

Welcome to the Fall 2011 edition of the *SE-GA Advisor*, a quarterly resource to assist our clients in making the most informed decisions in order to best manage their organization's workers' compensation programs.

## 39 Ways to Reduce your Workers' Compensation Costs!

1. BE more concerned about a worker's (unproductive) wages than WSIB costs and do NOT allow the WSIB to pay wage top-ups when the worker is not performing modified duties for a full 8 hour work day!

*Allowing the Board to pay the employees loss of earnings creates significant future projected costs boosting the total cost of the claim. The sooner an injured worker is back to earning a full days wages with no loss time, the quicker the claim CLOSES and the faster your claim costs start to decline. You may save \$10/hr but the WSIB will charge you up to five fold through your NEER costs and calculations. It's always a better option to provide modified duties and pay wage top ups!*

2. Do NOT say "We can accommodate **most** limitations!"

*This type of wording in your policy/program can create doubt in the minds of the WSIB that you are not willing to work with your injured workers and may lead to the Board siding with the worker when they are trying to resolve a dispute. Try to focus on the workers abilities to illustrate your flexibility to the WSIB.*

3. Do NOT Allow a worker to perform unmonitored home study for

RTW!

*The work must be meaningful to the employer and employee and is generally only suitable on a short term basis of a few weeks. Accordingly this should be considered only as an alternative if there is "nothing" in the workplace.*

**"Nobody is perfect but the WSIB does make errors and SE-GA's cost recovery process can quickly identify these mistakes as well as improve upon the results."**

4. NOT missing the December 15th (NEER) deadline to have all workers that received WSIB Loss of Earnings benefits during the calendar year back to work receiving full wages from the company!

*If you are unable to bring your injured workers back by this date, the WSIB will keep the claim open into the next calendar year. Of relevance is to ensure that there is no wage loss and advise the Board immediately. This will dramatically increase the cost of those claims up to ten fold and could lead to a surcharge when you should have received a rebate.*

5. BE AWARE of the 8 day rule (CAD-

7)!

*To avoid a frequency, which will increase your CAD-7 costs by a minimum of \$15k a year for 2 years, ensure your worker does not miss more than 8 days of work. This includes the cumulative lost time of attending medical appointments as a result of the injury.*

6. Think of the WSIB as experience rating plan and not insurance!

*It's important to understand your financial responsibilities under WSIB extend beyond your premiums. Employers can face up to 4 times their expected cost under the NEER formula in additional financial penalties.*

7. Understand the importance of information required on the FORM-7!

*The Form-7 allows the employer to*

### **In this issue...**

- **39 Ways to Reduce your Workers' Compensation Costs**
- **When is it time to consider hiring a private investigator and what are the signs?** (by Investigative Research Group)
- **Is Absence Management a Challenge for your organization?** (by Genex Health Services)

*state their concerns and possible objections to a pending WSIB claims. Mistakes made on the Form-7 are very difficult to correct. Also, do not include earnings information... Many companies fill out the Employer's Report of Accidental Injury report offering only the employee's account of what happened. In cases where there were no witnesses or suspicious circumstances, use phrases such as "the employee states" or "the employee claims to". In doubtful cases, attach a separate letter outlining your point of view. Collect witness statements as well as signed statements from employees who claim they did not witness the accident. Remember the Form-7 has been often described as a blank cheque for the worker.*

8. Know that there is a difference between a Return to Work Policy and a Return to Work Program!  
*A policy is a statement, a program is the written processes and procedures that should be utilised by an organization for every WSIB case utilising best practices.*

9. Understand there is a downfall of mismanaging the HR component of WSIB such as seasonal layoffs, dismissing a worker on WSIB etc.  
*Knowing how to handle these situations can save of thousands of dollars to employers. Have your workers perform the majority of their pre-accident duties in order to minimize any loss of earnings.*

10. Understand the true costs of your experience rating program!

*Do you know your Managed Risk? What is your largest possible rebate? What is your largest possible surcharge? Knowing your financial drivers will help you make relevant decisions.*

11. What to do when the Doctor says "The worker is off for 4 weeks!"

*Remember, the Doctor can only list the Injured Worker's restrictions. It's up to you as the employer to accommodate your employee by offering suitable modified duties based on their abilities in order to avoid further financial costs.*

12. Communicate your Return to Work program to the Doctor!

*If the Doctor understands your RTW program and its process in returning their patient to full health, they are much more likely to participate. Employers should not be hesitant to talk to the treating doctor about your RTW program.*

13. When your worker lives far away from your office/job site!

*Consider offering meaningful work which can be performed from home and pay the worker on a short term basis... you also have the option of arranging transportation such as taxi if the worker is unable to drive or other public transportation. In the long run the direct costs of managing the claim correctly far outweigh the WSIB claim costs which can accumulate tenfold.*

