



WSIB Presentation at the CUPE Conference

Presenters:

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Today's Agenda

- **New Service Delivery Model for the WSIB**
 - The Case Management Framework
 - New Roles
- **Return to Work**
- **Labour Market Re-entry**
- **72 Month Lock In**

Overview

1. Why we are Changing?

- Achieving the Road to Zero
- Better Support for Prevention and Successful Return to Work and Recovery

2. What is Different?

3. How will the New Service Delivery Model Benefit Worker and Employers?

4. How will these Services be Delivered?

5. When Can I Expect to see Changes?

6. Who will be my Contact during the Change?

*“The Road to Zero has not only set a clear vision of our ultimate goal, but also a concrete plan for achieving it. The New Service Delivery Model will be an integral part of the four fundamentals outlined in **The Road to Zero**, and will contribute significantly to improving the well-being of workers, employers and workplaces in Ontario through better prevention, return to work and recovery outcomes.”*

John Slinger, Chief Operating Officer



1. Why Are We Changing?

Achieving *The Road to Zero*

- In 2007, the WSIB established a new five-year strategic plan called *The Road to Zero* representing our commitment to the elimination of all workplace injuries, illnesses and fatalities.
- The launch of the New Service Delivery Model (NSDM) is a critical part of our Road to Zero commitment and together with our Prevention Strategy, will accelerate our drive to zero workplace fatalities, injuries and illnesses in Ontario.

Better Support for Successful Return to Work and Recovery

- The increasing human and financial costs of workplace injuries and illnesses to workers and employers are unacceptable. We need to provide better support for prevention and successful return to work and recovery.

2. What is Different?

- The New Service Delivery Model introduces new and redesigned jobs, better ways of working and technologies for improvements in prevention, return to work and recovery.
- This will ensure service excellence is delivered by the right people providing the right service at the right time in the right way.
- Our new approach to service delivery and financial sustainability builds on the knowledge and relationships developed with workplaces. It also reflects feedback from workers, employers, and staff and builds on our best practices research.
- The changes with the NSDM are being actively assessed and modifications made to ensure we continue improving prevention, return to work and recovery outcomes.

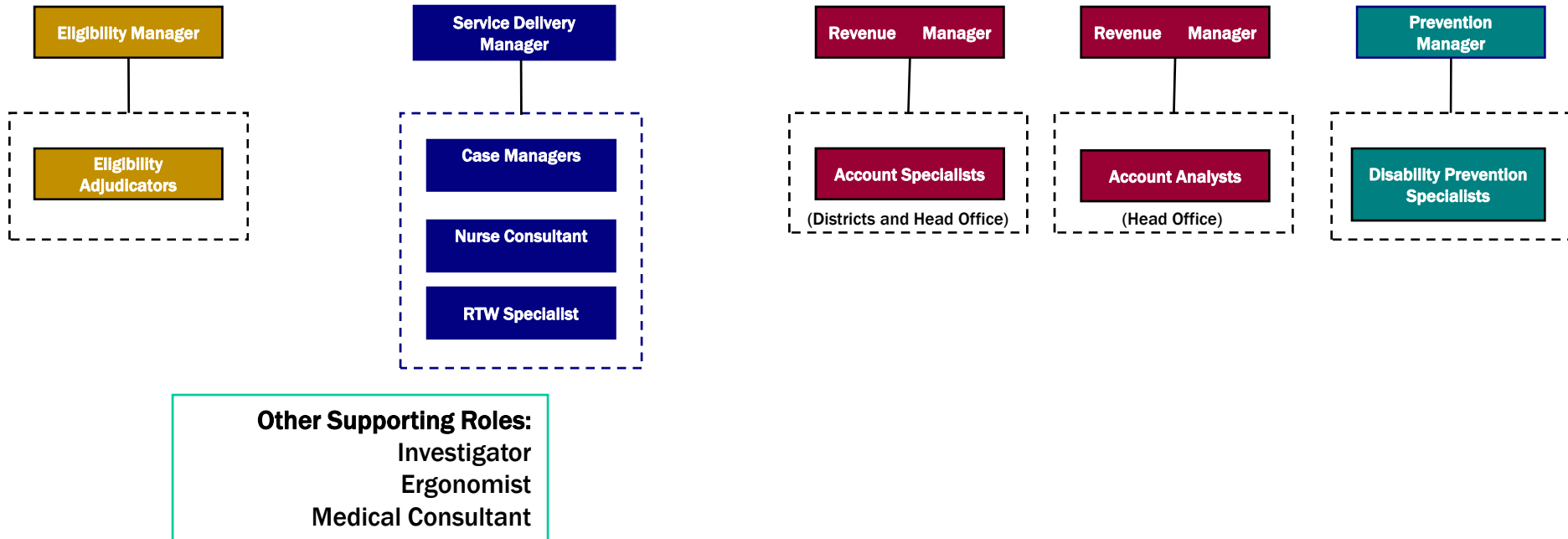
3. How Will the NSDM Benefit Workers and Employers?

