



NEL Presentation to CUPE

October 25, 2008

What is Non Economic Loss (NEL)?

- NEL is a benefit paid to recognize that beyond a worker's wage loss he or she may have also suffered a *physical, functional or psychological* loss due to this permanent impairment.
- The NEL benefit is calculated as a percentage of the whole person and is based on The American Medical Association's "Guides to Evaluation of Permanent Impairment, Third Edition (revised)."

Permanent Impairment and MMR

Permanent impairment means impairment that continues to exist after maximum medical recovery (MMR) has been achieved

Maximum Medical Recovery (MMR) occurs when the worker's condition has stabilized and further *significant* improvement is unlikely

Legislation

- Authority to establish degree of permanent impairment outlined in Section 47 of the Act.
 - (2)The determination must be made in accordance with the prescribed rating schedule (or, if the schedule does not provide for the impairment, the prescribed criteria) and,
 - (a) having regard to medical assessments, *if any*, conducted under this section; and
 - (b) having regard to the health information about the worker on file with the Board.
- Medical assessment
 - (3)The Board *may* require a worker to undergo a medical assessment after he or she reaches maximum medical recovery.

The NEL Staff

- **2 Clinical Managers (Registered Nurses)**
- **1 Professional Practice Coordinator (Registered Nurse)**
- **16 NEL Clinical Specialists (Registered Nurses)**
- **11 NEL Process Clerks**
- **3 NEL Records Clerks**

NEL Processes

Why the Need for Change?

- Decreased number of roster physicians from 1,600 to approximately 700 since the inception of NEL
- Delays in booking NEL assessments currently exists with an average waiting time of eight weeks and longer depending on the region or availability of roster physicians
- Delays in receiving completed assessments from roster physicians
- Inconsistency in quality of assessments and completion of reports
- Process contributes to overall delays in service
- Delays affect customer service to both external stakeholders and internal partners (Service Delivery Teams)

NEL: What Work Has Been Done?

NEL Pilot

- Pilot conducted between December 2006 and September 2007 in the Hamilton office
- Hamilton Regional Evaluation Centre (REC) provided 01 musculoskeletal assessments for workers in the pilot using trained NEL physicians
- Permanent impairments were rated by file when possible
- Workers were sent to the REC if the NEL Clinical Specialist (NCS) was unable to rate by file
- Triage process up front to determine file readiness for NEL and route for rating

Results of NEL Pilot: Key Findings

- Improvement in NEL assessment booking time from average of forty business days to ten business days using REC
- Improvement in quality and timeliness of NEL assessment report
- Able to rate 40% permanent impairments based on medical information on file, greatly improving customer service
- No significant statistical difference in NEL benefit quantum*
- Turnaround time in NEL for NCS to complete the rating based on the medical on file significantly decreased
- Positive feedback received from injured workers, representatives and SDT

New NEL World

Key Objectives:

- Ensure quality customer service
- Ensure efficiency, effectiveness and quality in the assessment and rating of permanent impairments
- Evaluate each claim when it comes to the NEL Department, by both the NEL Clerk and the NEL Clinical Specialist

New NEL World

Key Elements:

- Implement the *triage* process within the NEL Department to front end all incoming files
- Implement the *rate by file* method for impairments if all information required is available
- Utilize the *REC* to provide musculoskeletal NEL assessment services
- *Collaborate* with the Service Delivery Teams to ensure that claims include all critical clerical and clinical information required prior to referral to the NEL Department.

NEL: Triage

Clerical review by the NEL Clerk:

- Forms
- Diagnosis and area of permanent impairment
- Roster code
- MMR screen completeness

Clinical review by the NEL Clinical Specialist:

- Ensure area(s) of PI entitlement is/are clearly delineated
- Confirm that all required health information is present
- Determine if the file can be rated based on the health information on file

NEL: Rate by File

- Supported by legislation and policy
- Communication strategies were developed for all external stakeholders to advise them of the new processes
- Worker and employer are sent the NEL rating sheet along with a copy of the NEL decision letter

NEL: Assessment from REC

- The role of the REC is to:
 - Send the worker a list of three roster physicians to choose from
 - Book the assessment within 10 business days of the worker's choice
 - Complete all musculoskeletal (01 roster code) assessments for workers who are referred to them
- Next phase - roster codes 2-20

What is The Current Status of the New World?

