Brief Summary of Canadian Workers' Compensation System

Prepared by the Office of the Chief Actuary, January 2010

Acknowledgements

We would like to thank the Association of Workers' Compensation Boards of Canada (AWCBC) for allowing the use of material presented on their website in preparation of this document.

History of Workers' Compensation

The concept of workers' compensation had its origins in Germany, Great Britain and the United States between the late 1800s and early 1900s.

In Germany, Chancellor Otto Von Bismarck introduced a compulsory state run accident compensation system between 1884 and 1886. This initial system was financed by workers and employers. In the United States several states enacted compensation legislation between 1908 and 1915. The state of Washington enacted an exclusive mandatory system based on collective liability. As compensation was given state jurisdiction, the U.S. developed a mixed package of Workers Compensation Boards, mandatory insurance and self-insurance.

Workers' compensation in Canada had its beginnings in the province of Ontario. In 1910, Mr. Justice William Meredith was appointed to a Royal Commission to study workers' compensation. His final report, known as the Meredith Report, was produced in 1913. The Meredith Report outlined a trade-off in which workers' relinquish their right to sue in exchange for compensation benefits. Meredith advocated for no-fault insurance, collective liability, independent administration, and exclusive jurisdiction. The system exists at arms-length from the government and is shielded from political influence, allowing only limited powers to the Minister responsible.

There were five basic cornerstones to the original workers' compensation laws. These cornerstones which have survived, to a greater or lesser extent, are as follows:

1. **No-fault compensation:** Workplace injuries are compensated regardless of fault. The worker and employer waive the right to sue. There is no argument over responsibility or liability for an injury. Fault becomes irrelevant, and providing compensation becomes the focus.

2. **Collective liability:** The total cost of the compensation system is shared by all employers. All employers contribute to a common fund. Financial liability becomes their collective responsibility.

3. **Security of payment:** A fund is established to guarantee that compensation monies will be available. Injured workers are assured of prompt compensation and future benefits.

4. **Exclusive jurisdiction:** All compensation claims are directed solely to the compensation board. The board is the decision maker and final authority for all claims. The board is not bound by legal precedent; it has the power and authority to judge each case on its individual merits.

5. **Independent board:** The governing board is both autonomous and non-political. The board is financially independent of government or any special interest group. The administration of the system is focused on the needs of its employer and worker clients, providing service with efficiency and impartiality.

Each province and territory in Canada has its own exclusive Workers' Compensation Board/Commission (WCB) with the Northwest Territories and Nunavut having a combined Workers' Compensation Board. Workers' Compensation legislation (generally the *Workers' Compensation Act)* is created by the provincial/territorial government and administered by the WCB. Federal government employees are governed under the Federal *Government Employees Compensation Act (GECA)*.

Provincial/territorial WCBs generally administer *GECA* claims. The following table shows the coverage of workforce by Workers' Compensation programs for the year 2007 by province/territory.

Percentage of Workforce Covered by Workers' Compensation in 2007

Province/Territory	Percentage of Workforce Covered
Alberta	89.7%
British Columbia	93.1%
Manitoba	69.5%
New Brunswick	93.9%
Newfoundland and Labrador	97.0%
Northwest Territories and Nunavut	100.0%
Nova Scotia	72.6%
Ontario	72.6%
Prince Edward Island	96.2%
Québec	93.4%
Saskatchewan	74.1%
Yukon	99.9%
Canada	89.6%

Assessments/Premiums (Employer)

WCBs are funded by employers (not by government). Employers are charged a certain dollar amount per $100 of payroll. This amount is known as the "assessment rate" or "premium". Not all employers pay into workers' compensation; this depends on each province's/territory's legislation.

The money collected from employers goes into a fund, generally known as an Accident Fund. In general, monies from this fund go toward:

(a) providing wage loss benefits to workers injured on the job who are unable to work due to a work injury;
(b) providing medical aid and rehabilitation to workers injured on the job; and
(c) the general administration of the Workers' Compensation Board/Commission.

Each province/territory has an average provisional assessment rate. The employer does not necessarily pay this average assessment rate. Individual employers' assessment rates are based on:

(1) Industry or Class: Different industries, classes, and occupations can be charged different assessment rates since the inherent occupational danger for every industry/job varies;
(2) Experience Rating: An individual employer's assessment rate may be increased or decreased based on how many work injuries/diseases have occurred at the employer's place of business.

Certain employers may be individually liable employers (or self-insurers). These employers would not pay assessment rates but rather would pay (either through reimbursement or a deposit account) the WCB for the actual cost of compensation paid in respect of their workers. Examples of individually liable employers are the federal and provincial governments.

