

# Understanding the Canadian Workers' Compensation System

## *And How Third Party Administrators Can Help*



### **For more information:**

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## **Common Misconception**

A common misconception about Canadian workers' compensation is that there is little an employer can do about the associated costs and therefore they treat it like a tax; employers continue to pay this "necessary evil" and do little to mitigate rising premiums or surcharges. This view can quickly and drastically escalate an employer's workers' compensation costs. There are many effective ways to mitigate worker's compensation costs, in fact there are many proactive steps and strategies that are now legally required in every workplace.

## **Similarities and Differences**

Similar to the United States (US), workers' compensation legislation in Canada is mandated at the equivalent to the State level. Canadian Workers' Compensation Boards (WCB) are provincially and territorially regulated throughout the Country and provide insurance for workplace injuries and illnesses. As with the US, certain industries are exempt from this required coverage such as dentistry, banking, insurance and trust companies to name a few.

Canada differs from the US in that those industries that are not exempt from this required coverage can only receive workers' compensation insurance from a WCB. Therefore, Canadian workers' compensation coverage is similar to the Ohio Bureau of Workers' Compensation and other monopolistic state funds.

The WCBs operate at arms-length from the associated provincial government, however, these insurance programs are funded by the employers who require this coverage, not the provincial government.

Most provinces in Canada provide coverage similar to the book premium plus the modification factor used by private insurance carriers in most US states; the largest exception being the province of Ontario where coverage is provided using a modified "incurred loss retrospective rating plan". The WCB in Ontario charges an annual premium amount and also assigns a rebate or surcharge amount to the employer by comparing the difference between expected and actual claims costs.

## **Canadian Cost Drivers**

Different from the US, medical benefits are not the primary driver of workers' compensation costs. Canada's loss of earnings benefits/wage loss benefits are the primary driver of costs due to the publically funded nature of the healthcare system which has:

- a. Fewer administrative costs and fewer healthcare costs applied to an employer's experience rating.
- b. Minimal over-utilization of healthcare benefits when a workers' compensation claim occurs, translating into lower overall medical costs.

## Roles and Responsibilities

Workers' Compensation Acts outline the various roles and responsibilities of the worker, the employer and the respective WCB when a workplace injury or illness occurs. When an injury or illness occurs in the workplace; workers, employers and the WCB have the following responsibilities:

Workers	Employers	WCB
<ul style="list-style-type: none"> <li>• Report the illness or injury to the employer</li> <li>• Mitigate further loss</li> <li>• Cooperate with the employer if/when suitable modified duties are offered</li> </ul>	<ul style="list-style-type: none"> <li>• Provide first aid and/or arrange and pay for transport for medical treatment, if needed</li> <li>• Pay full wages and benefits for the day or shift on which the injury occurred</li> <li>• Investigate the incident and keep a record of steps taken to correct the problem</li> <li>• Report the injury or illness to the respective WCB</li> <li>• Provide accurate payroll information</li> <li>• Provide an offer of suitable, modified work to allow for early and safe return to work</li> </ul>	<ul style="list-style-type: none"> <li>• Review all reported incidents and determine benefits entitlement (This is equivalent to the compensability decision in US workers' compensation)</li> <li>• Issue medical benefits and/or loss of earnings/wages benefits where applicable</li> <li>• Arrange specialist appointments and independent medical examinations, where appropriate</li> <li>• Interpret and enforce workers' compensation legislation</li> <li>• Review evidence and make decisions on appeals initiated by the worker, the employer, or the third party adjuster.</li> </ul>

## When to Report Workplace Illness or Injury Incidents

Depending on the province or territory, employers are generally required to report a work related accident/illness to the WCB within 72 hours of learning that the worker requires professional medical treatment and/or:

- Is absent from regular work on or after the next scheduled shift,
- Earns less than regular pay for regular work (e.g. reduction in work hours), and
- Requires modified work at less than regular pay

(Note: some provinces require reporting if modified duties are required after the Date of Accident.)

