

September 30, 2005

The Honourable Steve Peters  
Minister of Labour  
14th Floor  
400 University Avenue  
Toronto ON M7A 1T7

Dear Minister:

As President and Interim Chair of the Workplace Safety and Insurance Board (WSIB), I am writing to provide you with a summary of the steps we have taken and the further recommendations requested by the former Minister of Labour on Injured Workers' Day, June 1, 2005.

In his letter, the former Minister thanked the WSIB for the work and improvements that had taken place at the WSIB in the previous 12 months. He also stressed that more needed to be done and asked for recommendations by September 30, 2005 for further improvements (both legislative and policy) in the following areas:

1. Return to Work
2. Labour Market Re-Entry
3. Deeming of Loss of Earnings Benefits
4. Faster Decision Making
5. Independence for Workers
6. Simplification of Process

We have made significant gains in these areas and I am pleased to provide you with the following steps we have taken and further recommendations.

1. Return to Work (RTW)

The WSIB developed a RTW policy framework in July 2005. We expect to begin stakeholder consultation on the proposed new policies in October with implementation scheduled for early 2006.

It is expected that these policies will clarify the roles and responsibilities of workers, employers and the WSIB in the RTW process, leading to improved communication and a more coordinated and focused RTW efforts and outcomes.

In 2006, the WSIB will be reviewing non-RTW policies that have the potential to influence the behaviour of the parties in RTW (e.g. Second Injury & Enhancement Fund & Experience Rating). Changes to these policies could provide further incentives for employers to adopt improved RTW practices.

The WSIB Board of Directors has approved a draft regulation covering RTW and Re-employment in the Construction Sector. This was developed after extensive consultation with employer and union representatives. If approved by Government, this will create an obligation on construction employers and workers to cooperate in timely and safe RTW efforts and will require construction employers to offer available work to injured workers based on their level of fitness. We believe the regulation will significantly improve RTW opportunities for injured workers in this sector.

In addition, the WSIB is working on a number of other RTW initiatives that will:

- facilitate greater support and assistance to workers and employers by front-line staff
- improve the information flow from health care providers
- provide expert and focused RTW assistance in more complex claims with the aim of more fully restoring pre-injury earnings in these cases
- recognize the appropriateness of “time to heal” in appropriate cases and shift the emphasis on RTW from “early” to “timely” in recognition of the need for greater dignity and respect for injured workers

## 2. Labour Market Re-Entry (LMR)

The WSIB has developed an LMR Strategy which will be coordinated with our overall Return to Work Strategy and considered by the WSIB’s Board of Directors later in 2005. It establishes a vision, direction and desired outcomes for the LMR program and for injured workers in the LMR process. It is expected to provide clarity and a high-level roadmap to focus and guide the WSIB’s LMR program in order to achieve improved outcomes for injured workers.

Other LMR initiatives that have already been completed or are in progress will:

- Provide clear, consistent and transparent structure to manage provider performance and service delivery issues

- Enhance communications with injured workers
- Provide clear guidelines that will clarify roles, responsibilities and expectations
- Further demonstrate WSIB's commitment to maximizing the vocational capacity of injured workers.

### 3. Deeming of Loss of Earnings (LOE) Benefits

Since the current legislation came into force in 1998, workers have complained that their long term earnings, which are set through the “deeming” of earnings capacity as mandated by the legislation, are based on jobs that they can't perform or which are not available to them. These are commonly referred to as “phantom jobs”.

Some of these concerns will be addressed through our improvements to the LMR program. As well, the WSIB has a policy review under way to look at approaches to deeming earnings that will provide greater flexibility and fairness to injured workers. However, injured workers will likely continue to seek legislative changes to address the issues of fairness and flexibility.

### 4. Faster Decision Making

Recent changes to the WSIB's Service Delivery Model (such as consolidating industry sectors) have resulted in more equitable caseloads for adjudicators. The creation of adjudicative advice documents to supplement policies in key subject areas will also assist adjudicators in understanding more complex entitlement issues and improve timeliness, consistency and quality of decision-making. The adjudicative advice documents have been placed on WSIB's website to ensure openness and transparency in decision-making.

The WSIB has established a pilot program for adjudicating no lost time claims with a view to potential system-wide reform in 2006. It is hoped this will expedite processing for no lost time claims and permit greater time to be spent on more critical lost time claims.

The WSIB has also commenced a focused effort to penalize employers for late reporting of accidents. This has resulted in the reduction of average reporting time and contributed to faster decision-making.