14. Always inform your employees of their RTW obligations!

*Always ensure that your employees have been made aware of their obligations in writing. If you cannot provide this type of supporting evidence to the WSIB they may side with the injured worker in the event of a dispute.*

15. Maintain constant contact with your injured worker!

*Maintaining continuous contact and support with a worker who has been injured on the job is critical to retaining an employee's active interest in the workplace. Engaging your employee in the process will only accelerate their rehabilitation and the protocol. Be sure to document all communication including when you are unable to reach them.*

**16. Consider Paying for the Injured Worker's Medical Assessment!**

*In prolonged cases where the family doctor is evasive with return to work information, consider arranging an orthopaedic assessment or a functional abilities evaluation to properly assess the worker's capabilities and prognosis. Although initially the costs for these assessments may seem high, they are negligible compared to costs resulting from an ongoing, lengthy compensation file.*

17. Do not allow the WSIB to pay the worker's wages for medical appointments in subsequent years!

*If the WSIB pays Loss of Earnings benefits in a subsequent year the claim gets reopened and the impact to the claim cost dollars is tremendous. Always encourage your workers to have medical*

*appointments outside of your business hours.*

18. Consider the opportunity to pursue third party costs transfers (MVA/Outside contractors)!

*In most jurisdictions, if one of your workers is injured because another company has breached OH&S legislation, the other company can be liable for the compensation costs. Also, most jurisdictions allow for cost relief in cases where a pre-existing or underlying condition has prolonged a normal recovery period.*

19. Understand the new criteria for obtaining cost relief!

*Unless employers can prove that SIEF applies due to the circumstances of the claim by providing extensive medical evidence as well as provide precedence that policy applies and that SIEF has been granted in previous circumstances the probability of gaining SIEF is very low. The WSIB keeps evolving; unless you keep up you will be left behind.*

20. Let Employees Know what Compensation is Costing the Company!

*If workers/supervisors know what claims are costing their employers, they may understand as to why modified work is being offered. Many are still under the impression that workers' compensation benefits are government funded.*

21. Always bookmark your appeals!

*If you receive a decision and have any doubt regarding the merits of that de-*

*cision endeavour to bookmark the appeal by sending the WSIB a response indicating you wish to appeal at a later date since the legislation has very specific time lines regarding the appeals process. If circumstances change and you discover new information at a later date, this can allow the WSIB to change their initial decision.*

22. Never say "We can't offer Modified Work; our workplace is unique!"

*Failure to contain your WSIB costs will lead directly to WSIB surcharges: THERE ARE NO EXCEPTIONS regardless of your work environment. You should also have pre-set PDA's for your most common jobs so that the doctor can quickly understand the tasks in which your i/w can accomplish based on his current abilities.*

23. Consider Private Investigation when you have a runaway claim!

*For a detailed explanation, visit our blog page at <http://segaworkplaceconsulting.blogspot.com/>*

24. Understand that you can appeal the decision of the adjudicator!

*Some employers believe that the operating level decisions are final however any and all decisions are appealable. It is important to know your financial drivers and the relevant policy but also case law on specific matters which may come back to "impact" the organization down the road.*

25. Don't always assume that the cost relief awarded by the WSIB has been applied correctly!

*Nobody is perfect but the WSIB does make errors and SE-GA's cost recovery process can quickly identify these mistakes as well as improve upon the results. In most cases we can review back to when you were first registered with the WSIB, in many cases the financial results can be quite substantial.*

26. Review your experience rating statements for incorrect claim types and other errors!

*Review your experience rating statements and question everything you don't understand. The WSIB will not identify these for you. Remember, WSIB policy dictates that the employer must identify the mistake and contact the right department to be corrected accordingly.*

27. Be careful of LOE awards to Apprentices at Journeyman rates!

*In Ontario an apprentice will be paid at the journeyman rate in the event of Loss of Earnings. Ensure that your Return to Work program includes readily available modified duties for your apprentices to avoid the financial impact against your CAD-7 costs and calculations.*

28. Monitor the year to year changes in experience rating performance!

*NEER costs change on a year to year basis based upon the activity of the claims. Do not give back Rebate Dollars unnecessarily.*

29. Recognize a recurrence and not allow the WSIB to create a new claim!

*Understand Board polices regarding*

*aggravation basis or recurrence. These types of “accidents” can minimise the benefits allowed but more so your NEER position.*

### **30. Track Injuries and Near Misses!**

*This practice of tracking trailing indicators refines your health and safety program since it can identify areas of concern which allows shortfalls to be addressed accordingly.*

