

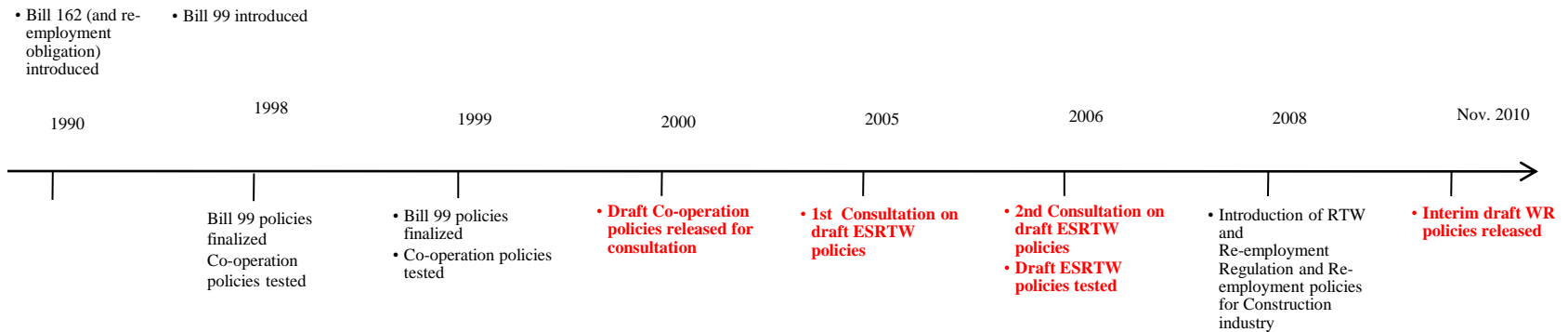
The WSIB's Interim Work Reintegration (WR) Policies and Draft New Experimental Experience Rating (NEER) Policy

Presentation to Employer Stakeholders

November 29, 2010

Policy Services and Appeals Division

Chronology of Return to Work and WR policy development



General Guiding Principles in WR

- Appropriate and early return to work (RTW) maintains a worker's dignity and productivity
- A worker's prospects for successful RTW are best achieved if the worker returns to work with the injury employer, which can include retraining in a different job [Suitable Occupation (SO)]
- WSIB plays an active role in the WR process and responds quickly to return to work and recovery barriers
- Workers should be offered programs that are high quality and practical, and WSIB must provide worker with meaningful input and choice into those programs

Overview

- Five interim principle based WR policies and one draft NEER policy have been developed to support the WSIB's new WR program
- WR combines early and safe return to work (ESRTW), re-employment and labour market re-entry (LMR)
- Interim WR policies replace 24 existing policies covering ESRTW, re-employment and LMR
- Interim WR policies have been streamlined and simplified
- Easy for stakeholders to read, understand and use
- Intended to produce better return to work outcomes
- Emphasis on greater accountability by workplace parties, and early WSIB involvement with ongoing support

Overview of Key Policy Concepts

| Key Concepts | New/Re-emphasized | Retained |
|--|-------------------|----------|
| <i>Maintaining pre-injury employment relationship</i> | ✓ | |
| <i>Timely work transition assessments</i> | ✓ | |
| <i>Increased worker input and choice</i> | ✓ | |
| <i>Part-time or partial work capacity</i> | ✓ | |
| <i>More work transition pathways</i> | ✓ | |
| <i>Reasonable investments in retraining</i> | ✓ | |
| <i>Enhanced WT for young/low wage workers</i> | ✓ | |
| <i>Older worker option</i> | ✓ | |
| <i>Relocation assistance</i> | ✓ | |
| <i>WSIB's role in supporting workplace parties</i> | ✓ | |
| <i>Accommodation support for small business</i> | | ✓ |
| <i>Hierarchy of RTW opportunities</i> | | ✓ |
| <i>Suitable work (streamlined definition)</i> | | ✓ |
| <i>Available work</i> | | ✓ |
| <i>Sustained RTW (streamlined definition)</i> | | ✓ |
| <i>Accommodation requirements (streamlined)</i> | | ✓ |
| <i>Worker and employer non-co-operation penalties and employer re-employment penalties</i> | | ✓ |

