

Construction Employers Coalition
(for WSIB and Health & Safety and Prevention)



March 24, 2020

Ms. Elizabeth Witmer, Chair
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1

& Mr. Tom Teahen, President & CEO
Workplace Safety & Insurance Board
200 Front Street West
Toronto ON M5V 3J1

Reference: COVID-19 claim cost accountability and consideration for the establishment of a WSIA s. 98(1) special reserve fund

Dear Ms. Witmer and Mr. Teahen:

During these unprecedented times we appreciate the speed at which the Board developed and posted the **Adjudicative Approach Document - Covid-19** which explains how COVID-19 claims will be adjudicated.

While COVID-19 does not fit within the general occupational disease (OD) template vis-à-vis employer accountability, we are contacting you to urge the Board to immediately develop an exceptional policy in light of this unique emergency and decree that akin to long-latency OD cases, all COVID-19 claims costs will be collectively borne (i.e., among all Schedule 1 employers) and will not form part of an individual employer's or industry's record. We will likely have other recommendations in the days and months ahead, however this specific policy requires immediate attention. We are of the view that such an initiative falls within the Board's current lawful discretion, however if not, we would ask that immediate consideration be given pursuant to WSIA s. 98(1) to establish a "Special Reserve Fund." The COVID-19 outbreak most certainly meets the threshold of "*a disaster or other circumstance . . . (that) would unfairly burden the employers in any class.*"

As we (the province and country) are still in the midst of this pandemic, our industry employers are focused at this time with working hard to promote self-isolation within their workplaces to keep their employees engaged in essential work safe as they remain at work.

The last thing that is needed at this time is to expect that Ontario employers will advance their immediate self-interest by monitoring WSIB adjudication of COVID-19 cases. During this public emergency, employers must be immunized against direct cost accountability for any and all COVID-19 claims.

As a service that has been deemed essential by the provincial government, we are working closely with our contractors to implement best practices by minimizing exposure and keeping our workers healthy. Unfortunately, the nature of our work does involve greater exposure than those who can stay at home. Therefore, our proposal makes perfect policy sense.

Regards,

David Frame, CEC Chair