The following table presents the maximum assessable/insurable earnings and provisional average assessment rates for the year 2009 by province/territory.

Maximum Assessable / Insurable Earnings and Provisional Average Assessment Rates (per $100 payroll) in 2009

	Maximum Assessable / Insurable Earnings	Provisional Average Assessment Rates, per $100.00 Payroll
Alberta	$72,600	$1.32
British Columbia	$68,500	$1.56
Manitoba	$83,000	$1.60
New Brunswick	$55,400	$2.03
Newfoundland and Labrador	$50,379	$2.75
Northwest Territories and Nunavut	$72,100	$1.71
Nova Scotia	$49,400	$2.65
Ontario	$74,600	$2.26
Prince Edward Island	$47,500	$2.16
Quebec	$62,000	$2.10
Saskatchewan	$55,000	$1.66
Yukon	$76,842	$3.00

Benefits (Workers/Dependants)

Monies paid to injured workers by the Workers' Compensation Boards/Commissions are generally known as workers' compensation "benefits". The following are the most common type of workers' compensation benefits:

(1) Health Care;
(2) Wage loss benefits (short-term disability);
(3) Permanent disability benefits;
(4) Fatal and dependency benefits (survivor benefits);
(5) Rehabilitation.

The information provided below is a brief description of benefits. For more detailed information by jurisdiction, please visit the Association of Workers' Compensation Boards of Canada website at www.awcbc.org.

Health Care
The WCB may cover the cost of medical treatment, hospital services, drug prescriptions and other prescribed medical items a worker needs because of a work injury. The services of specialists such as a physiotherapist, occupational therapist, chiropractor, psychologist and others are normally covered. Special allowances for transportation, independent living, clothing and other needs are also available. The level of coverage varies by jurisdiction.

Wage Loss Benefits (shot-term disability)
Wage loss benefits are paid to an injured worker until he/she has recovered and is able to return to work in his/her pre-accident occupation or, as a result of rehabilitation to an alternative occupation with the same level of earnings as before the accident. If a disabled employee is not capable of returning to the same occupation or is not able to replace pre-accident earnings, he/she becomes eligible for permanent disability benefits.

Each province/territory compensates the injured worker for a certain percentage of his/her normal wages. This benefit varies between 75% and 90% of net earnings, with Yukon using 75% of gross earnings. Most provinces/territories also have a maximum amount of earnings that they will cover.

Permanent Disability Benefits:

If an injured worker is determined to have a permanent disability because of his/her work injury, he/she may receive additional compensation. The majority of jurisdictions have a dual permanent disability benefits that include “non-economic” and “economic” benefits. “Non-economic” benefits are lump sum payments that are awarded for non-economic impacts of permanent disability. “Economic” benefits are monthly benefits compensating lost earnings. The amounts of both benefits vary by jurisdiction and may be subject to minimum and maximum limits. In some jurisdictions, permanent disability benefits are reduced to take into account post-accident earnings, Canada Pension Plan (CPP) disability pension and other sources of income.

At age 65, the monthly payments are usually revised. Benefits may be replaced by annuities compensating for the loss of CPP pension and/or employer-sponsored pensions. Another possibility is that benefits may be replaced by a pension resulting from an individual retirement account set up and maintained by a WCB.

Permanent disability benefits are usually indexed to cost-of-living increases.

Fatal and Dependency Benefits (Survivor Benefits)

If a worker dies due to a work injury/disease, his/her dependents may be eligible to receive fatal and dependency benefits. These survivor benefits include lump-sum payments, lump sum for burial expenses and body transportation.

The annuity survivor benefits for spouses vary among jurisdictions and may depend on a survivor’s age, number and ages of dependent children, and whether or not the surviving spouse is disabled. The duration of such benefits also varies: it could be payable for life, payable until age 65, or for a limited number of years. In some jurisdictions, survivor benefits are integrated with the CPP survivor benefits to a certain degree.

Various jurisdictions provide benefits for dependent children as well. These benefits are usually in the form of a temporary annuity which ends at age 18. The annuity may be extended if a child is disabled or is attending school.

Rehabilitation

Workers' Compensation Boards/Commissions provide rehabilitation services and programs to workers injured on the job in order to return workers to their pre-injury health and to get injured workers back to work. The services available vary by jurisdiction and may include: counselling, relocation assistance, training on the job, formal and academic training assistance (including tuition, books and supplies), job search assistance, worksite or workstation modifications, ergonomic services, and others.

Taxation

Employer contributions are considered to be a tax-deductible operating expense and do not constitute a taxable benefit to employees. Benefits payments to injured employees are not subject to tax.