- Workers and employers will experience a more personalized level of service and proactive case management. WSIB staff will facilitate the setting of return to work and recovery goals and the development of action plans.
- Workers and employers will have greater involvement in their return to work and recovery plan.
- Workers will experience improvements in timeliness of benefit decisions and assistance with health care and Labour Market Re-Entry services.

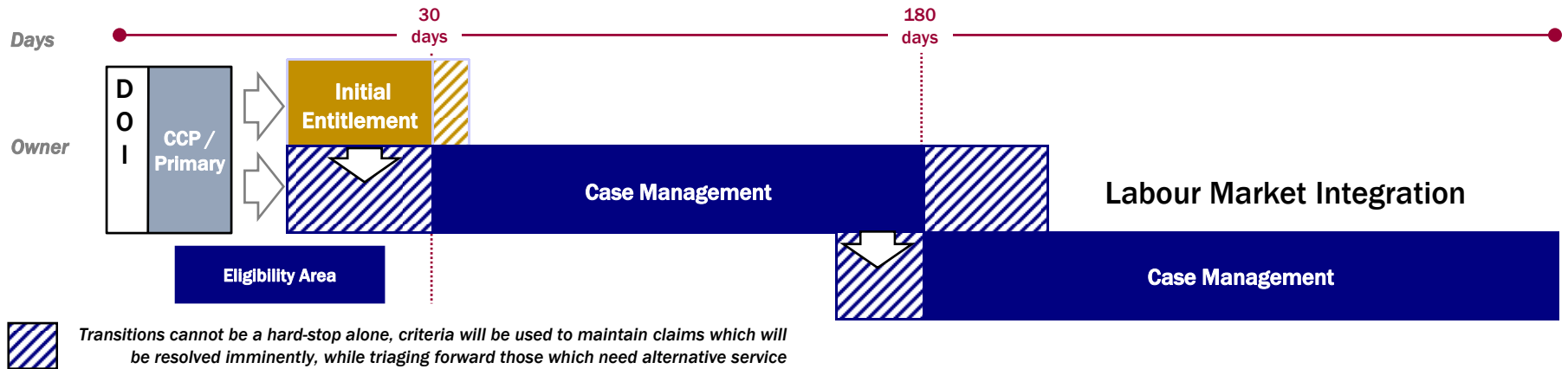
3. How Will the NSDM Benefit Workers and Employers? (cont'd)

- Employers will have improved access to prevention and return to work services at the worksite.
- Employers will receive more efficient and consistent service on their account issues through streamlined activities and dedicated roles within the Employer Service Centre.

4. How will these Services Be Delivered?



4. How will these Services Be Delivered?



- A new standardized case management approach to ensure best practices are applied in all cases
- We have developed criteria to identify cases that would benefit from increased return to work and recovery support so that appropriate services are provided at the right time and in the right way

5. When Can I Expect to See Changes?

- The New Service Delivery Model will be implemented in phases to minimize service disruption and ensure continuity of services. Ottawa will be the first to launch in September 2008 followed by Toronto and the regional offices completing our transition by mid 2009.
- Throughout the implementation phase, the WSIB will be gathering and reviewing feedback from workers, employers and staff for improvements.
- In the coming months, our Occupational Disease, Serious Injury and Pre-1990 Programs will be implementing new service delivery models that incorporate the principles of the New Service Delivery Model but reflect the unique needs of our clients in these areas.

6. Who will be My Contact During the Change?

- As of September 8, 2008 all existing and new claims registered with the WSIB in its Ottawa and Kingston offices will be managed through the NSDM.
- Eligibility issues will be managed by an Eligibility Adjudicator and issues of Return to Work and ongoing entitlement by a Case Manager.
- Account enquiries should be directed to your account representative at **1-800-387-0080**

What does this mean for CUPE members?

Return to Work

BEST PRACTISES

It's about Prevention



- Preventing workplace injuries and illness is everyone's responsibility.
- When injuries or illness occur, there is a need to minimize the human and financial impact by focusing on the worker's recovery and getting the worker back to safe and productive work.