- Rate by file has been in place since mid-July 2008; we are meeting the turn-around times
- REC – 2/3 of the REC are up and running and referrals are being made
- Still waiting for “old world” NEL assessments to come through the department for rating – will be living in transition for several more months yet

Summary of the New NEL World

Worker requires a NEL rating

- SDT refers the file to the NEL Department

SDT completes and submits referral to NEL

NC and NCS review claim file

- NEL Clerk reviews claim file clerical completeness.
- NCS reviews claim file for clinical completeness and to determine the process for rating
- Incomplete referrals will be returned to SDT for missing information

If not rate by file, referral made to REC/RP

- NEL Clerk prepares and sends NEL referral package to REC or to the Roster MD in non-01 rosters
- NEL Clerk completes usual process for non-01 rosters (appt. bookings, letters)

REC/NC schedules assessment with worker

- REC sends out roster list (package) to worker to choose a physician
- REC contacts worker and schedules appointment within 10 business days of receiving the worker's choice of Roster Physician (RP)

Assessment completed by REC/RP

- NEL RP is required to assess based on the WSIB's NEL medical forms/instructions

REC/RP submits NEL medical forms/assessments

- REC submits completed forms within 5 business days of appointment
- RP submits completed forms within 10 business days of appointment

NCS conducts ratings in date order

- NCS reviews information, conducts rating, processes payment and sends decision letter

Anticipated Timelines

- Rate by file: 6 weeks
- REC: 8-10 weeks
- Roster physician in the community:
variable

Q and A

Questions regarding processes?

Moving on.....

Clinical Education

AMA Guides

AMA Guides allowed as the “prescribed rating schedule”(WSI Act 1997 S. 18.1 Ontario Regulation 175/98)

Rating by analogy (WSI Act 1997 S. 18.2 Ontario Regulation 175/98)

Types of NEL Ratings

- Determination
- Redetermination
- Subsequent ratings

CASE STUDY: LUMBAR SPINE

- A 38 year old steel worker felt a sudden back pain when he lifted a steel rod weighing 25kg.
- Diagnosed with a lumbar strain, treated with analgesics and physiotherapy. Advised to stay off work and return to the doctor's office in two weeks.
- Pain progressively became worse. Started to experience numbness in the left leg. The CT scan showed a left sided L4-5 disc herniation impinging on the exiting 5th nerve root.

CASE STUDY: LUMBAR SPINE

- **Surgical procedure- L4-5 discectomy/laminectomy**
- **Determined that his condition had plateaued and reached MMR 6 months post op in 2007**
- **Referred to NEL with a diagnosis of low back disc herniation at L4-5 with surgical repair**

Impairment Criteria

Three criteria for Spine Impairments

- Range of Motion
- Impairments due to specific disorders of the spine
- Neurological

Medical Information on File

Criterion 1

Range of Motion Values:

Flexion 40 degrees

Extension 20 degrees

Right & left lateral flexion 15 degrees

NEL RATING

Range of Motion Calculation : (p. 98, Tables 60 & 61)

Flexion 4% WPI*

Extension 2% WPI

R. Lateral Flexion 2% WPI

L. Lateral Flexion 2% WPI

Total: 10% impairment for ROM

*WPI- WHOLE PERSON IMPAIRMENT

NEL RATING

Criterion 2

Impairments due to specific disorders of the spine

(p. 80, Table 53)

- **Table 53 IIE – Laminectomy/discectomy L4-5 (single level surgery)**
- **10% whole person impairment for the surgical procedure**

