

The Liversidge e-Letter

An Executive Briefing on Emerging Workplace Safety and Insurance Issues

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An Electronic Letter for the Clients of L.A. Liversidge, LL.B.

2 pages

The Case for a Large Scale Review of the Ontario WSIB (Part III of III)

The Ontario workers' compensation model requires urgent reform

Ontario: Injuries down, benefits up

In the first instalment of "*The Case for a Large Scale Review of the Ontario WSIB*" (November 2, 2009), I argued that while the "global financial crisis" was impacting the Board's finances, the system was in trouble long before. I suggested that the real problem was pretty basic – *benefits are up and injury rates are down*. I noted that 2003 was a key year – a year when the average cost per lost time injury ["LTI"] started to skyrocket. From 1998 to 2002, the average cost per LTI was hovering around \$14,000 but by 2008 soared 72% to \$24,133.

Ontario vs. B.C. and Alberta: Fewer LTIs, lower benefit rates, higher premiums, much lower funding level

In the second instalment November 5, 2009, I noted that while Ontario has fewer LTIs than B.C. and Alberta combined and while Ontario's LTI rate is half of B.C.'s and 23% lower than Alberta's (and getting better), Ontario still has higher employer premiums (by far), a poorer funding level (by far), and benefits regularly exceed revenues.

Ontario premiums are 60% and 70% *higher* than B.C. and Alberta respectively. Ontario LTI rates are much *lower*. Alberta and B.C. both have *higher* benefit rates than Ontario. *Surely one would expect that Ontario would be leading this pack funding and sustainability wise. But, no, Ontario is behind and falling behind.* That is the hard reality.

So, just where are the real differences between the performance of Ontario versus B.C. and Alberta?

Let's be clear. Ontario is neither B.C. or Alberta. The industrial make-up is different, the population is different and the economies are different. But, so far, most of the comparisons I have made in the first two instalments of this series cover a time when things were not too bad in Ontario. Some years were very good. *Even though the economies may be different, the basic workers' compensation principles are the same.* All three jurisdictions are tasked to ensure injured workers are swiftly and fairly compensated.

Increasing time on claim is the key

As I showed in the November 5, 2009 issue of *The Liversidge e-Letter*, Figure 5, "*Benefit Costs vs. Revenues: B.C., Alta., and Ontario*", it is in the area of benefits that Ontario jumps ahead, even though the wage replacement level is lower and Ontario has fewer LTIs to start with. *So, what is the driver? The bottom line:* In Ontario injured workers are staying on claim longer.

% LTIs on Benefits: B.C., Alberta and Ontario After 2nd Year and After 6th Year (as at 2007)

Source: Association of Workers' Compensation Boards of Canada - 2007

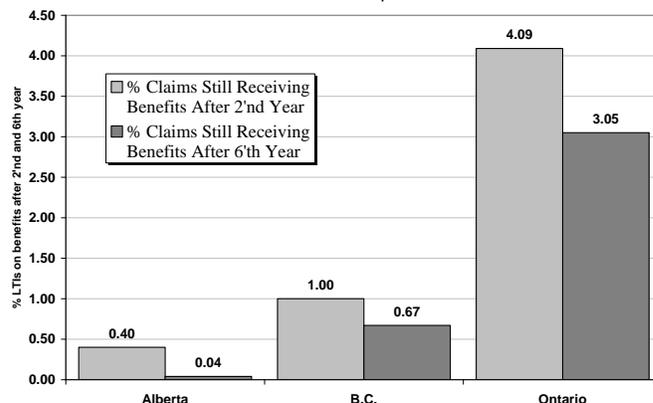


Figure 1

Figure 1 shows what is going on (2007) - in Ontario, workers on long-term claim stay on claim much longer. In B.C., two (2) years post-injury, only 1.00% of injured workers are still receiving wage loss benefits; in Alberta, 0.40%. *Ontario?* 4.09%. *But, it is the sixth year post-injury that tells the story.* In B.C., only 0.7% of injured workers receive wage loss benefits. **But, in Ontario, 3.1% of all workers who lost time from work due to an on-the-job injury are still receiving benefits.** And, in Ontario, every worker receiving benefits six years post-injury will have those benefits "locked-in" until age 65. *The Board has no legal ability to review and reduce those benefits regardless of future employment earnings* (unless the worker failed to disclose a material change in circumstances before the end of the 6th year) [*Workplace Safety and Insurance Act, s. 44*].

But are the results *improving* in Ontario?

Well, no. Far from it. **Figure 2** shows the same data in a 2001 snapshot.

% LTIs on Benefits: B.C., Alberta and Ontario

After 2nd Year and After 6th Year (as at 2001)

Source: Association of Workers' Compensation Boards of Canada - 2001

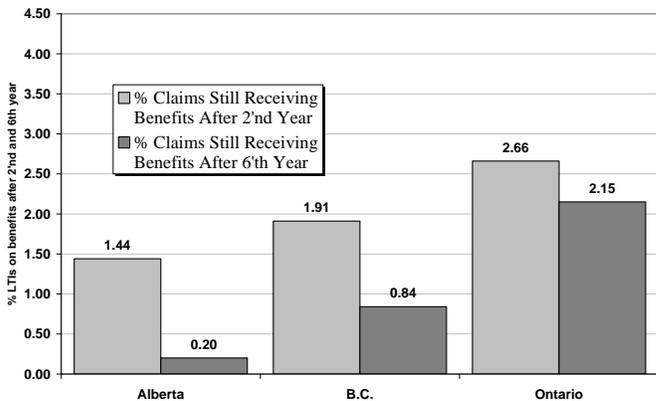


Figure 2

From 2001 to 2007, in Ontario the percentage of claims still receiving benefits at six years post-injury *jumped* from 2.15% of all LTIs to 3.05%, an upward swing of 42%, whereas in B.C. the percentage of cases still receiving benefits six years post-injury *dropped* 20%, from 0.84% to 0.67%. While B.C. and Alberta are not totally comparable benefit wise, the real story is in Ontario's change in performance. More workers remain on claim. *Why?*

So, is it that Alberta and B.C. are simply spending more on claims administration?