Context

- In Ontario, a surprisingly large number of workers end up with prolonged or permanent withdrawal from work due to work injuries/illnesses, that would normally cause only a few days off work.
- Prolonged work withdrawal (disability absence) by itself can produce unfortunate consequences
- Improvements are necessary to support optimal health and function for more individuals, encourage their continuing contribution to society, help control the growth of disability program costs, and protect the competitive vitality of the Ontario economy.

Background

Current State

- In recent years, some gains have been made with respect to RTW for much of the WSIB's workers and employers.
- Prevention activities have lead to a decrease in the number of injuries.
- However, these improvements have not changed the fundamental culture in Ontario's workplace. In fact, the numbers of workers who do not return to work following a workplace injury or illness is actually moving in the opposite direction.



The Impact of an Injury or Illness

- Workers who do not return to work, experience devastating impacts to their lives.
- An injured worker who has been off work for 6 months to 1 year has only a 50% chance of returning to work. After being off work for 2 years, the chances are 10%.
- The human pain and hardship extend beyond the workplace, reaching the family and into the community. Workers, co-workers, employers and families all suffer the personal and financial consequences
- The escalating costs of social support programs , as well as the fact that these individuals are not paying taxes, affects everyone
- As a society we can no longer ignore this trend. We need to change our attitudes and perceptions regarding the needs of people with disabilities.

It is estimated that by 2010, 1 in 3 people will be living with a disability .

Research

From the research, there were four major groups of findings:

1. **RTW is multi-dimensional:** no single approach will resolve all issues.
2. **Workplace factors influence RTW outcomes:** return to work happens in the workplace.
3. **Health Care and RTW are closely interrelated:** lengthy periods of time between injury and treatment delay return to work.
4. **Prevention and RTW are linked:** Workplaces that actively link Occupational Health and Safety and Disability Management programs with their business and human resource strategies achieve better RTW outcomes for their employees

Workplace Trends : Impact on RTW

- Absenteeism rates
- Aging workforce
- Downsizing and restructuring
- Projected labour shortages will look more to high-risk groups such as younger workers, foreign workers, and older workers to fill their needs
- Contingent work
- Increased levels of stress

Workplace RTW Factors

At any given time, the interplay of multiple factors can aid or hinder the RTW process. These factors include:

- Individual workplace characteristics
- Good labour or management/employee relationships that allow for good communication, reporting and investigation of injuries, and progressive return to work programming that enables workers and supervisor to plan RTW together
- A workplace-based RTW policy and program emphasizing return to regular work duties; work accommodation provided in the first week (s) after injury (as appropriate)
- RTW program connected to health and safety strategy that includes prevention, early injury reporting, timely and effective communication within the workplace

Workplace RTW Factors (Continued)

- Lack of clarity of roles among participants in the system creates confusion and tension. The RTW process is laden with potential for miscommunication and misunderstanding
- Employers are unsure of their responsibilities
- Workers do not always understand how to navigate the various systems (workplace, legislative and health care) that come into play and impact their recovery and return to work.
- Workplace size, presence or absence of RTW and prevention programs, presence or absence of a union etc



Legislative Context for RTW

1. Internal Responsibility System	<i>Occupational Health and Safety Act</i> <i>Section 8,9 25, 27,28</i>
2. Joint Health and Safety Committee	<i>Occupational Health and Safety Act</i> <i>Section 9</i>
3. Shared responsibility for return to work	<i>Workplace Safety and Insurance Act, 1997</i> <i>Section 40</i>
4. Re-employment obligations	<i>Workplace Safety and Insurance Act, 1997</i> <i>Section 41</i>

How are the Ontarians with Disabilities Act and the Ontario Human Rights Code integrated into your policies and procedures?

Ontario Human Rights Code

- **“Disability” definition**
- **Disability” covers a broad range and degree of conditions, some visible and others are not**
- **Includes past, present and perceived conditions**
- **It includes physical, mental, and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, drug and alcohol dependencies, environmental sensitivities, as well as other conditions**

Worker's Responsibilities

Section 40(2) of the WSIA- Return to work

- Maintain contact with the employer throughout the recovery and return to work
- Consent to disclosure of treating health professional's information about functional abilities
- Assist in the identification of suitable employment
- Provide the WSIB with information on return to work progress