NEL RATING

Criterion 3

Neurological Impairment (p. 42, Table 10, 11; p. 76, Table 49)

- Grade 4 sensory deficit at the level of L4-5
- Grade 4 motor deficit at the level of L4-5

Neurological Calculation:

- $25\% \times 5\% \text{ sensory} = 1.25\% (1\%)$
 - $25\% \times 37\% \text{ motor} = 9.25\% (9\%)$
- } 10% lower extremity

Total of 4% neurological Whole Person (p. 72, table 46)

NEL RATING

Total NEL Percentage

- 10 % ROM combined with*
- 10% surgery combined with
- 4% neurological

These combine to 22% Whole Person Impairment.

* COMBINED VALUES CHART p. 254

Case Study

Shoulder

- 42 year old male with left shoulder pain after years of repetitive upper extremity employment
- MRI showed no tears, joint effusion or impingement. Minimal degeneration of the AC joint
- Treatment consisted of physiotherapy, cortisone injections and anti-inflammatory medication

Case Study

Shoulder (cont'd)

- RTW modified duties after one month. Graduated to full duties after six weeks
- Determined to be at MMR six months following injury
- NEL referral

NEL Assessment Shoulder

Range of Motion left shoulder:

- Flexion 110 degrees
- Extension 25 degrees
- Adduction 30 degrees
- Abduction 95 degrees
- Internal Rotation 100 degrees
- External Rotation 25 degrees

NEL Assessment Shoulder

- Other AMA disorders (p. 48): *Mild Joint Crepitation with Motion*
- No upper extremity neurological deficits
- ADL form noted

NEL Rating Left Shoulder*

- Flexion 110 degrees 5% upper extremity
- Extension 25 degrees 2% “
- Adduction 30 degrees 1% “
- Abduction 95 degrees 4% “
- Int. Rotation 100 degrees 0% “
- Ex. Rotation 25 degrees 1% “

Total Upper Extremity 13%

Total Whole Person Impairment 8%
(ROM rated in lieu of Joint Crepitation)

*AMA reference pp 35-37

NEL Rating Repetitive Strain Injuries Upper Extremity

- History** **0-1% UE***
- Physical Findings** **0-3% UE**
- Activities of Daily Living** **0-3% UE**
- Treatment** **0-2% UE**

Total Upper Extremity Impairment **9%**

Total Whole Person Impairment **5%**

****UE = upper extremity***

Multiple Calculations

- “The method for combining impairments is based on the principle that each impairment acts not on the whole part but only on the remaining portion after the preceding impairment has acted”, page 19, AMA Guides 3rd edition (revised)
- The combined values chart on page 254 of the guides is used for this calculation

Example: Back 22% c/w shoulder 8% → 28% WPI

Calculation of Monetary Benefit

To find the dollar value, we:

1. use a base dollar amount for 100% loss, considering the year of MMR
2. adjust the base amount for age at the time of the accident;

and

3. multiply the NEL percentage to the age-adjusted base

Calculation of Monetary Benefit

Base amount:

- based on MMR of June 15, 2007
- base dollar value in 2007 for 100% loss is **\$52,469.57**

Adjust for age at time of accident:

- for each year the age at time of accident is under 45, add **\$1166.41** to the base amount
- age at accident is 38 years, which is 7 years under age 45
- age adjustment is $7 \times \$1166.41 = \mathbf{\$8164.87}$

Base for 100% loss:

Base amount:	\$52,469.57
Age adjustment:	<u>+ 8164.87</u>
Base for 100% loss:	\$60634.44

Calculation of Monetary Benefit

Impairment is calculated at **22% Whole Person** for low back

Apply **22%** impairment rating to base amount:

22% of \$60634.44 = \$13339.58 which is the value of the NEL award. (interest and arrears are calculated and paid, from MMR date to date of payment)

Questions on the Clinical?