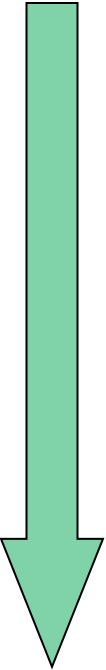

New/Re-emphasized Concepts

Maintaining pre-injury employment relationship

- Work reintegration services and programs specifically designed to allow workers to remain with the injury employer in suitable and sustainable work

Hierarchy of RTW Opportunities

Pre-injury job should be starting point and RTW goal

- 
1. Pre-injury job with injury employer
 2. Pre-injury job, with accommodation if required
 3. Work comparable in nature and earnings to pre-injury job with injury employer, with accommodation if required
 4. Alternate suitable work with injury employer, with accommodation if required
 5. Work comparable in nature and earnings to pre-injury job in labour market, with accommodation if required
 6. Alternate suitable work in labour market, with accommodation if required
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New/Re-emphasized Concepts

Timely WT Assessments

- When workplace parties are unable to arrange suitable and sustainable RTW, the WSIB will provide a WT assessment to determine what assistance the worker may require to enable a RTW with injury employer, or a different job in the general labour market
- Generally provided between 6 and 9 months following date of injury
- Worker given an opportunity to discuss results of the assessment
- When determining a SO, every effort will be made to maintain the employment relationship, provide for effective and meaningful input and choice, and reintegrate workers into suitable, available, and sustainable work, all within a reasonable cost structure

New/Re-emphasized Concepts

Increased worker input and choice

- Worker input an essential component for determining work transition goals *and* specific education/training providers
- Choice of Community College or Ministry of Training, Colleges and Universities (MTCU)
Registered Private Career College for skills upgrading/training

New/Re-emphasized Concepts

Part-time employment or partial work capacity

- Recognition that part-time employment (with the injury employer or a new employer) may be the best option for some workers

New/Re-emphasized Concepts

More work transition pathways, including

- Training on the job
- Community College programs (technical or academic programs)
- Apprenticeships
- Work trials with new employers

New/Re-emphasized Concepts

Reasonable investments in retraining

- Parameters set to ensure accredited, high quality and high value retraining programs—which lead to marketable worker skills with well recognized credentials
- Reasonable limits on duration of all programs: one year of academic upgrading, two years of formal retraining
- Modelled after MTCU's *Second Career* Program

New/Re-emphasized Concepts

Maximizing earnings potential through enhanced WT

- Provide enhanced WT services to young workers, or workers with low accident earnings, to allow those workers to achieve higher earnings than pre-injury without significantly increasing the cost or duration of the plan

New/Re-emphasized Concepts

Older worker option

Workers aged 55 or over who require a WT plan to achieve employment in a SO with a new employer can:

- Participate in a WT plan aimed at achieving the SO
- Choose a 12 month Transition Plan (TP) focused on self-directed WR
- If worker chooses self-directed TP option, full LOE benefits payable for 12 months, following which LOE benefits based on the identified SO
- Once worker chooses self-directed TP option, it is in conjunction with irrevocable no review option payable to age 65

New/Re-emphasized Concepts

Relocation assistance

- WSIB first considers opportunities with injury employer, then local labour market, and if necessary, regional and provincial labour market
- Relocation may be considered if there are no WT opportunities in the local labour market
- WSIB will pay reasonable costs associated with relocation; if worker chooses not to relocate, wage loss benefits adjusted as if worker had relocated (in keeping with current practice)

New/Re-emphasized Concepts

WSIB's role in supporting workplace parties (WPP)

- WSIB's role is to provide the necessary WR services to support the efforts of the WPP in achieving successful RTW outcomes
- Key services include: education and advice, case management, RTW co-ordination, health recovery support, accommodation assistance, dispute resolution, and ensuring compliance with co-operation and re-employment obligations
- WSIB meets with WPP at the worksite no later than 12 weeks if WPP have been unsuccessful in arranging suitable and sustainable work

WPP Co-operation Obligations

WPP obligated to:

- initiate early contact
- maintain appropriate communication throughout the worker's recovery
- identify and secure RTW opportunities for the worker
- give the WSIB all relevant information concerning the worker's RTW
- notify the WSIB of any dispute or disagreement concerning the worker's RTW.