Again, no. In fact, *Ontario* spends considerably more per LTI with very different results.

Admin Cost per LTI: B.C., Alta., and Ontario

Source: Association of Workers' Compensation Boards of Canada - 2007

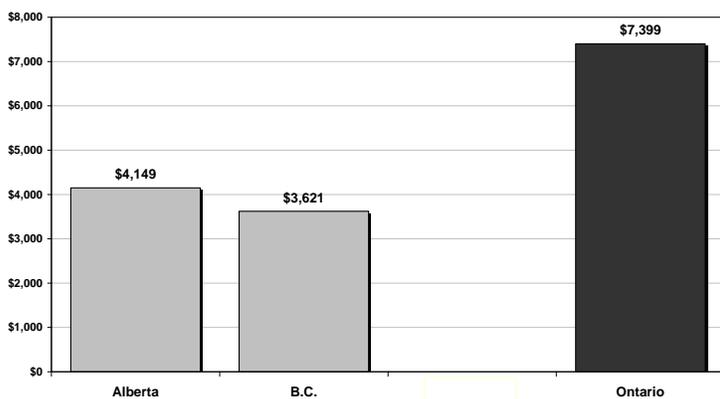


Figure 3

Ontario's administration cost per LTI is more than double that of B.C. (\$7,399 vs. \$3,621) and 78% more than Alberta's (at \$4,149). For Canada overall, for 2007, not including the territories (which understandably have very few claims and thus, a higher administration cost per claim), *Ontario leads in admin costs per LTI.* The lowest is Saskatchewan at \$2,548 [AWCBC, Indicator Ratios for 2007].

Is the WSIB of Ontario understaffed?

Is it possibly the case that the Ontario WSIB is short-staffed and simply unable to devote the attention LTIs need compared to the other jurisdictions? We do know, for example, that the Board in fact does outsource a lot of the work associated with **Labour Market Re-entry** ["LMR"], and that this program itself has been fuel for controversy (refer to the January 27, 2009 issue of **The Liversidge e-Letter**, "**Toronto Star Slams WSIB Labour Market Re-entry Program, says it is 'A jobs program that fails'**"). As readers are aware, I have long been a critic of the WSIB's LMR program (see the early and safe return to work ["ESRTW"] issues over the years). But, while no doubt LMR is far less effective than it should be, let's not forget that even though the Board is conducting a third party review of LMR right now (with the results likely coming out soon), the program attracted the Board's full confidence in 2006 (see the January 27, 2009 issue of **The Liversidge e-Letter**). More on LMR when the review report is released.

But, as one can readily see in **Figure 4** the Board is hardly understaffed.

WSIB Employees per 1,000 LTIs

Source: WSIB Annual Reports and WSIB Premium Rate Manuals

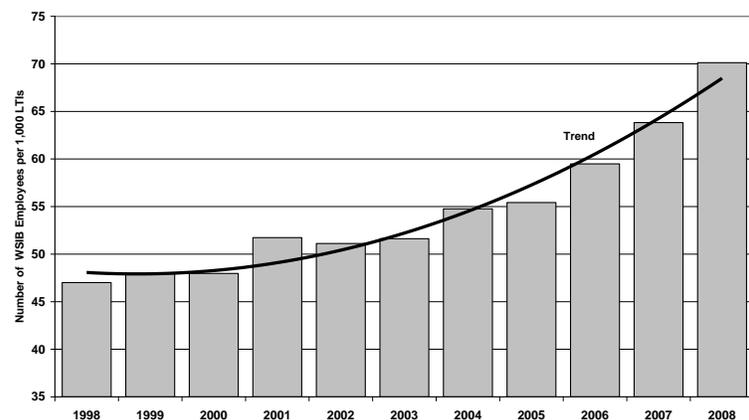


Figure 4

The number of WSIB employees per 1,000 LTIs is at an all-time high of 70. From 1998 (47 WSIB employees per 1,000 LTIs) to 2008, the ratio of employees to LTI jumped 50% (49.94%). A comparison to twenty years ago is even more dramatic. The number of WSIB employees per 1,000 LTIs was 23 in 1988. Over the past 20 years, it increased three fold. *Interestingly, the number of employees per 1,000 LTIs started its recent ascent in 2003, just when the average cost per LTI was also on the upswing* (See **Figure 5**, November 2, 2009 issue). There is no resource deficit.

Now, I want to be clear. I consider the employees of the Ontario WSIB to be one of the hardest working, most dedicated groups of public servants one will find anywhere. Always have. The problem is not a lack of quality staff. **The problem is within the system itself.** Something is out of plumb. And, so far, the system's stewards have not found the solutions. **Next Issue:** *The key steps towards reform.*