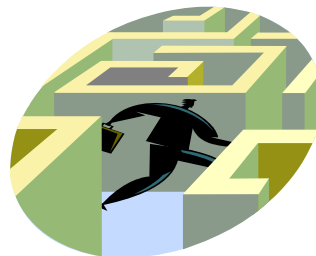


Final Report to the Workplace Safety & Insurance Board

How Systemic Problems Can Prolong Workers' Compensation Claims and Change Injured Workers' Lives: An Informed Realist Perspective



Several times in my last four years in my life...I thought of ending this and there's only one way to end it. ...I say, who needs this? Who needs the pain, who needs the embarrassment, who needs the humiliation? You know. Like when I met my wife [many] years ago...I said, "Well, I'm a man, we're young, I'm able to support my wife and support my kids." And then something like that happens ... and you can't support your wife, you can't support your kids and you're expecting them to support you, then suddenly you feel depressed and you feel bad and you say, "What kind of a man am I?"....You know....you start losing all the values that I was raised at my parents and everybody else telling me...like to be an honest person, to raise a family, to be a good person and everything else. You start losing that because you're not able to raise a family any more, you're not able to support your family any more. And all that because of an injury. (Kyle, injured worker)

There's a lot of people who become chronically ill and depressed and just forget about getting them back to work, you know, they just can't handle it any more. And I've often felt in a lot of cases that...a lot of these people could have been rehabilitated earlier... If their claims hadn't been denied... unreasonably. You know, the person gets his back up, then he gets depressed because he's broke, and he can't...pay the rent and stuff....It just adds to their pain. It drags on for year after year to appeal. [By] the time I won the appeal in a lot of cases, the person's totally unable ever to go back to work. (Peter, worker legal advisor)

Authors: Ellen MacEachen (P.I.), Agnieszka Kosny, Sue Ferrier, Lori Chambers and Donald Cole
Institute for Work & Health, Toronto

This study was supported by Workplace Safety and Insurance Board Research Advisory Counsel 2005-07. This funding does not imply endorsement of the research findings.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	iii
1. STUDY RATIONALE	1
2. STUDY METHOD	4
2.1 Qualitative Research Design	4
2.2 Recruitment and Data Collection	4
The sample	4
Recruitment	8
Data collection and management	9
Data analysis	9
3. FINDINGS.....	11
3.1 Workplace Problems with the Return-to-work Process.....	11
Structural return to work problems.....	12
Businesses are set up for commerce, not health management.	12
RTW process is asymmetrical	13
RTW process does not consider if hazard has been removed	13
Businesses and the economics of work injuries.....	14
Business lack of internal coordination for return to work.....	16
Return to work involves excessive travel	17
Summary – structural RTW problems.....	18
Workplace social relations and problems with return to work	19
Quality of workplace social relations can determine RTW success or failure	19
Employers delay or do not report accidents.....	19
Employers provide no or poor quality modified work	21
Complications surrounding functional abilities and modified work	28
Slow recovery pace and failed RTW attempts	29
“Worker over compliance” and re-injury resulting from system pressures	30
Summary—workplace problems with the RTW process	33
3.2 LMR-Related Problems with Claims Progress	34
LMR before worker is recovered.....	34
Workers placed in unrealistic courses.....	35
Worker over-compliance in LMR.....	36
LMR workers at a disadvantage on the job market.....	37
Summary—LMR-related problems with claims progress	38
3.3 Health Care Processes Problems that Affect Return to Work.....	40
Mismatch between WSIB forms/reporting needs and physician practice realities	40
WSIB will not fund recommended treatment.....	44
WSIB’s focus on ‘proof’, requiring multiple assessments.....	45
Conflicting medical opinions	49
Doctor assessment of RTW-readiness over-ruled by WSIB	51
Health care practitioners do not communicate and coordinate	52
Doctors avoid WSIB patients	53
Walk-in clinics not aligned with WSIB requirements	54
Inadequate worker access to healthcare	55
Summary- health care process problems that affect return to work.....	57
3.4 RTW Problems with How WSIB Interacts with Workers.....	58
“No face to WSIB”—lack of direct contact.....	58
Excessive waiting times.....	61

Entitlement decisions—multiple assessments and weighing work and other exposures	64
RTW or LMR plans don't accommodate secondary health problems	66
WSIB transparency and accountability	67
Workers lack knowledge and literacy to understand forms, paperwork, and process	70
WSIB process complexity means workers need education and representation	72
Summary-- RTW problems with how WSIB interacts with workers	73
3.5 Effects on Workers of System Process and Dysfunctions	75
Financial strain and anxiety	75
Being deemed	75
Benefits insecurity	76
Workers face new expenses following injury	78
Lack of health benefits contributes to poverty	78
Paying for LMR-related costs	80
New costs for services when worker can no longer do things on own	81
Costs related to representation	81
The Effects of Poverty	82
Loss of homes and savings	82
Loss of provider role, reputation, and family life	84
Turning to welfare	88
Poverty, pain, depression and suicide	89
Summary—effects on workers of workers' compensation claim system problems	93
4. CONCLUSION: MYRIAD ROUTES TO CLAIM COMPLEXITY	94
5. DISCUSSION: FUNDAMENTAL SYSTEMIC PROBLEMS ASSOCIATED WITH PROLONGED WORKERS' COMPENSATION CLAIMS	95
5.1 Communication Breakdowns: 'Broken Telephone'	95
5.2 The Weight of the Wait: How Bureaucratic Processes Can Harm Workers	96
5.3 The Toxic Dose: How Individuals Succumb and Become "Injured Workers"	96
5.4 The Impact of Medication	97
5.5 Location—How Geography May Affect a Claim	98
5.6 How Deeming Complicates Claims Capacity	99
5.7 Fundamental Problems: Toward 'Informed Realism'	99
Not an ideal workplace	99
Not an ideal injury	100
Not ideal health care provision	100
Not an ideal worker body	100
Not an ideal worker family	101
Not an ideal worker	101
5.8 Study Strengths and Limitations	102
5.9 Recommendations and Next Steps	103
6. Appendix A	106

LIST OF TABLES

Table 1: Geographic distribution of sample	5
Table 2: Service provider sample	6
Table 3: Injured worker profile	6
Table 4: Pre/Post-1990 injury status	8

EXECUTIVE SUMMARY

Study rationale

Most workers who incur an injury on the job resulting in a compensation claim follow a relatively straightforward path to recovery and return to work. However, a minority of compensation claims are prolonged. To date, only a vague picture exists of why and how these claims are problematic.

We conducted this study in order to gain an understanding of systematic, process-related problems affecting injured workers who had failed to return to work as expected. Many studies of prolonged, or costly, or persistent claims have been conducted using quantitative methodologies that measure the presence and correlation of pre-identified 'variables'. These studies have been limited to measurement of variables that are previously known about the problem and to variables that are measurable with an identified relationship to the problem. In contrast, our approach has been qualitative, exploratory and open-ended and has allowed us to examine system processes and social relations. We have examined the experience of the workers' compensation system users and system experts about why and how problems occur for workers as they proceed through the claim trajectory. We consulted with injured workers, who are located *at the juncture* of the various systems that compose the compensation claims process. We also examined the experience of a wide range of service providers. Our methodology involved an inductive, ground-up approach to examine complex causal linkages between worker experiences and system procedures.

Method

In-depth interviews were conducted with 69 participants. Of these, 34 were injured workers, 14 were injured worker peer helpers, and 21 were service providers. A purposive sampling approach was used to achieve maximum variation across Ontario and a relatively even representation of men and women. Participants were recruited for their experience with and knowledge of problems and situations that injured workers can have with long term and prolonged workers' compensation claims. Recruitment sources for the injured workers were legal clinics, occupational health clinics, and injured worker groups. The service providers were identified via the researchers own networks, the "snowball" method where others would pass on to the researchers names of possible participants, and sometimes via cold calling. All participants were given detailed information about the study before agreeing to participate, and were assured of confidentiality and anonymity. Interviews normally lasted 60 to 90 minutes and were conducted at a time and place that was convenient to the participant. The interviews were audio-recorded and transcribed verbatim. The data analysis involved an iterative back-and-forth process between data collection and analysis, with knowledge gained from earlier interviews informing probes and extra questions in subsequent interviews.

Findings

As we pursued this research, we came to understand “injured workers” as ordinary people who are adversely and sometimes permanently negatively affected by their encounters with workers’ compensation systems. These workers feel misjudged and unfairly treated. Their requests for compensation have been denied, or their cooperation had been judged insufficient. These workers’ physical and mental health conditions are such that they are unable to maintain employment and they are unable to walk away from the possible support of the compensation system. These workers become mired in a cycle of workers’ compensation appeals, delays and denials. From their ordeal, they begin to see ways that the workers’ compensation system can be oriented to issues other than their own care and recovery.

The study findings, as laid out in five parts, centre on aspects of problematic return to work (RTW) process, and on the effects that long, drawn-out workers’ compensation claims can have on workers.

In Part 1, we identify return to work problems associated with workplaces. We find that return to work policy does not always fit easily with business logic and practices. Conditions for modified work can cause physical and mental strain for workers who become re-injured, or experience social harassment. “Over compliant” workers who brave difficult workplace situations because they fear loss of income may be particularly exposed to re-injury.

Part 2 focuses on problems in the labour market re-entry (LMR) process that can affect successful re-employment of workers. Training programs may not accommodate workers’ ongoing health needs and older, inexperienced, disabled workers can be particularly disadvantaged in competitive job markets.

Part 3. Health care providers can be reluctant to engage with WSIB because of poor compensation, excessive paperwork requirements, and the experience of having their assessments overlooked or overturned. Health care system problems such as physician shortages also affect the amount and quality of care to workers.

Part 4 examines problems related to the way WSIB interacts with workers. A lack of direct contact between workers and their claims’ decision-makers—adjudicators—was seen as affecting the quality of decisions being made about claims, particularly in situations with complex or ambiguous circumstances. Lack of accessibility, transparency and accountability for system processes were implicated in problematic processes.

Part 5 addresses key effects of these process problems: worker re-injury, poverty and mental health problems. As mentioned, poor return to work circumstances led to worker re-injury. Workers’ income is immediately reduced when on workers’ compensation benefits because the benefits cover only 85% of income, exclude overtime income, are capped, and can erode

over time. The greatest poverty occurred when workers were denied entitlement to workers' compensation benefits, or were considered uncooperative. In these circumstances workers had little or no income and their injuries prevented them from earning an income. Worker poverty was also compounded by new injury-related costs such as having to pay for health benefits for self and family, and new supplementary costs related to mundane tasks such as grass cutting and snow removal. This poverty resulted in loss of assets, homes and relationships. Workers with prolonged claims experienced a loss of self and role, and some contemplated suicide.

Conclusions

This study finds that injured workers become caught in webs of relationships and procedures over which he or she may have little control, and that idealist return to work policies help to set the stage for these problems. We find that communication breakdowns and misunderstandings underlie many of the return to work process problems described in this report. The multiple parties involved in the workers' compensation process—the worker, employer, co-workers, supervisors, family doctors, specialists, specialty care clinics, WSIB physicians, adjudicators, husbands, wives—mean that multiple and varied interpretations, terminologies and versions of an event are possible. These multiple actors, combined with adjudication requirements of comprehensiveness and cohesiveness in order to determine claim eligibility, create an environment where miscommunications and contestations can occur. We invoke the metaphor of “broken telephone” to describe this situation. The stage for these miscommunications is, in turn, set by idealist return to work policies that rest uneasily with the realities of less-than-harmonious workplaces, health care realities, and communication processes.

The waiting times associated with entitlement decision-making around complex or contentious issues, such as work-relatedness or degree of injury, are also problematic because the financial strain and uncertainty associated with waiting can be damaging to workers. Also workers who cannot manage the financial strain of waiting have, in effect, reduced access to their right to have a review of decisions made about their claim and (if actually entitled to benefits) no recognition of a work-related health problem that may continue or flare later in another workplace. We refer to these problems as the “weight of the wait”.

In this study, we identify how return to work process can break down at many different junctures. We suggest that workers with long-term and prolonged workers' compensation claims experience a “toxic dose” of system problems. That is, workers who may have been able to overcome one or several of the problems identified, may have the misfortune to be at the centre of a multitude of

process problems with the result that they experience a paralysing “toxic dose” of problems that will prevent the possibility of successful return to work.

Any of these problems are accentuated when workers live in remote areas where access to health care, jobs, and retraining opportunities are limited. Worker use of strong medications can also complicate the claims process. While medication can mask pain, its use it can also lead to unrealistic expectations about the workers’ functional abilities and other problems related to side effects. Worker’s problems are also compounded by the practice of ‘deeming’ or the WSIB assignment to workers of an administrative status. When a worker is ‘deemed’ to have a certain health status or to be able to earn a certain amount of income, then possible explanations for problems with work or retraining become narrowed and understanding of the actual situation is minimised.

We suggest that, underlying communication complexity and the “toxic dose,” are systemic issues relating to the *nature and fundamental assumptions of early return to work policy*. Return to work policy appears to be informed by a stance of idealism, or ideals about positive and cohesive social circumstances relating to the workplace, injury, health, body, family and the worker. The problems experienced by workers with prolonged claims direct us to an alternate stance of “*informed realism*.” That is, we suggest that policy needs to take consideration of the reality that often workplaces are not cohesive, injuries not clear-cut, bodies not young and without co-morbidities, families not supportive, and workers not informed and thus not able to be choice-makers. A policy stance of informed realism might build from the premise that relations are imperfect and that return to work barriers will exist, and amply consider that workplaces and health care providers operate with their own logic and constraints. Although experience-rated workers’ compensation claims are intended to create employer incentives for optimal conditions for prevention and work-injured staff, there is a disjuncture between a relatively abstracted economic incentive system and a grounded, socially imbued return to work process. In other words, fines and rebates given to businesses on the basis of reported injuries do not translate directly to safe and thoughtful return to work practice. And although the WSIB offers compensation to health care providers for their time, this compensation may be uncompetitive and in any case providers may be unconvinced about the therapeutic benefit of early return to work.

Recommendations

Our findings about system process problems associated with prolonged workers’ compensation claims lead to the following recommendations.

1. We recommend improved communication pathways between WSIB decision-makers (adjudicators) and injured workers. Direct, face-to-face contact may reduce communication errors and misunderstandings and give workers the assurance that they have been heard.
2. We recommend adequate payment to health care providers such as physiotherapists and chiropractors for the proper care and assessment of injured workers.
3. We recommend enhanced regulatory oversight of workplace compliance in relation to the provision of appropriate and safe modified work.
4. We recommend reduced waiting times for entitlement and benefits decisions. Although our system requires activities related to ascertaining proof of work-relatedness and degree of disability (and these requirements in themselves create problems), we suggest that there be a way of speeding up decisions and also providing financial support to workers during this time.
5. We recommend that financial support be given to workers to cover all of their health expenses, and not just those directly related to the injury. This holistic approach may support the ability of the worker to recover and to regain employment.
6. We recommend that workers be provided with independent expert support to help them understand their rights and to navigate the workers' compensation system. The Office of the Worker Adviser (OWA) and the Fair Practices Commission (FPC) fulfil part of this mandate. However, the OWA serves only non-unionised workers and their extended waiting times for service may discourage some workers, while the FPC does not give individual claims advice.
7. We recommend that policy be based on models of 'informed realism' that takes into full consideration the reality of imperfect workplace social relations, healthcare conditions and worker bodies. Policy that is aligned with actual conditions may lead to more cohesive partnering among return to work parties.

Next steps for researchers

- We will publish results of this study. This report to the WSIB does not include a review other literature on this topic. In publications, we will situate our findings in the academic literature in order to establish our unique contribution to the knowledge base about injured worker experiences and workers' compensation claims system processes.
- We will communicate our findings with both academic and community groups.

This study has raised new questions (some of which are addressed in new studies listed in Appendix A):

- How can decision-makers more effectively interact with the claims process system?
- How do physicians interact with the WSIB and why are they reluctant to deal with workers?
- How does the LMR system work in practice?
- How does deeming work in practice?
- How do mental health and medication use problems occur among injured workers?
- What is the experience of vulnerable groups, such as immigrant injured workers, as they navigate the work injury and compensation system?
- What mechanisms are required to provide workers with choice in the compensation process?

The Social Construction of an Injured Worker: How Systemic Problems Can Prolong Workers' Compensation Claims and Change Workers' Lives

April 8, 2008

1. STUDY RATIONALE

Most workers who incur an injury on the job resulting in a compensation claim follow a relatively straightforward path to recovery and return to work. The average duration of WSIB wage loss benefits in 2006 was 13.5 days¹. However, a minority of compensation claims are prolonged². To date, only a vague picture exists of why and how these claims are problematic.

We conducted this study in order to gain an understanding of systemic, process-related problems affecting injured workers who had failed to return to work as expected. The research available to those designing workers' compensation policy and practice has been predominantly based on economic theory (e.g. moral hazard), psychological theory (e.g. fear avoidance), and epidemiological research (e.g. prognostic factors based on features of individual workers)³. Workers' compensation practice and policy is a complex arena, and undoubtedly these approaches to workers' compensation issues address various problems at hand. However, noticeably absent from scientific research on workers' compensation issues is a systemic approach, one which draws on sociological theory. Many studies of prolonged, or costly, or persistent claims have been conducted using quantitative methodologies that measure the presence and correlation of pre-identified 'variables'. These studies have been limited to measurement of variables that are previously known about the problem and to variables that are measurable.

Our approach, in contrast, has been exploratory and open-ended and has allowed us to examine processes and social relations. We have examined the experience of the workers' compensation system users and system experts to better understand why and how problems occur for workers as they proceed through the claim trajectory. We consulted with injured workers, who are located at *the juncture* of the various systems that compose the compensation claims process. We also examined the experience of a wide range of experienced service providers who have knowledge of how and why some injured workers have prolonged claims process. Our methodology involved an inductive,

¹ Workplace Safety & Insurance Board Supplement to the 2006 Annual Report.
[http://www.wsib.on.ca/wsib/wsibobj.nsf/LookupFiles/DownloadableFile2006StatisticalSupplement/\\$File/2278AStatSu pp06.pdf](http://www.wsib.on.ca/wsib/wsibobj.nsf/LookupFiles/DownloadableFile2006StatisticalSupplement/$File/2278AStatSu pp06.pdf)

² Geary, J. Return to work: what we need to know. Plenary Session. Toronto: Institute for Work & Health, 2006.

³ MacEachen E, Ferrier S, Kosny A, and Chambers L. (2007). A deliberation on 'hurt versus harm' logic in early-return-to-work policy. *Policy and Practice in Health and Safety*, 5(2), 41-62.

building from the ground-up approach to examine complex causal linkages between worker experiences and system procedures.

This research was motivated by our earlier study of injured worker peer support groups⁴ where we found workers who were angry, frustrated, and at a dead end with their workers' compensation claims. They felt that their situations were unacknowledged and misunderstood. We saw that many of these workers appeared to have become caught in situations beyond their immediate control which had rendered their compensation claims terribly complex. They were caught in a bewildering vortex of denied claims, appeals, and decisions of non-compliance.

This study explored the problems faced by injured workers with complicated and prolonged workers' compensation claims. We found injured workers with problematic and prolonged claims, and service providers who had experience with workers with these sorts of problems. Our goal was to identify common features or themes across participants' accounts in order to recognize regular problems workers encounter during the claims process. In doing so, we discovered areas of workers' compensation policy and practice that might be improved so that injured workers will have better compensation outcomes.

This approach to understanding workers' compensation problems moves beyond features of individuals (such as their age, previous claims' history, employment sector), beyond issues of worker motivation inherent in economic theories (such as moral hazard theory), beyond theories of irrational behaviour intrinsic to some psychological theories. Instead, this approach considers workers to be valid, rational observers of their own fate. Using this stance, we examine workers' accounts of their experiences, and identify issues that appear repeatedly in accounts from participants who were drawn from areas across Ontario, across industries, and across a range of work injuries. The relevance of this approach is that it examines aspects of the problems that lie outside the individual worker in how systems operate in creating complexity. Therefore, this approach creates space for interventions that move beyond changing worker behaviour (e.g. enhancing coping capacity), and that can improve system design so that workers do not become stymied and overwhelmed by the claims process. As we will argue, workers might have the resources and ability to overcome minor system roadblocks, but when a worker encounters multiple adverse encounters with system decision-makers, workplaces, and community this becomes an overwhelming and paralysing 'toxic dose' that can prevent effective return to work. Further, we argue that these roadblocks occur within a context of idealistic RTW policy that takes little consideration of the realities and strains of actually implementing return to work. Social and structural relations involving workers' compensation,

⁴ MacEachen, E., Kosny, A., Ferrier, S. (2007) Unexpected barriers in return to work: lessons learned from Ontario injured worker peer support groups. *Work: A Journal of Prevention, Assessment & Rehabilitation*, 29(2), 155-164.

workplaces, healthcare providers, and workers direct us to a stance of 'informed realism' that includes the actuality of social, physical, and communication imperfection.

This study focused on an understanding of systemic, rather than individual worker determinants of prolonged and complex claims. Although there is undoubtedly individual variation with physical, psychological and legal issues such as health, motivation and compliance, we were concerned with process-related problems that are amenable to administrative and policy intervention.

2. STUDY METHOD

2.1 Qualitative Research Design

Qualitative research is oriented to the exploration of relatively uncharted areas of investigation, and to understanding meaning in context. While quantitative methods systematically screen out 'modifiers' in order to understand causal relationships, qualitative design is oriented to the examination of social behaviour and relations and embraces modifying context as critically contributing to outcomes. This study is guided by a broadly sociological framework in which behaviour is seen as occurring in contexts of immediate social relations as well as broader structures such as workplace norms, and policy and economic systems. Broader contexts are understood to provide the conditions of possibility for institutional behaviours that, in turn, affect conditions for individual choices and options^{5,6}. Individual behaviour and understandings are shaped by particular experiences (e.g. the misfortune of a workplace accident), but at the same time individual experiences (e.g. in relation to interaction with the workers' compensation system) are not unique and can be identified as patterned and in correspondence with systemic institutional norms and practices. This study consists of in-depth interviews with injured workers and service providers and focuses on experiences that are common across injuries, regions and ages.

2.2 Recruitment and Data Collection

The sample

The findings are based on a total of 69 participants. Of these, 34 were injured workers, 14 were injured worker peer helpers, and 21 were service providers. A purposive sampling approach was used to gain maximum variation across Ontario, and relatively even representation of males and females. Participants were recruited for their experience with and knowledge of the problems and situations of injured workers with long term and prolonged workers' compensation claims.

The sample consisted of both pre-existing, secondary and newly-collected primary data. The secondary data were collected by this study's principal investigator and two co- investigators in a 2004 study they conducted on a similar topic⁷. The purpose of the earlier study was to understand and assess the activities of an Ontario network of injured worker peer support groups. Data from this 2004 study contained much detail about systemic roadblocks to claims processing and the effect on workers of long term claims, and inspired the current study. The secondary data included 21 injured workers and 5 injured worker peer helpers. Care was taken to be sensitive to regional

⁵ Foucault, M. (1991). *Governmentality*. *The Foucault Effect: Studies in Governmentality*. G. Burchell, C. Gordon and P. Miller. Chicago, University of Chicago Press: 87-104.

⁶ Holstein, J. A. and J. F. Gubrium (2004). *Context: working it up, down and across*. *Qualitative Research Practice*. C. Seale, G. Gobo, J. F. Gubrium and D. Silverman. Thousand Oaks, Sage: 297-309.

diversity, and data were gathered from groups in Southern, Northern, Eastern and Central Ontario. The peer helpers were injured workers who had taken on leadership roles in their groups and, as a result, tended to have an overall perspective of the experiences of injured workers⁸. The injured workers were included if they had experienced prolonged workers' compensation claims leading to unexpectedly lengthy absences from work.

The primary data were collected in 2005 and 2006 and consisted of 13 injured workers, 9 peer helpers, and 21 service providers. Again, care was taken to access participants from across Ontario in order to access a range of geographic experiences. The final sample included the accounts of 34 injured workers, 14 peer helpers, and 21 service providers for a total of 69 participants.

Table 1: Geographic distribution of sample

Ontario Region	Injured Worker	Peer Helper	Service Provider	Total
Central	9	2	16	27
East	9	4	1	14
North	11	5	3	19
South	5	3	1	9
TOTAL	34	14	21	69

The service providers consisted of health care providers, professional and paralegal injured worker representatives from well recognised and established offices, workers' compensation decision-makers, workplace decision-makers, and return-to-work coordinators. They were selected for their experience with workers with drawn-out workers' compensation claims.

⁷ MacEachen, E., Kosny, A., Ferrier, S. (2007) Unexpected barriers in return to work: lessons learned from Ontario injured worker peer support groups. *Work: A Journal of Prevention, Assessment & Rehabilitation*, 29(2), 155-164.

⁸ Two peer helpers had not experienced a workplace injury.

Table 2: Service provider sample

Table 2: Service Providers	Total (n=21)
Employer <i>(i.e., Human Resources Representative, OHS Representative)</i>	2
HCP <i>(i.e., Chiropractor, OH Physician, Physiotherapist, OH Clinic Representative, Psychologist, Medical Consultant)</i>	7
Other <i>(i.e., (RTW Coordinator, LMR Provider)</i>	2
Injured Worker Representatives <i>(i.e., OWA Representatives, Union Representatives, Legal Representatives)</i>	6
WSIB <i>(i.e., Nurse Case Manager, Adjudicator, Manager)</i>	4

Overall, the combined injured worker sample (including peer helpers) included 22 females and 26 males. Of the 48 workers, the average age at injury was 40 years old. Twenty were first injured in their 30's, and 11 in their 40's.

Table 3: Injured worker profile

Characteristics	IW (n=34)	PH (n=14)	Total n (n=48)
Gender			
Female	14	8	22
Male	20	6	26
Age (at interview)			
< 30 years	0	1	1
30 - 39 years	3	0	3
40 - 49 years	11	2	13
50 - 59 years	12	7	19
60+ years	5	3	8
<i>x = 51 years</i>			
Age (when injured)			
< 30 years	3		3
30 - 39 years	15	5	20
40 - 49 years	9	2	11
50 - 59 years	5	1	6
60+ years	0	0	0
<i>x = 40 years</i>			

Characteristics	<i>IW</i> (<i>n</i>=34)	<i>PH</i> (<i>n</i>=14)	<i>Total n</i> (<i>n</i>=48)
Education			
< Grade 12	15	1	16
High School Diploma	9	5	14
Some Post-Secondary	5	4	9
College/Trade Certification	3	1	4
University Degree	1	0	1
Post-Graduate	0	2	2
Pre-Injury Occupation			
Management	0	1	1
Clerical	3	2	5
Health Care	4	1	5
Manufacturing	8	1	9
Service (e.g., housekeeping, kitchen workers, custodians)	6	0	6
Trades, Transport and Equipment Operators (e.g., construction, machine operators, drivers, general labour)	11	3	14
Initial Injury			
Amputation	1	1	2
Back	11	4	15
Cancer	1	0	1
Crush	4	0	4
Fracture	5	0	5
Head	2	0	2
Respiratory	1	0	1
Soft Tissue	9	3	12

Note: Numbers do not always add up to 48 because not all individuals spoke about each characteristic and some had multiple injuries.

Eleven of the workers had their first injury pre-1990. Those workers are entitled to receive different benefits than are in place today. For instance, workers injured before 1990 are entitled to a permanent disability award in recognition of reduced ability to earn as much money as before the accident, and for the actual physical loss or impairment itself⁹.

⁹ Reference <http://www.wsib.on.ca/wsib/wsibsite.nsf/Public/Pre1990Pensions>

Table 4: Pre/Post-1990 injury status

Year of Initial Injury	IW	PH	Total (n=48)
Pre-1990	7	4	11
Post-1990	27	4	31
N/A		6	6
Total	34	12	46

Note: Numbers do not always add up to 48 because 2 peer helpers had not been injured.

The average age at the time of interview was 51. The most common problem was back injuries, followed in rank order by soft tissue injuries, fractures, crushes, head injuries, amputation, cancer and respiratory problems.

The education level was relatively low. Sixteen of the workers had not completed high school, and 14 had completed high school. Thirteen had some post-secondary or college, one had a university degree and two had post-graduate degrees. Their pre-injury occupations were dominated by trades, transport and equipment operators, manufacturing, service, and health care work. Twenty-nine of the workers were from non-unionised workplaces.

Recruitment

Recruitment sources for the injured workers were legal clinics, occupational health clinics, injured worker groups, labour market re-entry providers, and a chronic pain support group. Information sheets were provided to these clinics, and workers choosing to participate in the study either contacted the researchers directly or gave the clinic contact permission to pass on their contact details so that they could be contacted by the study investigators. The service providers were approached directly about their interest in participation. The providers were identified via cold calling, the researchers' own networks, and via the "snowball" method where others would pass names of possible participants on to the researchers. Once identified, providers were recruited if they had experience with workers with prolonged workers' compensation claims. All participants were given detailed information about the study before agreeing to participate. All interviews were conducted with informed consent, and ethical approval for the study was gained through the University of Toronto. All participants were assured of confidentiality and anonymity, and were told that they could withdraw from the study at any time. None declined to participate or chose to withdraw. Instead, we encountered strong enthusiasm for the topic. Workers expressed relief that we were asking questions about this topic and that we were including their accounts as a source of information. Most of the service providers spoke freely about their concerns with systems that did not accommodate the actual circumstances of workers with whom they dealt. The injured workers were given a \$10 Tim Horton's certificate as a "thank you" for their time.

In order to maintain anonymity and confidentiality, the names and exact locations of participants are not used (we refer to northern, southern, urban and rural Ontario), and participants are identified by a pseudonym. All reports, including this one and subsequent presentations and articles, will be written so that no participant can be identified. In some cases, identifying details are omitted from quotes (with the omission signalled) in order to assure anonymity.

Data collection and management

Interviews normally lasted 60 to 90 minutes. In four cases, interviews with injured workers extended longer. The interviews were conducted at the convenience of participants. Interviews with service providers were conducted at their office or by telephone, while injured worker interviews were conducted in their home or a public place such as a cafe. The interviews were audio-recorded, transcribed verbatim, and entered into a qualitative data management program called The Ethnograph. Field notes were written after each interview in order to describe the encounter and to capture the interviewers' initial analytic insights. Regular analysis notes were written during team meetings and at analytic junctures.

Data analysis

The data analysis began with the existing secondary interview data. Initial codes (used to link different passages in a transcript into categories of data) and themes (classifications of concepts) were developed that informed questions in subsequent interviews with injured workers and service providers. Following this, an iterative back-and-forth process between data collection and analysis occurred, with knowledge gained from earlier interviews informing probes and extra questions in subsequent interviews.

Both injured workers and service providers were asked about what problems occur with return to work. They were asked to give examples of return to work situations, including particular problems that may be related to geography, workplaces, health care, the workers' compensation system, family and community. They were asked for reasons why problems occur, and what may help alleviate different kinds of return to work problems. Workers were also asked about their injuries and circumstances and their knowledge of the workers' compensation system. Service providers were also asked about how their services function vis-à-vis other aspects of the return to work system.

