



Association of Canadian Search,
Employment and Staffing Services

Association Nationale des Entreprises en
Recrutement et Placement de Personnel

October 2, 2015

Diane Weber
Director
Consultation Secretariat
Workplace Safety and Insurance Board
200 Front St. West, 17th Floor
Toronto, On
M5V 3J1

Dear Ms. Weber

RE: Submissions of the Association of Canadian Search, Employment & Staffing Services on the “WSIB Rate Framework Reform Consultation”

Introduction

The Association of Canadian Search, Employment & Staffing Services (ACSESS) is the only association representing the staffing industry in Canada. ACSESS represents over 1000 staffing service offices across Canada. ACSESS members provide placement and executive search services, and temporary and contract staffing to the public sector and virtually every type of business.

The mission of ACSESS is to promote the advancement and growth of the employment, recruitment and staffing services industry in Canada. It also serves as Canada's only national advocate for ensuring professional ethics and standards in this industry. All member companies pledge annually to uphold the Association's Code of Ethics and Standards which promotes ethical treatment of employees and clients, and adherence to all applicable laws including human rights and occupational health and safety legislation.

ACSESS members have worked closely with OHS and Workers' Compensation boards across the country to improve worker safety and to reduce accidents. More specifically, ACSESS is active in the WSIB safety group program which encourages sharing of best practices amongst employers of all sizes in similar industries. ACSESS had the distinction of receiving the highest achievement score amongst all provincial safety groups in 2014. Further, ACSESS has been actively involved with senior representatives of WSIB in shaping policy which improves the performance of the staffing industry as a whole.

Analysis of Proposal

ACSESS has set out below our comments with respect to the proposed rate framework reform. ACSESS has a number of specific comments on the proposals which directly impact how experience rating operates for staffing agencies. These submissions are a result of a number of consultations with ACSESS members and involved the assistance of experienced legal counsel.

1. Multiple Account for Staffing Agencies Proposal

The proposed preliminary Rate Framework recommends that staffing agencies and their client employers be classified in the same rate class for the stated purpose of trying to ensure that the client employer and the staffing agency pay a similar premium for the work being performed.

To allow staffing agencies and client employers to be classified in the same class, the WSIB is proposing to amend Schedule 1 of O. Reg. 175/98 to indicate that supply of labour to a class (regardless of what activities are performed) is considered a business activity of that class. Staffing agencies would have another separate account for their own dedicated staff which are not assigned to client employers. This is an exception to the general approach of eliminating multiple accounts for virtually every other employer.

ACSESS **agrees in principle** with the proposal advanced by the WSIB to assign staffing agencies individual accounts for rate class that they serve and **this change should eliminate any and all concerns about the alleged practice of client employers using staffing agencies to avoid WSIB premiums.** As we will discuss below, ACSESS needs further information in order to comment specifically on the technical aspects of the proposed rate framework.

2. Response to Question Respecting Claim Cost Avoidance

At page 22 of Paper 3, the WSIB asked for feedback with respect to how the issue of claims costs avoidance should be dealt with under a new rate framework. As was stated above, it is the position of ACSESS that the multiple account system should ensure that staffing agencies and client employers are paying similar premium rates **which eliminates any conceivable financial incentive for client employers to attempt to avoid WSIB premiums through the use of staffing agencies.**

Paper 3 also makes explicit reference to the recent proposal to attribute the costs of staffing agency worker accidents to the WSIB accounts of client employers for experience rating purposes. It is the position of ACSESS that the multiple account proposal eliminates the problem of any premium disparities and thus is a complete answer to any concern about premium avoidance in this context and **thus there is no need to enact any further changes.**

3. Rate Fairness and Lack of Necessary Actuarial Information

ACSESS has reviewed the additional information released by the WSIB this past summer and is generally supportive of expanding the number of rate classes from the original 22 which the WSIB proposed. Unfortunately, the information provided by the WSIB does not reflect the impact of the proposed expansion of the rate classes and thus does not allow ACSESS to assess the impact on the critical issue of rate fairness.