Employer Responsibilities

Section 40(1) Return to work

- Contact the employee ASAP after the injury/illness
- The Employer is also obligated to co-operate with the WSIB in administering the worker's claim as well as facilitating the return to work process
- Maintain communication throughout their recovery and return to work
- Identify and arrange suitable employment based on functional abilities
- Accommodate the worker if able to perform essential duties of the job
- Offer to re-employ workers who are medically fit to do so

WSIB Responsibilities

- Actively case manage RTW and health care activities, progress and co-operation of the workplace parties
- Provide resources and assist in resolving RTW difficulties (RTW Specialist, Disability Prevention Specialist, Ergonomist)
- Levy penalties under the Act, as necessary for non-cooperation and non-compliance (Re-employment Breach)
- Assess the outcome of the RTW process

Role of the Union

Under the Ontario Human Rights Code:

- Unions need to take an active role in accommodation
 - The union is expected to participate in the search for an accommodation and not to use the provisions of the collective agreement to prevent such a search
 - Jurisprudence indicates that the union has a responsibility to participate in the accommodation process. They must assist in finding a balance between meeting the needs of the employee with the impairment and those of the other employees.

Role of the Unions : Accommodation

Seniority

- “ ... if an employer and union cannot reach an agreement on how to resolve an accommodation issue, the employer must make the accommodation in spite of the collective agreement
- If the union opposes the accommodation, or does not cooperate in the accommodation process , then the union may be named as a respondent in a complaint filed under the Commission
- Unions will have to meet the same requirements of demonstrating undue hardship having regard to costs and health and safety”

Improving RTW outcomes

- Thinking about your workplace, what are the challenges and barriers to improving RTW outcomes?
- What strategies or approaches could you/union adopt to improve RTW outcomes?
- If you were meeting with senior management regarding your RTW program, what would your wish list of items be?
- What are some best practices to improving RTW and recovery outcomes?

Seven Principles for Successful RTW

Supported by research evidence, RTW studies, and stakeholder consultations, there are 7 Principles that emerged as having the greatest affect on RTW outcomes. The study examined three outcomes: duration of work disability, costs of work disability, and quality of life for workers.

The study concluded that there was strong evidence to support that workplace based return to work interventions had a positive impact to both duration and costs of disability.

Using these principles as a blueprint, workplace parties can make the necessary changes or improvements to their RTW program to achieve improved RTW outcomes.

“The Seven Principles of Successful Return to Work” on the IWH website at www.iwh.on.ca.

First Principle

1. The workplace has a strong commitment to health and safety which is demonstrated by the behaviours of the workplace parties

The behaviours are:

- Top management investment of resources and people's time to promote safety and coordinated return to work
- Labour support for safety policies and the return to work program
- Commitment to safety issues is the accepted norm across the organization

As workers and union representatives, what would be your role in supporting this principle?

Second Principle

2) The employer makes an offer of modified work (also known as work accommodation) to the injured/ill workers so they can return early and safely to work activities suitable to their abilities.

What is accommodation?

- Changing the sequence of activities in how a job is performed
- To match the physical demands of a job with the physical and cognitive abilities of the individual
- Creating a new job made up of suitable duties from other jobs (Task bundling)
- Modify existing job by removing duties, or reducing hours
- Providing alternate work
- Arrange for others to help do the work-Allow for more breaks and rest periods
- Arrange special equipment or tools to assist
- Re-arrange work space, such as height of tables, keyboards or other equipment

Second Principle (Continued)

Accommodations

Avoid

- Risk of health and safety to individual or co-workers
- Imposing solutions without input from the individual
- Cookie-cutter type of accommodations that don't take into consideration individualized needs
- Plans that are open ended with no time frames for review
- Plans that do not clearly identify the job by title, duties and responsibilities
- Assumptions about medical diagnosis, treatments



Third Principle

- 3) RTW planners ensure that the plan supports the returning worker without disadvantaging co-workers and supervisors**
- Planning must acknowledge RTW as a socially fragile process where co-worker and supervisors may be thrust into new relationships and routines.
 - Not obtaining co-worker and supervisor support, can lead to RTW obstacles such as:
 - Co-workers who resent having to take over some of his or her work and therefore feel that the worker has managed to get an “easier job”.
 - Supervisors may be required to fulfil production quotas in spite of accommodating a returning worker, and may not have the work that such accommodation requires fully acknowledged.



Fourth Principle

- 4) Supervisors are trained in work disability prevention and included in RTW planning.**
- The worker's direct supervisor who is most familiar with the worker and their work requirements, including what can be adjusted to accommodate a RTW
 - The supervisor is in the best position to keep the worker informed of developments in the RTW process, provide reassurance and identify appropriate accommodations necessary to ensure the workers return to safe and sustainable work

As workers and union representatives, what would be your role in supporting this principle?

