

Les Liversidge

From: Les Liversidge <lal@laliversidge.com>
Sent: Monday, March 23, 2020 3:59 PM
To: Les Liversidge (lal@laliversidge.com)
Subject: A Message from L.A. Liversidge regarding WSIB and COVID-19

Dear Valued Client:

Current WSIB Status

As you are likely already aware, COVID-19 has disrupted business at both the WSIB and the WSIAT and any scheduled hearings have been postponed and offices are closed to the public. We have also been advised that as of March 16, 2020 the WSIB is working on its “core business” only, i.e., payment of health care and loss of earnings benefits. Issues such as SIEF are not currently being reviewed for at least another two weeks and in fact there are no Case Managers being assigned to such issues. I suspect that this protocol will be in place for greater than two weeks. The WSIB is not currently processing any hard copy mail received. If the claim number is known, documents should be uploaded online. If the claim number is not known, documents may be faxed to 416-344-4684 or 1-888-313-7373. Please ensure that you continue to meet employer reporting obligations and submit Form 7s as required.

In addition, over the weekend the Ministry of the Attorney General made an Order in Council under s. 7.1 of the *Emergency Management and Civil Protection Act* suspending limitation periods and procedural time periods for the duration of the emergency retroactive to March 16, 2020. Consequently, the timelines for submissions/filings etc. at the Board may be affected.

Our Response

In light of the above, we will upload all claim documents and correspondence. At this time we will be dealing directly via telephone communication with the WSIB on core benefit issues only. While we will continue to pursue issues that are not related to immediate health care and LOE benefits (SIEF, etc.), we will limit our involvement to filing a request or a submission and will defer follow up action until a more appropriate time. It may be difficult for us to contact Case Managers and Return to Work Specialists in order to obtain information we require. In order to deal with this we will obtain as much information as possible from the Inquiries Desk. Where we cannot obtain the required information from the Inquiries Desk we will attempt to schedule appointments with WSIB staff in order to speak with them.

With respect to account inquiries we will also first obtain as much information as possible from the Inquiries Desk. Failing that we will utilize the WSIB’s online services or email the WSIB. It is, therefore, important for you to ensure that we have your Compass log in information.

COVID-19 Claims

If a worker suspects that he has contracted COVID-19 at work and reports this a claim must be filed as it would for any other reported injury.

The WSIB is presently developing adjudication guidelines and I have offered some advice to these. All cases will be individually assessed with a close examination of the evidence with decisions guided by the “significant contribution test”. I recommended that the Board develop a series of fact examples as a guide to both WSIB decision-makers and the public. I expect to see the Board’s guidelines likely within a day or so and will forward them once received.

For a COVID-19 claim to be allowed, there must be an identifiable injuring process or causal connection, (e.g., being in direct contact with a specific person with the condition). A significant contributing factor is one of considerable effect or importance. It need not be the sole contributing factor. The fact that a worker works in the same building as a person

who has COVID-19 is not enough to render the work environment a more significant contributor than the community at large. To determine the work-relatedness of COVID-19 claims, the WSIB will look at details such as the person's employment activities, their symptoms and whether they have a diagnosis of COVID-19, and assess the onset timeline. Again, I will offer more once the guidelines are released.

Please be assured that we are open for business as usual, will continue to ensure all filings remain timely and, while some follow ups, etc. may be deferred, all submission deadlines and appeal actions will be on time. We fully appreciate how this is likely impacting your business and if discussions are required after normal business hours, we can accommodate this at your request at any day or time.

Yours truly,

LAL

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