

Adjudicative Advice

Workers with Multiple Claims

Background

Our clients have indicated there can be some confusion when there are multiple claims and adjudicators in determining which decision-maker is responsible to address/co-ordinate the resolution of the issue(s). This document is designed to provide some guidance to Service Delivery Teams (SDT) around this question.

These scenarios can be more complex as the decision-maker may have to compare the fact situation with multiple policies and legislation. This is not an uncommon situation as approximately 65% of injured workers have multiple claims.

Principles

In order to fully determine questions of entitlement around issues that are potentially linked, all relevant claims should be reviewed and considered.

The WSIB adjudicator with the prevalent issue should address all the issues concerning entitlement and is responsible for securing all the claims and ruling on the issue(s).

Where there is uncertainty, the SDT managers should become involved to ensure there is expedient, consistent and effective service provided in the case.

On occasion, noting a particularly unique issue, there may be a requirement for more than one adjudicator to

be involved in the resolution. In these situations, the client and (if applicable) their representative must be advised.

Examples

- A RTW or LMR plan is being developed for a worker with a back injury. In reviewing the worker's medical history it is noted a prior WSIB claim was established for a left leg injury in 1988 for which the worker is in receipt of a permanent disability (PD) pension. The file is secured and the precautions with respect to the left leg injury are recorded in the current file and utilized when determining the suitability of the potential job.
- A request is received from a worker and/or representative for a permanent impairment assessment for a right wrist condition arising from repetitive duties. The worker is currently working but did submit a no lost time claim 6 months ago that was accepted. A review of the WSIB claim history indicates the worker has had three other lost time claims for the right wrist/hand. None of these involved a permanent impairment assessment. The adjudicator involved with the most recent no lost time case should secure all the claims, conduct the necessary enquiries and rule on the issue.
- When reviewing ongoing entitlement in a Bill 99 claim it is noted that a

Notice: This document is intended to assist WSIB decision-makers in reaching consistent decisions in similar fact situations and to supplement applicable WSIB policies and guidelines as set out in the Operational Policy Manual (OPM). This document is **not a policy** and in the event of a conflict between this document and an OPM policy or guideline, the decision-maker will rely on the latter.

worker had a similar area of injury in a Pre 1990 accident. The file is secured and the information indicates the current problems may be as a result of this old injury. In order to address the issue it is necessary to conduct enquiries to secure information about the condition. The subsequent ruling by the Bill 99 adjudicator will address the issue of benefits under both files. **(It is important to be aware that when the accidents occur with different employers, separate entitlement letters will likely need to be issued in order to ensure Privacy issues are not compromised.)**

- A worker representative is appealing the closure of LOE benefits. On the objection form there is a request that entitlement under a prior claim to a Pension reassessment and possible entitlement to a s.147(4) supplement be included in the dispute. The Bill 99 adjudicator contacts the representative and indicates they will co-ordinate the handling of the request with the responsible Pre-1990 adjudicator. The Pre-1990 adjudicator will review the relevant file record(s) and secure any required information to render the appropriate decision(s). They will keep the representative and Bill 99 adjudicator up to date and provide each with a copy of their decision.
- A new claim is established through a medical report indicating a worker experienced low back pain while performing his/her regular job on an assembly line. The employer is aware that the worker has a prior claim related to an accident with a previous employer and questions whether this should be treated as a recurrence rather than as a new claim. The worker has a 10% PD under a Pre-1990 claim for a low back condition. The Bill 99 adjudicator determines there was no new accident and confirms there is continuity of symptoms. The new claim is amalgamated into the Pre-1990 claim and lost time is allowed as a recurrence. The Bill 99

adjudicator contacts the Pre-1990 adjudicator to discuss the decision and coordinate the payment of benefits. The Bill 99 adjudicator communicates the decision to all parties (including both employers through separate letters), taking care not to compromise the worker's privacy.

Cross Referencing Claims

Ensuring the recording of relevant prior claim details in the file record helps to ensure a better understanding among all the Service Delivery Team members of the potential impacts to the worker of other injuries/conditions.

To access the prior claim history, decision-makers can review a number of sources. Details can be secured under 'WKRC' or by submitting the worker's SIN number into the 'LCS2' screen. The case summary should be detailed on the 'Summary of Prior or Subsequent Claim' form and filed in the 'SYN' section. This will ensure that prior to release of the information it is verified that it is relevant to the presenting issue in dispute. * *the 'SYN' section is not provided to employers when access is granted*

Conclusion

Ensuring the decision-making in claims is not unnecessarily fragmented among adjudicators is very important for the fair, consistent and timely resolution of issues.

In situations where there are multiple files it is important that our clients clearly understand who the decision-maker responsible for determining entitlement is. In more complex situations discussions between Service Delivery Teams may be required.

When entitlement is being provided consideration to Benefits Policies 18-04-07 'Blending FEL Benefits with other Benefits' and 18-03-02 'Payment of LOE Benefits' may be of assistance.

Claims Quality Loop, April 2006