Fifth Principle

5) The employer makes an early and considerate contact with injured/ill workers

- Early contact with an injured/ill worker is a core component of most disability management and return to work programs

As workers and union representatives, what would be your role in supporting this principle?

Sixth Principle

6) Someone has the responsibility to coordinate RTW.

- Having a designated individual coordinate RTW helps by:
 - Establishing a single point of contact , accountability and individualized planning and coordination

As workers and union representatives, what would be your role in supporting this principle?

Seventh Principle

- 7) Employers and health care providers communicate with each other about the workplace demands as needed, and with the worker's consent.**
- Research has found that contact between workplace parties and the health care providers reduces work disability duration.
 - The degree and nature of the contact can vary depending on the circumstances of individual cases.

Adapted from the "Seven Principles of Successful Return to Work" on the IWH

website at www.iwh.on.ca ■

Overview RTW Process

1. Provide functional abilities information as soon as possible to your employer
2. Participate in RTW Meetings
3. Provide input to RTW Planning
4. Provide feedback during the RTW process
5. Stay connected to the workplace through regular communication

Developing a RTW Plan

- **Consideration should be given to:**
 - Personal circumstances of the injured employee that might impact on the suitable work,
 - Industrial issues in the worksite, i.e. seniority
 - Workload impact on co-workers.
- **A plan should be documented to ensure understanding and agreement and should include:**
 - Agreed purpose of the suitable work/duties
 - Job title and location
 - Name and supervisor contact information
 - Hours/days to be worked
 - Duties and restrictions
 - Wages
 - Start date, length of time and review dates
 - Arrangements to attend health care appointment.



RTW

Job Offers

You could expect your employer to:

- Identify and arrange available, suitable work as soon as possible
- Make changes to your workstation to accommodate your needs-(e.g., this may be something as simple as providing a chair so you can sit or stand as needed)
- Make this offer in writing as part of a RTW plan

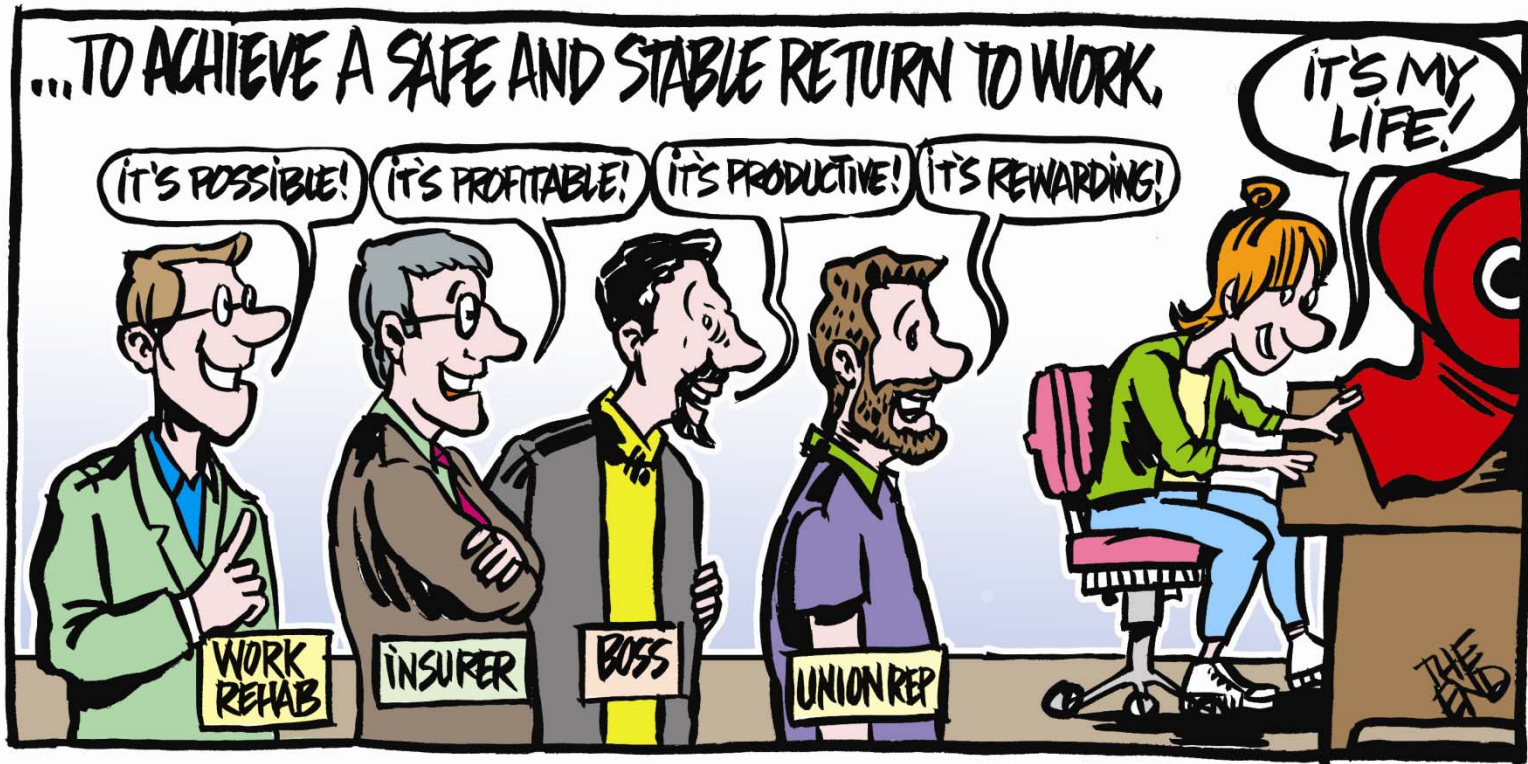
Suitable work is:

