



**Submission from the
UNITED FOOD AND COMMERCIAL WORKERS
(UFCW) LOCALS 175 & 633
to the MINISTRY OF LABOUR, TRAINING
AND SKILLS DEVELOPMENT**

**Regarding:
*Workplace Safety and Insurance Board (WSIB)
Insurance Fund Surplus Distribution Model
Consultation***

August 9, 2021

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INTRODUCTION

UFCW Locals 175 & 633, (the Union) believes in a fair system of workers compensation that puts the worker first and foremost in consideration of coverage. The Ministry of Labour, Training and Skills Development (the Ministry) has requested stakeholder consultation for a Surplus Distribution Model of premiums to the Workplace Safety and Insurance Board (WSIB), specifically seeking answers to the following questions:

1. Should all Schedule 1 employers be eligible to receive a surplus, or should some exclusions be established (e.g., employers with accounts in bad standing)?
2. What method should be used to allocate surpluses (e.g., distribute surplus based on the proportion of premiums paid by individual employers compared to the total premium base)?
3. How should the surpluses be distributed (e.g., credit to employer's account, premium reductions)?

The Union is concerned with the nature of this consultation. Instead of a focus on returning premiums to employers, there should be a focus of ensuring proper coverage for workers who have been injured or made ill in the course of their employment.

The Union is a major stakeholder, representing more than 70,000 workers across the province of Ontario in a majority of workplace sectors, notably retail, industrial, healthcare, hospitality, and more. The Union operates a department dedicated to providing highly qualified representation to the Membership who are dealing with compensation claims. The Union carries an average of over 500 claims annually, ranging from initial entitlement, health care benefits, non-economic loss awards, loss of earnings, and more. Due to considerable delays in the WSIB claims process, this number is consistent year over year.

Based on our experience in the system, the delay in claims, and the level of compensation applied to workers in need, the Union believes that the Ministry should not consider a system of surplus distribution at all and should instead engage in consultations to renew and improve the system of worker compensation more broadly.

PURPOSE OF THE WORKERS COMPENSATION SYSTEM

The concept that the WSIB is fully or over-funded, creating a surplus that should be returned is flawed. Workers compensation insurance was a compromise wherein workers gave up their right to sue their employer for compensation when injured or made ill on the job in exchange for an insurance system that would provide for fair and complete coverage to compensate for injury or illness. Attempting to balance worker compensation benefits with employer fiscal interests is wrong. The compromise was to provide a reliable system of compensation with dependable and predictable cost to employers.

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BENEFIT LEVELS

In recent years, compensation levels for workers have been reduced, not improved. The rationale provided for those cuts was largely a response to an unfunded liability. It is difficult to see how the system could then be viewed to be fully or over-funded when those levels of compensation have not been increased.

The Operational Review Report has noted that the number of WSIB claims has risen since 2015. Despite this increase in claims, the WSIB's financial reporting has shown the benefits paid out to workers have been decreasing since 2010. For example, the benefit cost in 2010 was reported at \$4,809 million while in 2015 the costs were reported at \$2,332 million.

In addition, these costs do not factor in the additional supports for work-related chronic mental stress that was added to the legislation in 2016. Despite that addition, the WSIB has reported that only 6% of chronic mental stress claims have been allowed. The WSIB reports an average allowance rate of 78% for all other injuries. These claims are failing to be addressed by the system and should be considered again before deciding that the system is fully funded.

FUTURE NEEDS

The world continues to grapple with the COVID-19 pandemic. Many essential workers, rightfully described as heroes, have been continuously exposed in the workplace to the risk COVID-19 presents, with many falling ill. The WSIB reported receiving more than 29,000 COVID-related claims as of July 30, 2021, additionally reporting that 92% of these claims were allowed.

The full effects of this pandemic are still unknown as we're just beginning to understand the long-term complications from COVID-19 infection. There is a high likelihood that workers who were infected in the course of their employment may require additional compensation supports in the future.

RECOMMENDATIONS

As expressed throughout this submission, the Union rejects the premise of any system of surplus distribution under the existing conditions. The Union instead recommends the following for the Ministry to consider as urgent priorities for change:

- Meaningfully consult all stakeholders on the compensation system, including benefit coverage levels and how claims are processed;
- Increase Loss of Earnings benefits to 90% of net average earnings;

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- Match the inflation rate applied to injured workers' Loss of Earnings to the actual rate of the Consumer Price Index;
- Restore the Loss of Retirement Income Benefit ratio to a 10% contribution;
- Address Non-Economic Loss ratings and increase the base amount to be more in line with the needs of those with lifelong impairments;
- Provide greater coverage for mental stress injuries and in more workplace sectors.

CONCLUSION

The Union offers this submission under the principle that the needs of Ontario's workers, especially those who have suffered a workplace injury or illness, should be paramount. Given the historic high level of claims and low level of compensation provided to workers, it is objectively clear to the Union that the current system should be viewed to be underfunded, not the other way around.

UFCW Locals 175 & 633 are more than prepared to work with the Ministry and all other stakeholders in a consultative effort to provide the best possible system of worker compensation.

Respectfully submitted by:

The United Food & Commercial Workers (UFCW) Locals 175 & 633

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