## Common Mistakes that Employers Make

One of the biggest and most common mistakes that employers make is not offering modified duties to a worker at the onset of a claim. As mentioned above, in Canada it's not the medical benefits that drive costs higher, it's the time away from work that hurts employers most. Even one lost time day can add up; it's been said that for each day an employee loses time from work, the employer pays five to seven times their normal pay amount in experience claims costs. For example, if an employee earns \$100 per day, it is estimated that the employer pays \$500-\$700 per day while this employee remains off work. Having a proactive and consistent return to work program in place that makes offers of modified duties immediately will make the biggest impact to employers costs control efforts.

## Role of a TPA in Canada

As workers' compensation coverage is mostly mandatory, premiums are non-negotiable. Benefits entitlement decisions and benefits payments are made solely by the WCB, however, they can be appealed by an employer or TPA. Most TPAs in Canada act as an intermediary between the WCB and the employer. Furthermore, TPAs are able to report work injuries/illnesses, review medical information, initiate appeals and provide return-to-work solutions on behalf of the employer. They are also responsible for keeping the employer informed of WCB decisions and actions.

## The Value that Crawford Provides as a TPA is Two-Fold

First, Crawford provides a form of checks and balances in which adjudication and benefits administration are reviewed and confirmed. Although a TPA can't make entitlement and payment decisions, a TPA like Crawford can influence these decisions. For example, when reporting an incident to the WCB in most provinces, Crawford can provide a letter of concern or a formal objection to benefits entitlement if supporting evidence is uncovered by one of our consultants.

Second, Crawford can leverage a number of cost mitigating strategies to positively impact an employer's experience rating. These strategies can lead to reductions in base premiums or lump sum rebate payments (depending on the jurisdiction). Some of the main cost mitigating strategies utilized include:

- A professional review of claims to identify opportunities for cost relief through each of the provincial/territorial second injury enhancement funds,
- Appealing claims decisions with expert legal support, and
- Expediting safe and timely return to work plans.

Crawford is also able to improve employers' overall workers' compensation programs by offering the following services with respect to workplace injury prevention.

- Subject matter expertise in each of the jurisdictions across Canada,
- Tracking and reporting tools that promptly identify common loss trends and suggest proactive measures for improvement,
- Predictive analytics technology that enhance claims handling,
- Creation of return to work programs that conform to legislation and best practices, and
- Implementation of injury prevention measures such as ergonomic assessments.

## Important Questions to ask Yourself When Assessing Your Canadian Workers' Compensation Program:

1. Are your Canadian operations in a surcharge or high modification factor situation in any of the provincial/territorial jurisdictions?
2. How are work injuries in Canada currently handled? Who reports claims to the workers' compensation board? Who coordinates early and safe return to work?
3. Do you have a formal return-to-work program in place? Is it compliant?
4. Does your organization conduct any loss engineering? What cost mitigating strategies are being used in your Canadian operations right now?

Canadian workers' compensation coverage can be extremely costly for employers if claims are not handled in a proactive and strategic manner. Our proven approach to claims management and use of qualified consultants helps mitigate exposures and has resulted in a significant return on investment for our clients; at times upwards of \$2 savings for every \$1 spent.

Employers will benefit from:

- State of the art claims management and return-to-work technology
- Professional review and validation of workers' compensation claims
- Reduced medical and indemnity costs
- Maximum experience rated rebates
- Expedited safe and timely return to work planning
- Workers' compensation programs that are compliant and use best practices
- Predictive analytics

For more information about Crawford's Canadian workers' compensation services, please contact Kristen Moskal, National Account Executive, at 1-800-522-1380 or via email at [Kristen.Moskal@crawco.ca](mailto:Kristen.Moskal@crawco.ca). You can also visit our website at [www.crawfordandcompany.ca](http://www.crawfordandcompany.ca).