- Work you can do given your medical condition within your functional abilities
- Work that is safe for you and those around you
- Work that you have the necessary skills to perform
- Work that restores your pre-injury earnings, if possible

Available work is:

- Work that exists with your accident employer at the pre-injury work site, or at another similar work site arranged by your employer.

Questions?



LABOUR MARKET RE-ENTRY

THE NEXT STEPS FOR RETURN TO WORK

Labour Market Re-entry

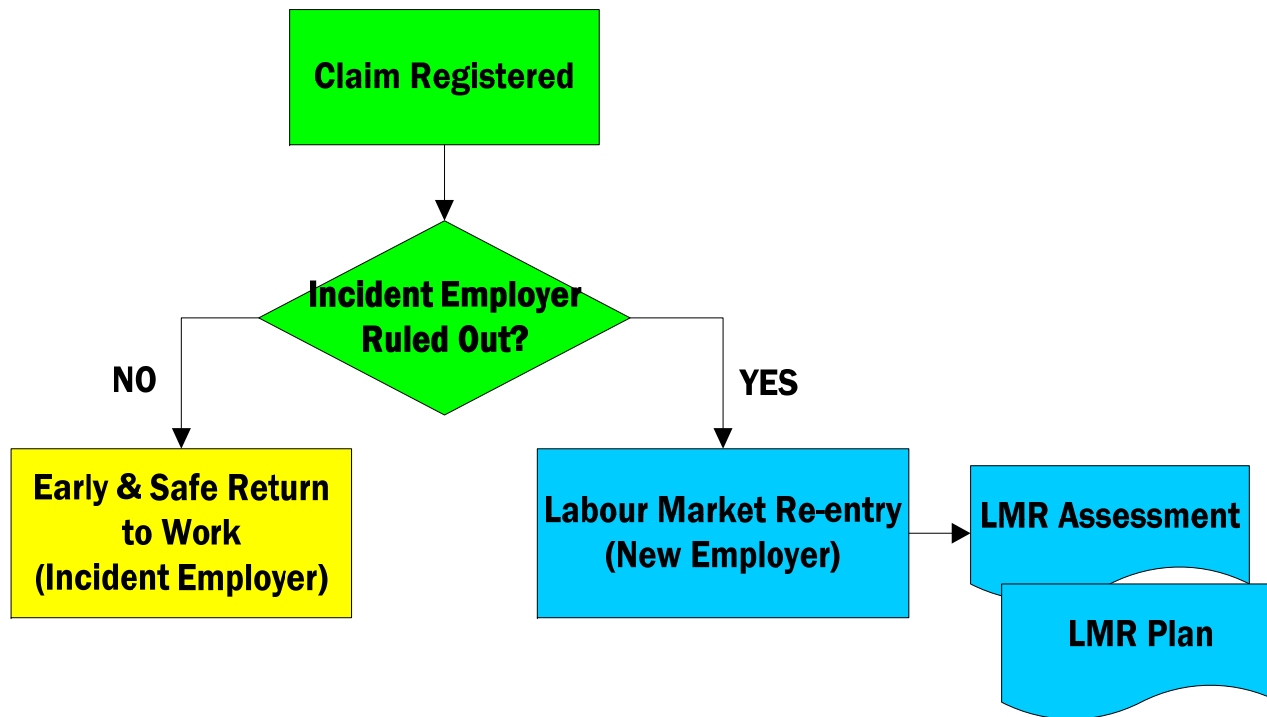
Now we will:

