



Manitoba Federation of Labour

Brief to the

**Workers' Compensation Board
Expansion Consultation**

December 8, 2005
Winnipeg Convention Centre

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Introduction

The Manitoba Federation of Labour (MFL) is pleased to be given the opportunity to share our views with panel on the topic of expanding Workers' Compensation coverage to more working people in Manitoba.

The MFL is chartered by the Canadian Labour Congress (CLC) to represent the interests of CLC affiliated unions in Manitoba. Collectively, these 35 unions represent nearly 100,000 working women in men in our province. Representatives of there people meet in General Convention every three years to debate issues and set policies to guide the work of the Federation on matters of interest to workers, including in the area of Workers' Compensation.

The recent amendments made to the Workers' Compensation Act provide for the expansion of mandatory Workers' Compensation coverage to include workers included in that category.

Coverage Incomplete

Workers Compensation is a system that was originally designed to pay all workers for wages lost due to a workplace injury. Unfortunately, not all workers in Manitoba are covered by the Workers Compensation Act. When the Act was written, only those workplaces that were specifically mentioned in the Act were required to participate in the plan. Later, some occupations and employers were allowed to participate on a voluntary basis and these employers were granted immunity from being sued for wage loss benefits.

Farm workers used to be employed on small, family-owned farms with a diverse production of garden, feed grain and livestock. At the time, it was felt that traditional workplace solutions were not needed in this context due to the lack of "modern" machinery. Most of these farms, plus their dependant industries, have evolved into what is known today as Agribusiness. The means of production has changed as has the average size of farm operations. The scale of livestock production has also grown to large multi-building operations.

Public schools used to be small and had neither vocational or laboratory components. With advances in education, we now see large central structures that house many opportunities to gain experiences beyond theoretical knowledge to practical applications. It is in these settings that teachers, their assistants and custodial staff are exposed to hazards not envisioned by the early drafters of legislation. Not all school divisions participate in voluntary coverage and when our members change employment from one division to the next there is confusion when they find they are no longer covered.

Today, many occupations exist that have evolved over the last 20 years due to changes in computer, communication and other technology and have brought their own occupational injuries. Due in large part to this increase in white collar jobs from blue collar, we see many cases of repetitive strain injuries and other modern disorders. Most of these workers lack protection for wages lost due to a workplace injury because they are considered non-compulsory by default and their employers feel no need to provide for their income and health protection.

We know that the future will hold many more workplace changes as it undergoes constant evolution, moving from the days when workers were called "workmen" to the future where it is predicted that First Nations communities will have their own economy and industries.

The Workers Compensation system must evolve to accommodate the needs of the workers and their employers. The system, fully funded by employers, must be available to all workers when they need it, where they need it and without complications.

Expansion of coverage should address the ambiguities that have developed. Operators of private clubs need to have the same obligation to provide coverage for their workers as the operators of restaurants and lounges have. Workers face the same hazards in both workplaces. Likewise, greenhouses and landscapers haul dirt, sand and gravel and lay sod on site in similar conditions and working environments as road construction, but do so without being required to provide Workers' Compensation coverage for their employees.

Expansion of coverage is key to changing the culture of injury acceptance to one of injury prevention.

Economically driven changes in Manitoba's workplaces throughout the lean and mean 90's resulted in a situation where many jobs were outsourced or divided among unskilled workers. Consequently, the Manitoba injury rate had risen to the highest in Canada and many of our youngest workers were being killed in the workplace. To address this, the Manitoba Government adopted a strategy to reduce injuries by changing the culture within the community to make injuries unacceptable. In order to fully engage all workplaces, those who are now outside the influence and sphere of the WCB must be brought to the table.

The MFL has recommended that WCB coverage must be compulsory for all Manitoba workplaces. This means that those industries and occupations that are currently not covered and are excluded by regulation due to the recent amendments should be brought under the umbrella of Workers Compensation as soon as possible. Any delay will result in workers not being able to qualify for benefits should they become injured.

In the MFL Brief to the public hearings to fix the problems in the Workers Compensation Act, we stated:

"The fact is, there are many workplace environs that are hazardous to health. Hazards such as repetitive movement, toxic materials, ventilation and others are present in many different workplaces and they all can, and do, result in workplace related injuries and illnesses. We urge that the Workers Compensation Act be amended to cover all workplaces in Manitoba and require coverage for all workers."

This statement is as true today as it was then.

Following the release of the report, one of our affiliates responded to the Minister's call with this submission on coverage:

The idea that only some workers in the province are covered by compensation should be repugnant to everyone. How can it be possible in this day and age that there are workers in the Province of Manitoba who are not covered by Workers Compensation, who are left to fend for themselves if they get hurt. These workers are probably the most disadvantaged group of workers already and this is just one more strike against them.

