



OSSTF/FEESO Submission to the Workplace Safety and Insurance Board Funding Review

The Ontario Secondary School Teachers' Federation (OSSTF/FEESO) represents 60,000 educational workers across Ontario including public high school teachers, occasional teachers, educational assistants, continuing education teachers and instructors, psychologists, secretaries, speech-language pathologists, social workers, plant support personnel, attendance counsellors and many others in education. Most of our members are employed by Schedule 2 employers, but some of our members are employed by Schedule 1 employers. Another, smaller number of our members work for employers that are not required by law to have WSIB coverage.

OSSTF/FEESO understands the challenges faced by the Workplace Safety and Insurance Board (WSIB) regarding the unfunded liability (UFL). However, OSSTF/FEESO firmly believes that any funding review or changes must respect the Meredith principles that are the cornerstone of the *Workplace Safety and Insurance Act* (WSIA).

Funding

OSSTF/FEESO does not take the position that the WSIB should be 100% fully funded. Instead, OSSTF/FEESO believes that funding for WSIB should be structured in the same way that the Canada Pension Plan is funded. This "Steady State Funding" model that CPP relies on is a stable alternative to address the occasional pressures that the WSIB encounters from year to year. This type of funding would ensure that the resources would be available to pay benefits to injured workers now and in the future.

Premium Rates

If the WSIB were funded based upon a Steady State Model, then rate setting would become an exercise within that framework. At present, WSIB rates are politicized and the subject of intense lobby efforts from well organized employer groups; this actually works against the Meredith principles upon which the WSIA was founded, and that, in turn, disadvantages the very workers that the WSIB is meant to assist. By setting premium rates based on solid assumptions that include a defined pay down date of the UFL, the funding goals can be more defined and include costs for specific incentives and/or programs to further enhance the safety of workplaces.

Rate Groups

The current practice of placing employers into rate groups based upon industry type makes sense on a practical level in that employers in high risk industries are provided with incentives to ensure that the workplace remains as safe as possible and to keep claims down. What is unfortunate about the current rate group structure is that the collective liability principle allows for one poor employer in a rate group to have a profound effect on the rates of other, more responsible employers within the same rate group. A methodology that can be employed to address that is further breaking down the rate group structure into an “Industry Rate Component” as a base rate that takes into consideration industry wide factors and a “Company Rate Component” that represents a variable portion of the premium rate that is affected by the experience of the particular company. In essence, this model would not unnecessarily be punitive to an employer that ensures a safe workplace with a low accident rate while applying a financial penalty on the employer that has an increased experience rating in claims.

Employer Incentives

Much has been documented on the disadvantages of experience rating of employers. It is clear to OSSTF/FEESO that the current regime of experience rating (NEER, MAP, and CAD 7) serves as a disadvantage to injured workers in Ontario since there are many employers that are skilled at manipulating the system to their advantage by managing claims and minimizing employer costs. There are numerous examples in the labour movement of workers who were returned to work too early only to be reinjured, sometimes more severely than originally, due to the employer’s pressure to keep the experience rating stable and not cost the employer money. There is little evidence to support the notion that experience rating creates safer workplaces or reduces claims, as was suggested in the WSIB commissioned Morneau Sobeco report in 2008.

Consistent with the recommendations of the Expert Advisory Panel on Occupational Health and Safety, OSSTF/FEESO recommends that a new experience rating regime be implemented that recognizes employer behaviour with respect to effective return to work programs and health and safety records (much like the Safe Communities Incentive Program and the Safety Groups Program which are not mandatory) and reduces the reliance on claim cost and claim frequency. As well, any such incentive program must be applicable to Schedule 2 employers since there is no incentive program for these employers to reduce claim costs and create safer workplaces. Incentive programs must not be simply based on a rebate/surcharge, but be reflected by rate variation only.

Another incentive program that needs particular mention is the Secondary Injury Enhancement Fund (SIEF) that is not available to Schedule 2 employers. The principle behind the SIEF is that it provides incentive for employers to hire and employ injured workers. As a union that represents a significant portion of its members that are employed by Schedule 2 employers, OSSTF/FEESO recommends that SIEF be available to these employers.

Occupational Disease

OSSTF/FEESO understands the unique difficulty of funding Occupational Disease (OD) claims due chiefly to the uncertain nature of future costs. However, within the statutory power of the WSIB, it has the ability to create a reserve fund for OD. OSSTF/FEESO recommends that such a fund be created, funded initially through a separate levy on all employers. Since the occurrence of OD can be tracked by industry type and/or industry disease, a regime similar to premium rate setting based upon claims experience can subsequently be implemented to adjust the levy to an amount commensurate with claims experience by employer. By having a dedicated fund to compensate for OD, there would be less pressure on premium rate setting. This, in turn, would create a more stable funding regime for WSIB.

Indexation of Partial Disability Benefits

All injured workers, whether partially disabled or not, deserve the dignity of full indexation on benefits. Under a steady state funding model as the CPP has, the issue can be assumed in the rate. OSSTF/FEESO recommends that partially disabled workers benefits be fully indexed as fully disabled workers.

Coverage

Although not within the terms of reference of this review, OSSTF/FEESO cannot be silent on the issue of WSIB coverage. Approximately 30% of Ontario workers are not covered by the provisions of the WSIA. It is a mistake that there are some employers that have an option not to enrol in WSIB coverage, therefore leaving their employees with only any coverage that they can either negotiate collectively or that is provided by the employer, or worse still, with no coverage at all. Failing coverage of a third party insurer, these injured employees must either claim LTDI benefits (if they are covered by a plan, and if there is such a plan it is usually restricted to a lengthy elimination period), claim EI Disability benefits if they qualify, or sue their employer for compensation. OSSTF/FEESO takes the position that, in keeping with the Meredith principles that founded the WSIA, all Ontario workers must be covered by WSIB.

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