- **Outline the Labour Market Re-entry (LMR) process**
- **Explain worker rights and obligations**
- **Explain the WSIB and LMR Service Provider roles**
- **Outline how CUPE representatives can assist**

LMR VISION

The WSIB's Labour Market Re-entry program will deliver the best employment support services to injured and ill workers; and will be recognized as a world leader in achieving employment for persons with disabilities.

Early and Safe Return to Work/LMR



Steps in the LMR Process

- 1. WSIB Case Manager conducts an interview with worker to determine transferable skills and possible Suitable and Available Employment or Business (SEB) goal**
- 2. If WSIB unable to identify a SEB internally, the worker will be referred to an LMR Service Provider to conduct further assessments to assist in SEB identification**
- 3. LMR Plan is developed by LMR Service Provider and worker, outlining the activities to achieve the SEB, and submitted to the WSIB Case Manager for approval**
- 4. Worker participates in LMR activities with support from WSIB and LMR Service Provider**

Suitable and Available Employment or Business (SEB)

Represents a category of jobs which require similar skills and:

- Are safe, both for the worker and others
- Are within the worker's functional abilities
- Are within the worker's current or potential range of skills
- Are achievable
- Are available in the local labour market
- Reduce or eliminate the loss of earnings resulting from the injury

Labour Market Re-entry

During the LMR Assessment process, the worker will work collaboratively with the WSIB Case Manager and/or LMR Service Provider to identify a SEB and appropriate LMR Plan activities

During the LMR Plan, the WSIB Case Manager and/or LMR Service Provider will meet with the worker on a regular basis to ensure everything is proceeding according to plan, and to provide assistance in a timely manner if necessary

Rights and Expectations

During the LMR Assessment and Plan, the worker has the right to:

- **Have representation to assist them throughout the process**
- **Have their input heard and considered**
- **Seek and receive support and assistance from the WSIB and/or LMR Service Provider, where appropriate**
- **Object to decisions they do not agree with**

Rights and Expectations (cont'd)

During the LMR Assessment and Plan, the worker is expected to:

- **Be available for all aspects of LMR Assessment and Plan development**
- **Readily participate and provide input into LMR Plan goals**
- **Attend and put forth best effort to develop skills through the LMR Process**
- **Keep the WSIB Case Manager and LMR Service Provider informed of any difficulties and/or material change in status that may affect the LMR Plan**
- **Actively seek and obtain employment upon LMR Plan completion**

WSIB's Role

As a reminder, the WSIB Case Manager's role is to:

- **Work collaboratively with all parties to ensure the right decisions are made at the right times**
- **Help prepare the worker to fulfill their obligations in the LMR Program**
- **Request/approve change(s) to the LMR Plan or Plan Amendment where necessary**
- **Review and address any changes in the worker's progress and medical condition**

How can you help?

As representatives of CUPE, you have the ability to influence the process and improve outcomes for workers by:

- **Helping to ensure all possibilities of return to work with the incident employer have been exhausted**
- **Helping to educate the worker about LMR**
- **Helping the worker identify potential SEB options**
- **Encouraging the worker to be as involved as much as possible in the assessment and decision-making processes**
- **Working collaboratively with all parties to successfully resolve disputes**

Labour Market Re-entry

The worker has the most at stake in the LMR Process

- **LMR is a valuable opportunity for the worker to be involved in shaping their future**
- **The more input and active participation by the worker, the more likely they are to be successful**
- **The worker's future will be guided by the outcome of their LMR Plan**

***As representatives, you can be agents of positive change
for all workers***

Labour Market Re-entry

QUESTIONS??

72 Month Lock In – What is it?

Bill 99 Legislation

(accident dates on or after January 1, 1998):

Section 44(2) of the WSI Act states:

“Subject to subsection (2.1), the Board shall not review the payments more than 72 months after the date of the worker’s injury.”

Section 44(2.1) originally indicated that the only circumstance in which the Board could review payments beyond the 72 month period, is when a worker failed to report a material change or engaged in fraud before the 72 month period expired.

