. Provisions regarding the obligation to reinstate injured workers and the prohibition against retaliation should be revisited. While well-intended, these provisions are cumbersome and expensive. Employees who present with performance or discipline problems use the legislation as a shield. Duplication of proceedings, particularly parallel complaints to Workplace Safety and Health and/or the Human Rights Commission can arise on the same set of facts. Representatives of the Workers Compensation Board or Workplace Safety and Health lack the training and expertise to make decisions regarding the validity of employer decisions which affect the employment status of an injured or aggrieved worker. Accordingly a streamlined process should be developed whereby complaints regarding failure to reinstate or alleged discriminatory action arising from the *Workers Compensation Act* or the *Workplace Safety and Health Act* should be referred directly to the Manitoba Labour Board for decision, after a vetting process to screen out non-meritorious complaints.
11. An Employer Advocate Office should be created.
12. The speed at which an injured worker is sent for diagnostic tests and referred to a specialist should continue to be addressed with a view to reducing wait times to zero.
13. The growing consensus from Occupational Health Specialists on the value of keeping injured workers at work as much as possible should be considered with appropriate recommendations for a stay-at-work strategy.

Thank you for your consideration of these suggestions. If you have any questions or wish to discuss this matter, please contact the writer at your convenience.

Yours very truly,

Manitoba Employers Council

Per:

William S. Gardner
Chairperson

cc: MEC Members