### **31. Make Sure the Doctor Clearly Understands the Types of Work Available!**

*Doctors are now required to fill out a Functional Abilities Form and they cannot accurately do this without knowing the physical demands of the regular job and/or the modified work you plan to offer the injured worker. Therefore, you should ensure that the family doctor is aware of the job requirements prior to completing the form. Encourage your doctor to contact your organization if there is any hesitation regarding the modified work duties.*

### **32. Implement a Modified Work Program!**

*The sooner a worker returns to work, the less likely he or she will become an expensive long-term claim. Most studies indicate the longer a person is off work, the more difficult it becomes to return them as a productive worker. Always make the modified work offer in writing. Consider reduced hours, grad-*

*uated hours, alternate days, and/or combining half days of regular work with modified work.*

### **33. Make Sure Your Employees Know the Rules!**

*Provide injured workers with information about accident reporting: where, when and to whom. They should have information about what to expect and their right to have first aid administered or attend formal medical care. This should be part of their initial job orientation and documented.*

### **34. Know the Rules!**

*In addition to the Act, get a copy of your province’s workers’ compensation policy manual and understand your financial drivers, Making WSIB decisions requires knowledge of your legal financial and moral obligations.*

**35. Understand your financial obligations under the experience rating program for workers over the age of 65!**  
*Wage loss benefits for workers over the age of 65 may still be paid for up to two years after the injury. Accordingly know how this can impact your experience rating position if transitional work is not offered.*

**36. Consider the opportunity into having multiple rate groups!**  
*There may be opportunities to have your operations split into separate rate groups in order to reduce your premiums.*

**37. Monitor the WCB websites.** “Why didn’t the Board tell me this? Why didn’t the Board do that for me?”

*Remember, it’s your responsibility to stay abreast of all changes by reviewing your mailings and monitoring the WCB websites for changes, not knowing is not an excuse.*

### **38. Put everything in writing!**

*Verbal communication is never enough, it’s very important to maintain a policy of having everything in writing, signed and dated. In the event of a misunderstanding, appeal or disputes, being able to provide copies of written records can be invaluable.*

### **39. Understand when a claim has gone off the rails and it’s time to outsource to a Knowledgeable WSIB/WCB Consulting Firm!**

*Workers’ Compensation in itself is a full-time job, and yet many employers have added this responsibility to a manager who is already involved in another area of work. If you do not have the time to properly devote to your workers’ compensation claims, health and safety or revenue management, consider outsourcing to the experts. Understanding the costs of not receiving sound advice at an early stage, even for isolated issues, can cost employers significant financial hardship and frustration. Lastly, if all you have exhausted all your options from the attached tips, it’s time to call for help.*

## Private Investigators — Assisting corporate Canada with fraudulent WSIB claims

**By Brian Sartorelli**  
**President & CEO**  
**Investigative Research Group**

In today's economic environment, many employers are willing to take a stand against workplace fraud but lack the resources and expertise to deal with these sensitive issues. Some of the issues most likely to plague the workplace are fraudulent Workplace Safety Insurance Board (WSIB) claims, flagrant absenteeism, substance abuse, theft, racial/sexual harassment, or workplace violence under the auspices of Bill 168.

One of the most costly issues for employers can be suspicious WSIB claims. Whether an employee is truly unable to return to work may be an issue. WSIB claims can seriously affect the premiums employers must pay. Moreover, WSIB has placed a heavy obligation on both the employer and the employee to facilitate a return-to-work program. Failure to comply can result in serious financial penalties.

### ***Suspicion Claims and Fraud Indicators:***

Employers can become aware of

suspicious claims due to a number of different fraud indicators known as "red flags." The most common indicator occurs when an employee's absence is much longer than anticipated. This can be accompanied by an apparent reluctance on the part of an employee to co-operate with the employer. A second common source of suspicion can come from third party comments and workplace rumors which indicate the claimant has been seen engaging in activities inconsistent with the injury.

The question then becomes, what can a company do when red flags indicate a possible fraudulent claim? The situation needs to be evaluated and the services offered by a private investigator can effectively assist in the reduction of workplace fraud. But beware, suspicion alone, albeit grounded, is not sufficient to engage the services of a private investigator. The following guidelines are suggested before surveillance services are requested:

- Were other alternatives considered before surveillance was ordered?
- Were there reasonable grounds

for suspecting fraudulent conduct by the employee?

- Was the employee's disciplinary record taken into consideration?
- Would the video surveillance contravene any terms of the collective agreement?
- The surveillance must be carried out with as little intrusion as possible and must not infringe on the employee's right to dignity and privacy.