Initial interviews were coded by three members of the study team in order to establish possible codes and common understandings of codes. Subsequent interviews were each coded by two investigators, with varying combinations of investigators. The interviews were coded using both 'descriptive' codes (generally relating to issues within the immediate domain of the interview questions) and analytic codes (emerging themes and concepts). For instance, some descriptive

codes included mental health, work, labour market re-entry, resources and union. To give examples of analytic codes, some included “fairness” (participant characterisation of situations and events as unfair), “invisible” (problems apparent to the worker but not apparent to others), and “medical complexity” (problems associated with unclear or multiple medical conditions). The coding process followed the general grounded theory framework¹⁰ and included explicitly seeking out and comparing cases for similarities and differences and examining data variation in relation to a broader backdrop of policies and practices¹¹. Finally, code summaries were drawn up for team discussion of themes and findings. Throughout the study the research team met bi-weekly for in-depth discussions of research process and analysis, and emerging findings.

The study was guided by an Advisory Committee consisting of three injured worker peer helpers (from Northern, Eastern, and Central Ontario), two occupational health physicians (from a workplace, and a community health clinic), a WSIB representative (from Program Development), and the study research team consisting of the investigators, a study coordinator, and a research assistant. The Advisory Committee met twice; once to discuss a mid-study findings report and again to discuss the final report. These meetings were conducted to review the authenticity of the findings, areas of particular analytic interest, and to discuss areas for more investigation.

¹⁰ Strauss, A. and J. Corbin (1998). *Basics of Qualitative Research: Techniques and procedures for developing grounded theory*. Thousand Oaks, Sage.

¹¹ Clarke, A. E. (2005). *Situational Analysis: Grounded Theory After the Postmodern Turn*. Thousand Oaks, Sage.
Coffey, A. and P. Atkinson (1996). *Making Sense of Qualitative Data*. London, Sage.

3. FINDINGS

The label of “injured worker” is sometimes seen as representing activists and agitators for workers’ compensation system change. As we pursued this research, we came to understand the term “injured worker” in another way. We discovered ways that ordinary people are socially constructed to become injured workers through their encounters with workers’ compensation systems, and how some workers encounter systemic problems so severe that their lives are permanently changed. These workers feel misjudged and unfairly treated. Their requests for compensation have been denied, or their cooperation had been judged insufficient. These workers’ physical and mental health conditions are such that they are unable to maintain employment and they are unable to walk away from the possible support of the compensation system. These workers become mired in a cycle of workers’ compensation appeals, delays and denials. They begin to view the workers’ compensation system as oriented to issues other than their own care and recovery.

This study examined ways that workers become faced with return to work problems that go beyond individual issues, such as motivation to recover or willingness to return to work. We detail systemic, process-related problems that have affected workers who have experienced difficulties with return to work. Our goal is to identify ways that the worker’s compensation system can systemically be improved so that individual workers will not encounter process-related situations leading to claim complexity, poverty and deterioration.

This section is laid out in five parts. First, we describe workplace problems with the return to work process. Here, we examine workplace logic, practices and experiences that affect the ways that workers can recover and regain employment. In the second part, we turn to LMR-related problems with the claims process. Issues such as worker ill health and their lack of competitiveness on the job market are described. Third, we describe health care process problems that can affect return to work. We outline health care provider reporting problems, cost issues, and ways that “the burden of proof” can slow a claim. The fourth section focuses on ways that WSIB interaction patterns with workers may affect claims progress. Problems such as a lack of direct worker contact with decision-makers, long waiting times, and worker’s lack of understanding of forms and decisions are described. Finally, section five details the effects on workers of workers’ compensation claims system problems. Here, we describe how workers can come to experience financial strain and anxiety, and what this strain does to workers’ homes, families, physical and mental health, and sense of self worth.

3.1 Workplace Problems with the Return-to-work Process

This section describes problems encountered by workers as they encounter the return to work process. The problems relate broadly to structural and social aspects of return to work. We

categorise as "structural" those aspects of the process that set the stage for behaviours, such as rules, policies and financial incentives. Social aspects of the return to work process, in contrast, are those that are affected by the quality and type of workplace relationships.

Structural return to work problems

Businesses are set up for commerce, not health management.

Participants pointed out that a key problem countering ideal return to work process is the fundamental organisation and profit orientation of businesses. Businesses are generally managed on an authoritative rather than democratic process, with senior staff determining the activities of more junior staff. Participants felt that the consultative accommodation process required for return to work ("How much work do you feel you can do?") does not match business reality because, as noted by Samuel, "in most workplaces, it's about production. It's not about accommodation."

Structurally there's *real resistance to sharing control of decision making in the workplace*. The boss is the boss because he gets to tell you what to do. He doesn't ask you what you want to do, so that's a real barrier to accommodation. You know, our workplaces are structured on that basis. On this hierarchical structure. Accommodation is a consultative process. It's one that involves a lot of communication and discussion and figuring it out. It doesn't rely on someone telling you what to do. So structurally that, you know, most workplaces, that is a barrier throughout and will keep on popping up over and over, as the process goes forward. (Samuel, peer helper)¹²

Participants noted that businesses exist to make money, and engagement with return to work can counter this mandate. Some argued that the accommodation of a less-than fully productive worker does not always make business sense, especially in the short term. Corey, a workers' compensation decision-maker, explains that bosses don't want to make changes that cost money:

Instituting *workplace modifications* that involve a change of work process or job task or chemicals used in a particular work method or process ultimately will have operating, *financial operating impacts on the employer*. So those are, those types of things are a consideration as well. (Corey, workers' compensation decision-maker)

Small workplaces with tight profit margins can have a particularly difficult time accommodating a less-than-fully productive injured worker:

For a small employer, they have to have somebody there being-- [productive]. They have to either hire somebody new to do that job, and *they can't afford to have somebody in there working at a modified basis* and then hiring someone else to do the other half. So it becomes a financial issue for small [business] workers. (Cameron, chiropractor)

¹² Text is italicized in some quotes. This indicates our emphasis and is intended to draw the reader's attention to key phrases.

Corey, a workers' compensation decision-maker, observes that, aside from the production motive of workplaces, bosses and supervisors are not set up to understand the complexities of injury: "[Workplaces have] a lack of acknowledgement and appreciation for injury to begin with from your supervisor and lack of accommodation for it". Within workplaces there can be a lack of knowledge about how exactly to make changes required to accommodate some workers:

Sometimes the employers, *I don't think, necessarily understand how to go about accommodating a worker with an illness or a disease that's resulted from an exposure in their work environment.* (Corey, workers' compensation decision-maker)

RTW process is asymmetrical

The RTW process is asymmetrical because it is set up so that workers and employers have very different qualities of relationships with the workers' compensation system. When a worker is injured he or she is often having a first encounter with an adjudicator, and indeed the compensation system. In contrast, workplaces, especially large ones, will often have a well-developed relationship with the WSIB. This uneven relationship can act against a worker, especially if, as Janice describes, the adjudicator is advised not to trust the worker:

I know with some employers you have one adjudicator that handles the claims for {name of automotive company}, for example. So they have...a relationship established with the person at the employer and sometimes ...they seem to really accept what the employer is saying over the worker and... it's really not fair because the worker is not being treated objectively at all. (Janice, peer helper)

Developed relationships in any circumstance facilitate communication and trust. The asymmetrical relationships that employers and workers have with the WSIB would appear to contribute to decisions being made about claims, especially when a worker's situation is at all unclear as can be the case with back injury or a musculoskeletal strain that often have a gradual onset. This possibility is further detailed by Janice:

The adjudicator should make the worker aware that there's mediation services available...[so] that they could make a referral for an ergonomist to go out and look at the actual job to determine if it is suitable. But unfortunately the people that we're seeing, that isn't happening. (Janice, peer helper)

RTW process does not consider if hazard has been removed

Another structural problem with the RTW process is that it focuses more on the worker's return than on the safety of the workplace environment. For instance, much effort is put into returning the worker to work as quickly as possible but there is not always a process in place to ensure that there has been an examination and rectification of what caused the injury. This neglect of work environment hazards frustrated some workers:

There's no question in my mind, the company and the WSIB are equally responsible for this. ... Let's say they drove up on to the sidewalk and ran me over on purpose.

Now they need to pay. It's obvious. ...*It's criminal what they've [workplace] done and ...their insurance company has done nothing...* Have they been fined? Have they gone in there with a fraud team and said "You are liars, you are injuring workers every day?" Because it's happening today, as we speak, right? It's lunch time now, I bet you if you walk in there now there's somebody working through their lunch, right? It continues to go on. (Paul, injured worker)

Workers noted that their fears about returning to work could be dismissed as an irrational psychological fear (requiring cognitive adjustment) rather than a valid concern related to whether whatever had hurt them had actually been fixed.

I: When you mentioned that the welding had broken on that ramp....Shouldn't that have been picked up in a safety inspection?

W: Yes. It was! [but] *never repaired!* All of the safety reports sat on {head of safety at plant} desk! Paper piled this high. He had piles of them. (Christopher, injured worker)

Anita, a physiotherapist and clinic manager, discusses the importance of considering fear of return to work as a real rather than a psychological situation:

Sometimes we see injured workers in the assessment clinic and...they don't have depression, and they don't have...really hard yellow flags like the psychosocial barriers...but what they do have is fear of returning to their very physically demanding job. You know, and there are times when, I guess, deep down, the physician and I know that there is a chance that *this person will not be able to tolerate the physical work that they've been doing* for X number of years, now that they've had maybe a few recurring back injuries or shoulder and neck injuries. You know, like, we see welders and construction workers and furniture movers and you think, well realistically, you know, this guy's time might be up in terms of doing this kind of work. ...Sometimes I think fear is a bigger barrier than the pain, but sometimes I think *their fear is probably justified*. You know? (Anita, physiotherapist)

Businesses and the economics of work injuries

Another aspect of RTW procedure and policy that can create difficulty for workers is the relative vulnerability of RTW positions when a firm is having economic difficulties. Finn, a peer helper, notes in tight economic times, and particularly in non-unionised workplaces, "the first jobs to go are the RTW jobs".

Paul suggests that, unlike workers, workplaces can afford injuries. He suggests that from a rational economic viewpoint it can be less expensive to have workers become injured than to purchase equipment that would prevent injury:

They would have to spend a lot of money on machines that could cut stuff right to like a polished finish....there's machines capable, they cost a lotta lotta money. They're not going to buy those machines.... I was told that um they're willing to accept the loss of five or ten percent of their workforce.... [Told] not by them, by a person in the medical profession that said *they are willing to accept them kinda losses and they can still make money*. (Paul, injured worker)

Perverse financial incentives associated with RTW policy can also be found with experienced-rated premiums that are intended to motivate employers to maintain safe workplaces but which can also

institute in employers a keen financial interest in bringing workers back to work 'early'. A problem with this is that early return can occur before a worker is ready, and workplace relations can be particularly damaged when the subject is introduced to the worker while he or she is in acute care at a hospital. Finn explains that workers can be taken aback by a phone call while still in hospital, from a financially-motivated employer who wants to rush the worker into modified work.

I actually had a guy who had his thumb amputated and they [employer] called that afternoon, and he had just come out of recovery and they said, "This is a no lost time claim, we're paying your time." And his wife didn't understand what it meant and she came and talked to me and I said, "Well what they're saying is they're trying to reduce their cost claim", because he did get medical aid, and we ended up dealing with the adjudicator and agreeing that it was lost time until at least he was out of the hospital. But the attempt here by the employer was to reduce the cost and his experience rating. (Finn, peer helper)

Participants related other similar stories of employers who rush workers into modified work in order to avoid premium expenses. Samuel, a peer helper, relates a story about an employer getting an employee to sign an agreement to modified work while on their way to the hospital:

All the employer has to do is just phone and say, "Yeah, we've got modified work." In fact... we have cases where employers, as the person's going to the hospital, "Here, sign this form, before you go, that says, I agree to do modified work on my return." So this experience rating program is creating an incentive to get people back quickly. Go without a plan, without having an appropriate program in place. And it does two things. You know, if it's not appropriate, it bums people right out. And it gets them upset. Just sit in the lunchroom for the day Yeah? (Samuel, peer helper)

According to Mario, a health and safety union representative, these employer incentives result in workers being returned to work before they are ready, thereby creating what he calls the "hidden unemployed" and "hidden disabled." This can be seen in 'cookie cutter RTW' approaches at firms where, if a worker is hurt one day, the employer 'automatically has a RTW plan available the next day. Mario notes that within these scenarios a worker is obliged to comply or there will be no benefits from the WSIB.

Right away... the one that I would look at the biggest is a worker is hurt on a Monday and automatically on a Tuesday the employer automatically has a return work plan, a generic RTW plan in there...To ME, that would be a HUGE alarm.... Okay, think of it. Let's take {Utility Company}. If a...line guy has a back injury. Is hurt on a Monday...has gone into Emergency room, assessed for five minutes, on Tuesday morning {Utility Company} already is going to get him back to work with standard back restrictions. You don't know how that guy is going to react to that accident. You don't know how he's going to react to pain. But automatically that guy has to be back to work on Tuesday. If not, no benefits from WSIB. Okay? So automatically he goes, "Holy shit. My doctor hasn't even really seen me. No one knows what's wrong with me, but tomorrow morning I'm back to work...on this cookie cutter return to work." Okay?...Although the Board says there's the idea of time to heal, they don't really do it. (Mario, health and safety union representative)

Alex, a peer helper, explains that modified work is not financially helpful to businesses and so even if a modified work plan is in place, employers will inevitably push workers to increasing their output:

She has a snapped titanium rod in her and...[the doctor warned] if it moves and shifts and stuff like that and causes problems in the surgery will have to be performed.... And once again, the *employer trying to add more work duties to the injured worker*. Because it's to their advantage. Like I said, ninety percent of the time, the jobs they're offering injured workers is not a job they'd hire somebody off the street to do. *They're making a job. So, the more they can add on to it, the more money they save in the long run by employees.* (Alex, peer helper)

Business lack of internal coordination for return to work

Problems with return to work can occur when there is a lack of internal coordination within workplaces about return to work and the worker's restrictions. Dana notes that uninformed or unsupportive co-workers and supervisors can make return to work very difficult for injured workers. She describes her company that had a modified work area but notes that this did not protect injured workers from excess requirements:

"Various supervisors would come and pull them out and actually force them to do work which was outside of their restrictions making the worker feel that they didn't have any say as to what they could and couldn't do." (Dana, occupational health physician)

Harry relates a similar experience. His new foreman did not understand or accept his modified work situation with the result that Harry was treated poorly and harassed:

One time I was sitting over there... and the, one foreman come in and he was not my regular foreman. ... He come in there and he says, and *he used the foul language with me. "What you thing you're doing, sitting down over here."* I says, "I'm on light duty." I says, "I have back problem. And this is the arrangement I had with Compensation and the Board, you know, when my back goes bad on me, I'm allowed to sit down as long as I need to ." He said, "I want you right now to get off your --", really bad language, he, you know, he really harasses me and stuff like this. And I got angry. You know, I was really upset, so I got in the hallway and I cried. I was so upset.... So after that, you know, this is what's happened at work, didn't bring you back on light duty. *It's not a good thing because people harasses you, they're angry because you're getting paid same salary....*They say, "If you don't want to work, go home." (Harry, injured worker)

In a similar situation, Danielle, a former health care worker, found that her new manager changed her modified "parking lot attendant" work from a low-traffic parking lot to a high-traffic parking lot. This led to the flaring of Danielle's injury, but the health-threatening change was relatively invisible to WSIB decision-makers because 'on paper' she was still working at a modified job rather than her former healthcare work:

When I originally got the job we stayed stable in one [parking] lot you knew your lot, that was it. Then when this new equipment, and new manager came in we all rotate around. Once I went back to [those high intensity] parking lots and started doing the seven hours, of course I was having sleeping problems and pain problems and

everything....I was pretty much like this,{motion} pulling my hair out, going like “I can’t do this anymore”. I can’t do this anymore, *I’ve been injured and injured and injured and they just don’t believe me*, and they don’t believe the doctor. And they just keep saying “keep working, keep working”. (Danielle, injured worker)

With the help of an injured worker representative and WSIB mediation services, Danielle was able to be placed in the low-traffic parking lot again with the result that at the time of the interview she had not missed a day of work for the last year.

Similar problems arise when bosses or supervisors change and the worker has to ‘prove’ and explain his condition all over again:

And the [supervisor] comes in, “... there’s a meter in my truck, bring it in”. All right. So I gets up to his truck, and it’s a big industrial meter. HUGE big thing. {Sighs} So I go to him and say, “I can’t lift that. I’ve got a bad back”. I mean I still had the dressing on my back [from surgery] and everything from the doctor, and I was still attending to Dr.[Name] every week, every two weeks to see him.... So anyway he says, “You have to do anything I tell you”. I said, “I’ve just come through serious surgery”. “As far as I’m concerned”, he says, *“I don’t care”*, he says. *“You’re supposed to be ready to do work again”*. (Joseph, injured worker)

Problems with return to work will also occur when internal workplace communications are poor and supervisors do not have a good sense of how long the modified work needs to continue. As described by Alex, supervisors can continually increase an IW’s duties without having a sense of a proper page of timing of restrictions, and this can result in re-injury:

Going back to the initial employment employer, the injury employer. ...In my view it does not work. Because they bring them back on the, “Oh, we got modified work for you”, and *they keep adding stuff to the job*. Next thing you know, we have an injured worker re-injuring. (Alex, peer helper)

Therefore when workers are being returned to work while they are still ill or injured, they are vulnerable to less-than-ideal internal workplace processes and communication procedures. A new or unmotivated supervisor can place a worker in a tenuous position, and WSIB decision-makers are too remote to understand job task details that can thwart a worker’s attempts to return to work.

Return to work involves excessive travel

Other types of RTW problems occur when employers offer workers modified work that involves excessive travel. For instance, one of the modified work offers given to Janet was in a city a three-hour drive away. In another example, an employer regularly offered injured workers modified work that was at a physically uncomfortable distance to travel to the main workplace:

We have one employer, they’re {very large manufacturing} company in the world... What they were doing is, so say if...when you got hurt you were working in the west end [large city], your return to work after injury is in the east end [large city]. And if you were working in the east end, your return to work would be in the west end....[Even with] *the 60 kilometer rule.... how many, how many of those workers became complex cases [when employers make injured workers travel]*. (Mario,

health and safety union representative)

In other situations, travel-to-work problems are compounded when the adjudicator fails to appreciate the health limitations of workers. Mario describes how workers with back injuries cannot manage the risk of being stuck in a car for a long period of time:

Another thing that will create a complex case [is when] a worker has a back injury and they have to drive from {Central City} to...[for example] here. Not that far. On the [busy highway], being stuck in traffic for an hour and a half with a bad back. WSIB's response is to get out and stretch. Oh yeah. I can show you. (Mario, health and safety union representative)

Claire also refers to feasibility problems with workers simply getting to the workplace after they have been injured:

Driving may have been an issue so if they couldn't get to work because it was their driving foot, even if there was a seated job there, it wasn't really feasible for them to be getting there...So, you know, there was some hurdles that might not be related to the employer. (Claire, return-to-work coordinator)

Another, more unusual RTW barrier related to travel to work rather than to the modified work was the situation of a worker whose job was on a ship that was away for extended periods of time:

It was a very PARTICULAR type of work on a ship that went out for extended periods of time....It was a tricky one because the modified work being offered was appropriate but the fact that the ship is out for six weeks at a time just had its own problems in there. Like if you do need medical attention and all those things and the weather conditions and whatnot make it so it's not as clear as saying, "Yes you can work in this office every day". (Claire, return-to-work coordinator)

Summary – structural RTW problems

In sum, some of the problems encountered by workers as they encounter the RTW process are related to structural arrangements, such as business practices, rules, policies and financial incentives. Participants pointed out that businesses are set up for commerce and are therefore not naturally oriented to the rehabilitative requirement of managing workers who are unwell. This becomes particularly apparent when a firm is having economic difficulties and return-to-work needs lose priority or when employers rush workers back to work too early in order to minimize production losses or avoid premium charges. An asymmetrical relationship, where employers have developed relationships with WSIB decision-makers that workers do not have may set the stage for different degrees of understanding and trust, especially in situations of inconclusive injury evidence. In addition, RTW policy that focuses on the worker's return and not on the removal of the workplace exposure can serve to trivialise the real fears workers may have about returning to a hazardous environment. Even when a business is committed to early RTW practices, processes may not be coordinated internally and a modified work situation can be threatened by any one of a worker's supervisors or managers who require the worker to do tasks beyond his or her functional abilities. Finally, in some cases, modified work may be appropriate but the travel to the workplace is not

feasible. Any of these situations may increase the possibility of worker re-injury and failed return to work.

Workplace social relations and problems with return to work

Quality of workplace social relations can determine RTW success or failure

The quality of social relationships at a workplace can play a key role in RTW success. Dana, an occupational health physician, explains that “it really takes a workplace that has significant buy-in to the whole process of returning a worker to a workplace to a modified work” and that there needs to be an environment where “workers are a genuine resource to their company.” Julie, a nurse case manager, similarly puts forth that the relationship between the employer and worker is important in a worker's return to work; if they are both working towards an return to work, things go a lot more smoothly than if the employer, for example, is questioning the legitimacy of the injury.

It really depends on the relationship between the employer and the worker. So if there's negative tension there, or if...the employer's questioning [if] ... it's legitimate then that sets up a pretty negative dynamic. ...That... DEFINITELY makes it harder to go back to work, versus an employer who, you know, says, “We're willing to accommodate you, want to help you.”...If both parties are on board...and both want to work towards a return to work, you know, whether or not you have every piece of medical isn't going to be the barrier because they're going to say, “We'll just try it with these guidelines”, you know? They're comfortable. Like there's that trust there. If you don't then... there's so many issues you could say, “Well we don't, we can't offer it until we have this,” or “We can't start it until we have this,” on both ends. (Julie, nurse case manager)

Employers delay or do not report accidents

Other RTW problems that are out of the control of workers occur when employers delay or do not report accidents to the WSIB. Some employers will contest the injury or the work-relatedness of the injury. The consequence is that the worker becomes embroiled in a contested and protracted claim process. If the worker has sufficient financial and personal resources, he or she may try to 'prove' to a sceptical adjudicator that the claim is honest. This can be difficult, especially when, as noted by worker legal advisor Terry, employers try to bury evidence that might help to 'prove' the claim.

It isn't exactly politically correct to say this, *but it's in their [employer's] best interest to hide things...* and they're [employer is] doing their best to bury evidence that will... actually help to prove the claim, sorry. And, you know, it goes on more frequently than people would like to admit.... I've seen all kinds of examples in big employers and small employers where they'll... bury relevant facts. (Terry, worker legal advisor)

Barbara, an occupational health nurse at a large firm, notes that performance issues prior to injury where a worker has been warned or written up may have an implication for the timing of return to work. Essentially, as noted above by Julie, some employers are quite good at finding alternate work for returning workers while other employers really don't have work that is as 'great a value to them as the worker had before'.

When an employer delays sending a Report of Injury or Disease form to the WSIB, this can mean a delay in the worker's benefit payment. Far from being an administrative issue, for an injured worker this can mean distress, and insufficient funds for food and rent. For instance, Hal went for one month without a cheque when his employer failed to send in forms on time:

My employer was supposed to fax it to my adjudicator.... *I went just about a month there without a cheque from Compensation.... how's a guy pay a \$600 rent payment out of that?* You know? So, I had to go to the office, scream, get my cheque stubs, fax them to [city] myself, and then it was another week and a half before I got my money.... oh, it was not a good year. (Hal, injured worker)

Christopher similarly struggled to live on half of his income as he waited for his workplace to complete the paperwork required for his compensation claim:

Financially it became a problem because compensation wasn't kicking in any of the difference in the time [I] was losing from work! ...And you're not getting half your pay ...I was working four hours a day and then, then comp was supposed to kick in the other four hours. *But {employer} has a lady that does the comp work at {workplace}...Well, she is inundated with paperwork... [and] hadn't sent any of the paperwork in.* So that's why I wasn't getting paid the other 20 hours. So we had that to cope with. (Christopher, injured worker)

Other reporting delays can result in workers failing to get entitlement decisions for their claim. Cameron, a chiropractor and clinic manager, explains that a delay in reporting an injury to WSIB can set the stage for a number of administrative problems that thwart a worker's access to workers' compensation benefits. These delays can be provoked by employers who ask employees to "see how it goes" before reporting, or who set in place informal compensation arrangements, or who "change the story" when they realise they are about to become embroiled in a workers' compensation claim:

The biggest roadblock that I have seen in my particular practice is that patients delaying in reporting their injury. Whether through ignorance or whether through being told by their employer just to see how it goes, they delay in reporting it. So a week or two or three weeks go by, they haven't reported... Sometimes there are some arrangements that are made privately between the employer and employee where they say, you know, "If you want to go get some care I'll look after the cost as long as you don't claim." So then two or three weeks go by and the problem doesn't seem to be improving and then they come to see me. And then there are problems. ... I find is the biggest, is a delay in reporting an injury and then trying to amend things retrospectively in terms of when did it happen, who, when it happened, where it happened, who was witness. After three or four weeks [it is] more difficult to remember the details....And then that becomes very problematic....Because the Board has to adjudicate after and they have to ensure that the claim did indeed take place. And then...the employer can get in big trouble and so they start either saying, "No, it didn't happen," or, uh, they start changing the story and then it becomes some conflict between the employer and the employee once this delay period starts to come into effect. (Cameron, chiropractor)

When a workplace does not document or report a worker's injury this can create a chain of complexity. For instance, Sebastian had problems with his claim when his company did not file a

WSIB claim when he first reported an injury. Sebastian continued working for the next three years as his pain worsened until he was re-injured and a claim was filed. From this point, conditions deteriorated for Sebastian until he lost his job. Sebastian's experience illustrates the difficulty of trying to establish a compensation claim when the employer is reluctant to do so:

So it was up to them to...file the claim. What they are telling me here, "Okay, we may not say that -- we may say that we know nothing about you, but if you go ahead and do it, you watch it, eh?"....But how can you argue that to your employer? *You cannot go there and say, "Look, what you're doing is illegal". I mean, you can't do that. You're going to be fired on the spot, right?* Besides, you know, in there, on light duties, right? So I mean, you don't feel very good. (Sebastian, injured worker)

Janice, a peer helper, also speaks of claims problems that arise for workers when an employer is reluctant to participate in the claim:

A lot of the people that we see...if there's a bad relationship with the employer, it *could be that their employer may even refuse to file a Form 7¹³ and the claim doesn't even get filed properly from the beginning.* If there is hostility between the employer and the worker and then, that, {sighs} that's just, it's not a good situation but unfortunately it does happen. (Janice, peer helper)

Employers provide no or poor quality modified work

Even when an employer participates in the filing of a compensation claim, workers can run into problems with timely resolution of their claim when employers will not take them back for modified work. While workers have an obligation to participate in return to work, employers can opt out of this arrangement by claiming a lack of light duties. For instance, Ronald describes how his employer said there were no available light duties when Ronald was told by his doctor that he could return to modified work. In addition, Ronald's union was unable to help:

I'm a carpenter by trade, but I had to give it up because of injuries....I got injured, and....my doctor had me off for six weeks and then he said, "Well you can go back on light duties and work your way back into the job". I said fine, so *I went back to my employer to tell him and he said, "We don't have light duties".... I went to the union for help and they didn't have anybody, they didn't do anything, and they contacted their...their representative in [large city], the national representative, and at that time they didn't have anybody that could help us....The Board was paying me because I had tried to go back and they said they couldn't accommodate. So I was getting a little worried because I didn't know what was going to happen.* (Ronald, peer helper)

In some workplaces, this availability of light duties can be conditional to contractual relations with an employer, such as whether or not workers belong to a union. Kevin describes his workplace as unaccommodating because he had not achieved sufficient seniority in the union to gain access to modified work:

I'd only just starting working at the [federal employer] four months before my accident so I didn't have any seniority, I didn't have anything, so they didn't have any jobs for me.If

¹³ Form 7 is the Employer's Report of Injury/Disease Form.

I'd been there another month I would have been in the union and I wouldn't had to worry about WSIB because I'd be working at the [same employer] right now. But I wasn't in there long enough. They had no positions, no nothing for me, so you're stuck. Where do I go? I can't heavy lift, I can't do this...it's all can't, can't, can't, can't, can't. (Kevin, injured worker)

When employers do cooperate with return to work, the quality of modified work can be a problem. This was a central workplace-related RTW problem in this study. Participants described problems related to poor physical suitability of work, and socially awkward or demeaning work. While the physical aspects of work can be observed by health professionals, work that is demeaning can be experienced by workers as punitive and stigmatising while remaining relatively 'invisible' to outside parties. Each of these can create problems for positive RTW outcomes.

RTW problems occur when a workplace claims it can accommodate the worker but in reality the situation is not physically accommodating. Edith describes how a worker was regularly required to do work beyond his physical limitations. Although he tried to cope with these requirements by taking strong pain medications, the ultimate result was re-injury (and also addiction to the pain medication):

*He has gone back to [modified] work, at eight Percocets a day..... He...makes dough, which requires lifting of a hundred and fifty pounds, but that's okay, 'cause, he can go back to work, because he's taking eight percs a day, so, {sarcastic tone} he doesn't notice the pain, I guess....So now he's come to me, because *he's been cut off again, he can't go to work, his back is worse, and this is about the third re-occurrence.* [He is cut off] because they're saying that the employer has...light modified work to do....He went to work because there's no money. (Edith, peer helper)*

Injured workers also become re-injured when, as Gideon describes, employers challenge injured workers with tasks on order to "weed out the people that are really hurt and the people that aren't".

*Even when I was on sick leave, I knew they were starting the process to get me back to work. So, you have to go be evaluated, what you can and can't do. Of course they totally ignore that. Even to that, to this day they do that. They totally ignore it. *Their idea is give you the, the hardest and dirtiest job kind of in your class* and try to force you out or force you back to what you were doing. ...Because *they're trying to weed out the people that are really hurt and the people that aren't.* (Gideon, injured worker)*

What is clear in such accounts is the powerlessness of the worker. The worker is in a submissive position, having to comply with the wishes of the employer and with the requirements of the WSIB.

In another example of employer misstatement about modified work suitability and availability, Janet was threatened with having her benefits cut for non-compliance when she was not able to accept her employer's RTW offer. In this situation, Janet's right leg was in a cast and needed to be kept in a raised position. She could not drive and she did not live near public transportation or have an alternate driver. Even if she could get to her workplace, the job involved sitting on a high, backless stool and working at a table directly in front of her. Janet would therefore need to work with a twisted torso and in a precarious balancing position with her leg up. However, because the employer had

told the adjudicator that modified work was available, the onus was on the worker to prove that this was not tenable. This onus on the worker is problematic; if a worker has been injured she is often in pain or poor condition and may be afraid to lose her job. She is then placed in the difficult position of having to contradict her employer's statement to the WSIB.

