

KPMG Value for Money LMR Report – Key Points and Criticisms

First impressions of the KPMG Report – for discussion – IWC – May 2010.

In a nutshell, the report finds that current LMR is not very effective and makes several recommendations for improvement. The report recommends doing away with the separation between return to work and LMR, to be replaced instead with a work reintegration model. The Board has already moved forward in implementing this recommendation.

The report included several positive recommendations for workers, including:

- ☑ More **Board oversight** in work reintegration (professionalization of return to work specialists, increased management and oversight of problems, etc.)
- ☑ Increased **employer accountability** by enforcing reemployment and cooperation obligations, ending self reliance, utilizing penalties, and ending disincentives (e.g. experience rating)
- ☑ More **quality assurance and accountability for LMR service providers**, including the creation of an independent complaints management system for workers and working with the Ministry of Colleges, Training and Universities
- ☑ Developing strategies to make more use of public and not-for-profit educational institutions.
- ☑ More **worker choice** in LMR program selection (apparently 1 in 4 workers didn't agree with their plans)

Unfortunately, it's not all good. There were also several problematic elements to the Report.

- ✘ The focus on returning workers to their accident employers is fine, but can be problematic for non-unionized workers, particularly those in more precarious work.
- ✘ The report oversteps its bounds as a value for money audit by calling for legislative changes. Most problematic is the report's view that benefits are too generous. The report refers to "leading practices" in other jurisdiction to "remove long term benefit dependency" and to "discourage use of disability benefits as a path to early retirement" by "reducing benefits level to reduce work disincentives..."

The report suggests injured workers could be transferred to publicly funded programs such as welfare and Canada Pension. This demonstrates ignorance of the 'historic compromise,' the fundamental principle on which our workers

compensation system is founded. Workers have given up their legal right to sue their employer for workplace injuries in return for fair, no-fault compensation for as long as the disability lasts, funded by the employers who are protected from lawsuits.

The suggestion that generous benefits have created an incentive to remain on compensation rather than return to work and the suggestion to transfer injured workers to welfare etc. also perpetuates the false and **stigmatic** view of injured workers as getting a free ride on generous benefits.

- ✘ Which leads to a further problem, the report's failure to acknowledge the role of "**deeming**". Firstly, by assuming full employment after LMR and paying benefits accordingly, the Board is in fact already transferring many injured workers from benefits onto social assistance. The report only considers deeming in a roundabout way in the cost/benefit analysis where it states that LMR is clearly economical compared to paying benefits. There is no consideration of how the practice of deeming allows the Board to skirt around accountability and quality control – if you can just deem a worker to be earnings pretend money at a pretend job, the quality of the training doesn't really matter, because there are no financial consequences (for the Board).
- ✘ A final criticism is the report's recommendation for fixed service fees. Fixed fees might control costs, but they can only hurt quality. Unfortunately, the report does not recommend more use of reputable public educational institutions (despite the fact that many of the stakeholders consulted recommended this), which would go along way to increasing quality and employability.