Policy 18-03-06 Final LOE Benefit Review - available on WSIB website
(www.wsib.on.ca)

72 Month Lock In – Facts

- The 72 Month Final Review date is 72 months from the date of the worker's injury
- The Final LOE Benefit Review must occur before the end of the 72nd month post injury (except where noted)
- The 72 month lock in decision must be based on the circumstances of the claim on the 72 month date
- If no LOE is being paid at the 72 month mark, there is no requirement to conduct a formal final LOE review
- Current legislation allows a review of payments after the 72 month period under numerous exceptional circumstances (Section 44(2.1))

72 Month Lock In - Legislation

Amendments to the Act – Bill 179

- Effective for decisions on or after November 26, 2002
- Amended Section 44(2) of the WSI Act
- Provided additional circumstances for reviewing LOE benefits more than 72 months after the date of the workers injury:
 - Worker involved in LMR at the time of the 72-month review (this would result in the deferral of the 72 month Final Review)
 - Worker suffers a significant deterioration in work-related condition that is confirmed by a NEL re-determination

72 Month Lock In - Legislation

Amendments to the Act – Bill 187

- Effective for decisions on or after July 1, 2007
- Further amendments to Section 44(2) of the WSI Act
- Provided additional circumstances for reviewing LOE benefits more than 72 months after the date of the worker's injury:
 - If the worker suffers a significant deterioration in his or her condition that results in
 - a redetermination of the degree of permanent impairment,
 - an initial determination of permanent impairment OR
 - is likely to result in the redetermination of the degree of permanent impairment
 - The worker suffers a significant temporary deterioration in the condition that is related to the injury

72 Month Lock In - Legislation

Bill 187 Amendments (continued)

Additional circumstances for reviewing LOE benefits more than 72 months after the date of the worker's injury:

- when the 72 month period expires;
 - the worker and employer are cooperating in worker's early and safe return to work, or
 - the worker is cooperating in health care measures

These 2 exceptions, in addition to the Bill 179 amendment (worker involved in LMR), may result in a deferral of the 72 month final review.

72 Month Lock In - Definitions

Significant Deterioration: Decision-makers consider such factors as;

- Need for further active medical/health care intervention to improve worker's condition
- Establishment of objective medical evidence
- Evidence of increased medical precautions or whether functional abilities have changed
- job change impacts

Health Care Measures: A worker is considered to be in a Medical Rehabilitation program if the following occur, but not limited to;

- Receiving active treatment due to a recurrence of the work-related injury/illness
- Attending a WSIB arranged specialist consultation
- Having a prostheses repaired

72 Month Lock In Scenarios – Example 1

Example 1 – Significant deterioration following 72-Month Final LOE Review:

Wendy injured her right shoulder at work on October 06, 2000 and was granted a 10% NEL award on November 12, 2002. At the 72-Month Final Review, October 6, 2006, partial LOE was paid as Wendy had returned to permanent accommodated work, at a wage loss, with the accident employer.

Due to ongoing discomfort, on July 13, 2007, she returned to see her surgeon who confirmed that Wendy required physiotherapy for 12- 18 weeks after which time her right shoulder would be better. Wendy called her adjudicator to ask if the physiotherapy treatment would be covered, and if she would be paid for occasional lost time for the treatment.

Question: Is Wendy entitled to health care and/or LOE benefits?

72 Month Lock In Scenarios – Example 1

Answer:

Since this situation occurred after July 1, 2007, Bill 187 applies.

The medical information confirms there is a significant temporary deterioration of her work related injury. Wendy will have coverage for health care treatment to improve her condition, and possibly LOE benefits, where lost time from work is needed to attend physiotherapy appointments.

72 Month Lock In Scenarios – Example 2

Example 2 – Deferral of Final LOE Review

Serge fractured his ankle at work on July 17, 2001. After a long stretch of treatment and lost time from work due to his work related injury, Serge is happy to be returning to work on June 25, 2007 with his pre injury employer. He will return to temporary modified work at reduced hours and continue to have a wage loss.

Today's date is July 17, 2007 and the 72 Month Final LOE Review is due. Serge continues to participate in his Early and Safe Return to Work (ESRTW), and will be receiving partial LOE until July 25, 2007, when he is expected to return to full hours.

Question: Is the Final LOE Review conducted now?

72 Month Lock In Scenarios – Example 2

Answer:

No. Serge's situation meets the criteria under Bill 187 to defer the 72-Month Final LOE Review as he is involved in an ESRTW program and continues to receive LOE benefits.