I was still on crutches and they [employer] stated to the workers' comp that I could sit on a chair and [do the tasks]. Which sounds reasonable. But the chair was up in the air.... It was a backless stool. And they wanted me to sit on a backless stool for eight hours a day and [do the tasks].I still had to keep my leg up.... And *I kept saying, "Well, I can't do this."* And of course I was getting in trouble with WSIB because I was refusing to cooperate. Finally, it dawned on me, he's [adjudicator] saying chair. But I'm visualizing this chair to be a stool. Because I know it's going to be a stool. He's saying, chair. Finally, it dawned on me that he's thinking chair and I'm being unreasonable. (Janet, injured worker)

Ultimately Janet realised that the adjudicator did not have a grasp of the workplace context and she had a photograph of the work station sent to the adjudicator. On viewing this unsolicited photograph, the adjudicator began to understand the situation. The issue here is that if Janet had not sent this photograph to the adjudicator it would have been her word against the employer's and she might have been considered non-compliant. Also, Janet was able to pinpoint the location of the miscommunication and clarify it, but not all workers would have Janet's clarity of mind, her problem-solving skills, or articulateness. Another worker in her situation could have had his or her benefits cut for non-cooperation.

Workers are often not aware that WSIB has services available to investigate physically problematic RTW arrangements. As Janice explains, decisions are often made between the employer and the (relatively powerless) worker, with the employer's statement of modified work suitability and availability taken at face value by the WSIB:

I see many workers where it's just *the Board agrees that what the employer is offering is suitable and for MONTHS people are going without benefits* because they, they have no idea that there are these other tools available within the system to ... help either create a job that is suitable or if an ergonomist can go in and, and say, "Well, no way, there's no way this job is going to be within your restrictions". But not all adjudicators make that information available to workers. (Janice, peer helper)

WSIB mediation services were activated in the case of Rose, but the employer would not cooperate with the ergonomic assessment recommendations. Ultimately Rose was not accommodated by her employer and this affected her own possibilities of RTW success:

I have been off work since [date 2 years ago].... I've worked. Off for surgeries. And then back to work. I've gone off in [month] 2002 and what prompted that was my doctor suggested I work a reduced work week in an attempt to try and bring the pain level down to a level that I would be able to function for the rest of the week. And unfortunately, working 5 days, by Monday morning it had only subsided a wee bit. So... we tried 4 days with 3 days off. And that wasn't working because this joint was so sore. And I'd been on a waiting list. I waited 18 months for this surgery. So, my

doctor put me off in November.Also in November... my employer eliminated my job....and I had the option--- because I'm a member of the union—to bump...but the area that I chose to bump and the workload was four and a half times what I was doing here. So my doctors now say that I will never be able to return to my pre-accident because of the repetitive nature and because of the excessive workload. *...It's been very difficult because the WSIB came in and did an ergonomic assessment of the workplace in order to try and keep me at work or bring me back to work. And my employer asked that that be revoked.* And then [peer helper] is my rep--- has been helping me. And WSIB agreed to a second meeting which they don't normally do. And their lawyer came down and they established a criteria of 11 issues that had to be corrected in order to keep me in the workplace. And that meeting was in [date]. By November of [year], they had only implemented two at the most minimal costs. So my doctor said, "That's it. You're out of there".... "Until all the surgeries are finished and you've recovered." (Rose, injured worker)

Return to work can also fail when social conditions are punitive for the worker. The allocation of meaningless tasks to a returning worker may be seen as a sign that an employer is not prepared or willing to provide a work environment that can help a worker to recover while still injured. In the accounts below, we see that improper 'make work' jobs can work against any rehabilitative possibility of work and indeed can compound the injury.

In the following examples, workers are described as having had claim problems due to RTW arrangements involving demeaning or meaningless work or pain (or both). In these cases, the workers were considered non-compliant and their benefits were cut. Kiefer, a union representative, describes how an injured worker cannot refuse modified work that he or she considers demeaning without risking loss of benefits:

Where an employer... has trouble is where they don't really have work that is of great value, as great a value to them as the worker... was providing before. And then, so then often I see {sighs}, you know, , "Here. You can count pencils in this office and we'll pay you," which is...a demeaning way to deal with return to work. Or they'll just simply state, "Lookit, there's no work for you. ... *The employer will often proffer... a straw man job, you know? A job that really, the worker knows in his heart he shouldn't be doing or can't do or it's a demeaning job...and the worker goes, "Oh, I'm not doing that!" and instantly they're non-cooperative with WSIB and they're REALLY in trouble.* (Kiefer, union representative)

Alex describes how he tried 'make work' modified work that involved letting people into a room. After four days he was back in hospital with severe pain for a five-day stay. Alex's benefits were cut because this modified work did not work out.

I was [in hospital] three weeks, they sent me home, said, there's nothing we can do for you. They gave me a TENS unit, said go home, relax, use the TENS unit. And my adjudicator says, well, now that you got your TENS unit, you can go back to work. So they put me back on the return to work on afternoons as a [job type] attendant. My restrictions were nothing above my shoulder, nothing below my waist, no bending, no lifting, no twisting, all that stuff. So... if a [co-worker] came and wanted the [tool], I unlocked the door and let him and said it's down there..., I can't bend over and pick em up. So *there's no meaningful employment there.* None whatsoever. ... I returned on a gradual RTW basis, as per pain. If I felt pain, or pain

got too bad, I could go home. So the first four days I worked a total of twelve hours. *The fifth day I ended up in the hospital for five days. In severe pain. And the adjudicator said it was a fit job for my restrictions. So she cut me off.* (Alex, peer helper)

In the above situations, a worker's physical abilities may (or may not) have been considered for return to work, but his social situation or abilities were disregarded. This artificial segmentation of a person into distinct parts—physical and social—contributed to failed RTW situations. This social-physical segmentation is evident in this RTW coordinator's account of her mandate to focus only on physical abilities:

It was a situation that I presented all information to the board and said, "This job is suitable as far as the physical requirements". The person didn't feel it was appropriate skill level work. It was entry level work that they thought they shouldn't be doing. *So then it got into compliance issues of, you know, the employer was offering something physically appropriate but the worker found it to be demeaning.* So I just wrote all that in a report...and then it was up to the adjudicator and whoever else at the board to decide you know, as far as forcing the person back or cutting them off the, you know. (Claire, return-to-work coordinator)

Essentially, RTW arrangements that create stigma for the returning injured worker can result in problematic or failed RTW situations with the general result that the worker is cut off of benefits.

Return to work can be distressing to the worker when there is no real work to return to. Aside from the discomfort of travelling to and from work, the worker is embarrassed to be at work when he or she cannot be productive and work alongside peers. Sebastian describes the humiliating situation of an injured co-worker brought back to work who became the subject of co-worker jokes:

They call you next day and you have to go back. They had one fellow at work that he was....[in] that room next to the washroom and *he was there sitting in the chair with his legs up in the table in there like this and he spent a week like that. Everybody watching and joking, you know, talking to him but at the same time making those sarcastic jokes.* Right? *The poor guy being humiliated* in there because they ask him to go there and spend the days in there. You see, how he manage that? This guy should be at home, right? ...Because the doctor for you told you to stay home for a week or whatever, then we see an assessment, see what happen. But no, he had to go there because they want to save their money for the, you know, to get the[premium relief]. (Sebastian, injured worker)

Even when health conditions are straightforward and uncontested, and appropriate modified work is in place, return to work can run into trouble when employers or co-workers make the injured worker unwelcome. In some workplaces, injured workers can be subject to resentment and poor treatment by supervisors and co-workers. Dana describes how workers returning to work following an injury can be stigmatised and subject to a degree of bullying within their own workplace when they are not treated as a valuable employee:

It was very difficult for the workers to return to that area, because it was a specific pace of ... *They were identified as being an injured worker. So it makes it difficult for them,* and often what would happen was various supervisors would come and pull

them out and actually force them to do work which was outside of their restrictions. And so the worker felt that they didn't have any say as to what they could and couldn't do. So, *it's hard for an injured worker to return to the work place, unless that company embraces him as a useful employee.* (Dana, occupational health physician)

Paul, who had suffered permanent wrist injuries because of work on vibrating tools, experienced ostracism when he returned to work:

"They [employer] didn't want me coming back, they didn't want me back in the shop. They wouldn't let anybody talk to me. All the guys in the ...room were told "Do not talk to him". If I called them at their home they would not talk to me.... [They would say] "I can't talk to you" "Why?" "I can't say, bye". Because they [employer] don't want me telling them [workers]...what they've done to me here." (Paul, injured worker)

Co-workers can also become annoyed by injured workers who need their support in order to stay within their restricted physical limitations. As explained by Sebastian, it is difficult to not pull one's weight, and even harder to ask for help. Ultimately a worker in this situation becomes socially excluded and, as noted in the following case, the subject of sarcastic jokes:

They put you in a very bad position, okay?... Because they say, "Okay, you do what you can but don't do this heavy lifting". Okay, but, hey, you know what? I'm doing my best, right? And I'm not going to do the heavy lifting because I cannot do it, but you know the bad thing is that there are things that they assume you can do ...[but that] you cannot do. Then what happens? *You go to your co-worker, "Can you please",* you know, if I am going to pick up something that is, let's say above my shoulder level, I cannot reach. Because I cannot put a stress on that, right? My back is just killing. So you go, but this *poor fellow, too, you know, he has his own job,* right? So how often can you go to this...and after a while they try to ignore you. Or you hear those *sarcastic jokes,* you know, "How come last year you were okay and now you cannot even do that?" You understand what I'm saying? That's really bad. (Sebastian, injured worker)

Jennifer explains that co-worker resentment due to modified work can be a common occurrence for injured workers:

If you're returned to work on a modified job and you're going in and you're working with the same people, okay? Now *they have to pick up the slack for you but you're getting paid the same wages* because you're back in there but it's a modified job. Resentment... like, "Why should I be doing part of your job and you're getting paid the same wages?"... If you really stop and think about it, there's resentment there. *A lot of resentment. And so that's one of the things that, that when people go back to a modified job.* (Jennifer, peer helper)

Further, harassment of an injured worker can be fuelled by co-workers' concerns that the worker taking the best jobs away from more deserving workers:

I didn't have the seniority at the time [for modified work at a desk job], I was taking work away from people who thought they had earned the right to this work. So *you're battling your co-workers and the whole thing was--- there was a lot of bad feelings.* ... And even co-workers would phone me and tell me, "Don't think you're ever going to get this job. Because you're not." {laughs} You know and I'm like, "Oh, my God. This knife is really going in deep" eh? But there was a lot of that.

(Janet, injured worker)

Workers who are overwhelmed by difficult RTW conditions can respond by quitting their jobs rather than, for instance, becoming involved in challenges, appeals, and poisoned workplace relations. Paul, an injured worker, describes poor quality RTW work as "break you down so you'll quit" jobs. Jennifer, a peer helper, similarly notes that workers who are put into meaningless RTW jobs by premium-conscious employers may quit rather than spend time doing meaningless work. She describes these as "STUPID jobs that never would be. They would never pay anybody to do."

Harry quit his modified work job to escape co-worker harassment. Although this meant that he was cut off from compensation when he was assessed as noncompliant, he felt he had to leave because he was becoming mentally disturbed by the demands of the work and the reactions of his supervisors and co-workers:

This is what's happened at work... Light duty... is not a good thing because, people harasses you. They're angry because you're getting paid same salary as they do... They say, "If you don't want to work, go home." You know, for four years I went through this [RTW attempts], and after I was off, it seemed like-- I know...financially we were struggling--but, I mean, at least I don't have any more harassment from workers and, foremen and the Board. It's better for me in a sense mentally, because I was really getting disturbed, mentally, and, that wasn't good for me, because I was never been like that. I've always been the hard worker and everything. (Harry, injured worker)

Anita, a clinic manager in a public sector workplace, acknowledges that co-worker resentment is a serious barrier to return to work, but optimistically sees RTW acceptance in workplaces as an issue that will be slowly resolved by culture change:

One of the things we're doing here is...a ton of education to all of our stakeholders on the value of a supportive work environment when someone's returning to work. And we conduct focus groups with... workers..... trying to return to modified work, [and find] that one of their greatest barriers aside from the fear of re-injury is the resentment and hostility they feel from their co-workers. So we're trying to really educate and promote an environment that is actually very helpful and supportive and kind around people trying to come back to work after an injury, but that's a cultural shift that will take a long time. (Anita, physiotherapist)

Although Anita's focus is on how to implement early RTW policy, the problem may be more fundamental. As identified above, a policy that expects injured or ill people to thrive in a busy workplace is at odds with the structure and logic of business. Workplaces--especially private businesses--are not set up to be therapeutic or rehabilitative. The bottom line is that a less than fully functioning worker is often viewed as a hindrance to employers.

Claire, a return-to-work coordinator suggests that in these cases it may be optimal for a worker to recover at home where he or she has the ability to focus on improvement of his or her physical condition.

There's a few employers that have particularly bad reputations ... there's certain modified work that's offered to people which is essentially go and sit at that table for eight hours and do nothing....I don't think that's appropriate, because I think to be modified work they should be contributing to your business but it saves employers money ...but the *person is just sitting there all day totally bored....*And I think in some cases... *that just makes the person feel worse about themselves and all their co-workers just see them doing nothing and they feel useless and that just adds to the psychological damage* . Versus at least when they were at home I mean then they could be even in a physio program or whatever it is. (Claire, return-to-work coordinator)

Complications surrounding functional abilities and modified work

Many of the RTW conflicts that slowed the progress of a compensation claim centred on disagreements about the timing and readiness for initial return to work. Often, these disagreements occurred between the worker's physician and the WSIB, with the worker caught somewhere in the middle and being advised to cooperate in two different directions at once. For instance, Patricia described how her doctor and adjudicator disagreed on a RTW plan-- the doctor's recommendation of an initial four hours per day was countered by the employer's insistence on a full-time return. Conflict about RTW readiness may be increased when health care providers disagree among themselves about whether assessments of a workers' readiness are based on objective findings or on an advocacy stance of "going along with" a patients request for time away from work:

Oftentimes there's the issue where I tell people that they're ready to go back to work and they should be going back to work, but then they go back to their physician and tell the physician that they don't want to be back to work, and *the physician goes along with it*. So there's the lack of continuity in being on the same page with other health care providers who are, who are involved in the case. (Cameron, chiropractor)

Although family doctors might be seen as the one health care provider with a well rounded understanding of the workers readiness to return to work, others may consider their reports to be a contestable, weaker form of evidence.

RTW problems also occur with functional abilities forms that invite the doctor to indicate if a worker is ready to return to work but also leave room for adjudicator re-interpretation of a worker's abilities. Fay, a community worker legal advisor, explains how doctors will indicate on a functional abilities form that the worker "cannot return to work at this time" and at the same time check off boxes that indicate the worker has some residual functioning. Essentially, as explained by Fay, adjudicators have said: "If the worker can go to the doctor's offices, they can go to work." Claire, a return-to-work coordinator, explains that the RTW system is set up with the notion that "just because you're in pain doesn't mean you can't be working". She explains that even though a worker may complain about being in "a lot of pain", a medical report that contains no or insufficient reasons for symptoms might say there's no reason this person can't be working.

The result of this is that, in the absence of a detailed medical report (reasons for systemic lack of detail are explained below, in section entitled “health care process problems that affect return to work”) the adjudicator will decide that the worker is capable of modified work. These situations are difficult for workers to understand. It doesn’t make sense to workers that an adjudicator can override their doctor over matters of health: “He [adjudicator] said, “If you don’t go back to work, I’m not going to pay you.” I said, “I never been to any doctor who told me to go back to work.” “(Edie, injured worker)

In some situations, doctors will go along with early return to work even when a worker is not ready, and will simply advise a worker to manage pain with strong morphine-based medication:

Dr. {physician} did absolutely nothing except cause me a tremendous amount of grief. When he sent me to physiotherapy, he gave me a prescription for a hundred Percocet, and he said to me,....”When you go to physiotherapy...I want you to take three or four of these before you go. Because they’re going to hurt you.”I was only off for two and a half weeks. ...I had to go see him each week. The second week he said go start the physiotherapy. Then...the following week... he said to me “You’re going back to work.” (Christopher, injured worker)

Slow recovery pace and failed RTW attempts

Complications surrounding functional abilities and modified work may be related to problems with the worker’s pace of recovery. Even when RTW arrangements are within a worker’s functional abilities and there are no additional problems such as co-worker resentment, return to work can be compromised by expectations about the pace of recovery, when complications prevent the worker from resuming a regular load when expected. For instance, Claire discusses her need as a service provider to identify the “fine line” between the worker “dictating their own return to work” and “having to listen to what they’re saying”.

And sometimes...just... increasing the hours was causing them some worry and so, “How about, you’re already doing four, why don’t we do that for another few weeks and then you can tell me how you’re feeling”. *So it was a fine line between pushing people to the next level and then listening to them and their complaints.* But unfortunately the way the system is set up is just because you’re in pain doesn’t mean you can’t be working. ... But then the person’s saying, “Like I’m in a lot of pain”. So... I didn’t want them to dictate their own return to work but obviously I had to listen to what they’re saying. (Claire, return-to-work coordinator)

Patricia describes how her employer ceased RTW efforts (with Patricia then going on to a LMR program) when her health problems required additional treatments requiring time away from work:

I did end up going back to work after one year. And because of everything, physiotherapy and having surgeries done, and I went back to work and it was only like for four hours a day. But I had another operation that Dr. A. had said was going to happen... *So, at that period of time, the place that I worked for kind of got fed up of it, and they said, basically, “We’re not going to keep you on anymore, because...we can’t keep you here if you’re going to be having surgeries all the time.”* So they basically kind of let me go, is what they did. (Patricia, injured worker)

Daniel describes how his RTW efforts failed over a period of two years of off-and-on return to work and re-injuries. Daniel ultimately went to LMR and also did not have the physical ability for this. Ultimately he received loss of earnings benefits that allow him to survive, but only after this very difficult physical, emotional and financial journey through failed return to work and LMR:

It almost took two years from the time of the accident, so I was working - off - working - off, working and off, you know. ...When they did finally get me out, my doctor finally got me out to get an MRI, they'd seen the damage [to my back]...Then I had to go for the first surgery...they put the rods and the screws into my spine. And then went back to work. [Then while at the modified job an incident] broke the fusion in the [spine] so then I had to go for surgery number two.So, then by that time I wanted to go back to work... But it was very uncomfortable, and believe it or not, the type of meds that I was taking, I should not have been allowed on the [work] site....Nobody thought about it... . But anyway, make a long story short, they had me then where I wasn't going to go school, but I can go out and get a forty-hour-week minimum wage job....as a gas attendant.... Well, we...have a lot of dry ice here...Those are fifty-pound pieces.... [Fishermen] pull in with their boats and...you get four or five...five gallon gas tanks [to fill up]....[So the work involved]...a lot of lifting, a lot of physical. My surgeon...[was] saying "this man should not be [working]".....*They sent me out again for another MRI and the [spine] was cracked and there was a couple of screws again bugged. Still, [WSIB] forced me into working forty hours a week, minimum wage.* (Daniel, injured worker)

Jonathon, who ended up with full loss of earnings benefits, recounts a similar path through failed return to work, and failed and inappropriate LMR:

They had me going out on delivery with light stuff. So, finally he [doctor] said "Well, let's, it's not getting any better, you're getting worse. That's it, you'll have to stay off for a month or two and see what happens." So the company went okay... I went back to work. I still had problems...all along....and my doctor gave me a note, "No work for three months". ...And of course they offered me light duty again. So that was alright, just sit.... Then they sent me to [LMR company]...and they decided that, I've always been interested in computers, but... we had one downstairs, I don't know, a hunk of junk or something. [Wife] can operate, but if I push the wrong button I lost everything.... And I can't go on [with LMR training], I just can't do all the things that are in it. And they kept me there for 6 weeks. And, [LMR service provider] said "there's no problem, you've got no problems at all." He said "your math is a little uh." I said "yeah, I know." But he said "the English" he said "what we did, was $\frac{3}{4}$ of the book in 6 weeks." And it was grade 10, so they were trying to get me into grade 10 and then grade 11 and—They sent me over to ... college, and I did miserable over there. (Jonathon, injured worker)

"Worker over compliance" and re-injury resulting from system pressures

A common problem associated with failed return to work was worker fear of non-compliance that set conditions for what we call "worker over-compliance". This over-compliance occurred when workers went along with RTW suggestions of employers or adjudicators because they feared that they would risk loss of income and employment if they voiced a contrary opinion or idea. This led to workers becoming involved with situations that resulted in further injury and failed return to work. For instance, workers would return to work too early or engage in work that exceeded their limitations

(sometimes by masking pain with excessive medications) in order to demonstrate their commitment to their job. Barbara, an occupational health nurse, describes how she has to convince some financially insecure workers to take the time they need to recover when they do not trust the system:

They may want to come back to work too early, and, so we...say to them, you know what, if you take a little bit of time now, and really work on the problem that you've got, and we do this in a planned organized way, chances are you're going to get back to work and you're going to remain at work....*I think some of them are afraid of being off, and the chance that they may not get the money.* (Barbara, occupational health nurse, large firm)

Edith explains that workers, who are fearful of losing their benefits, will not tell the adjudicator when modified work is not appropriate. She suggests that a third-party, such as an injured worker advocate, is necessary for full communication about workplace conditions:

The worker typically doesn't tell [WSIB when modified work is not appropriate]. They do with me! I become their voice. They're very fearful of their benefits. You must remember worker's most fearful of his income. So because they're fearful of their income, they will put themselves in situations that they shouldn't put themselves in. (Edith, peer helper)

Worker over-compliance is also affected by job availability. Where jobs are more scarce, for instance in a one-industry town, worker may be willing to do work even if it is beyond their restrictions. Again, this can result in re-injury:

If you live in one industry towns and you can't get back in that workplace, you're left with choices such as picking up and leaving or trying to do [the work]. And this is what we see, a lot of people who aren't prepared to leave will attempt to do a return to work and do things that are really outside their restrictions because they don't want to leave. And then in the long run they end up doing more damage, then they become more severely injured. (Finn, peer helper)

Worker over-compliance can also be affected by the size of a firm and the quality of social relations. Where work relations are like friendships, and workers need their jobs, workers may not want to place the workplace in a difficult position by reporting an incident to an outside authority such as the WSIB:

You've got parents looking at them [their children] and thinking, "I've got to work." ... Maybe they've hurt their back, but they're going to go back. And, 'cause the employer says, "Oh, come on back... I'll give you a nice little job there and you can do that for a week and you'll be better." Well, *she goes back and she re-injures her back, but she never tells the employer 'cause he's a real good buddy and she keeps working and working and working until she's in such a situation that she CANNOT work.* And then they say, "Well, she never complained." Why is she going to complain? You know, it's her buddy. And that's another relationship that you see in these small plants. *It's almost like a family, so they kind of con them into working.* And they do want to work. You know? (Alice, nurse case manager)

In general, workers who feel their job may be precarious will be reluctant to complain about health and safety problems at work. In some situations, fear of job loss can lead co-workers to go so far as

to deny having witnessed an accident, and this can lead to a claim being denied, with the injured worker unable to access the right to WSIB compensation and support.

He got eventually fired from his work because his workplace was not safe and that's how he got injured and he had actually fallen, slipped on some oil that was on the floor and he slipped and fell backwards and landed on [hard objects], and there were three people there actually witnessed it all. And then *when he went back to ask them just for a [witness]statement they all denied that it happened because they feared for their job because he was fired.* (Cameron, chiropractor)

This fear of speaking out about an accident was rooted in actual experiences of workers who had been “too vocal” being targeted for subsequent layoffs:

Workers become very, very uncomfortable about rocking the boat or speaking out about things because, hey, the next job comes up--- we had it on this job where the [co-workers] went through eight reps on the joint health and safety council. As soon as the rep got too vocal about the circumstance of the health issue, by golly, if his name wasn't on the next layoff. And this went on and on through the whole job. (Jesse, injured worker)

Service providers pointed out that workers who are not in unions may be particularly reluctant to report an accident:

Workers that are unionized have a little bit more protection than the non-unionized workers, and they're the ones that are very frustrating, because *you know that it's a work related problem, but they don't want to report it, because they're going to lose their jobs.* And they have no rights at all, and all you can do is recommend that they go to the Human Rights, but the Human Rights takes so long. So non-unionized workers have absolutely no protection out there. (Dana, occupational health physician)

Terry, a worker legal advisor, explains that a ‘power imbalance’ in non-unionized workplaces makes workers reluctant to become involved in the workers’ compensation process:

In a non-unionized environment we find a lot of people I think are intimidated by dealing with their employer. First off they've got the “shame” -- in quotations -- of having a claim hanging over their heads and the employer frowning at them for... having that. So when it comes to contacting the employer, they're really reluctant. And then there's what I would call *the power imbalance*, too, because...there's the worker whose livelihood relies on that employer and they've done something perhaps not in the best interests of the employer, so... I think workers are aware of that and they're often reluctant and shy to get involved in that whole process. (Terry, worker legal advisor)

To reiterate, over-compliance occurs when workers feel that they cannot say “no” to employer or WSIB requests, even if the request does not make sense. In such cases, it is clear that workers do not feel that they are part of these decision-making processes. In the following situation, a worker felt obliged to comply with WSIB decisions about his healthcare treatment:

When someone says to you, if the first one doesn't have any effect, then there's a very strong possibility it's not going to be of any help to you, you know, the subsequent injections. *However, because compensation is running the show, so to*

Speak, then you're beholden. You don't have a decision. You cannot say, basically, you cannot say no. You're on a real slippery slope. Because if you say no I'm not going to do it, comp can just turf ya. Like that. Right? So What do you do?
(Christopher, injured worker)

In sum, some problems encountered by workers as they encounter the RTW process are social, or related to the quality and types of workplace relationships. Social problems arose in many ways. Some employers will delay reporting an accident, or not report it. Employers may be slow with getting paperwork to WSIB, they may try to set up informal return-to-work arrangements, or they may actively seek to “bury the claim”. When employers do report the injury, they may provide inadequate modified work. Many participants referred to the problem of modified work that appears to meet requirements but that in reality is not physically or socially accommodating. In some situations, injured workers experienced stigma in their workplaces with employers and co-workers being actively unwelcoming. One worker called these arrangements “break you down so you’ll quit” work. Other problems related to conflicts around the timing of the worker’s return to work, with doctors advising rest time and employers and adjudicators urging an early return. Also, the pace of recovery was a problem in some cases, with workers considered non-compliant when in actuality their health situation was poorly understood. We found that worker “over compliance” due to fear of non-compliance was a problem. This occurred when workers went along with any of the poor RTW conditions described here because they feared loss of employment and income. Any of these situations contribute to worker re-injury, or to workers quitting their jobs or being unable to comply with modified work arrangements. The overall result is suffering and worker loss of income or benefits.

Summary—workplace problems with the RTW process

In all, we identified both structural and social workplace problems with the RTW process. Participants described RTW failure as enhanced by RTW policy that does not sit comfortably with business priorities and organisation. Also, RTW policy is oriented to returning the worker rather than to investigation of hazards that may have caused the injury. Employers may not cooperate with RTW policy with regard to reporting accidents or providing appropriate modified work. The result in any of these situations is that the injured worker becomes entangled in processes over which he or she has little control. Worker “over compliance”, or over-exertion while attempting to manage difficult RTW situations because of fear of job or income loss, was also a problem. In many situations, RTW problems caused by these structural and social processes resulted in worker inability to return to work, with the worker’s benefits reduced or cut.

3.2 LMR-Related Problems with Claims Progress

Many of the problems faced by workers while in labour market re-entry (LMR) program related to structures and processes that may not be not recognised in official policy or in contracts with LMR providers. This section describes some of the situations in which workers' progress through LMR programs is unsuccessful.

LMR before worker is recovered

Some problems with LMR occurred because this program is geared to workers who have reached their maximum medical recovery. When workers are sent to LMR and they continue to have significant medical treatments—such as surgery—or ongoing pain—such as chronic back pain--this makes a sustainable re-education program a problematic effort. Not only is continuity interrupted, but also there is inevitably increased pain and discomfort associated with any medical intervention and this discomfort detracts from an ability to focus on an educational program. Charles describes how LMR providers are told by WSIB that they are obliged to incorporate such conditions into an educational program for a worker, even when the provider believes a LMR program is not in the best training or recovery interests of the worker:

We're not supposed to play a role in the medical file, even though that's hard not to when you see information that makes no sense. ... The other thing that comes up....[is] Maximum Medical Recovery....That's a crazy thing sometimes because we may get a...referral and we've seen this many times...you look at the file and you go, "What the hell, you're scheduled for surgery in two months?"... That's not unusual! And you say, "Why are they in LMR?" "Well, we just have to...move it along, we have to identify the loss of earning." Well, how can you do that when you don't even know what they can do? We're not supposed to question things.... Occasionally they'll take your advice and send someone for a functional assessment, because you say.... "I'm not clear on what this person can do physically. Are you? Well, maybe we should do a functional." So...it stalls it.... But sometimes there's no agreement that that should happen, and, [workers are] supposed to be at MMR [maximum medical recovery] and there's there are occasions when you look at things and there's big question marks. Big question marks. (Charles, LMR provider)

This inability of the LMR program to contend with workers health problems may help to explain why, when Hal's LMR program led him to experience severe pain, "nobody listened" and providers "didn't care":

None of them, ...the guy I was working for, plus my [LMR provider] person, and my adjudicator, none of them were listening to me. Because we started out...*they didn't follow my restrictions, even though I tried to follow them as much as I could.* You know, like you didn't start out at two hours, three hours a day, we just jumped right into an eight hour a day job. *And by the end of the day, oh, I was [in pain and] like a saber-tooth tiger trying to pull teeth, if you know what I mean. And nobody listened. I screamed, but they didn't care.* (Hal, injured worker)

Workers placed in unrealistic courses

Participants noted that LMR can fail when workers are placed in unrealistic courses. For instance, the worker may be considered by WSIB to be able to undertake retraining even when other significant barriers to success are present, such as language barriers and educational difficulties—including inabilities that might have been life-long, and may explain the person's being in the manual labour job at which he or she was injured:

It's...a subset of workers, older workers who have been doing manual work all their life and at the age of 48 or 51 or 52, they are injured, and they can't go back to doing manual work, because their back is wrecked. *The problem there is at that age, it's very difficult for them to learn computer skills or English skills, and to go back to work. It's almost impossible, because they just don't have the vocational background and characteristics....*You know, the Board knows, I talk to managers....and they know there's a certain percent of them... they're not re-trainable. And then they come out with these ridiculous decisions, you know? (Mark, worker legal advisor)

Terry, a worker legal advisor, suggests that, when faced with workers for whom retraining will be very costly because of their limited language skills and education, WSIB decision-makers can make retraining decisions that are oriented to a reduction in claim cost rather than to realistic educational upgrading that will lead to the possibility of employment:

We do have a lot of the [country] immigrants here...who've been coming here for labouring jobs at [factory] or women in hotel work seems to be a big draw....And they're at a disadvantage, too, because....once again their language, communication skills. *And if they haven't got the education behind them if they get injured and can't do their previous work, trying to get them...fair LMR...is a challenge because it often entails years of upgrading which the system kind of says, "Geez, we can't handle that, let's get you into the business college and get you out of our hair in six months."* (Terry, worker legal advisor)

Janice, a peer helper, also raises the issue of cost, when she suggests that short term cost concerns lead adjudicators to opt for shorter-term educational programs, usually at small private colleges, rather than longer (and less tuition-expensive) college programs at well recognised educational institutions:

The reason the Board likes them [small private schools] is because a lot of them offer these short-term programs that on paper may sound really great. But they actually are quite expensive. Like if you compare the cost of tuition to...even a two-year college program, a course that may only be eight months is twice the amount of what it would cost to send somebody to [known name] College. But *they're [adjudicators are] looking at the cost of the benefits...[and choose programs that are] was short and it was quick and they could get her [worker] in and out of the [workers' compensation] system as quickly as possible.* (Janice, peer helper)

Peter, a worker legal advisor, describes educational programs at private schools that do not take full consideration of workers needs and abilities. He describes "speeded up" educational programs that are unrealistic and lead to worker failure to complete a program:

I've had other cases where guys...were evaluated for their ability to write or speak

English, [and] were rated at grade two or grade three. Ok? The Board then said, that shows great potential. {laugh} They put him into a *speeded up program for a year or six months in English, right? He couldn't do it, right? And...they fail.* The decision comes down, you're deemed able to do it, and since you refused to use the program, it is non-cooperation, we're cutting you off. Now, I won all those cases at a tribunal, but the worker had to go through three years of hell, you know. (Peter, worker legal advisor)

“Deeming” involves the assignment to a worker by WSIB of an administrative status or ability. In this case, Peter is referring to how a worker can be considered, in WSIB administrative terms, to be sufficiently healthy to participate fully in a LMR program. This “deemed” status removes the possibility that health can be a reason for non-participation in LMR, and enhances the possibility of entertaining other explanations for non-participation, such as ‘compliance’.