The private investigator's role is to obtain compelling evidence to determine whether the absence is legitimate or fraudulent. Hard evidence in the form of videotapes, photographs, audio tapes and documented observations are preferred. Our experience indicates that such direct evidence can often put an end to a dispute.

### ***Employing a Private Investigation Firm:***

One of the first decisions an employer must make is deciding when to request the assistance of a private investigation firm. Delays in acting upon suspicious claims can protract a claim. For example, with a back injury, videotape evi-

dence of a person shoveling snow on January 31 would not necessarily establish that the person was fit to return to work on January 15; as the person could have improved since their anticipated return to work date, and were able to shovel snow on the January 31st. In other words, an investigation needs to be coordinated in consultation with the client.

When selecting a private investigation firm, a company should ensure that high definition video equipment is utilized which includes a time/date stamp implanted on the screen. This will firmly establish the date of the observations and help the viewer calculate the length of time taken to perform the activity observed. The videotape must not only identify what the claimant is doing, but as well, the image must be clear enough to positively identify the subject as being the WSIB claimant. In many circumstances, it is essential that a minimum of three consecutive days of surveillance be conducted. If only one day of surveillance is conducted, a claimant may defend their activity by claiming they were bedridden the following two days.

For the most part, after completing an investigation, the necessity for an investigator's attendance at a hearing or a WSIB Appeal Tribu-

nal is rarely required. The detailed reports and evidence submitted will clarify the issue of the claimant's credibility, capabilities and daily activities.

### *The Investigation:*

Knowing a subject's habits can be fundamental to the investigative process. For example, there is no point commencing observation at 7:00 a.m. if the subject leaves his or her residence at 6:00 a.m.

A professional investigator may conduct surveillance at all hours of the day and night and at a variety of locations (such as hockey arenas, baseball parks, health spas, shopping malls, restaurants and bars etc.). The list can be as varied as human activity.

The investigation will primarily deal with circumstances in which there is suspicion whether an employee is able to return to work. The investigator can also play a crucial role at the time of an alleged accident, particularly when the injury is serious or when there is a question whether the injury truly occurred in the workplace. The investigation should include obtaining statements, photographs, measurements and other information relevant to the dispute. When possible, the collection of information should take

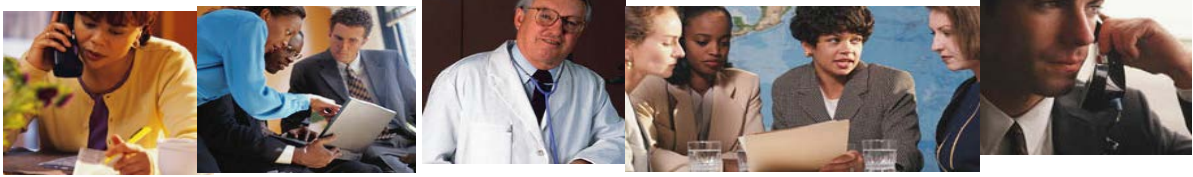
place immediately following the incident. As time passes, witnesses' memories fade and testimony will become less clear or credible as facts tend to get distorted, exaggerated or forgotten.

### *Conclusion:*

The WSIB system is an extremely valuable and needed entity in our society. When workers are injured at the workplace, it is appropriate that compensation is available. However, like in any system in society, there are those who seek weaknesses in the system and exploit the nature and intent of the program. Such fraudulent claims are detrimental to companies and fees increase. Employers are responsible for disseminating a dual message; if an employee has a legitimate claim, the employer will be there to guide him or her, but fraudulent claims will not be tolerated. An effective private investigation can assist the employer in that goal.

Please visit our website for more information about the services we provide.

<http://irgcanada.com/our-services>



## GENEX - Employer Health Care Solutions

Is your company self insured for Short Term Disability?

Looking for alternative resources to reduce lost time?



Managing a self-insured STD program is a balancing act for human resources. Maintaining **medical privacy** issues, **return to work** efforts and controlling **return on investment** is time consuming and challenging.

**Just call GENEX!**

GENEX's Step One Program Telephonic Early Intervention Program promptly medically validates absences, facilitates treatment and expedites early and a safe return to work. GENEX improves productivity while decreasing lost time costs.

Notified of an employee's absence, GENEX Nurses immediately assesses the claim, using their clinical expertise, supported medical guidelines and physician advisors.

GENEX accurately identifies medically supported and non-supported absences. Non-supported absences are successfully resolved together with human resources. For medically supported absences, the GENEX Nurse promptly identifies expected duration & appropriate medical intervention, controls cost-effective treatment, and manages an early and safe return to work.

***GENEX Step One/Early Intervention Cures a Variety of Ills  
Including Bottom Line***

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