We have also established a pilot to divide some of the duties of consolidated adjudicators among smaller specialized roles. More specialization will result in greater efficiency and speed in the decision-making process.

## 5. Independence for Workers

Since the de-indexation of injured worker's benefits in 1995, some injured workers have experienced financial hardship. The WSIB's current \$6.4 billion unfunded liability limits the options (legislative or non-legislative) for improvements in this area.

Effective January 1, 2005, the WSIB revised its policy on entitlement for surviving children 19 years or older continuing in education. After consultations with members of the surviving spouses and dependent children, the WSIB changed its policy by removing some eligibility restrictions for surviving children, extending the cut-off age, and recognizing additional forms of education.

On June 1, 2005, the WSIB announced it is changing the formula for factoring in Canada Pension Plan disability benefits when it calculates the benefits to be paid to injured workers. The move, effective from January 1, 2004, has had the effect of increasing benefit payments to approximately 3,000 of the most significantly disabled injured workers.

## 6. Simplification of Process

Initiatives completed or currently in progress include:

- Re-designing of Health Providers First Report (Form 8)
- Revised Employer's Report of Injury (Form 7) and Worker's Report of Injury (Form 6) following extensive consultations (to be implemented November 1, 2005)
- Revisions to the Functional Abilities Form are in progress with scheduled implementation in January 2006
- Eight additional forms used by workers, employers and health care practitioners to report on the progress of claims have been identified for simplification in 2006

These streamlined forms will make it easier for workers, employers and health care practitioners to deal with the WSIB and will support better and more timely decision-making.

In the fall of 2004, the WSIB released the Worker's Guide to the Workplace Safety & Insurance System booklet which is easy for workers to use to help them understand their rights and obligations. The WSIB received extensive feedback from injured workers on the content and format of the guide. It is mailed to all workers who remain on benefits longer than 30 days from the date of injury.

Also in the fall of 2004, the WSIB amended its guidelines for extending the time limits to appeal. This has resulted in greater access to the appeal system in cases where disputes cannot be resolved informally.

Systems development work is currently taking place to improve options for electronic service to make communications more streamlined and make it easier to do business with and receive services from the WSIB.

## 7. Other Key Initiatives

The WSIB's Health Care Review has been a key initiative throughout 2005 and is scheduled to be completed in April 2006. This review will build upon our successes in managing the provision of health care for injured workers. It is a comprehensive review that will examine all areas of managing the provision of health care at the WSIB. The review's mandate is to propose the optimum model for the management of health care for injured workers – one that provides appropriate, timely, evidence-based, and quality health care for injured workers within a financially sustainable system.

The WSIB is proceeding with the implementation of recommendations arising from the Occupational Disease Advisory Panel (ODAP). The recommendations were passed by the WSIB's Board of Directors in June 2005 and clarify longstanding issues relating to the legal test used to determine causation in occupational disease claims. They also establish criteria for establishing disease-specific policies and the scheduling of diseases through regulation.

The WSIB also continues to strengthen its core business through key partnerships. In 2004, WSIB entered into an information sharing agreement with the Canada Revenue Agency (CRA) and is identifying thousands of businesses not registered and not paying premiums. The partnership with the CRA has resulted in over 5,000 registrations of previously non-compliant employers. The WSIB also entered into a partnership with the MOL in support of its High Risk Firms Initiative aimed at dealing aggressively with the most unsafe workplaces in Ontario.

## A New Strategic Direction

Soon we will be sharing with you the WSIB's 5-year Strategic Plan (2006-2010) which outlines a more aggressive and proactive leadership role for the WSIB in workplace health and safety. This means that the WSIB will be actively promoting the development of innovative solutions and responses, particularly in the areas of prevention and return to work outcomes. It also means that we will continually seek to improve upon and enhance our effectiveness while demonstrating responsible stewardship and governance that is focused on clearly defined outcomes within a modern and effective management structure.

We are also determined to build strong and enduring relationships with the leaders of today and tomorrow by expanding our interactions with the CEOs of Ontario. We will also be renewing and

enhancing our partnerships with our Health and Safety Associations, our worker and employer stakeholders and the Government of Ontario.

Why? Because we are determined, committed and focused on preventing and responding to workplace injuries and illnesses in order to preserve a strong and sustainable workplace safety and insurance system for the people of Ontario.

We are enthusiastic about the future and look forward to working with you and our stakeholders to affect change.

I would be pleased to meet with you or your staff to discuss in more detail the initiatives summarized in this letter.

Sincerely,



Jill Hutcheon  
President and Interim Chair