Kevin relates his own experience trying to cope with accelerated upgrading programs that left him unready for his college program. At the time of his interview, Kevin was unsure if WSIB would invest in proper background training courses, or send him out to work in a call centre:

*I got in like three chapters of this 1450-page book that I have to do in ninety hours. Not ninety weeks, ninety hours! (chuckles). And...I don't know what I'm doing.... So I went and I talked to [rep], now we're in a big huge batter because now they're saying it's an add-on course.... It's like okay, so you're willing to pay for that [add on course] but you're not willing to give me the...proper training to go through with it, but you're willing to say goodbye. So right now I'm kind of on a fine line of how long I'm going to be in school, if I'm going to get an extension or if they're just going to say to hell with you and see ya.....Or try to properly train me before they force me through and rush me.And like I say, *I passed [the upgrading courses], but I can't do the [computer course] because they didn't give me the proper educated stuff to get that far [to have sufficient background knowledge for the computer course].* So that's where we're kinda stuck right now...I'm not sure if you're familiar with [LMR] providers, kinda in-between people WSIB and me, they try to save WSIB all this money and rush people through the course, and that's my problem right there. Because they did not go through the curriculum properly enough to send me to this course, but they are willing to pay for this course and do everything, and now it's become an add-on.So now I'm going out in an industry...I'm going to be call centre person. (Kevin, injured worker)*

Worker over-compliance in LMR

As with RTW process, worker over-compliance due to fear of loss of benefits contributes to failed LMR programs. Participants described how workers will agree to a LMR plan even when they do not fully understand the plan or its implications. The workers sign the LMR agreement with incomplete understanding of the agreement because they fear that a failure to agree will result in cessation of benefits.

A lot of these, these people come from, whether it's their level of education or the way that they were raised, perhaps, but they're... intimidated to ask questions and they just...want to participate in the process because they don't want their benefits to be cut off. And then...what seems to happen is once they're in school and

sometimes they meet other injured workers or they have these conversations and, and then the, “Well, hey maybe this isn’t the right thing for me,” and, you know, “This really sucks that I was basically, you know, forced to go into it.” And, and we see people all the time who don’t even know what’s going to happen to their benefits at the end of LMR. (Janice, peer helper)

Essentially, the issue of worker choice over their training options appears to be an issue in some failed LMR situations. Kevin feels that his retraining program was “forced” on him:

I was on the way to working in [institution] as an officer, I got in an accident. *So I had no interest in computers...I want nothing to do with it. But yet I have to do it in order to get paid.* I don't think that's fair to people and they're making decisions for you. I think, you know, I still have thirty-some odd years of work left in me they say, and why I can't I make my decisions? Why is it forced on me that I have to take this? It's a bunch of crock. (Kevin, injured worker)

LMR workers at a disadvantage on the job market

Participants also pointed to problematic decision-making about actual job availability within a geographic area as a problem leading to failed LMR. Alex explains, in the absence of accurate figures, assumptions are made about job availability and these assumptions can be wrong. This can result in a worker being trained for an occupation for which he or she cannot find employment in the local community:

Now they can go out and get a job making minimum wage or something and, and still be okay [financially]...They're going to get a large loss of earnings. However, it doesn't always work that way...They'll say, “Okay, we can get you retrained...you're going to come out and be a computer technician, you're going to make \$28 an hour, there's no loss of earnings. However, that job is not available in our ...community. And I can go on by checking on the NOC codes here [on HRDC list] ... *Some of these jobs they are trying to retrain you on, you can type in the NOC code and tell it to pick all of the Ontario, and it'll show you jobs available in {city}, {city}, {city}, {city}, {city}, all that, but nothing down here in {this city}. Yet, we're training these people here in {this city} to be a certain person, but there's no jobs available.* So what do they do? They end up with no loss of earnings, or very little loss of earnings, and they have to go on Welfare....a lot of injured workers end up going on Welfare. (Alex, peer helper)

Even when workers are retrained at reputable colleges and for jobs that are available within their community, LMR success is still systemically threatened by injured workers' distinct competitive disadvantage in the job market. Generally, injured workers who have completed LMR programs are not on an equal footing with other job seekers because they are older workers, with disabilities, resume gaps, a lack of experience in the field for which they are seeking employment, and may face discrimination against people with disabilities. As Kevin notes, even if the workers are well trained (or had work experience) there is a distinct stigma attached to injured workers that makes employers wary of hiring them. This is particularly acute in a small town:

If I can have my way I would have a job now, but too many people in industries here [in my small town area] know that I was injured so they'll not even look at me. “Sorry,

we know you're on WSIB, can't, sorry." They can't ask you, I know that, but....they know....I haven't been working for two years. "Why is your resume empty?" "Oh I went to school for that one year." "Well what about the first year?" (Kevin, injured worker)

Alex, a peer helper, explains that even if employers are willing to accommodate the inevitable physical limitations of an injured worker, they will often be unwilling to embrace the potential risk that this once-injured worker may suffer a subsequent injury:

When you're off that long a time, you're going to have lifetime [physical ability] restrictions. You have to find an employer who's going to allow those life time restrictions, or accommodate those restrictions. ... I don't think you have to put on the applications anymore whether you're on WSIB or have been in the past?...However, if that employer finds out that down the road that you're on WSIB, there's absolutely nothing in there, unless you've got a collective agreement, saying I can't get rid of you pretty soon. Pretty quick. Because I don't want the cost of your previous injury coming back to haunt me later down the road. (Alex, peer helper)

Participants pointed out that generally, injured workers are not competing on a level playing field with other younger, able-bodied job applicants:

I'm not a supporter of labour market re-entry. Here's your difficulty. If you have a low back injury that causes you to sit and stand every twenty minutes, *how are you going to compete with the able bodied college students...?* You can't. Can employers say that they're not picking you because you have an injury? No, they can't. So you put them through school. *You put them through computer ghettos...* They come out. *They're 52 years old or older workers and they have a one-month job search and then they're going to be deemed at the training-level.* (Irene, peer helper)

Irene's comment that "they're going to be deemed" refers, again, to the WSIB practice of assigning an administrative status to the worker based on the training the worker has received. In this case, the worker will have received computer training and will be considered by the WSIB to be trained and employable in that occupation. The worker's compensation benefits will therefore be reduced by the amount that the worker is considered able to earn. The practice of deeming does not appear to involve consideration of barriers to employment such as those detailed in this report.

Summary—LMR-related problems with claims progress

Many of the problems faced by workers while in an LMR program relate to structures and processes that do not recognise or accommodate realities of workers situations. The LMR program is set up to accommodate workers who have reached their "maximum medical recovery" and problems occurred when their ongoing health problems impacted their ability to fully participate in the LMR program. Workers also failed LMR when they were placed in unrealistic courses. Some workers had language barriers and educational limitations, while other workers without such barriers failed because they were given accelerated or rushed programs to very quickly upgrade to a high school graduate level. Participants questioned the quality and timing of these programs and suggested that a reduction in

claims costs was an overriding decision-maker concern. Worker “over compliance” due to fear of being considered noncompliant was also a problem in relation to LMR programs, as workers signed LMR agreements they did not understand because they feared cessation of benefits. Even when workers did complete a LMR program, they could be at a disadvantage on the job market because there might be no availability of jobs in their area, and they are older, disabled, and have no experience in their new field. However, if the workers are “deemed” able to work then their compensation benefits are reduced by that amount. In all, these systemic barriers to LMR success posed hardship on workers who suffered loss of benefits when they did not complete their LMR program, or faced unemployment due to their lack of competitiveness in the general job market.

3.3 Health Care Processes Problems that Affect Return to Work

WSIB-related disability diagnoses and health care assessments are less than straightforward. WSIB claimants must be assessed for eligibility for coverage. The injury, as well as the treatments recommended by the physician, must be within the realm of WSIB coverage. In addition, there must be proof that the injury arose in and from work. Although these requirements undoubtedly have a logic within WSIB frameworks, they also have the effect of stalling decisions while proof is sought, alienating some workers who find themselves fighting with WSIB over health needs, and estranging physicians who find that their recommendations are not heeded. This section details health care process problems that affect the smooth progress of return to work.

A fundamental finding of our data relating to health care process is that a great deal of time and cooperation is required for adequate health care provision, documentation, and provision of information to WSIB. Finn describes the tremendous effort required for “everyone to be on the same page”:

A worker who has a good relationship with the doctor...a doctor who gives a care about, and knows how the system works, so spends the appropriate time making sure that the appropriate information is put on the forms. Those are [worker's compensation] files that go well... And an employer who in the process agrees and doesn't sort of try to challenge and force issues. ... They agree that whatever the doctor is saying sounds reasonable and therefore I'm not going to force Joe to come back to work or try to make it look like I'm forcing Joe to come back to work when in fact his doctor's clearly saying, “No, you can't return to work at this time.” ...*So it's a matter of everybody being on the same page. When everybody gets on the same page and everybody's doing their part, the system CAN work.* (Finn, peer helper)

Mismatch between WSIB forms/reporting needs and physician practice realities

At the start of the health care process, we find that the way WSIB expects physicians to communicate via detailed form-filling is not always functional. Physicians may not understand the logic of WSIB forms, or may avoid interaction with WSIB because forms are time-consuming and WSIB generally offers poor compensation for healthcare services.

Finn, a peer helper, describes claims becoming prolonged when a medical report is submitted to WSIB with inadequate detail. He suggests that some physicians simply do not know how to complete WSIB reports:

Most of them [doctors] don't understand what the basic rules are....and part of that is a complication that arises out of doctors who say -- an interesting example is I have a worker who we were working with who, doctor sent him...[a] a progress report that said, “I've been dealing with this patient for the last two and a half years. She has not improved and she is not going to improve and she'll never return to work”. *Well, that medical is absolutely useless and...makes the file complicated because the adjudicator has nothing to work off of.* Doesn't indicate there was an examination, doesn't indicate what the diagnosis is or what the prognosis is or what were the

results of the exam. (Finn, peer helper)

Fay, a community worker legal advisor, complains that in situations of incomplete medical information WSIB decision-makers do not always seek out information that is needed to have a full understanding of the situation. She describes their approach of sending perfunctory letters to physicians, or requiring that the worker request the medical report directly from their doctor, which she suggests is unrealistic given that many workers are intimidated by their doctors:

So it's supposed to be inquiry...[and] the claims adjudicator would be seeking to see... is this a claim we can pay? What's missing? Oh, we need a medical report. We're going to write to the doctor. I'm going to ask for the medical report or I'm going to ask for exactly what I need.... *They say to the worker, "Well, we don't have any medical for you, so, you know, good bye. There's nothing to support your claim."* [I: So they don't actively seek out uh, information that's required?] That's right! *Or they will tell the worker to get it. But the worker doesn't know how to go and get it,* and I don't know about you, but I can't even ask my doctor for a report. I'm intimidated by my doctor! And she's a very nice woman. But I can't! You know? *...It's just unrealistic. Now, sometimes, the Board does try to reach doctors, sometimes they do write letters, but they write these perfunctory, almost nasty letters* and they often...sound like they're challenging the doctor...or they ask for the whole claim file. (Fay, community worker legal advisor)

Fay's mention of "perfunctory, almost nasty letters" from the WSIB to physicians is also mentioned by Esther, who describes that WSIB threatened to fine her physician when he was delayed with his medical report:

The WSIB had to threaten him [physician] with a \$750 fine, that if he didn't fill up those papers and mail them to them. Because he was gone [out of the country]! And the other doctors at the [clinic], they didn't know my history, so they couldn't fill them out. (Esther, injured worker)

This problem with WSIB receiving paperwork from physicians was echoed in other participant accounts. As well, the WSIB requires detailed reporting from physicians within restricted time frames. Terry, a worker legal advisor, explains that WSIB has difficulties communicating with physicians because the time required for adequate detail of provision to WSIB is time not usually at the disposal of physicians:

The problem we have [is]...the doctor may be SUPPORTIVE but not supportive in the extent that the system requires, that is, the system wants really detailed physical findings. And let's face it, I mean, the doctors don't have the time to provide, meet the system's evidence requirement in a lot of, a lot of times. They're just so busy they can't take the half an hour to examine someone thoroughly and do a complete system inquiry. ...Unfortunately {sighs} ...[during claim disputes] you can see the results of shoddy...clinical work-ups of a [worker]...We're relying on certain medical reporting that really doesn't seem to be all that detailed. (Terry, worker legal advisor)

Martin describes his own doctor as supportive, but frustrated with WSIB paper work. Martin's sense that his doctor is frustrated with this paperwork compounds communication problems because Martin is, in turn, reluctant to 'bother' his doctor by "bugging her" for reports:

And then, every month you had to bring in a report for the doctor about your injury. *The doctor's getting sick and tired of all the repetitiveness, paperwork, jargon and stuff, you know?... My doctor, she just can't understand compensation. Like...she's getting to the point she's really has a hate on for WSIB.* I mean, she gets paid for some things, but....*I don't like bugging her to get all these reports filled out.* Because she's got better things to do...than filling out...BS paper work....I mean, how many times does a doctor have to say, He's never going to get any better and every time the, maybe my medication's changed, that, I have to get the ok from my doctor. (Martin, injured worker)

Physician's lack of time to manage WSIB paperwork is also mentioned by Dana, an occupational health physician, who describes dealing with compensation claims as "very frustrating":

It's very frustrating dealing with compensation claims, because you don't have the time in your practice to do, to get all the information you need to help support that claim.....[So] what I do is I then refer the person [to a special occupational health clinic] so that a little bit more time can be spent, that I can access the other services of the professionals. (Dana, occupational health physician)

The time physicians have available to do paperwork is affected by the compensation they receive from WSIB for filling in the report. Alex notes that due to physician shortages workers will often not have access to a family doctor. When they resort to treatment at a walk-in clinic, workers encounter physicians with particularly little incentive (including financial) to complete the paper work required by WSIB. As Alex explains, to these physicians, WSIB reports are "a hassle":

A lot of [physicians] aren't taking new patients....if you've got something you go in and see them at the [walk in] clinic..., that's it. But then try to get a report out of them afterward, for WSIB. Especially if you're a new injured worker, you go in a clinic, they don't like doing reports....because lot of times they don't get paid for it, and it's a hassle.....It's time. Time constraints,...the paper work they got to do for the little bit of money they get, they say, "Forget it." I mean they're supposed to be changing all of that. It's all supposed to be revamped, you know, doctors can now talk to Board adjudicators and they get paid for it, stuff like that, the doctors are supposed to get paid for these phone calls. But yet some doctors have said, they're not getting paid for it. (Alex, peer helper)

Samuel notes that physician's unrewarding experiences dealing with the WSIB lead them to spend minimal time on reporting requirements. This, in turn, creates problems for a workers' claim:

Consistently there's the issue of medical information....A lot of doctors...are not crazy about spending a lot of time writing medical reports....and don't provide all the detail that would make the claim go through easily. Then there are some that are just *pissed off at the Compensation Board, because...they get overruled or contradicted or not listened to which can lead them to be even less cooperative.* So if you don't have good medical documentation, you're sunk, right there. (Samuel, peer helper)

Penny describes how her claim was delayed by her doctor's tardiness in submitting reports to the WSIB. This illustrates ways that workers are powerless to control others' time management of their claim. Workers are held back by delays and waiting and are dealing with circumstances beyond their control, leaving them feeling frustrated and angry:

I think sometimes maybe if my doctor, in one way, would have cooperated. *I used to have to wait like sometimes a month for her to fill out a report.* I used to get mad at her. You know what I mean? Like why, I used to say, why is she doing this? (Penny, injured worker)

Edith notes that physicians can be wary of taking on an injured worker because WSIB requests paperwork from physicians not only at the time of initial diagnosis, but also for multiple changes over time, and the fees paid by WSIB to doctors as well as other health care practitioners are not competitive with other fee sources:

When a worker comes to them looking for help, and they're WSIB, the doctor says "We're not interested." I have clinics who will not take any workers on WSIB....Overruled, paper worked to death... How many times do you need a doctor to fill out a Form 26 saying the same thing? If the worker's a...year into the claim, what value is another Form 26 on him? ... Some of the times they're mailing these Form 26's to a worker every two months. They have to go back and get a new Form 26 filled out by the doctor. Don't forget, the doctor's fees are less with WSIB than they are with ODSP or CPP, so who do you think the doctor's going to do?... I think CPP plays a flat rate....for a doctor's letter; WSIB is like [one third of this rate] or something. It's quite a big difference....The other thing we see is with physiotherapists, acupunctures, massage therapists. Like I think massage therapists are like \$17, WSIB pays, and they [usually] get like \$35....And you can't get workers to get a massage therapist....why would the massage therapist lose \$17? (Edith, peer helper)

The low WSIB fees for health care treatment to injured workers can be a particular problem in rural areas when home visits are required. As Julie explains, fee schedules do not take into consideration the distances that a rural provider would have to travel in order to do a home visit:

Especially in remote areas...it becomes even more of an issue because if you, say, need someone to go do a home visit, an occupational therapist, you're not going to get them to do that for 18 dollars an hour. And [WSIB] don't even have a fee for it. (Julie, nurse case manager)

Terry, a worker legal advisor, suggests that if physicians were given better compensation from the WSIB then problems around form-filing and form-completeness could be minimized:

Doctors are concerned about money....I've had doctors tell me, "Well, gee, you think I'm going to respond to this report for that amount of dollars?" 'Cause we have a limited budget. They say, "I can't do that." You know? "I can't do that for that amount of money. It's going to take me hours to review this person's file." That's what they'll say.....So...if there was some way of increasing the fee paid to doctors for these services it might, the system might be better served. But then again, you know, it is that part of the design of the system that, {small chuckle} to discourage claims....I don't know. That's a cynical thing to say. (Terry, worker legal advisor)

In examining situations associated with prolonged claims, the issue of inadequate health care provider compensation by WSIB leads to questions about whether injured workers receive adequate healthcare treatment. Julie, a nurse case manager, explains that the "huge difference" between what auto insurance firms pay for physiotherapy and what WSIB pays for the same service can lead to treatment disparities:

WSIB pays lower because of the volume and still, you know, that though can be a contentious issue with health care providers. So there's still a lot of... negotiation required...to...get the quality care that you want....Like physiotherapy: we pay 18 dollars and if they charge automobile insurance it's like at least 40 to 80....I mean, there's a HUGE difference.... *What happens is... they don't give the same care that they'll give to somebody for 40 dollars an hour.* (Julie, nurse case manager)

Cameron, a chiropractor and clinic manager, also refers to problems created for workers' claims by low fees paid for services by WSIB. He explains that these low fees, together with the WSIB paperwork burden, also discourage clinics from accepting WSIB clients or offering them full treatment. He suggests that WSIB clients regularly "get a heat pack and out the door they go":

Even though we would accept the discounted fee [paid by WSIB], because *it's less than 50 percent of what we normally charge*....For example, our physiotherapy visit...is 45 dollars, and Workman's Comp pays 19 dollars and change..... I HOPE to think that my staff treats every patient, regardless whether they're Workman's Comp or otherwise. I know that doesn't happen out in our community. *Patients who are Workman's Comp get a heat pack and out the door they go.* And that's oftentimes how they end up to our clinic because they're not happy what they're getting elsewhere. ...Because *it's not financially [sustainable]*....*If we had to see only Workman's Comp, I'd have to shut my doors.* That's the honest truth. But because we feel it's a community service, and that's why other physiotherapy clinics actually refer them to our clinic so we don't deny it to anybody.... Our philosophy is that we treat all patients no matter what.....*Not only that. It's the paperwork. ...Never mind it's the less money you get. It's the additional paperwork that you have to...do....*And that is another thing that's a negative with Workman's Comp... It's part of a community service that we do provide, but it is a burden to the clinic, particularly...*if you're a clinic that's not doing very well....it sometimes becomes a problem.* (Cameron, chiropractor)

WSIB will not fund recommended treatment

Related to issues of 'proof' and funding can be problems with lack of congruity between WSIB rules and the physician's estimation of optimal treatment for a worker. Mario describes how problems can develop for workers when the worker's treatment requires a deviation from the usual approach and the WSIB will not fund the treatment. He suggests that funding decisions may be due to short-term cost concerns but this approach can, in some cases, lead to increased costs and worker health problems over the long run:

The guy has a neck injury and his doctor has tried everything. Now the doctor says, "Okay, we're going to try Botox injections."...and the WSIB denies it....*So sometimes...the doctor tries different modes of treatment and WSIB just denies them. But the worker's really been cooperating, and the worker's in agony but he's still working because he's forced into it. WSIB denies it.* Those are the ones that eventually will turn into a psychological condition. ...So sometimes the WSIB is so hell-bent on SAVING MONEY, their cost...Botox injections will be fifteen hundred bucks a shot....[but] this worker's pain medication intake was so bad that it's...affected his hormones...WSIB doesn't even want to look at...the treatment for that. They denied that. But they're still paying this HUGE narcotic intake of medication....So what they should be looking at fixing his hormonal imbalance,

weaning him off this high narcotic intake. They don't do that. They'll just authorize...the narcotics,... have him stoned up...creating a secondary consequence injury down the line. (Mario, health and safety union representative)

Janice explains that WSIB decisions to not fund a medical treatment may be derived from a logic that some physicians may over-prescribe. However, she argues that WSIB treatment denials can be carried out in a thoughtless way without proper follow-through about the basis for the extraordinary request and without concern for the treatment needs of the worker:

The Board has a problem...in some cases it is valid in terms of the type of treatment that somebody might be prescribed. For example if a doctor is...prescribing very strong medication for an injury that might not warrant it and that person is having trouble getting the medication covered. But what we see happening is the *Board just outright denies the worker entitlement to the medication, for example, without actually providing an explanation or trying to help...*like even contacting the doctor and saying, "You know, is there something else that we could be doing that would be better for this person?" (Janice, peer helper)

Further, Janice argues that denials are made for medical treatment even when, in some instances, WSIB policy allows for payment:

It seems to be that they're really clamping down. Like I know that health care costs are rising but it seems to be very difficult to get them to approve things in the first place. And especially with some of the newer, modalities that are out there, for example massage therapy or acupuncture or "I'm going to see like a homeopath or an osteopath," They will flat out, like we hear people all the time that, well, that come in that say, "Well, my nurse case manager told me that the Board doesn't pay for, you know, massage therapy," when in fact they do. *But they will just flat out deny that they even, that they even pay for those things which is very frustrating.* (Janice, peer helper)

The issue here is that WSIB appears, in these cases above, to have erred on the side of financial caution. A result is that workers can be left to sort out the consequences of the injury, and to appeal decisions. All these contribute to prolonged and complex claims.

WSIB's focus on 'proof', requiring multiple assessments

Healthcare-related problems with workers' compensation claims also occur when the WSIB systems requests or needs multiple assessments of a worker's condition. Dana, an occupational health physician, describes how physicians (and workers) become frustrated when their diagnoses and recovery recommendations do not appear to be respected or heeded, and this can result in deterioration of a patient's condition. She refers to problems with the "level of burden of truth" required by WSIB:

So what I mean is it's really is what is the *level of burden of proof that you have to have*. So it becomes very frustrating as a specialist where you're always questioned. ...And you know, you have to have so many other specialists see them. And I think it *just increases the complexity of what you're doing, and also it becomes very frustrating for the workers.* ...Same way, you know, we see that a lot as well with [occupational disease] claims that often they're seen by many, many specialists, all

are saying it's work related, but Compensation needs a few MORE assessments to finally accept it, and by that time, you know, the [disease] is chronic and the person can't return to the workplace environment. (Dana, occupational health physician)

Alex, a peer helper, describes this same phenomenon of medical specialists being second-guessed and over-ruled. He describes how it is frustrating for injured workers to be sent to visit these specialists when the specialist report will not necessarily be acted on by WSIB decision-makers. He also suggests that final treatment decisions can be made by WSIB physicians who do not specialize in the field relative to the worker's health problem:

You have an orthopedic surgeon, who has .. years of practice, saying this injured worker can no longer do this, this and this, because of this, this, and this, and you've got a podiatrist that the Board office, who's a foot doctor, over-ruling that specialist. It's wrong. The Board should get people in that field to make determinations about that field. ... I'm just saying that...they have X number of... Board doctors... that work for the Board. What are their qualifications? They're licensed doctors in the province of Ontario. But they may not be licensed doctors in that specific specialty. Of orthopedic surgery. Or neurologists. But...foot doctors making determinations over specialists. ...And that's why they [physicians] get upset. *They say, "Why am I going through all this work making these reports by the ability that of the education and the status that I have as a specialist, and I'm being overturned by a Board Doctor who doesn't have the specialty in that field? And sometimes by an adjudicator? Or sometimes by a nurse case manager."*... Now, why are we being sent to specialists if you're going to ignore what the specialist is saying? It doesn't make sense. And that upsets a lot of injured workers.... it's not right. (Alex, peer helper)

Finn also describes the problem of competing medical opinions. He suggests that multiple opinions, whether sought by the worker or the WSIB, create claim complexity. These multiple assessments will occur in the case of non-acute injuries where cause can be difficult to establish and so "the standard becomes higher":

The other thing is...competing medical opinions, especially when there's not a clear diagnosis. It's easy to diagnose a fracture to the fibula, the tibia. ...*But when you get into soft tissue injuries ... it becomes even HARDER to define. So a lot of times files get sort of get caught, bounced back and forth as they're trying to determine what is the actual diagnosis.....More times than not it's the worker trying to get a diagnosis but a lot of times it's also the Board... saying, "We need a diagnosis so we can start to pay benefits on the system. And it becomes, well -- and soft tissue injuries are a perfect example. Unless there was a... major incident then it becomes an issue of a repetitive strain injury which are harder to prove. The standard becomes higher--and that's where workers get frustrated in the process.....* (Finn, peer helper)

Claire, a return-to-work coordinator, describes similar scenarios of competing medical opinions. In this instance, Claire highlights the role of adjudicators in medical decision-making when she describes how an adjudicator can opt to follow the recommendations of the WSIB specialty clinic rather than a more recent assessment of the workers' doctor. Although the specialty clinic may have assessed the worker, a family doctor may better understand the context of the workers' particular

situation as they will have been following the workers' progress over time. In any case, these situations can have an adverse impact on the worker:

Something else that was a hurdle that I ran into was... they'd be cleared for [type of] work... but they'd go and maybe have some problems and still be in pain. So then the clients would go to their family doctor and the family doctor would then produce a note saying, "No work".....Usually...[the WSIB] would say to me, "We sent them to the specialty clinic for a reason. The specialist said they're cleared, that's what we're going with". (Claire, return-to-work coordinator)

This issue of fully understanding the worker's situation was raised regularly by workers. Injured workers spoke often about problems that arise when decisions are made about a worker's condition when the specialist healthcare provider has only a quick, 'snapshot' view of a condition. For instance, Brian describes how a specialist appeared to arrive at a superficial assessment of his condition. Brian believes that his "two minute" appointments could not establish an understanding of his pain, especially as the pain was masked by opiate medication he had taken in order to manage the drive to the physician appointment:

Took a couple of Percocets to get me in, so when I get in there, none of them ever really check me, they just talk to me, same as you and I are doing now, they sent her a letter saying "Well, we really didn't see any discomfort in Mr.[name], we think everything's fine, he's good to go." So what I was supposed to do was not take any Percocets, go up there with my crutches, or my canes, and be half dead. And another thing is, I seen the doctor for two minutes, and then they stuck me back in this room for half an hour, and then somebody'd come along and shuffle me off to see another doctor, for another two minutes. (Brian, injured worker)

Gideon also draws attention to problematic assessments by doctors who "don't know me." He feels that WSIB medical assessments can be used in order to arrive at diagnoses convenient to the WSIB:

Other doctors, they don't know me. So it's their opinions. And I guess that's what the Board tries to do is find something that a doctor may say. He may not have the total knowledge either, but it's just something he says and then they hold that -- and then they say, "This is what this doctor says, now you have to--" {Gideon's rep} then has to go back and pull out all this other stuff and say, "Look, this is just one opinion, that he's not experienced enough with this client to, to know this." So, and that's where I come back, again, to where they try to stop this, eh? And that's it, that's the machine. (Gideon, injured worker)

Harry also had difficulties with a specialist who, he believes, did not assess him fully with the result that he received a diagnosis that made him ineligible for WSIB benefits. In this situation, Harry's adjudicator was not amenable to further specialist opinion. This question of more or fewer medical assessments is problematic, as assessments can appear to be used for claim closure rather than truth-seeking :

So when I told that to my family doctor, *he said, "That doesn't make any sense....You can't make any...statement like this without MRI, X-rays and blood work."* So I went on my own...for blood work, these two years in a row, and they

came out nil, I had no arthritis. *So I went back to the specialist...and I had my paper in my hand, and I said, Dr. {specialist}, "You know, you sent a paper to compensation that I have arthritis, but I don't have it".....He looked at it, he looked at me and he grabbed the paper out of my hand, very, not politely... He said, "You have arthritis, that's all there is to it!"* And I said, "How can you say that when I have paper to prove, blood work, MRI and everything." He said, "I don't care about that.".... He says, "You have arthritis, everybody has arthritis, that's all there is to it."I saw [family doctor] again, and told him what happened, and ... he said, "... he shouldn't be doing stuff like this, without having proper procedure." And I said, "Dr. {specialist} said that's not the first time he's done this." "Well," he said, "don't go there anymore." *So that's when all the problems started. Because he done this, send that paper to compensation, denying me: you have arthritis, we don't pay for arthritis.* So I tried all kinds of ways to change his, their mind and everything. The adjudicator, I talked to her, I send letter to her, and the family doctor send a letter to her. She said, "I'm not changing my mind, that's all there is. This doctor says you have arthritis, that's all there is to it, we're not paying for you." (Harry, injured worker)