Respected actuary Ted Nixon has reviewed the additional information provided by the WSIB and has pointed out that the WSIB has not provided the information necessary to calculate the target rate and class assignment for most rate groups. Specifically, Mr. Nixon has correctly pointed out that the information released by WSIB does not take into account the additional rate classes which the WSIB has proposed. It is the position of ACSESS **that the goal of rate framework should be the development of a system whereby all employers pay a premium rate that reflects their cost to the system.**

ACSESS and other groups are in no position to comment on whether the proposed changes achieve the goal of rate fairness without an understanding of what the target premium rate would look like for each class under the new system. This issue is particularly important to ACSESS in light of the fact that ACSESS members will be impacted by the rates in each class. It is critical that the WSIB release all of the relevant actuarial information so that all participants in the system are equipped with an understanding of what the actual premium costs would look like.

4. Surcharging Bad Performers

In the July 2015 Rate Framework Reform update, the WSIB reported that a number of parties expressed support for a special surcharge mechanism for employers who are above the premium rate cap on a sustained basis. ACSESS will comment on this issue if and when a specific proposal is made by the WSIB.

5. Weighting of Cost Years

The WSIB has proposed that the “window” for reviewing claims be expanded to six years which will result in employers being assessed costs for historic claims which are likely long removed from the current workplace environment. ACSESS has significant concerns about employing a six year window as it imposes costs on employers for historic claims which the employer has no ability to address. ACSESS supports a system which allows the employer to see cost savings resulting from improvements to the company’s safety program right away. It is in the interest of all parties in the system that employers be incentivized to make immediate investments in health and safety.

6. Long Term Latency Claims

In the July 2015 consultation update, the WSIB reported that the majority of stakeholders support excluding long term latency claims from the experience rating of individual employers and that some stakeholders have supported sharing the costs of these claims through all of Schedule 1 (as opposed to at the class level).

ACSESS agrees with these stakeholders that all Schedule 1 employers should share the costs of long term latency claims. The reality of the 21st century workforce is that workers will frequently be employed by a number of employers in a disparate group of industries. It is fundamentally unfair and makes little sense from a policy or common sense point of view to assign the costs of the claim to a specific class. The reality is most workers with such claims will have been employed in sectors covered by a number of different classes.

Obviously, it is even more fundamentally unfair to assign the costs of the claim to the worker’s most recent employer given the reality that the employer of record likely had nothing to do with the causation of the worker’s condition. This issue is of fundamental importance to ACSESS members in light of the nature of the staffing industry workforce where short-term relationships with workers are common. It is the submission of ACSESS that the cost of long term latency claims should be borne by the system as a whole.

7. SIEF

Paper 3 discusses a proposal of the WSIB to eliminate the SIEF program which provides cost relief for employers in cases where a worker with a clearly identifiable pre-existing condition suffers a workplace accident. The level of cost relief is determined by the objective severity of the pre-existing condition.

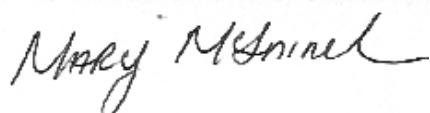
At page 34 of Paper 3, it is pointed out that SIEF is funded through all employers' premiums, yet only some employers are in a position to actually use it. ACSESS agrees that in certain industries (i.e. construction, staffing, hospitality) it is common for workers to be employed by a number of different employers over the course of their career. For gradual on-set claims, the worker's injury is often the result of a lifetime working for a number of employers in multiple industries.

If SIEF were to be eliminated, a single employer would be required to bear the costs of what is in essence a claim caused by a worker's past employment. SIEF levels the playing field to ensure that no single employer has to suffer the unfairness of paying for a claim which was largely caused by work performed at another employer.

Further, although the inherent nature of certain industries might make SIEF more common for certain employers, the issue is relevant for any employer that hires an employee with a pre-existing condition. SIEF offers the same protection for every employer in the system and represents one of the cornerstones of rate fairness. ACSESS recommends that the SIEF program be continued.

I wish to thank you for the opportunity to make these submissions and look forward to receiving the additional actuarial information we have requested.

Yours Very Truly,



Mary McIninch, B.A, LL.B (Membre du Barreau du Québec)
Director of Government Relations/Directrice des Affaires Publiques
Association of Canadian Search, Employment and Staffing Services
Association Nationale des Entreprises en Recrutement et Placement de Personnel