Many of our affiliated members feel the same way - not because they don't have coverage through their own workplace, but because their families, friends and neighbors are working in those marginalized industries. It is imperative that these workers enjoy mandatory coverage for the protection of their well being. Currently, about 25 - 30 percent of Manitoba's workers are not under the shelter of mandatory coverage.

A major benefit of increasing coverage is the resulting increased base to share the overall cost of providing WCB benefits, making it a true collective liability. We believe that one result would be a lower average rate for employers than in the past.

What Steps Can Be Taken?

The MFL suggests a three step approach to achieving expanded coverage. Those who should have been included in the original program, those in the highest injury category and those who experience low injury records yet may have a catastrophic event.

Industries similar to those already under mandatory coverage and industries that have already applied for coverage on a voluntary basis. Air transportation is an industry that was not very significant when the original schedule was drafted, but in today's society it is very important part of the whole transportation industry both globally and provincially. But air transportation workers are not included in compulsory coverage. The anomaly of workers in auto retailing being entitled to coverage and workers at auto rental agencies not, needs to be corrected. There are many more examples.

Workplaces and employers who have recognized the value and benefit of Workers Compensation by adopting voluntary coverage have grown to large numbers. The best example of using this is the Union movement. The majority of our affiliated unions have embraced the system for full time representatives and those members who are "booked off" on Union business. We expect to be included in the first stage expansion. Other employers in industries that have similarly recognized the benefits of Workers' Compensation coverage should also be included.

Workers in farming and other farm related activities, including family farms, that have employment relationships with full or part time workers. This industry has become a source of high worker injury and illness. This is due in large part to the nature of the work and the high level of hazard in such a complex operation which involves the use of chemicals, machinery and physical exertion that rivals any industrial workplace in Canada.

Many efforts have been made by the Department of Labour and Immigration to reduce the death toll and injury rates in the agricultural industry which have accounted for one half of all injuries

and fatalities in Manitoba. Further efforts will need to be made once they have become part of the Workers Compensation Prevention mandate and resources.

Many employers in agribusiness and farming operations face liabilities that may well cost them their entire operation and livelihood after litigation by an injured employee. The yardstick we envision for identifying who should be under mandatory coverage on the family farm or employed in agribusiness is those who have income that is reported to Customs and Revenue Canada. Efforts will have to be made through Employer Services to streamline the process of participation so that the individual farmer/owner will not have additional administrative workloads.

Employers in low risk industries that have limited or no protection for their workers through some other insurance scheme. Many workplaces that are characterized as “low risk” have been known to cause illness through exposure to cleaning chemicals, poor ventilation and mould. Many have had minor injuries from equipment malfunction or maintenance that resulted in medical and health related costs paid from the Manitoba health care budget. Some have experienced problems and injuries related to exposure to members of the public who are ill and contagious, such as the staff of doctors, dentists and other professionals’ offices. No workplace is secure from an unforeseen catastrophic event that may result in multiple injuries and deaths.

The most notorious group of uncovered workers in Manitoba is, by far, School Division staff. This group is a mixture of covered and uncovered workers, as some School Divisions have voluntarily purchased Workers Compensation coverage for their non-teaching staff such as custodial workers, mechanics, secretaries and paraprofessionals to take advantage of the litigation protection afforded by Compensation. What is most galling for workers is that teachers have been forced to purchase their own coverage, a situation not envisioned by the crafters of Workers Compensation, to ensure that their number one job hazard, stress, would be compensated.

This last group of workers must be covered and employers should not be allowed to beg off inclusion unless they can show that they have equivalent protection for the well being and income of their employees. No worker should be required to pay for their own protection while working in Manitoba. Employers should be and must be accountable for all costs associated with an unsafe workplace that causes injury or illness to a worker.

Conclusion:

Employers who have other schemes and provisions in place will need assistance with exit strategies to comply with new obligations so as not to put an onerous strain on their resources. Those provisions include short and long term disability, accidental death and dismemberment policies plus extended health care benefits through private sector insurance. These policies will have to be adjusted to account for the full extent of WCB medical, rehabilitation and wage replacement and retain provisions for non-occupational injuries.

We feel certain that the expansion of coverage can be accomplished within three years of the proclamation of the amendments contained in Bill 25. Sufficient attention has been paid to this topic to ensure that areas of misunderstanding will be addressed for all employers in the first year following this initial consultation. We look forward to working more closely with the Government and Board to develop a precise list of those who fall under the three main areas of expansion discussed here.

Every workplace in Manitoba can and will benefit from the most economical and comprehensive coverage available – that is, Workers' Compensation. The MFL, as a holder of voluntary coverage, knows full well the cost-benefit ratio value of Workers' Compensation. Other employers need to be made aware of this reality, the protection it will afford them and the financial security it provides their employees. We look forward to the time when all workers have such protections.

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