The weight of family physician understandings versus specialist assessments is addressed by Dana, a medical specialist. She believes that, in the context of multiple possible assessments of a situation, adjudicators will pay greater attention to a specialist opinion:

One of the other challenges is there's 600 adjudicators at the Board, so... even though..though there may be a policy around things, the reality is you have 600 *potential interpretations* of that. I think in general a *specialist opinion would be kind of listened to more than family physicians*. For the workers, that's sometimes an issue because they would say, "But the family doctor knows me, they understand the issue, they know me, you know, I was with the specialist for thirty minutes." They don't understand it, so from a worker perspective it doesn't seem fair or appropriate. But from an expertise perspective, it would seem appropriate that you would kind of use the specialist opinion. So I think kind of family physicians-specialists then...the specialist would usually be the opinion that was listened to. (Dana, occupational health physician)

What this highlights is that both family doctor AND specialist assessments may be incomplete. Their assessments may be used by WSIB decision-makers as competing opinions when, in fact, they may simply be partial pictures. A more thoughtful approach would be to have greater communication among all parties so that each sees some of the other's picture. While the file review process at the WSIB may be established for this purpose of a full review of all medical reports, there are also inherent weaknesses in reviews of a worker's situation by a physician who has not met the worker. Participants raised the problem of medical decisions being made about workers' conditions by physicians who have not met the worker and do not have the full history:

[Workers] get correspondence where supposedly a physician at WSIB has worked out their claim, but that physician has never set eyes on that person, does not get the full history. (Dana, occupational health physician)

Finn describes how communication and understanding about a workers' health problem can become distorted by the time it is reviewed by a WSIB physician. The health problem becomes "somebody reviewing somebody else's research who's...reviewed somebody else's research ". He argues that

the 'paper review' process is fundamentally abstracted from the original situation and therefore distorted and cannot draw accurate solutions:

Also the problem of the paper review as a way of resolving these diagnoses....What automatically happens is then the Board staff person makes the diagnosis and...he or she may have never, ever seen the patient.... On the file and say, "Well, I, based on all the symptoms and everything, I think it's this." So sometimes their diagnosis will match one or the other or sometimes it'll be something totally different than anybody else... And where you get really complicated is....where you have somebody reviewing somebody else's research who's...reviewed somebody else's research and they're now drawing conclusion. Because you're not going back to the core material. In fact what you're doing is you're looking at somebody else's information. And those, THOSE are where I find them frustrating because it's easy for them to get sent off onto a wild tangent that's nowhere NEAR what's going on. (Finn, peer helper)

As pointed out by Peter, a worker legal advisor, reviews-at-a-distance WSIB physicians can result in a health condition being misunderstood and the wrong questions being asked of a file. A result is that a worker's benefits are cut:

I got a ton of reports from a number of specialists, her family doctor, physiotherapist, everybody in the world including a {type} specialist, right. So the Board doctor, when I finally got the file, says, "Well....she can't [move joint] beyond...a certain amount, and with that amount of muscle then she can certainly [function]." Claim denied. *But that wasn't the point. The point was that [moving joint] beyond an hour is her problem.Well, you see, they never addressed that.* They simply said, we think she can [function], because our study shows that if you can [move joint] x number of inches, you'll be able to [function]! Well, *they...conveniently misstated what the issue was.* (Mark, worker legal advisor)

Conflicting medical opinions

Disputes about the healthcare needs of a worker can extend to issues of an individual's freedom of choice. For instance, Patricia describes how her benefits were cut off when she decided to accept her doctor's recommendation of surgery:

Once the physio was done again, then Dr. [X] sent me to...see Dr. [Y], and it was Dr. [Y] who...said, "No this is not good enough, we have to...do some more surgery." So then compensation said, "Well, we're not accepting this. We're not letting you have this surgery." And...it was like well, "I'm sorry, but it's going to be done." Because I'm...taking my health into my own hands. And they said, "Well, we're not going to agree to this."So...finally [after the intervention of a lawyer]...the claim was reinstated again....It was horrid! It's just a horrid, horrid thing. ...It's a wonder I didn't end up in [psychiatric hospital]... with having to deal with WSIB, the doctors, everything, just everything.....They're [WSIB] very uncompassionate.... I don't think they have medical training! I really don't. I think it's just a nurse or something like that, because an orthopedic surgeon has got more training than just these nurses do, who still say, "Yes, we agree to this or we agree to that", or "No, we don't understand this"....It's just...very confusing. (Patricia, injured worker)

Jennifer explains that workers can be 'between a rock and a hard place' when there are conflicting opinions between WSIB and the health care provider, with the adjudicator making medical decisions.

If the worker follows the adjudicator's advice, the doctor is reluctant to continue treatment. If the worker follows the doctor's advice, he or she can be considered noncompliant:

Sometimes the adjudicator will say, "Well, you don't really need OxyContin, you can do with Tylenol Extra Strength or something, or Tylenol 3," ...But the doctor has prescribed this....and it's really hard for somebody non-medical to be saying, "You shouldn't have this or you shouldn't have that or you should do something else." *I think the biggest problem is they're going to their doctor, their doctor's advising them of what to do and what they want and...then Comp is saying, "Well, this is what you should be doing."* So...what do they do? They have to go to their doctor to get stuff, they're not doing what their doctor says, *the doctor says, "You're not doing what I'm telling you to do, why are you coming back?"* You know? (Jennifer, peer helper)

According to Anita, lay people, such as injured workers can misunderstand medical diagnoses. They may believe they are getting conflicting diagnoses when they are in fact receiving different medical terms for the same condition.

I think sometimes we actually, as clinicians...you know, family doctors, physiotherapists, chiropractors, specialists. I think sometimes we contribute to the problem. And that's a kind of a hard one to present to clinicians, but we have done that. ...We have a large medical staff at our organization, and I've presented to them. This is part of our injury management strategy, trying to get everybody on the same page, we present to our own physiotherapists....Basically... when an individual injured worker receives any type of a conflicting diagnosis or opinion, even if it's not actually conflicting but the providers have used language that sounds different? Which happens a lot. You know, someone might say, oh, you have osteoarthritis of your spine, somebody else might say you've got degenerative disc disease, or degenerative changes. *The layperson thinks, well, I've just received two very different opinions, when they're exactly the same, in fact.* (Anita, physiotherapist)

Other participants point out that miscommunications about medical diagnoses do not occur only among injured workers and health care providers. Miscommunications also occur between the WSIB and health care providers, and these can create problems for workers' claims. For instance, Peter, a paralegal, describes how physicians and the WSIB can use different diagnostic categories, resulting in a worker's claim for compensation becoming delayed and complicated. He points out that some WSIB decision-makers are using diagnostic categories that are out of date and therefore unlike those being used by physicians:

They [WSIB] list the diagnostic categories they'll accept. Now I've had adjudicators say, we can't accept this claim, because Dr so and so has offered a diagnosis, it's not the policy. Well, the psychiatrist tells me that *they're basing themselves on like a twenty-year-old listing in the diagnostic categories that are no longer used by the medical profession anymore.* So of course, no doctor is ever going to come up with those, but the Board won't revise it, you know. That's just an example.When they deal with the, with the non-economic loss stuff, they go by the AMA [American Medical Association] guidelines, third edition...which is out of print and unavailable. (Peter, worker legal advisor)

Cameron also describes how problems can arise when there appear to be inconsistencies between an employer's report of an accident and the health care provider's report. He explains that in the

context of different relationships workers do not describe their health problem in exactly the same detail to the employer and to the health care provider. This can result in a mismatch between forms filed to WSIB by employers and by health care workers that do not “coincide exactly”, with the result being problems with a worker’s claim:

I think those that have problems are the ones that right from the get-go are not being dealt with properly in terms of reporting it immediately to your supervisor, seeing your doctor immediately, ensuring that what you’ve told your employer, how things happened, *coincides exactly* the way you’ve described it to your health care provider and exactly the way you’re going to write it up.... When there’s inconsistencies between way things are reported, then that becomes an issue of delaying....And when you do report....oftentimes, for whatever reason....the employer’s view of how it happened may be completely different than how the employee saw things, and that oftentimes leads to delay. (Cameron, chiropractor)

Terry, a worker legal advisor, suggests that inconsistencies may arise because the workers can be intimidated by doctors in general and therefore not relate the “full story.” That is, workers can “tense up” and behave passively (responding to questions) rather than actively (asking questions, offering information) when interacting with a physician:

Oftentimes workers don't relate the full story to the doctors because a lot of them just are intimidated by those in the medical profession. They almost feel hesitant or shy or embarrassed to be relating the details of an injury....Others, you know, no end of complaints from them, but they're still... in a doctor's office and they almost tense up and I ask them, "Why didn't you mention that to the doctor about this particular aspect of your injury or your problems?" "Oh, well, the doctor was busy and his waiting room was full." And, you know, I think the doctor's the key to the claim...going smoothly in the beginning. If the doctor doesn't get the right history, the reporting, then it's a nightmare right from the beginning. So much is dependent on the initial history being correct and consistent, that if you can't get that right it creates problems ALL the way down the road. (Terry, worker legal advisor)

Doctor assessment of RTW-readiness over-ruled by WSIB

Conflicts between the WSIB and health care providers also occur when doctors fill out the functional abilities form with the expectation that their advice that the worker is not ready to return to work will be followed. However, the functional ability forms can be re-interpreted by WSIB decision-makers in ways not anticipated by some doctors with the result that the worker does return to work:

They've got these functional abilities forms...we have these case examples where there's happens to be a little blank space over here and the doctor has written, "Cannot return to work at this time."...But they've gone and checked off all the boxes, unfortunately, *so the claims adjudicator says, "Well, they've checked off all their abilities here, therefore they can do these things, if the company has something for them."* And any company can come up with anything that fits anything. Right? ...So, they ignore the medical statement by the doctor and just go for this.... Supposedly....[the] form...allows the doctor to say, "Should not, cannot return to work at this time". But even that gets challenged. It's, what do you mean by "cannot return to work"? I mean, it's incredible, the injured workers...said to me....if the worker can go to the doctor's office, they can go to work. That is like a quote that

somehow it must be in their [WSIB] training. Because...so many of them [adjudicators] say it: "if they can go to the doctor's office, they can go to work." (Fay, community worker legal advisor)

When doctor's recommendations about the timing or pace of a worker's return to work are not followed by the employer or backed up by the adjudicator, a worker can be left in a very difficult position. Their doctor-- the health expert who knows the worker's health situation--appears to be over-ruled by non-health experts who do not have a close understanding of the worker's health.

Adequate and full communication among parties may offer a better solution than the practice of "over-ruling". For instance, in the following case, Marie's doctor was at odds with her employer and the WSIB about whether Marie was able to return to work. A satisfactory solution was arrived at when Marie had a mediation meeting with key parties present (including a worker representative present in order to ensure Marie didn't feel bullied) and this meeting resulted in the arrangement of modified work that made sense to Marie and was approved by Marie's doctor:

Workman's Comp makes sure that it's all ergonomically safe and stuff, and she said that after therapy... I could come back. *But the doctor didn't agree. Right? So then we had a fight. So they had a mediation meeting.* So before all of this, I'm like, "what am I going to do?"....They said, they want me to work now...they kind of put the pressure on.... So I didn't understand, so I guess the problem must have been the doctor wasn't sending me back to work, [but] they wanted me to start now... Sometimes, you don't even know what your rights are, or what you should do.*[If rep wasn't present at the mediation meeting]...I would have went into that meeting totally bullied, afraid of losing my job and not knowing what my rights were, and I mean what would have changed? I would have went back to work like they said, but I may have ended up being pushed into high capacity and being off again. She made sure I wasn't because of that.* (Marie, injured worker)

Health care practitioners do not communicate and coordinate

Basic health management and rehabilitation can be confusing when mixed messages are being sent by different doctors. Stella illustrates a key roadblock to claims progress with her account of medical practitioners not coordinating or communicating with each other, or if they are, not communicating clearly with the worker. Stella was left to try to figure out what advice to follow:

I've been doing my exercise bands...I been lifting little cans of soups, but even though my doctor tells me he wants me to start weight lifting and then those guys at the Pain Clinic says I'm not ready to start weight lifting. So I don't know which way, you know, are these guys ...talking with each other? *One says one thing, the other one says the other thing.I asked you guys, "Did you not talk to my doctor, does not my doctor talk to you guys?" They do not reply....*Even my doctor didn't give me[a] complete answer.... I asked these guys... "Well did you ask him? Because he told me to start weight lifting, and you got one, this other {2nd physician - specialist} there, no, no, no, no, no. You're not ready." Now {3rd physician - specialist} is the other one, and {family doctor} is telling me, well, compensation's not extending your treatment, even though he asked. (Stella, injured worker)

Anita suggests that when workers get "a slew of different opinions" they will "go off the tracks":

And then there's the... situation where people...get a whole slew of different opinions, and some of these workers that we see...come and say, you know, "This doctor told me I had this, my physio said I have this, my chiropractor said I have this", and they probably are quite different opinions And I believe as soon as that happens, they go off the tracks. And... it's not even diagnoses, but it's also recommendations around activity and return to work. (Anita, physiotherapist)

While injured workers are described as 'caught in the middle', some service providers feel that the worker also contributes to complexity. This draws attention to the complexity of health recovery when decisions about compensation are intertwined with decisions about the timing of return to work, and again to problems that develop when health care providers do not communicate with each other about a client:

And the other thing... is that, is that oftentimes there's... the issue where I [physiotherapist] tell people that they're ready to go back to work...but then they go back to their physician and tell the physician that they don't want to be back to work, and the physician goes along with it. *So there's the lack of continuity in being on the same page with other health care providers who are, who are involved in the case.* (Cameron, chiropractor)

Doctors avoid WSIB patients

These aspects of physician interaction with WSIB interaction--paper work required, mode of communication, multiple competing assessments, being over-ruled —lead some physicians to avoid any interaction with the WSIB, including accepting workers if they have had a work injury.

Christopher describes how a doctor who was "fed up" with engaging with the WSIB would not treat him:

{Physician} wouldn't listen to me. {Physician} looked right at me and said...."I hate compensation. I don't want to have anything to do with the paperwork." He said, "I'm fed up with all of it".... Because he hated compensation. And he wouldn't do anything. (Christopher, injured worker)

Janice similarly describes physician aversion to dealing with injured workers because of WSIB communication issues. As she explains, this is not simply a problem between physicians and the WSIB—it has serious effects for the effective treatment and claims resolution of workers:

Unfortunately there are a *high level of doctors that just don't even want to deal with WSIB patients....*because of the paperwork and even when they complete the paperwork, their opinions are not always being accepted... which I can imagine would be very frustrating. But not wanting, just refusing to deal with them at all does nothing to help the patient. (Janice, peer helper)

Julie also describes physicians who will simply refuse to communicate with the WSIB. This, she says, becomes a major barrier for successful resolution of a worker's claim:

Sometimes if the family doctor doesn't provide medical information to the Board that is a *HUGE issue* because that's what we base the claim on and all kinds of allowances on....[Problems such as]...doesn't fill out the right form... [or] *some doctors just say, "I won't communicate"* -- I mean, that's not as common but that still happens where they refuse to do it, even though they're not really technically

allowed to. Or they wouldn't take phone calls from the nurse...even if we'd make the effort... They're too busy. So... if that happened that'd be a major barrier. (Julie, nurse case manager)

Some health care providers deter injured workers from using their services by referring them on to other clinics, or by telling them that there is a long waiting list:

There's a number of physiotherapy clinics that won't accept Workman's Comp ... or tell them that we have another month waiting list or so forth and so on because they don't want to go through the paperwork and the hassle. (Cameron, chiropractor)

Other physicians will deter their patients from using WSIB. When Jesse was ill after a chemical exposure, his doctor advised that he seek Employment Insurance rather than "force a WSIB claim." The physician may have wanted to avoid bureaucratic interaction with WSIB, or may have been trying to help Jesse avoid the complex and at times difficult WSIB claims' process. In this situation, Jesse was not recovering so he began the WSIB process after a delayed start, complicating the process of ascertaining sufficient proof for WSIB decision-makers. All of this contributed to a complex and delayed claim:

When I left work [after a chemical exposure]... I thought I was having a heart attack.... I just couldn't catch my wind. ... And so *on my doctor's advice, rather than forcing the WSIB claim, I ended up going the EI illness route.* And now fundamentally, WSIB won't talk to me until I get a specialist's diagnosis. And to that extent, I'm being held prisoner by my general practitioner because I can't get a diagnosis without seeing a specialist and it becomes a real catch-22 [because]...it's taken five months [to get a specialist appointment]. (Jesse, injured worker)

An outcome of these difficult WSIB-physician interactions can be that WSIB will be unable to make a positive decision on a worker's entitlement and the worker will not receive benefits. As described by Mario, the result of these administrative and communication roadblocks is further suffering experienced by a worker who is often injured, in pain and unable to work.

If a worker all of a sudden now has to go take this 20 page report that says that they're going to recover, go to their GP and have the GP comment on the 20 page report...What do you think's going to happen? *What do you think the GPs going to do? "I don't got time to do that." That's it. What happens? Worker's cut off, benefits stop. Now all of a sudden maybe the worker -- if it lasts maybe a couple of weeks you get them back on benefits it's okay, but if it's a month, two months, then....other problems start to happen.* (Mario, health and safety union representative)

Walk-in clinics not aligned with WSIB requirements

When health care practitioners will not accept injured workers as patients, or when workers live in regions where there are family doctor shortages, they will often seek treatment in walk-in clinics. In the context of WSIB requirements for proof, several problems arise with walk-in clinics. Most likely, they will not have a medical history for the worker. As well, they are not set up for WSIB reporting requirements.

When a worker sees anyone but a family doctor this can lead to problems with a compensation claim:

I fought with doctors who didn't fill out the reports properly. The original doctor that I went to didn't fill out my report properly. *WSIB had a problem with the fact that MY doctor wasn't available*, he was gone for three months. (Theresa, injured worker)

Janice suggests that reports from workers who have used walk-in clinics are not "given much credit" by WSIB decision-makers:

The lack of doctors in this area means they're [injured workers] going to urgent care. And...the Board, whether they'll admit it or not, they view reports from urgent care clinics...very poorly. They don't give them very much credit...which doesn't {sighs} doesn't help the worker at all. (Janice, peer helper)

A lack of a medical history can complicate entitlement decisions as WSIB decision-makers cannot establish clarity about the health incident. As John explains, the care process in walk-in clinics may conflict with the continuity of care required to substantiate a claim:

A lot of young workers don't even have family physicians so they use these walk-in clinics which are absolutely useless for the Board...because the...way that the doctors...keep documentation there, it's not like, you know, they're not family doctors. They're just people that walk in. So they have files but...for Worker's Compensation you have to establish continuity so you've got to PROVE that there was an accident, PROVE that you've got a disability, there's got to be a DIAGNOSIS and very often doctors don't like to make diagnoses at these walk-in clinics.And then you've got to do month-by-month or every two week reports and...a lot of these places don't like doing that. (John, peer helper)

Julie, a nurse case manager, similarly describes how physicians at walk-in clinics may not be able to provide the detailed medical information required by WSIB:

It's pretty difficult right now in most areas right now to find a new doctor...so they would go to walk-in clinics....And then...so getting the right information, their medical information, not only getting it but getting it detailed enough to meet what the Board needs...that's another issue. Like being clear about...can they work, can they not.... so the doctor understanding what they need to put down on the form. (Julie, nurse case manager)

Inadequate worker access to healthcare

Access to health care creates problems for injured workers' claims and RTW progress. As mentioned, workers who have no choice but to use walk-in clinics can experience particular problems with entitlement. Other access issues that create claims problems for workers relate to geography. In non-urban areas, workers can experience long waiting times for diagnoses and access to medical care.

Benny describes two-month waiting periods to access the family doctor in his northern region:

It's terrible, as far as that goes, access to medical care. You go in and try to make

an appointment with the doctor, you're lucky to get one within six weeks, or two months..... There's just not enough doctors to go around. (Benny, injured worker)

Alex describes shortages also in Southern Ontario, but these relate to specialists rather than to family physicians. He describes specialist waits as long as one year:

And the bad part about our region down here [Ontario South]...[is] we are so understaffed when it comes to specialists. If I want to go see an orthopedic surgeon, I'm looking ten to twelve months down the road. To get in. (Alex, peer helper)

Benny, a Northern worker, describes how he drives for five hours to visit his medical specialist every three months. Finn, a Northern peer helper, describes long drives for medical care as common, and as having a negative health impact on workers:

Regarding access to health care, *in the country you have to come into the city*. You may have to drive to see a specialist. In northern Ontario it's not unusual to have somebody leave [town] in the morning because they have an appointment in the afternoon to see the specialist and then they drive BACK home. *And if you have somebody with sitting problems, I've seen those days...become a 12 hour day which then wipes them out for two or three days after that...*Whereas in the city, you drive to the specialists' office, you drive back home it's all done. So it's just a totally different type of environment. ...That's one of the challenges, accessing specialists... and it's not just in northern Ontario. It's in rural communities all over. (Finn, peer helper)

Ronald also describes physician access as a particular problem in the North. He describes how waiting times for medical care can result in entitlement decisions being made without full medical findings, with the result that a worker is cut off for lack of proof. The proof, however, is at the end of a waiting list:

Lack of services, especially with medical services. ...it can at times take two to two and a half months to see your family doctor. ... The other thing is MRIs can take six months. I just had a woman that it took her two years to get to see the specialist and when he saw her he said, "You can't work!" He said, "You can't work, you need surgery, and even then you probably wouldn't be able to work". In the meantime, the Board has cut her off for non-cooperation because she couldn't sit and do the training that they wanted. And she complained and complained and they said she was being uncooperative. And they hadn't even given her an MRI. So the specialist ordered the MRI and when it came back...there's a problem with every disk. (Ronald, peer helper)

Janice also describes workers not receiving benefits because of waiting times for medical information:

Perhaps the doctor hasn't filed stuff properly or quickly enough...or if they're waiting for objective testing to come back or even to...have an MRI or a scan of some kind, there's these wait times with every part of the process. And I know in some claims adjudicators do need that information in order to keep benefits going but...*a lot of workers find themselves cut off in that process if the information isn't there. And then when it does come available, sometimes that will turn things around and for other people it's still a matter of appeal, depending on what the issue is.* (Janice, peer helper)

Related to a lack of access to medical care is a lack of choice. Rural workers have few options when they are faced with a physician who offers inadequate care, or when a second opinion is required. Also, as physiotherapist and clinic manager Anita explains, urban centres are more likely than rural ones to offer the most up-to-date treatments:

If you have access to a larger centre... you are maybe more likely to receive evidence-based care. If you're in a rural area... I think it's a hit and miss situation. I think you may also have to go to a clinic where the provider has not remained current, doesn't have access to... a university influence... so I do think...the geographical location of where the injured worker lives, probably has some impact on the type of care they can access or even whether or not they can access care.
(Anita, physiotherapist)

Summary- health care process problems that affect return to work

Overall, a great deal of time and cooperation is required for adequate healthcare provision to injured workers, and there are many systemic weak spots that can contribute to the failure of workers to return to work or to the labour market. Physicians may not understand the logic of forms required by WSIB, and the time required, together with the inadequate compensation, are a deterrent to providing the sort of detailed information required by WSIB decision-makers. Problems can occur when physicians' recommended treatments are not approved for payment, and when the WSIB requires multiple assessments in order to establish entitlement proof. Physicians and peer helpers complained that physician diagnoses and recovery recommendations are "second-guessed" and "over-ruled" by WSIB decision-makers and suggested this creates a lack of motivation for physicians to interact with the WSIB. Participants noted that health care providers will regularly avoid patients who are clients of the WSIB. A problem with multiple assessments used by WSIB decision-makers is that each assessor may use different diagnostic terms and each have only a partial understanding of the worker's situation and it is therefore possible no one report is most accurate. The "paper review" of a worker's file does not resolve this problem as these abstracted reviews of medical reports (that, as noted, are often incomplete) are far removed from the immediate reality and understanding of the worker's situation.

Another health care process problem that affected the smooth RTW progress for workers relates to the shortage of physicians. Many workers do not have family doctors and must use walk-in clinics. These clinics, in turn, will not have a medical history for the worker (that may be required for 'proof' of injury work-relatedness) and busy physicians may have a particular reluctance to engage in detailed WSIB reporting requirements. Health care access is also a problem in non-urban areas where there can be long waiting times for medical care and long difficult journeys to specialists in cities.

3.4 RTW Problems with How WSIB Interacts with Workers

This section addresses RTW roadblocks relating to how workers interact with decision-makers at the WSIB. These kinds of roadblocks involve communication pathways that are incomplete and therefore possibly misleading, bureaucratic processes that involve damaging waiting times for workers, issues around WSIB decision-maker transparency and accountability, and problems related to worker understanding of forms and processes.

“No face to WSIB”—lack of direct contact

The participants in this study referred repeatedly to difficulties associated with the communication distance between injured workers and decision-makers at the WSIB. As stated by Dana, an occupational health physician, there appears to be “no face” to the WSIB. She suggests that this lack of direct contact makes it “very easy” to deny claims:

One of the main, major complaints that workers that I've dealt with have is that there is no face to WSIB.... They've [WSIB physicians] totally removed themselves from the interaction with the worker. And I think it makes it very easy for them to say that your claim's been denied. (Dana, occupational health physician)

As was shown in the above sections in relation to “paper reviews,” quick specialist assessments and improper modified work, a lack of injured worker access to critical claim decision-makers—the adjudicators—can lead to incomplete, biased communications. Many of the workers interviewed felt they did not have a fair chance to explain their case to their claims adjudicator. As Karl explains, just knowing that the adjudicator had heard his story directly from him would make him feel the process was fairer:

The doctor they talk to me. And their psychologist come talk to me and take time to do everything. *Adjudicator never come and talk to me. I wanted to talk to her. I want to explain to her....* I'd like to have a meeting with her to explain to her everything what is there. I don't care if she give me [compensation] or not, but--So I just put my load down anyway, you know. *So I feel better so make sure she knows anyway. And.. never get a chance.* (Karl, injured worker)

Similarly, Nadine felt that she was not able to communicate fully with her adjudicator when this took place by letter or telephone. As Nadine did not speak English as a first language and so had a language barrier, she felt the need to just “sit down and talk” in order to have a fairer chance of being heard and understood. Telephone and paper communication can be particularly inadequate when a worker cannot “speak and write English the way I want to”:

I mean, I sit down and talk to you now. You know me [because we are face-to-face]. But how can I sit down and talk to somebody on the phone. How can the adjudicator adjudicate my paper, if I'm right or not. You only met me on paper. To me is wrong. ... The person should be sit down and talk to, and then adjudicated. Because lot of thing I wish I knew how to speak English and write English the way I want to. I would have put it down. OK. But since language barrier, by talking to you, even if I don't say the right word in the right way, you understand what I'm trying to say to you. But

you know, but by phone like that...it's much harder, and you know, and being a professional, trained for that job, they [adjudicators] should be able to tell different cases. That's the way I would look at it. (Nadine, injured worker)

Anne complains that decisions were made about her situation without proper consultation with her, and without providing her with proper formal communication and documentation. She has been reluctant to complain about this because she fears being “nailed for non-cooperation”:

Now between [time frame] he had contacted [LMR Provider] and put my LMR through. With no regard to my [ongoing injury problems]. *I haven't gotten a letter to this day. ...When they make a decision, it has to be followed up with a written letter to both parties. There's been nothing sent.* And I heard through...the grapevine that if I...I don't participate and put on a smile, that *they're going to nail me for non-cooperation.* (Anne, peer helper)

Mark, who experienced problems with the modified work provided by his employer, feels that his return-to-work situation would have been better understood if his WSIB decision-makers had met with him and not only his employer when they made a workplace visit:

The lady who was working with me from the Board, she was supposed to... develop a... plan whereby that myself, her, a representative for the Board and my employer would come together and have a meeting so that she can see the work I did prior to my injury. *But...it started without me and they finish without me {I small chuckle} so... I didn't get to actually tell her and show her the job I actually did. So I don't know what they told her.* (Mark, injured worker)

Esther also feels that her claim entitlement decision would have been different if her adjudicator had a less abstracted, more grounded understanding of her situation and work:

It was that they couldn't believe that I'd be stupid enough, I guess, to climb up that ladder. What was I doing up there! Why did I do that? Why did I fall? How did I fall? I mean how can you explain that. I was up there cleaning! That's my job! If they tell me, well, paint the roof outside, I would have. ...That was my job! So they couldn't understand, they couldn't understand what, you know, "What are you doing, why did you do something silly like that?" I mean we never had unions, we never had rules....if it has to be done, it has to be done. ...They didn't believe that I had various problems, that was caused from it happening at WORK. (Esther, injured worker)

Fay, a community worker legal advisor, suggests that face-to-face contact between injured workers and adjudicators could improve communication and decision-making because it would “slow things down” and allow for “eye contact.” This aspect of the adjudication pace at claim entitlement decision-making stages may be critical to understanding how claims' problems develop over time:

[Face-to-face contact]... would help to make the system less bureaucratic. Because if you are, it would slow things down. If you're going to have face to face, you've got to have more claims adjudicators handling claims...It would make for better decisions, because it would slow things down....and they would be more thoughtful decisions, because there's the time for eye contact to explore what the worker's situations is and what's happening. (Fay, community worker legal advisor)

More adjudicator time to communicate with and understand workers' situations would help the compensation claims process. Julie, a nurse case manager, describes how a worker's level of pain can lead to an inability to absorb explanations about rights and obligations and how the system works. From her perspective, health issues need to be understood and also validated before a worker is ready to engage with information about the workers' compensation process:

Even a good adjudicator explaining very nicely what, you know, what the role of the system is... it's still difficult if someone's not able to be rational.... Like if they're in pain... so ...if you HAVE a talk with a nurse and you can get all that stuff flushed out first...So they completely feel validated about where they're at in their health care and that somebody does care, THEN you explain to them how the system works, they can receive it a lot better. (Julie, nurse case manager)

The need for better worker contact with WSIB decision-makers is echoed by Lori, an occupational health physician, who also refers to workers' inability to absorb WSIB process information immediately after an injury. She suggests that some problems faced by workers are the result of WSIB providers being "time pressured" and unable to adequately "sit and go through things" with workers.