WPP Non-Co-operation Penalties

For a non-co-operation penalty to be levied, the WSIB must be convinced on a balance of probabilities, that a WPP:

- had knowledge of his/her obligation
- had the capability to carry it out, and
- did not carry it out

Note: Dispute over job suitability does not mean that WPP(s) is being non-cooperative in RTW efforts

WPP Non-Co-operation Penalties

| | Initial Penalty | Full Penalty |
|--|---|--|
| <i>Start of Penalty</i> | <ul style="list-style-type: none"> Initial penalty applied seven business days after date of written notice of non-co-operation | <ul style="list-style-type: none"> If non-co-operation continues, full penalty applied 14 calendar days after initial penalty |
| <i>Amount of Penalty— Worker</i> | <ul style="list-style-type: none"> Wage loss benefits reduced by 50% | <ul style="list-style-type: none"> Wage loss benefits suspended, or if worker in WT, reduced to reflect the earnings of an experienced worker in the SO |
| <i>Amount of Penalty— Employer</i> | <ul style="list-style-type: none"> 50% of the cost of wage loss benefits to the worker | <ul style="list-style-type: none"> 100% of the cost of the worker's wage loss benefits, plus 100% of any costs for providing WT services to the worker |
| <i>Penalty ends</i> | <ul style="list-style-type: none"> Initial penalty ends when workplace party renews co-operation, or after 14 calendar days, whichever comes first* <p>*for employers, initial penalty can also end if no further benefits are payable to the worker</p> | <ul style="list-style-type: none"> Full penalty (worker) continues until worker starts co-operating Full penalty (employer) continues until the earliest of <ul style="list-style-type: none"> employer starts co-operating date no further benefits are payable to the worker, or 12 months following date written notice comes into effect |

Re-employment Penalties

| | Length of Obligation | Effective Date and Amount of Penalty | Penalty Reduction |
|---|---|--|--|
| <i>Worker fit for essential duties of pre-injury job</i> | Earliest of <ul style="list-style-type: none"> ▪ two years after date of injury ▪ one year after fit for essential, or ▪ date worker reaches 65 years of age | <ul style="list-style-type: none"> ▪ Penalty applied seven business days after date of written notice ▪ Amount of penalty is actual amount of workers net average earnings for year before the injury* | Penalty reduced by <ul style="list-style-type: none"> ▪ 50% if employer later offers suitable work at no wage loss, or ▪ 25% if employer offers suitable work at a wage loss where the employment is maintained for the remainder of the obligation period |
| <i>Worker only fit for suitable work</i> | Earliest of <ul style="list-style-type: none"> ▪ two years after date of injury, or ▪ date worker reaches 65 years of age | <ul style="list-style-type: none"> ▪ Penalty applied seven business days after date of written notice ▪ Amount of penalty is actual amount of workers net average earnings for year before the injury* <p>*Apportioned based on time left in obligation period</p> | Penalty reduced by <ul style="list-style-type: none"> ▪ 50% if employer later offers “less” suitable work at no wage loss ▪ 25% if employer offers “less” suitable work at a wage loss where the employment is maintained for the remainder of the obligation period |

Concurrent Non-Co-operation and Re-employment Penalty

- If an employer breaches both a co-operation and re-employment obligation in the same claim, the WSIB will apply a single penalty.
- The WSIB will choose the penalty which will most likely lead to a positive RTW outcome for the worker.

Draft NEER Policy Highlights

- Extends the review window from 3 to 4 years
- Starting with the 2008 injury year
- Implemented over a three year period (2012-2014)
- No impact to CAD-7, MAP and small business (approx. 127,000 employers)

Consultation Process

- Five interim WR policies will be used by WSIB staff during the course of the consultation period
- Feedback from stakeholders and well as operational experience will be taken into consideration before the five WR policies are finalized in 2011
- Draft NEER policy will not be used by WSIB staff during consultation period; existing NEER policy (13-02-02) will continue to apply throughout the course of the consultation period

- Thank you very much for your time today
- Follow-up questions/comments? Please contact Maureen Mullen via e-mail at maureen_mullen@wsib.on.ca, or by telephone at (416) 344-2344