I think time with the provider [is a problem]. The [WSIB] providers are all time pressured....and, I think... there's good....evidence that patients...hear...very little of what you actually say to them. So... if providers had more time to sit and go through things, and...have a chance to kind of comesay a week later to...talk about it again, to answer any questions....If there's a partner or somebody else that can be with the person, to hear the things, to actually ask questions, that type of thing. So I think, I think, the provider can have a helpful role in that.the Board has recognized it has communication challenges, but there's still something, I think, in not talking to [the worker]....it's always been done by voice mail, stuff like that, not actually talking to a person. ... I think those issues have been recognized, but I don't think they always follow through. (Lori, occupational health physician)

If WSIB decision-makers had more time to communicate with workers, they might also be able to manage or avoid situations that create frustration and anger in workers. Currently, the distance the WSIB maintains from injured workers may contribute to adjudicators responding poorly to upset injured workers, and in a way that may cause increased distress to workers. Janice explains that workers who are not communicating calmly can be shunned by adjudicators when instead some time needs to be taken to understand what may be causing the worker's anger or frustration:

And the amount of workers that we see who are depressed or they're just having such a negative reaction to their situation. *And, and the Board can SEE this yet they, they don't offer assistance is very, very frustrating.* Like if you have a, a very hostile worker, there's probably something going on that's causing that hostility. But what the Board will do, they will just refuse -- *ifa hostile worker calls up an adjudicator and is threatening in any way over the phone because they're frustrated, the response is, well then the adjudicator won't speak to the worker any more.* Rather than perhaps try to find them some help or talk to the worker's doctor, talk about perhaps...encouraging counseling or seeing a psychologist or something. But they, the Board, especially *when they see these issues, in my opinion, their response is to,*

to just back away from it completely. (Janice, peer helper)

Excessive waiting times

The issue of time is relevant to claim complexity in different ways. While participants have identified the need for more direct contact and more time between WSIB decision-makers and injured workers, they also draw attention to the hazards associated with taking too much time to arrive at entitlement decisions. At stake is the issue of timeliness: more communication time may be needed at the start of a claim in order to ensure that all details of the situation are understood, and a faster pace may be needed after that so that workers do not suffer the many effects of “being in limbo” and of having no income.

A key problem for participants with prolonged claims was long waiting times for decisions about entitlement. For instance, Jesse suggests adjudicators have a poor understanding of the consequences for workers of long waiting times for determination decisions. He suggests there is “no real accountability to the worker by anyone in the system” and describes the effect of these waiting times on the worker and his or her family as “criminal”. He suggests that these waiting times would not be tolerated in any other system that has accountability to the public:

And unfortunately... there is no real accountability to the worker by anyone in the system. The doctor, as well-intentioned as they may be, they're telling you what's right for you. Everyone else, all of the ministries, they have their own...agendas and fiefdoms, and it... I'm afraid I'm very capitalistic in that sense, and... if I had had to hire anyone that I've been involved with so far, from my own doctor to WSIB to Labour to Environment, to anybody, I probably wouldn't hire any of them. Because they're just, there's no sense of urgency, no sense of responsibility. The last person they're responsible to is John Q. Public... I am just so frustrated by this system. I just don't see why it needs to be so....Why is it that we can have a guy down for a year and a half and he still does not definitively know what happened to him. I'm saying that if our system can't ... give you the answer within three months, maybe at ten weeks, we put that guy on a plane and we send him to the Mayo clinic, if that's what we have to do. It's just, it's criminal not to, in a sense, when I think what it does to his family. ... If your roads were icy in the winter and we had to go through a process similar to this to decide when we're going to put sand or salt on the road, we'd never get it. You know, it would never happen. By the time we got the permission, we'd be dumping sand and salt on the road in July. (Jesse, injured worker)

Jesse describes injured worker waiting times as a symptom of bureaucratic inefficiency. He compares the WSIB decision-making pace with the criminal trial system, and notes that even criminals have the right to an expedient trial. Jesse goes further to explain the psychological impact on workers of being “in limbo”:

When I see a circumstance like this develop, I can very, very easily see why people go postal. Like it's just criminal. ...There's the requirement that a criminal get a fair timely expedient trial. We don't have that as an injured worker. I've only been off five months. I've probably got eighteen inches of paper. So I figure it takes about

three inches of paper a month to be ill, you know. I wouldn't even want to begin to count the number of phone calls I've had to make.They've got people in limbo for twenty years. You tell me what information they're going come up with after twenty years, if Revenue Canada can't even chase you that far back, you know? (Jesse, injured worker)

The financial ramifications of excessive delays were mentioned again and again by participants. Cameron, a chiropractor and clinic manager, describes the delay of not knowing if a worker is entitled to benefits as “one of the biggest issues” for workers. This delay constitutes a significant “financial risk” for workers:

I think probably one of the biggest issues is the *delay of finding out whether or not their claim has been accepted*. To me I think not knowing, and with the *financial risk associated with not knowing*, I think that's one of the issues...that they are facing is this delay of not knowing of whether or not the claim has been accepted. Probably be, I would say....one of the issues. (Cameron, chiropractor)

This issue of financial risk is also mentioned by Janice, who points out that having to wait for any period of time for compensation can pose significant hardship on workers who live from paycheque to paycheque and have no savings:

The financial hardship... that even claims that are straightforward actually that ARE being processed in accordance and with the guidelines and...the expected timeframes of the Board, but for people, most people can't live without a paycheque. You know, *they're living paycheque to paycheque to begin with. So right from day one they're already falling behind and just the stress of that builds*. (Janice, peer helper)

Alex describes the “big gap” between an accident and receiving the first compensation cheque that makes some workers unable to pay for basics like food and a mortgage:

Well, the biggest complaint is the length of time to be adjudicated. Because there's a big gap between payroll ending at the employer and the entitlement and checks being issued by the WSIB. And sometimes it's quite a big gap...[until] receiving the first check...Four to six weeks and even longer....[And the worker needs] money for the mortgage, money for food, money for the kids. All that stuff. (Alex, peer helper)

Some basic entitlement decisions appear to extend beyond even the difficulties associated with ‘normal’ time limits. Marie describes her difficult experience waiting “months” for a WSIB decision while having no income:

When you go off on Workman's Comp...the first thing you do is, you don't get any money. And *you go months, weeks*. It was like, I mean, when I would call [representative] and [representative] would get onto them and like, "Hey, come on, it's been so long," and...she'd go, "You know, *they haven't decided*." And it was the same thing, same issue. And I found when she called, they would move. I would finally get *stressed* and then I would call [representative] and she would call them, I'd get answers. (Marie, injured worker)

Eddie also refers to “delays” with compensation cheques and the financial impact this has on day-to-day living:

Sometimes, they delay your pay...You know that it's good that you have food in the house still something to eat. You know, they [WSIB] don't think of that. They just give you your cheque, you know. It's so hard. I didn't know that this would happen to me. I have a little saving but it's...nothing. ... It's very hard. Very, very hard. (Eddie, injured worker)

Nadine describes how being laid off at Christmas time appeared to delay her WSIB entitlement decision:

They [ultimately] accepted my claim. *The reason is they wasn't sure around Christmas and when they didn't accept.... they were not sure, I was cut off paying!....*The [workplace] was paying me like workman comp...and then you got three months see if they accept your claim. If they don't accept your claim, you have to go on unemployment insurance....to cover you until the thing is straighten out. So two, three weeks before Christmas, they [workplace] cut me off because they didn't know if I was accepted or not... (Nadine, injured worker)

Ben, a human resources director at a large firm, explains that delays leading to financial hardship rarely have a benign effect on the worker. A delay, even if fully compensated at a later date, can lead to poverty, indebtedness, and also psychological trauma:

And it doesn't matter whether the WSIB accepts the claim four months down the road and pays all the money then. I mean if you've already incurred debts or used your credit cards or whatever, you know, now you're sort of caught in a bit of a spin cycle that goes, "Holy geez. Now I, you know, on top of the injury now I'm" -- [Broke] As I said {small laugh} there's a lot of psycho-social parts that come into this and - "Now I've got to worry about, gee I've got no money. I've just lost my credit rating." You know, ALL those sorts of things. (Ben, human resources director)

Dana further suggests that long WSIB “diagnostic investigations” become “an ethical issue” because they can exacerbate health problems such as leading to continued exposure to the disease-causing environment:

*If anything, they enhance the disease process by prolonging diagnosis investigations....*Especially with working with occupational diseases, there's such of delay for Compensation to accept the claim. And, a lot of the cases...*the whole idea is you want them to be accommodated away from the exposure as quickly as possible. But if it takes you...a year, couple years to get the claim accepted, it's really an ethical issue whether or not you allow that worker to keep working.* My own feeling is, is that there has to be a mechanism in place that that worker's protected as soon as the claim is launched. (Dana, occupational health physician)

Fred suggests that institutions governing the WSIB allow for inadequate accountability processes.

And you know, they have a problem where they're not accountable. Yes, they're accountable to the Ministry of Labor, but you know what? *They set their own policies,* and with the Harris government, if you go back that far, they changed the way the WCAT worked. *The final appeals process, the final tribunal, where it used to be independent of the Board, now it's part of the Board.... What message does that send? So, we've got that problem, and I'd like to see back to an independent Board*

that could order and make the Board pay up, regardless of what the Board thought their policies were. *Because now they have to stay within their policies. Who writes the policies? Who approves their policy? Them!* (Fred, manager occupational health clinic)

Fred further suggests that the waiting period associated with appeals leads to uneven worker access to WSIB resources. This is because many workers simply cannot afford the wait for an appeals hearing, and so they must abandon their claim and seek support with other systems or return to some form of employment without having accessed their compensation rights via the WSIB. An additional consequence of workers' inability to afford the wait for an appeal is that, if the workers' health problem flares again, there is no recognised record of this problem:

Once we get into this process, there's no system that says, "Okay, we're going to fund this until we figure it out"....You're on your own until we figure it out, is the way the system works. And that in itself...dissuades a lot of people from challenging claims...And then it [the health problem] reoccurs worse, and the Board will say, "Well, we didn't hear about this, why didn't you challenge this?" and so, their own rules come up against them. So when a person is in an appeal process, they're not being compensated. ...On the whole, if they've denied you, you're getting nothing for that period of time. (Fred, manager occupational health clinic)

In general, excessive waiting times for entitlement decisions affect not only workers' mental health, but also their financial and family situations. Dana, an occupational health physician, explains how administrative procedures such as waiting times for decisions to be made about entitlement can mean that workers, and their families, are without an income until the work-relatedness of a problem is fully established. This system, which is focused on establishing the correct payee (i.e. WSIB or OHIP) for the medical bills, can be "very devastating" for workers whose identity is created through work and whose family will also suffer due to lack of income. Dana suggests a "more universal type of system" may alleviate some strain from workers:

It's very devastating on the worker. Often work...describes who we are and what we are in our community. So when you're injured, a significant part of who you are has been affected. And it puts a lot of strain on... family dynamics. ...Some workers in some of the companies have the option of [temporary funds] until their claim is accepted. So at least they have some money coming in. Other workers have absolutely nothing, and either they start going on medical employment insurance, that takes a delay, so financially...it's significant impact on the family. And so when you've got the financial problem in addition to coping with an injury or a disease, you're really putting a lot of stressors on the families. I mean I would love to see more of a universal type of system that you know, if you have to be off from work, that something kicks in until it's decided whether it's not work related or not. But you just don't leave that person without anything. (Dana, occupational health physician)

Entitlement decisions—multiple assessments and weighing work and other exposures

Dana's reference to a more universal type of system that could fund workers even when the work-relatedness of an injury is unclear is relevant to the following examples of problems related to

workers being sent for multiple medical assessments for decisions to be made about whether their health condition is caused by work or lifestyle.

Workers who are sent by WSIB for multiple medical assessments are visiting the health care practitioners for assessments rather than for care and this can be frustrating for workers, especially when the assessments appear to be ongoing and inconclusive. This can lead workers to be apprehensive about the usefulness of any further WSIB care or assessments:

The people we're seeing in this [specialty] clinic are those that aren't succeeding. And by the time we see them, they {sighs} sort of share their perceptions that people don't believe them, people don't trust them, they don't think they're trying. There's a lot of sort of back and forth communication between an adjudicator and them and the nurse case manager and them, and now they've got to come and have this other assessment with us when they've been assessed three or four times already. You know so there's that whole...system issue where maybe the injured worker doesn't really appreciate or value what we're trying to do for them. They see it more as a challenging them and not believing that they have a problem that...warrants being away from work. (Anita, physiotherapist)

This feeling of being assessed or evaluated (an administrative orientation) rather than being treated or cared for (a therapeutic orientation) is frustrating to workers who become exhausted and frustrated by a process that appears to some to be oriented to finding an explanation for the denial of benefits:

That's what their job was. It was never to fix me. It was just, "Get him evaluated and get him out of here." That's, that was the point of it. So I got the four percent ... there. The ten percent came strictly out of just my negotiating, sending like tons of doc -- like going through my whole history of... their doctors, pulling out stuff that related to a positive for me, because all their doctors said these things. They just seemed to want to BURY all that stuff and, and say, "No," right? (Gideon, injured worker)

A problem related to assessments and entitlement decisions is that, as mentioned by Barbara, an occupational health nurse, an aging population is inevitably affected by a number of health problems:

Well, I think sometimes the age, like I do say we're an aging population, and ... some of the stuff we're seeing now is totally complicated, because the person is having a normal aging or they're aging, but they also may be overweight....But looking at pre-existing conditions like diabetes and a large number of people that used to smoke, or it's decreasing, but they're still out there. (Barbara, occupational health nurse)

The work-vs-'not work' attribution issue becomes complex when a worker's disease could be attributed both to a work exposure and to lifestyle. Benny, a worker who smoked, complains that WSIB attributed his lung damage mostly to his personal habit rather than to asbestos exposure.

Like, you can have some in you and not cause any great damage for 30, 40 years, eh? As your body wears down, it just takes more effect...and the quantity I had, I gotta admit, the quantity I had, I'd probably live with, fine and dandy. But with the smoking, I'd have probably lived fine and dandy. But I couldn't have both, eh. I smoked, and I had that [exposure], too. And they say...all my damage is from

smoking. Yeah, they said okay, you got 15% asbestos damage, but the reason why you can't work is because of all your smoking. (Benny, injured worker)

Harry has a similar problem, but in his case in relation to musculoskeletal damage:

They keep saying that it didn't happen at work... but the doctors have proven it, and there's other people at work... [with the] same problem! Same problem they have, back problems, hand problem, shoulder, and, they call it...rotator cuff. They have to have an operation. The same thing is happened with me, even though they started younger than I am, but the doctor says some people get affected faster than others. "Some...may never be bothered doing the kind of work", and he said, "But in your case, it bothered you, that's all there is to it". Your body couldn't take it! So he said, "That's not your fault. It's the type of work you've done." But he says, "You've done your share." (Harry, injured worker)

Kate complains that after she had a work accident, the WSIB focus was on a newly discovered non-compensable health problem with the result that her accident was disregarded:

But through all this they discovered that I had scoliosis and I was born with scoliosis. I never knew nothing about the scoliosis till I had the accident, they started taking ah, CAT scans and all this stuff....But Compensation somehow, "Oh, scoliosis, it's not a work injury at all, it's related to the scoliosis." See? Now this is why all, everything is confusing. And the last four years now, this is what I've had to fight with these on this. And I'm still fighting it today.....It is the work accident is my problem. (Kate, injured worker)

The complexity of blaming a health problem on normal versus excessive bodily wear and tear is shown in Peter's account of differing ideas about degenerative disc disease. A lack of clarity on this issue stalls workers claims:

They just say, that's the only reason you have degenerative disk disease is aging. And aging is what? It's wear and tear, right? So if you have a heavy job, you have excess wear and tear, right? But the Tribunal has granted like thousands of decisions that favors them, of course, work didn't cause that, right? ... I've won one case on that...[a worker] said his work clearly caused the degenerative disc disease on his neck. But the vast majority of them [adjudicators] will simply refuse.... Adjudicator says we don't compensate for wear and tear. Now that's wrong! (Peter, worker legal advisor)

RTW or LMR plans don't accommodate secondary health problems

Although attribution of a work injury to work versus 'non work' exposure is problematic, a lack of recognition and consideration of non-accident health problems is also an issue. As Edith explains, the ability of an injured worker to progress in a LMR program depends on consideration of entire body, and not just, for instance, a back:

Well, if you have a person with diabetes, hypertension, eyesight, hearing, but the only injury for the worker is a back, when the worker gets in LMR, right, *it really affects your ability to progress*, because they could be on several different types of medications, for all of those things.... How can you go if you don't have a hearing aid, how can you go sit in a classroom and hear properly? Or how can you be trained for a field where it requires phone use? (Edith, peer helper)

Charles, a LMR provider, adds that regardless of whether a health problem is compensable, the “real life” return to work requires consideration of a person’s overall ability:

We'll see files where they have things that are not compensable.... I tend to always wonder, well if we're supposed to consider their capabilities for work, non compensable to me MEANS they're not compensated for that specific problem. If someone has a back injury, ok? And they come to us and say, "You know what? I have a problem with my left foot, and I can't stand for more than an hour." That's not compensable, but it's still...an issue when it comes to return to work. Right? In real life, isn't it? It is. I mean, are we supposed to disregard it? (Charles, LMR provider)

Barbara, an occupational health nurse, also refers to the reality that, when a workers life is derailed by an injury, other problems can follow and these problems require consideration in RTW plans:

We're no different than the average, you know, the community. ... I mean we've got about ten percent that have either problems with substance abuse... Often times the condition was there, but now that they've been off work.... If they've had a pre-existing condition along that way before, *it may have been in control, but now because they're off, they're allowed that more time to run into difficulties.* And that's the area that I tend to spend a lot of my time is with substance abuse and marital issues and those kinds of things. (Barbara, occupational health nurse, large firm)

WSIB transparency and accountability

The issue of WSIB transparency was raised as a topic by participants. Peter, a worker legal advisor, explains the difficulties he has had with accessing information from WSIB about how financial calculations are made. As he explains, it is difficult to understand WSIB decisions when the calculation behind the decision is not shared among all parties:

The one thing I have a very hard time doing...[is] the *financial calculations*. Particularly when there's an arrears award.... When a person...wins an appeal and an entitlement goes back to 1981, or 93 or there's a question of the cost of living or certain, the Board will not give you-- *I've asked for it numerous times, the computer figures or models they're using when they calculate that.* And so it's very hard for me to do a proper calculation [to see] if getting paid or repaid the right amount. Now I press and I ask and I push and I demand and I send memos, and *often the adjudicators say they don't understand it themselves, right? So they tell me what the payment department has said, but they will not allow access to the payment department.* I try to call them up, because...I thought they were wrong on how they calculated it. But they won't allow me access, and you don't have their...formulae. (Peter, worker legal advisor)

Other service providers interviewed similarly explain their frustration with the lack of explanation or clear rationale for WSIB decisions. For instance, Lori was not able to ascertain why a worker, who could not return to work, was considered ineligible for retraining:

And then another thing which...even I at times find challenges with and certainly other providers do, is who is eligible for labor market re-entry. So, I mean, if we're seeing somebody who has a really bad dermatitis who absolutely cannot go back to the type of work they are doing--the type of work, not just the workplace...And for whatever reason they're not eligible. So that's completely...confusing to us all because they can't go back, but the Board's not willing to retrain them. So why won't

they retrain them? There's obviously a reason, but it's not clear to us. (Lori, occupational health physician)

Other problems with WSIB communication occur when entitlement decisions are reversed, but a worker does not understand the basis for this decision. For instance, Sebastian had written approval from his adjudicator for twenty-four physiotherapy visits. He began this treatment, and was then informed that approval for the physiotherapy was withdrawn. This WSIB miscommunication left Sebastian personally liable for the initial treatments he had based on the understanding that WSIB would foot the bill. Essentially, Sebastian learned that even written communications were not reliable:

Twenty-four they approve. Twenty-four visits. And you saw [from this document I am showing you that at the end they say, "We are not paying for that. You see? ... How can you rely on people like that? ...It's like a game for them? ... Here I am dying of pain and you're the doctor calling me, "Sebastian, guess what? I've got good news for you. Come over here, right now", you know. What a relief. And then I go, and when I finish he send them the bill, "Oh, by the way, we change our mind, now." No explanation required.The Board can change their mind right away like they did with my treatment. Okay, right away they send you a letter, okay, "You're not entitled to more benefits", you're out, that's it. Just out of the blue like that. (Sebastian, injured worker)

The reasons behind WSIB decisions, for instance to approve or deny entitlements, become increasingly less clear to workers when the rationale for changed decisions is not clarified for workers. Karl describes how his benefits were stopped, started, and stopped again, and how he did not understand why:

I went to my MPP...explained to my MPP and say that's what is going on, my injury is there, all my doctor reports are there, I don't know why they're stopping my money, they're not paying me at all. He wrote a letter to them. They start paying me again. [I: Did they ever explain why they had stopped?] No. They never do that. And they start paying me again, then after a while they cut me off again. (Karl, injured worker)

WSIB decisions seem to workers to be arbitrary and unfair when an injury claim is initially accepted by WSIB but as the claim progresses the worker's disability is recognized by another system, such as Canada Pension Plan, and ultimately not by the WSIB:

We did the rehabilitation and they were sending me around, looking for work. They said, the best thing you can do is let the employers know up front, you have [disability]- - So, then, they [employers] would just look at me, "Sorry we have nothing," "Sorry we have nothing." At the point that some people down at the Compensation board were saying to me, well, "I'm sure you can find something to do without the use of your hands." I said, "help me find it. I haven't been able to find anything like that." ...[so her benefits were cut]...They kept saying that I could go back to work... Now, in the meantime, I have been approved for the federal disability, the Canada pension. So, now, I was trying to get them to explain to me: why is it that, if the Canadian government says, "Yes..you are disabled," the provincial government is telling me, "No, you are not." So, they were saying to me, "it's entirely

two different things." That was their answer to me. (Sophia, peer helper)

Related to accountability and transparency is what seems to be inconsistent treatment of workers. Ben, a human resources director at a large firm, complains that two workers with a similar problem will be treated differently by adjudicators and that it is only 'at the next level' of appeals that greater consistency is achieved:

I know that WSIB has a difficult job. I mean it's, it's always easier sitting on the other side, but I've had cases where there's almost two similar circumstances and one person will get benefits and the next one won't. And you kind of go, like "I don't understand... what's the rationale?" Well, you know, *different adjudicators will look at it differently. So...what we'll tell them is we'll take it to the next level and chances are it's going to go through* and that, in situations like that. (Ben, human resources director)

Participants complained that WSIB decision-makers don't appear to be held accountable for their decisions. Paul explains that adjudicator decisions are not simply cut-and-dry financial decisions. Rather, these decisions have real and potentially devastating impact on workers' lives:

Well it's obviously broken the way it is right now. I think that... the compensation board and the adjudicators themselves need to be held responsible for the decisions that they make. Because...you didn't just wreck something of mine, you've ruined me. *It's not like an insurance company, "We wrecked his car we'll put a fender on it that's used and paint it and call it good."* No, that's not what we're talking about here. (Paul, injured worker)

Eddie similarly complains that WSIB decision-makers do not seem to understand the ways that their decisions can change not only a worker's life but also that of his family:

The administration of the Worker Safety Insurance Board don't see the injured person as anything other than the physical injury aspect. *They don't or either they're not trained to understand that...that this is a person whose life has changed completely. It not only affects the worker, it affects his family. And...it's not just the physical injury, it's the emotional, psychological well-being of the persons that's been injured. And it's a life changing event*, you know, for serious injuries. I think that... because of that aspect, they could probably do well to have a little bit more training, if you will, to understand the whole situation, rather than just the injury, which stops the person from working. (Eddie, peer helper)

The issue of WSIB decision-maker accountability is also raised by Terry, who suggests that some injured workers may face particular problems because they are interacting with an adjudicator who "maybe shouldn't be doing the job anymore."

And, you know ... there's certain adjudicators unfortunately maybe shouldn't be doing the adjudication job anymore. It becomes apparent to us because we see all these people coming in with these decisions and *certain names come up time and time again* and you wonder... isn't there some sort of internal screening process at the Board where you're taking a look at your own staff and their decision allowance rate and saying, "Geez, this person's decisions are getting overturned at the appeal level. Why aren't we doing something about getting this person more training, putting

them into another job where they can't be so harmful to injured workers?" And I'm thinking of certain individuals right now that I've had to deal with, well, because they've got a certain outlook on life that they make people's lives miserable that have to deal with them. (Terry, worker legal advisor)

Workers lack knowledge and literacy to understand forms, paperwork, and process

A lack of knowledge, education and English literacy in relation to WSIB forms and requirements was related to many complications. Stella, an English-speaking injured worker with a low level of education, found herself "fumbling" through WSIB requirements:

Pamphlet or steps, or whatever, you know, for someone like me. I didn't know, I'm just fumbling my way through what I don't even know what I'm going through. Basically, I'm fumbling. (Stella, injured worker)

Stella describes how she signed papers but did not understand what she was signing:

So I... showed her the paperwork...I don't know what paper she photocopied anyways. And then she's, sign here, sign here, sign here, sign this, sign this, sign this. ...Like I'm in pain, still. So I'm signing and on my way home, I'm thinking, maybe I signed something I shouldn't been signing. Maybe, why was she so quick to have me sign and whip all these papers all in my face so fast!Now I don't even know if I'm, if I'm still gonna get a check at the end, because I signed these papers? Whatever, if I sign, three, four, five, something like that? A whole bunch of papers? So maybe I might have signed, you know, where we don't send you a check? *I don't know how that works.* (Stella, injured worker)

Cameron, a health care provider, points out that socio-economic issues in general can be a barrier to successful navigation of the system. Both working class and immigrant workers may not have the skills, language, or abilities to 'fend for themselves' within the WSIB system:

Working class and immigrant workers do not have the skills, language, abilities to fend for themselves and get on the phone with Workman's Comp and stand up for their rights and get all the information, whereas others may not be able to because they're immigrants...they don't know all the rules and their English is not...they don't speak very well... They tend to be the ones that...have difficulty with the language or don't have the education to be able to get all the information that they need. So I think from that perspective, new immigrants and English being an issue, and education may be an issue where they may not be able to read all the forms and doctors definitely don't have the time to go over things with them. (Cameron, chiropractor)

Workers who do not speak English as a first language and communicate via a son or daughter will, in general, have a difficult time understanding complexities within the WSIB system:

They can't talk, they can't understand the-- they ask a daughter or son, somebody to talk- They don't know all the complexities. The Board says, "No, this is the way it is, this is our policy." Right? And they don't know how to handle it. (Peter, worker legal advisor)

Barbara, an occupational health nurse, also draws attention to language as a barrier to successful navigating of the compensation system. A problem is that even if WSIB has language services, they

still send out forms in English and it can lead to complications for workers which result in their benefits being stopped:

We have a multicultural group of people here...English isn't the first language, so we have interpreters...because sometimes they just don't understand what the [WSIB] process is. Or they don't understand when they get something in the mail they have to fill it out, and if they bring it in, we'll help them fill it out. But sometimes they just say, "Oh, I got that! But I just put in on the table, I never thought about it again".... And then they come in and say, "You know, I haven't heard anything, what's going on, I'm not getting paid," or "I haven't heard back," or that kind of thing. I think it's better now that once they're identified as being off, that they do have a caseworker that they can call and say, "You know what, I've got this, and I'm not sure what I should be doing with it." (Barbara, occupational health nurse)

A lack of English literacy can lead to particular miscommunications between an injured worker and the WSIB. Jason, a workplace psychologist, explains that a lack of literacy can lead some workers to be mislabelled by WSIB decision-makers as resistant or lazy when they may actually have a psychological impairment:

In my experience, some of these people end up getting mislabeled as being resistant or lazy or malingering, and specially when they're misunderstood because of cultural and language issues which then even, makes it harder to test, but it also makes it harder to identify some of these... issues, say, psychological impairments. (Jason, workplace psychologist)

These language miscommunications lead to workers being considered uncooperative. If and when the miscommunication is sorted out, there is then the process of getting a claim restarted and the resulting damage to the worker associated with having gone without an income:

A lot that have immigrated here...they don't really understand what papers they're getting. And a lot of times they aren't reading what they're requested to do. So if they don't send in a report or fill in a form or something then naturally they [WSIB] cease benefits because they're [worker] not cooperating and everything. And they don't realize that maybe it only took a phone call or whatever. So once that happens, then they have to turn around and do a whole bunch of stuff to get it back in [to restart benefits]. (Jennifer, peer helper)

Other miscommunications relate to workers' knowledge that they have a right to appeal decisions they feel are unfair. Finn, a peer helper, explains that workers who do not understand WSIB letters also have a poor understanding of their right to appeal decisions:

In some cases we've had people, in fact, I was talking to a worker this morning...who had an interpreter brought in because his English is somewhat challenged. But I've had kids who interpret for their parents. And so the *illiteracy of not understanding what the letter is*. They get a letter back and if they don't have anybody to go to they don't know whether they should be appealing. They just know, "Well, I didn't paid. They told me I was entitled, [but] I guess I'm not entitled". They don't know that in a lot of cases they ARE entitled, it's just may be a lack of medical information in the file. (Finn, peer helper)

Dana makes this same point that workers who do not understand how and why some injuries are covered by WSIB will also not understand and access the appeals system. This means that they “fall through the safety net.”

And I think most workers don't understand that WSIB is an insurance carrier. They've got this list of accepted things, which they will accept automatically. If you're not under that little list, you're denied. At that level you appeal and that's where you can bring in more information. *Most workers once ...they've been denied...probably don't even feel that they should appeal. Or they can appeal. So the inference, they don't have the information out there as to how the system works....* I think the concept has sort of gone off the rails, in that... *a lot of workers fall through the safety net.* (Dana, occupational health physician)

The potential for miscommunication and misunderstanding may be greater at smaller rather than larger firms. For instance, Barbara works at a large firm and her role involves assisting workers. Workers at smaller firms are unlikely to have this resource. Lori notes that larger workplaces and those with unions may be able to help workers after they are injured, but many workers, such as those in small workplaces, have no supports and can “get lost in the system”:

A compensation advocate becomes important...Some of the larger unions have people that basically do compensation. So those individuals are often very kind of effective in helping the worker navigate through the system. *The worker that's, say, in a non-unionized place...[or] a small workplace, they're the ones that...get totally lost in the system.* They don't understand what they're supposed to do, you know, their time lines to appeal this, do that. (Lori, occupational health physician)

WSIB process complexity means workers need education and representation

Participants pointed out ways that the WSIB system appears to be designed for use by a relatively well-educated and informed worker. As explained by this worker legal advisor, “something is missing” about what to do in the event of a work injury in general worker education. Injured workers are not “informed consumers” about WSIB information services:

So injured workers have to know how to access this information and be told what exists in order for them to become informed consumers of, of the information available to workers. I mean, I think you almost have to get to them before they become injured workers. There's something missing in our educational process out there that... when they're a member of the workforce they're not aware of their rights or what they should be doing once they become injured. (Terry, worker legal advisor)

For instance, workers interviewed did not understand that WSIB operates as an insurance business, and did not cover all work-related injuries. This lack of understanding of the system, and later realisation of the system reality, was frustrating to workers who didn't see the insurance approach as fair.

The first road block is the lack of knowledge.... Many workers assume that if they get hurt there's going to be a system that's automatically going to cover them. That if they say they got hurt at work then it must've happened at work and there won't be any questions with regards to that. That is not reality, most of them don't understand

what the basic rules are. (Finn, peer helper)

Fred, the manager of an occupational health clinic, explains “the system is designed so you really need to have somebody who understands what is going on” and so worker representation is necessary for smooth system functioning. This need for representation increases when an injury is complex or contentious (for instance, not reported by an employer). Unfortunately, as Fred points out, existing representation services for workers aren’t always accessible or timely. The Office of the Worker Adviser can have long waiting lists, and they do not offer services to unionised workers:

Sometimes you don’t get it until you’re well on into it, you don’t even realize that you need an advocate. The system is designed, [so that] you really do need to have somebody who understands what’s going on. But some workers will go through thinking they’re quite capable of doing it, and then come to a huge roadblock and ...so they end up going, “oh, no,” and then they find out the, say the Office of the Worker Adviser, they end up there and its three, six months depending on the case, and there’s a criteria. You can’t be in the union...no-one’s explained the rules to them. (Fred, manager occupational health clinic)

Summary-- RTW problems with how WSIB interacts with workers

Some of the problems experienced by workers with persistent claims can be related to how the WSIB interacts with workers. The lack of direct, face-to-face contact between workers and the main decision-maker on their claim—the adjudicator—was repeatedly raised as problematic. Workers felt that they were not being given a fair ‘hearing’ by their adjudicators and that these decision-makers had only an incomplete understanding of the actuality of their situation. Workers with prolonged claims had experienced frustratingly long delays and excessive waiting periods for decisions about entitlement. These periods of being “in limbo” and without income caused suffering and financial risk to workers. In some cases, the waiting periods could be an “ethical issue” because hazard exposure can continue while decisions are delayed.

The WSIB system that requires proof of work-relatedness of the injury was the backdrop to some delays, and to workers being sent for multiple medical assessments. These visits with physicians could cause stress to workers because they were sent on these healthcare visits for reasons of evaluation rather than care. In some cases, workers found that their personal life became the focus of scrutiny as blame for the health problem was distributed between work and personal exposures. In general, the WSIB system appears to have a difficult time with the issue of how return to work is affected by non-work issues and exposures. Providers argue that a person’s overall capability, including secondary and non-compensable illnesses, need to be taken into consideration if return to work or LMR is to be successful.

Participants raised the issue of WSIB transparency and accountability. Some service providers complained of a lack of clear rationale for some WSIB decision-making. Some workers had no understanding of why their benefits had ceased, or why entitlement decisions had been reversed. It

was particularly perplexing to workers to have their WSIB-related injury accepted as a disability by the CPP and not the WSIB. Participants felt that WSIB decision-makers needed to have a better sense of the impact of their decisions on workers.

Finally, workers had difficulty interacting with the WSIB system when they did not understand the process, forms, and reporting requirements. This was a problem reported across participants, and appeared to be particularly acute among workers with low literacy and workers who did not speak English as a first language. Also, workers without access to a union or a workplace nurse—such as those in small businesses—were identified as likely to have trouble navigating the system.

Any of these problems and miscommunications can result in workers being considered non-cooperative and having their benefits cut. Participants suggested that, in light of the specialised knowledge required to successfully interact with the WSIB's system, RTW process might be enhanced if workers had representation services.

3.5 Effects on Workers of System Process and Dysfunctions

The sections above have detailed the ways that system processes can create problems for workers as they go through the return to work or LMR. What has not been fully described in this report is the impact on the workers of these problems. Here, we describe the relatively invisible, personal, and very significant impact on workers of these process-related problems. We first consider processes that create financial strain and anxiety—such as benefits insecurity and new expenses-- and then describe the effects of poverty—such as losing all one's assets and dreams.

Financial strain and anxiety

The primary problem identified by participants as a result of any of the process problems described above is worker financial strain and anxiety.

Being deemed

In some cases, workers' health conditions (especially pain-related) are poorly understood, with the result that they are 'deemed' to be able to perform tasks that in fact they cannot do. Edith describes the situation of a skilled labourer whose incapacity was not recognised by compensation decision-makers with the result that his benefits were reduced. This worker ultimately committed suicide:

His last job was with the [municipality] and he was hurt there, so he's now in his fifties, has a very bad back injury and has to go off work. Because of the severity of his back injury, WSIB put him in labor market re-entry. Because he is an older worker, he came out low on education. As a result of that, the provider then said, "We'll put you in direct entry maintenance training"....That means sweeping floors, picking up garbage...So now we're dealing with worker's pride. Who doesn't want to sweep a floor. Who is in chronic pain, whose wife had to install a pulley over his bed so he can get in and out. Who can't put his own shoes or socks on. Who complained constantly of the ongoing pain to WSIB. ...He tried a couple of RTW attempts at small [trade] companies in the area. His pride took over, and he would do more than he should have done. It was not successful. *They were decreasing...his money he was getting from the Board, which is what they do. They determine what his salary will do... and in this case, he was going to suffer a fifty to a sixty percent decrease in WSIB benefits.because they said that with his knowledge and his skills, that he would be able to earn X number of dollars, typical of what we see. Well, he couldn't do it. He couldn't do it financially. He couldn't do it physically....He would crawl across the floor sometimes to get a glass of water. This is what his wife lived with. OK. He just walked out in the backyard and shot himself. (Edith, peer helper)*

Kyle relates a similar story of his health problems being poorly understood with the result that his inability to participate in LMR was considered to be 'non cooperation' rather than inability. Kyle was expected to be able to perform LMR while in pain that required codeine medication. He was therefore experiencing severe pain and the codeine affected his ability to concentrate. As a result of Kyle's inability to participate in LMR, his benefits were severely reduced. Because Kyle is unable to

work, he was not able to maintain his home. At the time of the interview he was selling his home and all of his assets in order to survive:

I got deterioration in a few discs in the lower back, well, enough that they should have wrote me off, actually, according to the percentage chart, and I've got other problems that have been arising, numbness and stuff, just can't figure out where it's coming from.....I've had CAT scans done and nothing's been revealing anything, so... and *my adjudicator's not talking to me anymore....*{pause} *Because as of last year...when I just, I couldn't work no more. Like, popping all that codeine a day, I had a hard time staying awake, and, if I had to walk too far, I'd just fall over, you know. And since then, they cut me back on my benefits....They didn't really come up with a total explanation, but they classified as non-cooperation in my LMR program. So, simple example is that, since I aint doing my LMR program, and they say there's not enough medical information telling them that I'm totally disabled. Now - the "totally" word never came into play. It's just, I can't do it. You know, jobs where it used to take me three hours to do, it takes me three days now. So, they cut me back, well, here's the numbers from \$2000 a month to \$700. (Kyle, injured worker)*

Benefits insecurity

In several instances, payments made to workers were revoked following WSIB reassessment of a decision. These apparent bureaucratic errors can wreak havoc in the life of an injured worker. It was not clear to workers why funds had to be repaid and , in any case, workers living on the edge of poverty could easily spend funds as they come in resulting in excessive hardship when WSIB requests repayment. Such WSIB errors in calculation or decision-making may be considered to be a book-keeping issue (simply deduct funds from future payments to the worker) but the actual effect on a worker is greater poverty and hardship as they receive fluctuating funds:

I got my NEL award and then um, they sent me another check, and then... they told me that... they overpaid me [dollar amount], and I had to pay them back. Now I don't see why I had to pay it back. But I had to.They took so much off my check...I think it was a hundred dollars...until it was paid....Maybe it was some doctor...like I had to go for evaluation. And their doctor from....Workers Comp... looked at my file, I guess, and he evaluated what the doctors said here and I guess, he figured that I was overpaid, because, I don't know! (Penny, injured worker)

Another problematic aspect of benefits calculation is the failure to consider inflation with the effect that workers become poorer over time:

There's no increase... There's been... very little increase over the last seven, eight years. It might have gone up, my pension might have gone up....fifteen dollars?... So that's what scares me. Comes age 65, something happens to my wife between now and then, uh, and I lose some of my supplements, I'm gonna lose my CPP disability, I'm gonna be eatin' dog food. (Alex, peer helper)

You need an inflation system that covers...your pension, because that was taken away many years ago. So if... you're making \$200 a month now, this is what you're going to make ten years from now because the way the inflation system works, like there is no raise or no increase into your pay, but everything else goes up. You know, like I mean like from your house taxes to hydro to everything. (Kyle, injured worker)

Financial strain also occurs among high wage-earning workers, as WSIB benefits are capped at a maximum amount. Therefore workers with costs (such as mortgage, car payments) geared to their income can find themselves trying to live on, for instance, one half of their previous income. Such workers can be quickly faced with a stressful situation such as selling assets and the family home or being unable to maintain savings:

There's a ceiling on how much you make.. at Comp. So if you were a big wage earner and your ceiling is X number of dollars and you're used to making triple this X number of dollars, your family don't understand it. Or you're living, you're living...from paycheque to paycheque setting aside maybe some in a RRSP or something, but then you get down to here and it's not there. And you're used to that. It's very hard to go backwards. (Jennifer, peer helper)

Finn points out that it is not unusual for men working in mining or manufacturing to be earning well above the WSIB capped amount, and when they are injured the capped WSIB benefits contribute to immediate strain on their family:

We haven't figured out the stress levels that are on those families, especially if you're coming from the bush, or you're coming from a mine or manufacturing plant, or you're working in a public institution where you're making decent dollars and all of a sudden now you're living on compensation dollars. There's a big drop in that income. And people don't really recognize how big of a drop that is, because you're not getting paid your net. You're getting paid 85 percent of your net. So you have a 15 percent penalty. ..plus [a cap]...We're not counting even the people whose income exceeds 60 thousand....And... if you're looking at somebody coming out of the mining industry right now, the guys who are working mechanical....they're looking at incomes of 80 to 85 thousand, some as high as a hundred. And all of a sudden...a miner who gets hurt who's making a hundred to a hundred and twenty, and now he's living off of an income that...[is] less than half....Now that's a big difference to a hundred and twenty a year. (Finn, peer helper)

Another problem for workers related to how WSIB calculates benefits is the exclusion of regular overtime wages in benefit calculations resulting in reduced worker income. For instance, a worker whose salary is based on a forty thousand dollar annual income can regularly earn sixty thousand dollars with overtime. Alex points out that when workers who do normal and regular overtime are injured, their de facto income is not considered and the result is that they face a sharp drop in living standard, compounded by loss of medication and dental benefits for their family:

When you're an injured worker and you're the only source of [family] income and you're like some guys, they work a lot of hours, lot of overtime, they might pull in \$650 take-home a week. Now on comp, because that 600 and some odd dollars is based on overtime, on a standard forty hours you might only bring home \$300 ... [or] \$350 a week. You can't support a family on \$350 at half the rate you used to do for all the hours you worked. ... and then have no benefits for your family as well....If you're making \$350 a week, you're not even...eligible for welfare. ... So you're caught between a rock and a hard place. (Alex, peer helper)

Workers face new expenses following injury

Being on WSIB brings new (and uncompensated) costs that the worker did not have prior to the injury: lack of health benefits for self and family that a worker had prior to injury, costs of retraining that are not covered by WSIB, costs of services that need to be bought now that the worker is no longer able to do them.

Lack of health benefits contributes to poverty

One of the financial strains that workers experience when on workers' compensation benefits is the loss of comprehensive health benefits coverage. Although benefits are calculated based on the worker's former salary, the benefits calculation fails to consider the financial loss associated with loss of benefits when a worker is no longer employed. This can have a significant financial impact, leaving the worker with ever less income. Karl remarks that benefits calculations appear to assume that injured workers are "super persons" who have no other regular health costs, for example, medication costs related to high blood pressure:

We don't have any more medical coverage or dental or glasses or anything like that, that we used to have at work, that all disappears. Because if you're working, this is a part of your salary...Now I lose all that...*You're injured, you're crippled, but you're a super person [who is not expected to be sick]. That means you don't have blood pressure, you don't have problems with your kidneys, no problems with your heart, no problems with anything in your body.* So whatever medicine I need I have to pay....The money they give me probably just pays for my high blood pressure pills and the water pills that I take, you know, like for myself that I didn't have to pay before. *But they don't see that.* They only cover you for the medicine that is related to your injury, so they will cover me for Tylenol-3, they will cover me for aspirin or Vioxx for rheumatism but they will not cover me for any other medicine that I need to live and survive. (Kyle, injured worker)

Kevin describes how his loss of benefits means no coverage for the new glasses that he needed to work comfortably with the computer he used during his LMR program:

Now you're going insurance company, why is my employer paying your insurance premiums, like the WSIB premiums, and I'm not getting my benefits out of it? I'm not getting everything. My glasses, I need new glasses. I had benefits when I was with them. Nope, sorry. It's all no-no-no-no-no. *So I'm squinting like this at my computer screen and stuff, no, I got to go pay five hundred dollars of my own money to go buy glasses.* Where am I going to pull that out? WSIB doesn't give a shit. They give you what they think you need and then deal with it. It sucks. (Kevin, injured worker)

Karl brings to the fore the issue of how it is not only the injured worker who loses health benefits coverage, but also the rest of his or her family. Also, because his health condition is not recognised by the WSIB, he finds that his WSIB cheque is spent mostly on his own health needs, rather than other living costs:

When I was working, I was getting my dental, I was getting all the medication for whole family covered, everything, glasses, my uniform, everything was covered.

Now what I'm getting? *Only painkiller from Compensation Board, the rest I'm paying from my pocket.* All the pension comes from Compensation Board goes to the pharmacy...They should take over. But they're not doing that. They're covering only the part I got hurt. That. They're giving me only painkiller. (Karl, injured worker)

Alex describes his own descent to poverty after he was laid off by his employer when the employer's employment obligation had expired, and he was on compensation benefits. Alex's lack of comprehensive health care coverage while on workers' compensation means that he had no medication coverage for his high blood pressure that developed. Also, he had no coverage for new teeth, and no coverage for special eye wear he requires as a result of earlier eye surgery. All of these extra health costs cause are stressful for a worker who is already trying to survive on a severely reduced income:

If you get injured, and you're granted entitlement, health care only covers the injury. So, if you're workin' for an employer, and you're past [a time limit], and some employers....they write you off. There's no job for you to come back to. There's supposed to be some obligation for the employer to re-employ for two years, but---. So, *once your benefits are cut off from the employer, you have no benefits, other than the injury related medications.* So... *if all of a sudden you develop high blood pressure, it's coming out of your pocket.* Nobody's gonna pay it....And a lot of people go broke. It comes to the point where either they get medication or feed the kids. Kids come first. So they don't get medicated.... The only thing I have is OHIP. End of story. And my medication for my back.... I just paid \$1,600 for new teeth....And my wife works in [place] so she has no benefits, we have no benefits. ...I had good benefits... And I had the best coverage. 35 cents for prescriptions, all that stuff. Eye glass coverage, I've had eye surgery in both my eyes. I've had implants put in both my eyes for cataracts. I was covered. My glasses were always covered, because they classified it as prosthesis.... Now I gotta pay 400...dollars for glasses when these wear out. Out of my own pocket. No longer covered. And I need them because I can't hardly see without them. I never used to wear glasses until my surgery for my eyesI went from fifty thousand dollars a year down to less than ten thousand dollars a year on welfare when the adjudicator cut me off. (Alex, peer helper)

Thus, the overall RTW picture needs to consider how a worker's ability to RTW can be hindered by their poverty, especially when this means that the worker cannot pay for non-injury health needs.

Even when a worker's injury is related to a work accident, problems can arise when he or she is forced to spend personal funds on health treatments that are needed in order to cope with return to work. Sebastian describes how he managed to avoid reliance on heavy pain killer medication, which would have hindered his ability to drive to work, by pursuing alternate remedies. However, when his employer laid him off he could no longer fund his own rehabilitation with the result that his condition deteriorated and, in turn, impacted his ability to pursue other RTW options:

*I'm spending half of my pay cheque every week on treatment, from my own money, to keep on working.....But you [employer] decided that I'm not doing enough..."Let's kick him out.".... Right now, we have no insurance,...so topical ointments...all those things, they relieve you a little bit, right? There is a new thing in there that is a spray for pain that gives you a sense of relief a little bit, but they are expensive. Talking about 30 dollars...for a small thing like that.... That's another problem. You see, *since**

they [employers] lay me off I have no income, I cannot afford any more treatments. Because when I was working, you see, I was trying to avoid the pain killers because you cannot go to work, you cannot drive, taking those heavy painkillers, right?.... I was spending all this money...in different therapies. When they let me go, I had no money for my treatments. So what do you think my health is going after that? (Sebastian, injured worker)

Donna describes how the WSIB funded an initial round of acupuncture treatment but would not pay for continuing treatment. The result is that Donna pays for acupuncture out of her own pocket and only when she can afford it:

He [adjudicator] approved for six treatments of acupressure. And he sent a letter to..[me] stating that they had approved that to help. But that he could no longer pay for my treatments of acupressure because it was a chronic problem. So where does that leave a person? It comes out of your pocket...like if I went once a week to see him, it's \$120 a month I think....So, I go whenever I can afford to go, right? ... Nobody looks for sympathy when you're ill. But a little empathy certainly is proper. But you don't get it from them [WSIB]. You don't get it at all. (Donna, injured worker)

Dana describes a similar situation of workers being forced to fund work-injury related health care they require for return to work. This occupational health physician notes that workers with occupational disease, such as asthma, do not receive compensation payments that cover what the worker needs in order to keep their health condition under control:

When it comes to asthma, if your asthma can be controlled with medications, you don't get a significant amount of financial amount for impairment, because as far as compensation is concerned, you're not really permanently impaired, even though you still have to take puffers and there's difficulties with, you know, future exposures and exacerbations. (Dana, occupational health physician)

In some situations, workers paid for health treatments out of their own funds but did not seek compensation from workers' compensation. For instance, Esther said she "never bothered" WSIB for compensation for her acupuncture treatments. However, this self-funding leads to an incomplete understanding by WSIB of the health care requirements of an injured worker following an injury, and also cuts into an injured worker's meagre income:

When I went on my own I was paying for it....I never bothered the compensation for that. I went to physio and I...had acupuncture. I paid for that. Well, they give you so many free sessions and then, but I paid for that, I thought, well if it's gonna help me, fine then, I could of went back to compensation and said, I didn't want to bother them with little piddly details like that. (Esther, injured worker)

Paying for LMR-related costs

Some workers described how some training related LMR costs contributed to their poverty because they were not funded by WSIB. Kevin describes the costs of paper, pencils and pens. While such costs may appear to be minimal to a decision-maker who lives on a decent salary, they "add up" and can be significant to a low-income person:

We need the resources to educate to move on with our lives but nobody's giving it to

us. They're giving us the course, but they're not supplying us with pens or pencils....Hand out say, pack of pens, okay, two bucks. Add a piece of paper, add all this other stuff, my disks for my school, stuff like that, that *adds all up*. I spent probably \$200 on supplies and stuff. Just so I can, you know, do my school work, write things down, you know, stuff like that. No help from WSIB at all. Nothing. Here's your course here, they paid for it, but that's it.....They didn't buy me any tools for school.....Came out of my own pocket, I asked, no, refused to give you anything. I'm like, 'okay, so you're sending me on a roof like a roofer and give me all sorts of stuff and then you know, but no nails to pull down the job. Like what's going on?' It's take the course or you're basically cut off, go find a job. (Kevin, injured worker)

New costs for services when worker can no longer do things on own

Injured workers face additional 'hidden costs' when, following their injury, they must pay for services that they did not formerly require. Edith describes how workers have new costs related to cutting grass, shovelling snow, cutting wood for a furnace, paying for minor car maintenance:

Workers can't cut their grass anymore. Workers can't shovel snow anymore. They have to hire somebody. They don't get their money back from WSIB.... They can't cut firewood. I have four workers who heated their homes by burning wood. Who got injured at work. They can't do that anymore. Do you know how expensive it is to now heat your house with a furnace? ...They used to do their own repairs of their car. Most workers are men. Most workers did oil changes. Most workers did filter changes.... They can't do that anymore. (Edith, peer helper)

Costs related to representation

Other new costs faced by injured workers are the costs related to representation of their workers' compensation file. As described above, navigating the WSIB system can require specialised knowledge and expertise and, if a worker is faced with a complex situation (any of the many described above), they may seek representation. As the Office of the Worker Adviser is not available to all workers (unionised workers cannot access their services) and there can be a waiting period before representation is available, some workers may feel that they have no option but to seek representation that requires payment. Sebastian was in this position and is resentful that he will have to give his representative a thirty percent payment. However, he felt obliged to pay for a representative because his experience was that WSIB was "refus[ing] to talk" to him, but would listen to a representative :

Why should I pay somebody 30 percent?" That's another thing, eh? Why should you pay somebody 30 percent to handle your files? Look. I am the injured person. ...You know, to me, it's unfair....Why should the Board push you to do that? You are losing already a percentage of your wages when you are injured....And on top of that, you had to pay... between 20 and 30 percent...that they charge....My point with this, okay, I am the injured person...I knew what my injuries are, I knew my file, so why should I pay somebody else? But you know what? It doesn't work that way. You know why? Because they don't communicate with you. How can I get, you know, you to talk to me when you refuse to talk to me. You see? (Sebastian, injured worker)

Paying for a representative can be risky for a worker, as outlined by Charlie, who feels that those injured workers who are desperate can be taken advantage of by someone promising help:

They all have to put money up front [when they hire a lawyer] and very often the person that they're seeing does nothing for them, and they get angry again, and then they say, "Now for another \$1500 we'll continue with your case," and he'll say, "What did you do with the \$2000 I gave you before." See? This sort of thing is happening, and they're all asking for money up front, and then they want a percentage of the settlement....Where do they get the money to do this? Alright, so one of the chaps had to sell a couple of houses and on and on. ... They either liquidate or they have some assets and they have to get rid of, and all of which creates serious problems and creates marital problems as well, because their financial difficulties. They borrow money, they're in debt up to their eyeballs. I had one fellow for example, who was settled, finally, and his lawyer took twenty five percent...It was a successful outcome, he, I think, ended up with a settlement of about \$150,000, but he ended up with \$50,000, because he had all of these debts to pay, the legal fees, and so on. (Charlie, physician)

In sum, financial strain and anxiety were experienced by workers in interaction with several aspects of the compensation process. In some cases, workers were 'deemed' able to work or participate in LMR when their (poorly understood) health conditions did not allow for the possibility of employment. Benefits insecurity was also a problem for workers. In some situations, payment decisions such as revoked payments were confusing to workers and meant hardship. The capping of benefits affected high income earners, such as men in mining or manufacturing, meant difficulties for families that have to quickly adjust to a much-reduced income. Workers also faced new expenses following injury. Workers and their families lost healthcare benefits, and workers had new expenses related to LMR, to services for tasks such as snow clearance and oil changes that they once did on their own. Workers with less-than-straightforward claims also had expenses related to legal advice and representation.

The Effects of Poverty

Financial problems experienced by workers lead, in turn, to mental and physical health problems. Above, we mentioned an extreme of despair and suicide. Here we describe the effects of poverty, ranging from mental health problems, to inability to participate in hobbies, to strained family relations, to suicide.

Loss of homes and savings

When workers have their claims denied, a long waiting process begins with no or little income. Fred observes that many workers overturn negative decisions on appeal, and questions whether denials constitute a financial, cost-saving strategy for WSIB decision-makers. He draws attention to the powerlessness of workers, who have uneven access to information, and to workers' situations of losing their homes and savings during the appeals process:

The part of the problem with that is an individual worker has no clue of the policies of the Board. What they pay, how much they pay, there's the belief that WSIB, to sit on that or to get that remuneration is a free ride, it goes on and on. And I think our society promotes a lot of that. Why aren't you at work? Oh, you're just getting a free ride on Comp, right?Very few people really understand how much is really paid out. Understand the process of going through it...yeah, there are a vast majority of claims that bang, it's an injury, it's six to eight weeks, and you're back to work. But once you get to an occupational disease or, uh, well...for instance, the repetitive strain injuries, it all changes. And, they can generate, they can cost the Board quite a bit, so there's a whole process in it. You know, I've had workers come back to me and say, well, they just denied my RSI. And we've seen a lot of that. *On appeal they win. So is the Board taking the attitude that if a hundred claims come in, they deny them all and only ninety appeal, they've saved on ten?* I mean, that's the impression you get. ...Well, that adds stress on to the worker. Many of them by this time have started *eating into savings*. Some have, are close to *losing their homes*. We see a lot of this. We end up doing, I do some of that financial consulting, which means...financial summary advice, where it says, "Hey, you know maybe you should go to your bank and talk to them about your mortgage, right?" ... See a credit counselor, those type of things. (Fred, manager occupational health clinic)

The housing arrangements of some workers changed drastically. Rabim, for instance, moved his family into a damp basement apartment:

My MPP [Member of Provincial Parliament] did call for me to the WSIB, to help me get, give me some more financial help, because I'm really having serious financial trouble, along with my disease and problems. Like having two kids, and wife, and one is not too much outgoing, and I got only 80% of my income, with two kids, is very hard for me pass a month. And I'm living in a basement to...release the financial burden, but I'm having hard time in the basement, because the... wetness and humidity and light is not good for my health. It's not good for my kids, too. (Rabim, injured worker)

Harry, who is appealing his decision, described how he could barely manage to keep his home: In the meantime, that's not enough money for me to really to survive. I can't fix, the roof here's leaking, I can't put windows in here. You know...the house is old. I can't put no insulation in the house. I heat the house at sixty-four degrees in the winter. This is our heat, my wife and I, this is how we have to live. It's very hard for us to keep up on our bills, you know, electricity, gas and everything, because it's so high. Every time I try to go someplace....they say I'm making too much money....And so I'm stuck like this... I can't do nothing about it. (Harry, injured worker)

Some workers did lose their homes. Alex lost his home and, for a time, lived in a hotel:

I went from fifty thousand dollars a year down to less than ten thousand dollars a year on welfare when the adjudicator cut me off. I made fifty thousand at work in 1988 and that was good money. But I worked a lot of hours, driving truck. Then from there I went on to comp, and that was \$450 every week, that was nine hundred bucks... every two weeks, \$1800 a month, and then went down to less than \$1000 a month when she cut me off. I had to go on Welfare for my family. I lost my home, I lost everything. I lived in {motel}, just down the road here... It was rough. (Alex, peer helper)

Daniel lost of his dream home and acreage and at the time of the interview he lived in a trailer:

I was over the \$90,000 range. ... I'll tell you what kind of an income we used to

have.We had a... double-long trailer bringing in logs to put a log home we designed and which we built... It's still sitting up there, on five acres right on the lake...I had my son [and his education to pay for]. *I almost lost my wife, I almost lost my son, because emotionally, physically, financially...having to change our lifestyle.*We sold the house, sold the boat, the skidoos, the canoe...five acres right on the lake.... [large] home...I'm in a trailer now. (Daniel, injured worker)

Brian, a blue collar worker had spent his life building a hobby farm in the country and at the time of the study was selling the farm:

I'm getting about a thousand bucks a month now. And I could make more than that pumping gas, but, I can't do it [physically]. That's the big thing. It's the little things that nobody even thinks about. My grandson runs up to me, he's three years old, my wife can pick him up, and I can't. And he doesn't understand it. *We have four-wheelers, we have horses, and we're selling all that stuff, 150 acres. Yeah, I did the farm thing, some beef cattle and stuff, you know, I... it's not always the money.... I can't raise my cows anymore, I can't go for horse rides, I...can't even ride my lawnmower, I don't even cut my own grass 90% of the time, y'know?* So, is it about the money, yeah, it's about the money, but it's not always about the money. I would gladly give up the money if you give me my life back. I'll make the money myself, not a problem. I never had a problem doing it before and I'm sure I could do it again. You give me my health back, and I'll take over. (Brian, injured worker)

Mark did not lose a home, but he lost the possibility of ever buying the house he had been saving for. He notes wryly that his cousin who had bought a house in the neighbourhood now owned a quickly appreciating asset. This illustrates workers loss not only of previously owned assets but of the possibility of future assets:

It's very frustrating, you know. It's hard, you know, from going to a hard working person, you know...lived by myself, things going nice, you know? Things falling in place, you know? Buying some stuff, you know... and money coming from the banks for me. Like, "Hey, we're willing to give you this much and that much". You know? ...At the time I was working to save for one more year to go buy a property, 'cause at the time properties were very reasonable. So my cousin, he bought a property just not too far from where I live. So I just wanted to make a...down payment so that I can...carry the mortgage by myself. So I just needed one more year to...accumulate some more. And the banks were there willing to... I go to the bank, they call me, "Sir". So I had a good relationship going on, you know? Get the right things in place, meeting the right people, you know, and then it all just went out the window. ...My cousin, he bought his house...and I was like one year away from getting one, and his house right now is worth over three [times the purchase price]. So like when I go by him and look back to reflect on the past, which I don't like doing very much 'cause it's a lot of pain, I just shake my head and I say to him, "Look, I would've been living beside you. We would've been neighbours." But that wasn't meant to be. (Mark, injured worker)

Loss of provider role, reputation, and family life

Many of the participants referred to the emasculation of combined injury and poverty. The workers are no longer able to earn money, and compensation benefits are threatened or problematic. Injured workers find themselves in a position where they have moved from being a provider rather than a user of resources, and in addition they have lost their livelihood and sense of self-worth:

The damage to their body leads to them just to an *overall damage to the self and image of self and the associated economic toll* that that takes, the lack of earning power, the lack of any HOPE for increased earning power in the future. ...Especially with a lot of the young people we get that they say, "Okay, geez, you know, I had plans beyond working at this gas station, beyond working at this rinky-dink minimum wage job. I wanted to do something with my life. I'm just doing this now to get some money and then go back to school." And they find themselves trapped because of that...And once again, I mean, a person's livelihood is so important to their self image and sense of self-worth that having that taken away from them, having their physical health damaged just is devastating to them and they, they never recover from it. They live their lives as a, you know, pale imitation of what they wanted to be. And I wonder, you know, there's so many people are hostile out there that.. close themselves off from the world because...they're no longer able to comply with our society's, you know, you got to be money in the bank to be successful, you've got to be doing things and acquiring things, accumulating material goods, to be worth anything.(Terry, worker legal advisor)

Samuel, an injured worker peer helper, describes the many ways that men lose their position in their family and community after they suffer a work injury. These workers are not able to get out and socialise, and their families and neighbours can't understand what is wrong with them:

On the family level, and your family appreciates you for the things you contribute to the family. So if the money's down, that's a problem. *If you're hurt and you don't want to go, you know, to the hockey game, cause you can't sit there, it's no good. I can't throw the ball with the kids. You have a hard time bringing the groceries, and then you're sittin' around on the couch, moanin'. What the heck are you contributing around here, bud? You know, I'm sick and tired of hearing this, you know, you're in the way, besides. So you know, your role at work is threatened, your role in the family is threatened.* Lot's of times, people's social grouping is related to work and other workers. You're not at work, you're not connecting, you're not making the dates to go for a beer, to go for dinner, to go to the game, or whatever. So all those things kinda pile up one on top of another. So those are the immediate barriers, and then to maintain money if you can't do that appropriately getting back to work or inappropriately or whatever way, is dealing with the system that is so complex that it's very difficult to understand. And how do you find out? And how do you know what to do, so that you can maintain that income? And honestly, since 1998, when uh, the Tories brought in Bill 99, it changed the system comp, considerably, uh, there's a real kind of mean spirited approach to the law. (Samuel, peer helper)

Paul describes his loss of family life when his children and even his dog have learned not to come to him for play and interaction. He believes that if his claim had not been complex (if his employer had not lied) then he would have received treatment that may have prevented his incapacity:

The company lied. The WSIB sat on their hands and they did NOTHING to help me. In [year] I should have been taken off those tools right then and then I could have had a half a decent life from now on. *When my kid comes home from school and says "Mom, throw the ball for me. Mom, let's play badminton. Mom, I wanna play hockey."* That [they don't ask me] cuts me right to the bone. My dog won't even throw a stick on my foot. He doesn't even know you, you walk out in that yard that dog will have a stick on your foot in 30 seconds for you to throw. But he won't do it for me because he knows I'm never going to throw that stick, right? Things like that. THAT'S what's ruined my life. I want THOSE things back. Let alone never thinking about trying to work day to day to day to day I barely get through what I have to do here. I

want THOSE things back, right? (Paul, injured worker)

Both men and women had provider roles that they were not able to fulfil following work injury. In traditional families, women can have extreme difficulties when they are unable to provide by maintaining the home. Lori describes a woman whose injury required that her mother move in with the family:

Definite impact on their family...in several ways. First there's economically. If they're not, if they're not...earning a salary, and if they're being denied benefits, there's a huge economic piece. So I mean, who's supporting the family? And we certainly see people, and it's a real challenge for us, who, literally don't have anything, you know, "I basically have a week's worth of money left. What am I going to do?" And it's just, it's just a horrendous heartbreaking problem. And, again, there's no real good place in this system that says, OK, you need to go here, these are the three ultimate sources, you know, that might be able to find you some money. ... I can give you a very real example. A woman with bad hand dermatitis. Traditional family. And as part of her hand dermatitis, because everything irritated her hands, she couldn't do housework. All of that was a problem. *So in a traditional family, that became a huge family issue. So her mother basically had to come and stay with them.* They had little kids....The husband didn't see his role as...doing the dishes and doing the housework and that. So big, big strain. (Lori, occupational health physician)

Theresa describes how her injury meant that pressure was put on her children and her marriage, as she was unable to earn and income and her daughter had to pick up chores. In addition, Theresa's medication affected her ability to interact with her family:

That was really hard. It caused strain on my marriage because of the financial burden. It caused strain with the children because I was on medication and I couldn't do a lot around the house....I was on medication, I usually slept most of the time. There were arguments around finances, and the children couldn't do things they were used to doing because the funds weren't there. My daughter had to pick up a lot of the chores that I would normally do.... She was 16 at the time...My grandson was less than a year old and I couldn't hold him. (Theresa, injured worker)

Edith describes the effect on families of work injury and poverty. Injured workers who have had to sell all their assets, such as homes and cottages, also lose those times and places that brought their family together. She describes children being taken out of university, and marital break-ups:

Yes, lot of breakups... More than I ever care to admit. No communication. Even if they stay together as a family, they don't sit down and eat together anymore. I've seen families where kids have been enrolled in university and because of the loss of income they've had to pull the kid out of university and put him in community college. I've seen cases where the guy worked all his life and has a family cottage, which everybody enjoys, and they've had to sell the family cottage and give that up. They can no longer afford to pay the taxes on two. Do you have any idea what that does to all those other things? Workers who can no longer sit in a boat and fish. Just can't do it. So it's the 16 hour thing. WSIB is only worried about eight [working day] hours. That's really unfortunate, but you know what, there's 16, there's 24 hours in a day and that injury affects the other 16. Affects your capability of when they can get treatment, affects their capability of everything. (Edith, peer helper)

Finn explains that injury and poverty put a strain on any relationship, and many relationships fail when the income is no longer coming in:

I think the biggest thing is it's really hard on the families and you see a lot of marital breakups, a lot of common law spouse relationships that just break up. And the reason is they were used to living at a certain level of income. Now all of a sudden Jane or Joe can no longer provide that income to the family and that becomes a big issue. And we do see a LOT. It really takes people with good, solid marriages, with people who are prepared to work through the bad, to be successful. But anybody who has a permanent impairment who is going through long-term re-training, those marriages are really, really, in a delicate balance. (Finn, peer helper)

Relationships fail because of poverty and strained lifestyle, and also because of inability to continue marital relations. Edith describes how pain and related medications affect social relations and sexual ability:

Here's how complicated morph is to workers. They go down, they're depressed because they're on the pill, so they're getting' lorazepam to pick 'em up, right? Then they have to take a stool softener for the other end of their body, because now they only can't pass their bowels, they can't make a bowel movement. But it's OK to go to work and live like this for the rest of your life. Now you can't shit, you can't get happy, you're higher than a kite, you shouldn't be driving.... morphine affects their erectile dysfunction, too. ..Mental health wise...It's a fact that they can't bowl anymore....they can't play darts anymore. They can't hunt anymore. The injury impacts them mentally...they can't have sex anymore. It affects 'em in so many other areas that are not work related. (Edith, peer helper)

Karl was unable to send his two older children to university. The youngest child has had time to prepare for a lack of parental support and is working to save money for university:

I bought that brand new house. After two weeks I got hurt. Have very high mortgage on the house and couldn't afford to do it. Then...my wife had to do a lot of work, put in twelve hours, seven days a week at work. And that's the way we survived for a while..... I cry all day because I lose a lot of money. Because that time I used to make close to \$40,000 a year. ...I put a lot of hours in, lot of overtime, lot of piece work I put in, everything what I could, could do it..... And I was dying, like with the pain plus the thinking whatever is going on in my house, I was working making that much money and now I got nothing at all. I got three kids, I was thinking to raise my kids, I want to sent them to university, everything is gone, everything. It's all finished for me. My three kids they...now big, I want to send them to university, two of them didn't make it because I had no money. The third one, he's trying to work and went to university. I don't know how long he's going to go. (Karl, injured worker)

Sebastian describes how his daughter's dreams of attending law school were dashed by his injury and poverty. Instead, his daughter attends collage and is training to be a legal office administrator:

We have to eat, we have to pay the bills. Why should I put my family, you know, in so much suffering.... Put your family, your kids, you know, my daughter, she suffer a lot because, you know, she have dreams....She went from dreaming this to realistically. She wanted to go to university, you know, for law school and guess what? I get the boot one day before she graduated from high school. I get the boot. [You get laid off] That's right. That week, a couple of days before graduation time. So we have dreams where, you know, to apply for university, for law school....What she end up doing is

going to college, you know, for a, for an office, a legal office administrator. To work with lawyers, okay? Still, you try to be one, you going to be their assistant.She knew I was making good money, my wife, she was making -- we were okay. Right? We can afford that. We said, "You know what?...Make sure in the school you're doing good, and that's all we need." But everything just...change everything. So she suffered, too, you know. And then she had to get, now she had to start working more and more, right? [To help you out] Exactly right. (Sebastian, injured worker)

Eddie also refers to the diminishing of his children's chances for higher education when he had to tell them that they were "on their own" for tuition:

A lot of us, uh, you know, life changes, you know. I was cut back to about one third of my earnings....I had to downsize to about half of what we were used to. You know, the kids, I had to let them know that they were going to be on their own for college tuition and different things like that. There's a lot of tough things you know that you had to adhere to. (Eddie, peer helper)

Turning to welfare

Workers who ran out of savings and loans while fighting decisions made about their claim had to turn to welfare. This option was a difficult choice for workers who were, in the first instance, fighting for their rights with compensation:

[When workers appeal an entitlement decision] They lose their houses. They use their bank accounts and they go on Welfare...Or they go to their community or their family....And then they have debts like mad.We'll tell them. Look, you CAN go and get UI or you CAN go on Welfare. It will not forfeit your, see they won't ...they think that they're forfeiting their entitlement to comp if they go on one of these other things that they don't have a right to, because it's a compensation claim....Other people won't go on Welfare because they say..."I'm not a Welfare person! I'm not going to go on Welfare." And they just won't. And then others do, because they're just, they're driven to it. (Fay, community worker legal advisor)

When workers did go on welfare, they did so because they had no other choice. Although they may believe that they should not have to be placed in this situation, realism dictates the need to pay rent and live:

So I don't have the Board on MY side now, so I'm to the point where, like, I still have my life to carry on...So I got to deal with the, like my living situation, my money situation....I had to go on welfare just to be able to get by....And *I was on welfare* and then...they saw me, they put me on...Ontario Disability Support Program. So I ended up on that and they were asking me, "How come the Board never help you in any way?" Because in my condition they should've been helping me all along.... And they [WSIB] paid me for 11 months, so there's no doubts about that. So I found that to be strange. Now they're asking me how come they [WSIB] didn't help ME, but I'm saying to THEM, "Well, *I have a problem but in the meantime I still need to be able to pay my rent*. At least have some sort of money to help myself out". So it was like, like one guy told me, "Man, you're like a rock in a hard place". And that's exactly what it is. *The rock in a hard place*. You have a problem, you have a REAL problem, but it's just on x-rays -- I don't know what they're reading or how they're reading it. But I think there's something there but it's just they're not reading it the right way....*All I can say is that I'm a human being, I'm alive, I'm here in front of you*. (Mark, injured worker)

Workers who were fortunate enough to have relatives willing to offer financial assistance could manage some of their compensation experience. For instance, Penny went on welfare, and also had some support from her family:

My husband wasn't working. And I had to go on welfare for about a year. And I didn't want to do that, but I had to. I tried to look for a job, but what can I do? I can't scrub walls, I can't, you know, so I had to go on....It was really, really tough, yeah. Good thing my family helped me out. Cause you don't get very much money from there. And you're not used to that. I didn't have a car, I didn't have nothing. It was devastating. Really depressing. But we made it, you know. And my family helped me. ...It made me be very sad sometimes... I would sometimes sit and cry. (Penny, injured worker)

Greg's family relied on his wife's inheritance:

My income went from \$75,000 a year to \$17,000. ...My wife has a mother who has a little bit of money, not much, what she has done is give my wife her inheritance, slowly but surely, and then basically provided us free rent since that point in time....I have two daughters, one's 18 now, not living at home, and one's 12. So...there's all of the costs that are involved with young women, as well as my wife, and myself. It hasn't been fun, it hasn't been fun. (Greg, injured worker)

A critical effect of waiting while appealing a decision is the loss of goodwill from loaning institutions, including banks where a worker's credit rating can be downgraded:

And it doesn't matter whether the WSIB accepts the claim four months down the road and pays all the money then. I mean if you've already incurred debts or used your credit cards or whatever, you know, now you're sort of caught in a bit of a spin cycle that goes, "Holy geez. Now I, you know, on top of the injury now... I've got to worry about, gee I've got no money. I've just lost my credit rating." You know, ALL those sorts of things. (Ben, human resources director)

Poverty, pain, depression and suicide

Some workers, as described above, manage to survive being unable to earn money and unable to access benefits by selling their homes and assets, turning to welfare, or relying on financial assistance from family and friends. However, others did not have the ability to cope with their worsening situations, and despaired for their future. For some this meant depression and mental health problems. For others, it meant suicide.

Irene describes a worker with a teenage son who mentioned suicide wishes:

I have suicidal workers. I just had a girl in last week that was. Because of the treatment by WSIB and her adjudicator... she's a single mother losing her home with a [teenage] son. And she said to me... "I've actually considered taking all my Demerol just lately." (Irene, peer helper)

Jennifer suggests that poverty may hit some families hardest and provoke suicide when parents feel they are letting others down, such as teenaged children who cannot keep up with their peers:

Well, more so teenagers than others.There's a lot of, there's a lot of suicides in this. There's a lot of family breakups because of, "Well, I'm not getting money" -- no

money coming in, everything's spent, losing everything. You know?But I find that--anybody, say you worked at the steel plant. They have good wages coming in. Or they have two parents working. And all of a sudden one of the main workers is not working. Like the father's not working. He had the best job. *So they're living on this one smaller wage. And these kids are used to, like their friends are still able to do things, but because of the money situation they're not able, they can't do the things that they have been used to doing.* Or they can't go to places or, you know, a lot of things they, they can't--instead of having Levi jeans they now have whatever brand Zellers sells or something. You know? And, and it has to be done because there's no money there. (Jennifer, peer helper)

Edith describes a skilled worker (mentioned above in “being deemed”) who was unable to continue his skilled work, couldn’t face the low status and lack of respect associated with modified work, and who couldn’t escape his chronic pain, committed suicide:

So now we’re dealing with worker’s pride. Who doesn’t want to sweep a floor. Who’s in chronic pain. Whose wife had to install a pulley over his bed so he can get in and out. Who can’t put his own shoes or socks on. Who complained constantly of the ongoing pain to WSIB. ... He committed suicide last year... He was probably injured [four years earlier]...It was only when WSIB determined that he was capable of earning so much money and there would be a further reduction in his wages. ... [He committed suicide] within four months. Having said that, the cop out for WSIB was the doctor didn’t provide his objective physical findings, which simplistically, on the surface, is a true statement. There’s no objective physical findings for pain. Or what this man lived through. (Edith, peer helper)

Kyle, who is being treated for depression, describes how he tries to “keep a happy face” but with his health worsening, and with the embarrassment and humiliation of poverty and the betrayal of his core values of being a provider to his family, he has considered that “there is only one way to end it”:

And...my health is going downhill. You know, like you try to keep a happy face, you try to smile, you try to be a happy person, but you don't stop to be depressed and you don't stop to be down. Several times in my last four years in my life...I thought of ending this and there's only one way to end it. ...I say, who needs this? Who needs the pain, who needs the embarrassment, who needs the humiliation? You know. Like when I met my wife [many] years ago...I said, “Well, I'm a man, we're young, I'm able to support my wife and support my kids.” And then something like that happens ... and you can't support your wife, you can't support your kids and you're expecting them to support you, then suddenly you feel depressed and you feel bad and you say, “What kind of a man am I ?”....You know....you start losing all the values that I was raised at my parents and everybody else telling me...like to be an honest person, to raise a family, to be a good person and everything else. You start losing that because you're not able to raise a family any more, you're not able to support your family any more. And all that because of an injury. (Kyle, injured worker)

Sophia similarly explains that she was overwhelmed with pain coping, with arguing with her sons and husband, with “forcing” her family to help, and with disappointing her husband in marital relations. This led to thoughts of jumping off of a nearby bridge in order to “put an end to everything”:

And at one time, I was so depressed, I had people coming into the house to help me with the cleaning, and the groceries - - I still do, I have my nieces, you know, they

come in, if I need to do a lot of shopping, a lot of lifting of the bags. I told [peer helper] at one point, I said, “*You wouldn’t believe how many times when I walk across a bridge, I felt, it would be so easy to just, take a jump and put an end to everything, you know?*” The fights, the arguments that I had with my husband, my kids. I’ve got three sons, and it got to the point that, always asking them for things. “Do this for me, do this for me.” “But, Ma, we have a life of our own.” But even though they complain, I felt bad, they would still do it, but I knew they didn’t do it because they wanted to, they did it because they were forced to do, they had to do it. And I was just sick and tired of tired, I was sick and tired of it. I was on so much medication, taking eight to ten Tylenol 3’s a day, just to get by with the pain, running from doctor to doctor, and ...[my husband]that was a big problem. Because between the pain medication, the antidepressants, I wasn’t really always in the mood, you know? And he was used to, we had always had a really, really good sex life. And then for a while there, for a long while, it was like, “you’ll get it when I feel like it.” And then he would say, “but it has been so long,” you know, and then I would do it, but I wasn’t into it. And that only made him feel like, you know, I’m forcing her to do something she doesn’t want, but she feels she has to do it. So, in my whole family, the situation was all the same for everybody. We did something because you had to do it....I figured, if I don’t do it, somebody else will. And after 25 years of marriage.... When my hands went numb, and the burning was going up in my neck and my back, and I would get this burning pain that came down, halfway down my back, and then it would turn into like a cramp, a burning cramp. And whatever I was doing, I was just like paralyzed. one of my sons, whoever was in the house – hopefully somebody was – they would come and start massaging me, and going, “It’s okay, Mommy, don’t cry, it’s going to go away.” So, they knew, they knew the pain, they could see the pain I was going through. It’s just that we never thought it would have lasted.....[so many years]. (Sophia, peer helper)

Hal describes how some workers will not contest decisions made by workers’ comp because they are frightened of this system. Instead workers will turn to welfare, return to work on excessive medication and become reinjured, or “go out behind the barn” to commit suicide:

I’ve seen people in the past that had problems with WSIB, and their claims got all foo-barred, and they just give up on it. Give up on it. Go on welfare, they don’t care. Instead of going to Compensation, and fighting them, to get their money back, like they should be, they either give up, they go on welfare, or they take the easy way out and go out behind the barn, you know? And, well, I’ve seen a lot of guys that just, the fuck with it, and went back to work, doing whatever they were doing, just, popping pills like a son of a gun to keep to going, and all they’re doing is killing themselves. You know, instead of fighting the system, too scared to. (Hal, injured worker)

Andrew notes that although he did not feel suicidal, he now understands why other workers feel cornered and can see no other options:

I understand today how people become suicidal. Like I have a very good understanding of why people don’t want to live anymore. And that’s a scary place to be. Maybe you’ve got somebody who’s saying, “Well, you can’t feed your family no more because we’re not going to give you any money.” (Andrew, injured worker)

Other workers did not talk of suicide, but instead of despair and depression. It was very difficult to manage the financial strain of a complicated and slow-moving claim together with regular pain,

managing the ongoing needs of family and children, and having one's credibility questioned by decision-makers:

[My workplace] Just get rid of me. And then they said WSIB will look after you. I didn't have any salary for six months. ... I was crying, because I'm already in pain, I have two children going to school, I have a mortgage to pay. I was really down, more ...depression I experience in my life.... Plus, the person, WSIB, the way they treat me. As if I am criminal. (Edie, injured worker)

Peter, a worker legal advisor, describes the financial disarray and emotional impact on workers of claims being denied unreasonably, with the result that they become totally unable to return to work. He suggests that more thoughtful treatment of workers at earlier stages of their claims could prevent these adverse outcomes. For instance, arguments about evidence can delay a claim for years, thus creating the whole cycle of poverty, pain and despair:

There's a lot of people who become chronically ill and depressed and just forget about getting them back to work, you know, they just can't handle it any more. And I've often felt in a lot of cases that, had the Board been reasonable at an early stage, a lot of these people could have been rehabilitated earlier... If their claims hadn't been denied. And then denied unreasonably. You know, the person gets his back up, then he gets depressed because he's broke, and he can't...pay the rent and stuff. They get depressed. It just adds to their pain, It drags on for year after year to appeal. The time I won the appeal in a lot of cases, the person's totally unable ever to go back to work. And... a number of doctors have pointed that out repeatedly to the Board, you know. Give her or him give them the health care treatment now. You know. Give them the rehab now! And you will not become chronic pain. Well, they start screwing around, "No, it's this or that", you know. "We don't have enough evidence on that, and we don't agree with that," and blah, blah, blah, blah! And it drags on for a couple of years and the person gets worse and worse and worse and worse. (Peter, worker legal advisor)

In sum, the effects on workers of poverty included loss of homes and savings and damage to relationships including marital break-ups. Workers who were appealing entitlement or cooperation decisions could face long waiting times with little or no income. These workers experienced drastic alterations to their housing arrangements, ranging from not being able to maintain a home, to living in a damp basement or a trailer, to losing a dream home achieved after a lifetime of work. For a young worker, the loss was of the dream of ever being able to own a home. Both male and female workers suffered from their loss of role in their families and their inability to be the husband or wife they had always been. In some communities, great value is placed on traditional gender roles. Men lost their self-worth when they were not able to provide for their families or play with their children. They referred to their children's diminished ability to succeed in their own lives now as family poverty meant an inability to fund university tuition. Women also suffered when they could not fulfil their role in the home and had to ask for help with basics such as cooking and cleaning. Pain and medication rendered both men and women unable to carry on with normal sexual relationships.

When workers ran out of savings and were not able to borrow from family or friends, they turned to welfare. This was a difficult choice for some workers who believed they were entitled to workers' compensation. Even when denial decisions were overturned and a worker's benefits were paid and reinstated, a worker's poverty experience was lasting as their credit rating might be affected, their assets might have been sold, and their relationships exhausted. Some workers talked of suicide as "the only way out" of poverty, pain, and the strain of not being believed.

Summary—effects on workers of workers' compensation claim system problems

The participants interviewed described poverty and despair as key aspects of prolonged and complex workers' compensation claims. They referred to poverty as arising mainly because of insecure benefits (appeals, payment denials, reversals) and benefit limitations such as benefits erosion, capping, and loss of health care benefits that would normally have paid for the worker's health needs such as diabetes or blood pressure medication and for family health. This poverty had multiple effects on workers. When waiting for appeals or contesting decisions, some workers lost their homes and savings and turned to welfare. Workers also experienced strain due to loss of reputation, relationship problems and break ups. Some workers talked about suicide as a way to escape their predicament.

4. CONCLUSION: MYRIAD ROUTES TO CLAIM COMPLEXITY

In conclusion, this report has detailed the myriad routes to claim complexity that are rooted in problems with process rather than with individual workers. Our open-ended, in-depth interviews with injured workers and experienced service providers brought to light complex causal pathways between injured workers' experiences with prolonged workers' compensation claims and system rules, policies and practices.

We examined four aspects of problematic RTW process, and also the effects on workers of having a long and drawn-out claim. We identified RTW problems associated with workplaces. We find that RTW policy does not always fit easily with business logic and practices. Conditions for modified work can cause physical and mental strain for workers leading workers to become re-injured or experience social harassment. "Over compliant" workers who brave difficult workplace situations because they fear loss of income are prompting exposure to re-injury. Problems in LMR process can also affect successful re-employment of workers. Training programs may not accommodate workers' ongoing health needs and older, inexperienced, immigrant and disabled workers can be at a particular disadvantage on competitive job markets. Interaction between the workers' compensation system and the health care system can also thwart smooth claims progress. Health care providers can be reluctant to engage with WSIB because of poor compensation, excessive paperwork requirements, and the experience of having their assessments overlooked or overturned. Health care system problems such as physician shortages also affect the amount and quality of care to workers. The way WSIB interacts with workers was also found to be a problem. A lack of direct contact between workers and their claims decision-makers—adjudicators—was seen as affecting the quality of decisions being made about claims, particularly those with complex or ambiguous circumstances. Accessibility, transparency and accountability for system processes were implicated in problematic processes.

All of these system process problems are associated with prolonged workers' compensation claims. A key effect of such problems was worker re-injury, poverty and anxiety. As mentioned, poor RTW circumstances led to worker re-injury. Workers' income is immediately reduced when on workers' compensation benefits because they cover only 85% of income, do not consider overtime, are capped, and can erode over time. The greatest poverty occurred when workers were denied entitlement to workers' compensation benefits, or were considered uncooperative. In these circumstances workers had little or no income and their injuries prevented them from earning an income. Worker poverty was also enhanced by new injury-related costs such as having to pay for health benefits for self and family, and new costs related to mundane tasks such as grass cutting and snow removal. This poverty resulted in loss of assets, homes and relationships. Workers with prolonged claims experienced a loss of self and role, and some contemplated suicide.

5. DISCUSSION: FUNDAMENTAL SYSTEMIC PROBLEMS ASSOCIATED WITH PROLONGED WORKERS' COMPENSATION CLAIMS

This discussion is organised around several metaphors that bring to light some of the fundamental issues underlying any of the systemic problems described in this report. First we introduce three metaphors that provide a picture of how claims can become prolonged. We discuss communication problems associated with “broken telephone” communication pathways. We assess the “weight of the wait.” We examine how workers succumb to a “toxic dose” of process problems and consequences. We then consider how geography can affect a claim, the impact of medication use on claims complexity, and how the practice of ‘deeming’ can complicate claims understanding and progress. Finally, we suggest that idealism may lie at the root of RTW complexity. We offer practice recommendations, and share next research steps.

5.1 Communication Breakdowns: 'Broken Telephone'

Underlying many of the RTW process problems described in this report are communication breakdowns and misunderstandings. These problems relate to a situation of ‘broken telephone’, that is, the children’s game of whispering a phrase to one person, who whispers it to the next and so on until the last child names the phrase. The game is amusing because the last child will speak a completely different phrase than the one that started the game. In the case of return to work, the many people involved with the process—the worker, employer, co-workers, supervisors, family doctors, specialists, specialty care clinics, WSIB physicians, adjudicators, husbands, wives—mean that many different interpretations, terms and versions of an event are possible. These multiple actors, combined with the WSIB adjudicator need for comprehensive, cohesive situation in order to determine claim eligibility, set the stage for the possibility of miscommunications and contestations.

As an example, a worker may be intimidated by a doctor and may respond to questions but not volunteer other information. The doctor may, in turn, be rushed and complete a functional abilities form with minimal detail. A WSIB health care provider may complete a review of this and other similarly incomplete and rushed doctors’ reports. The adjudicator then uses the WSIB health care review to make a decision about entitlement. At this point of decision-making, the adjudicator is four times removed from the initial health situation of the injured worker. The possibility of a skewed understanding of the worker’s situation appears strong.

Breakdown in communication can also occur within workplaces, when modified work may be in place but not all supervisors are apprised of the situation. Indeed, we identified situations where the supervisor appeared to be informed in the opposite direction, that the worker was avoiding work and in need of equal treatment with co-workers. So, ‘broken telephone’ has serious implications for workers.

5.2 The Weight of the Wait: How Bureaucratic Processes Can Harm Workers

The “weight of the wait” draws attention to the harm caused to workers by long waiting times for WSIB decisions about entitlement, such as initial decisions and then decisions about appeals. While a weighted object may be easy to hold for five minutes or even thirty, the object begins to feel heavier over time and eventually becomes unbearably heavy. Participants referred to the ways they felt a loss of control over their circumstances when they needed to wait for entitlement decisions to be made, wait for appeals, wait for claim cheques to arrive, or wait for appointments with health care providers. These processes that involve waiting might, on the one hand, be considered a part of normal bureaucratic decision-making process. On the other hand, waiting can cause harm to workers. Harm results when workers lives are placed in limbo while they wait. This can involve financial hardship with no certainty about resolution or support at the end of the waiting period. This period of extreme uncertainty can contribute to worker mental health problems, thereby compounding problems associated with the initial injury and attempts to return to work¹⁴.

As an example, a worker might have to wait for a specialist assessment before the claim entitlement decision can be made, and the waiting time for the specialist may be months. If the specialist report is indeterminate the claim might be denied. The worker appeals this decision, and begins another wait for a hearing. During this time the worker has no income and is unable to work. She has drained her savings, sold assets, and is now borrowing money from family and friends. The financial strain is having an adverse effect on her mental health, this compounding her health problems.

Waiting also creates conditions for uneven worker access to WSIB resources. Uneven access occurs when some workers *cannot afford the wait* of an appeal period. It is difficult for most people to live without an income. These workers turn to other systems of support or return to some form of employment without having accessed their rights to have their entitlement decision reviewed.

Workers who cannot afford the wait for an entitlement appeal therefore forgo their compensation system rights including recognition of a work-related problem. If their health problem flares again then there will be no official record of this problem.

5.3 The Toxic Dose: How Individuals Succumb and Become “Injured Workers”

In this study, we have identified ways that claims entitlement and RTW processes can break down at many different junctures. One might question the plausibility of these arguments about process problems, because statistics about claim resolution indicate that most workers navigate the pathway from injury to return to work quite successfully. We suggest that workers with long-term and

¹⁴ For more on the harms associated with waiting, please see our recent publication based on this study that details workers’ compensation claims process related “hurts and harms”: MacEachen E, Ferrier S, Kosny A, and Chambers L. (2007). A deliberation on ‘hurt versus harm’ logic in early-return-to-work policy. *Policy and Practice in Health and Safety*, 5(2), 41-62.

prolonged workers' compensation claims experience a "toxic dose" of system problems. That is, these workers may have been able to overcome one or several of the system problems identified in this study but if they have the misfortune to be at the centre of a multitude of process problems then this may constitute a paralysing "toxic dose" of problems preventing the possibility of successful return to work.

As a simple but realistic example, a worker may have a clear-cut workplace accident and so initial entitlement may be fairly straightforward. But if the workplace is not supportive, the worker may find himself in a modified work position that is humiliating and potentially physically damaging. If the worker is in pain and requires strong medication, this may affect his temperament and lead to estrangement from close family relationships. If the health care provider recommends new treatment possibilities that are not covered by WSIB insurance, the worker may question whether the WSIB system is oriented to supporting his recovery. If the adjudicator is not available to the worker, he may feel quite alone with his attempts to manage his work relations, his family situation, and his ongoing pain condition. These may add up to a "toxic dose" with subsequent mental health problems, RTW failure, possibly stopped benefits, and finally poverty.

5.4 The Impact of Medication

Throughout this report, we identify ways that worker's claims are complicated by the impact of medication. Participants noted that workers consuming potent pain management medication are unable to drive to work, concentrate on tasks, communicate adequately with co-workers and employers, or absorb LMR training. Workers with these problems reported being assessed as 'non-compliant' and losing benefits.

We suggest that policy about early RTW may indirectly encourage medication use. The 'functional abilities' of a worker may be present only when he or she is medicated. The emphasis on an *early* RTW before recovery might incite medication consumption. This is because workers might manage pain using excessive medication in order to achieve 'compliance' with the WSIB in order to not lose benefits, or to please the employer so as to not lose their job. In this study, participants identified medication use as leading to re-injury and addiction--- and to a sequal of further employment and family problems.

Additional problems related to medication use in the context of early RTW are the impact on the worker of medication side-effects, such as constipation and impotence that are associated with opiate use. While such medication might numb pain and permit the worker to engage in RTW activity that would otherwise not be possible, it can also strongly reduce the quality of personal life. The

debilitating effect of these ‘side effect’ issues might not be recognised by policy-makers, adjudicators and workplace decision-makers.

A lack of coverage for medication related to non-claim health problems, such as high blood pressure medicines, was identified as a problem for workers without health benefits. These workers had limited possibilities to fund medication that is (indirectly) required for their healthy recovery.

Last, WSIB non-coverage of some medications prescribed by physicians may limit worker recovery. In some cases, physicians might have exhausted other medication options and may be trying alternate remedies (such as Botox) but these options might be restricted by the WSIB formulary.

5.5 Location—How Geography May Affect a Claim

Problems of communication, waiting, and the “toxic dose” are accentuated in certain parts of Ontario where workers have relatively poor access to health care, job variety, and workers’ compensation decision-makers, and where the stigma of work injury may be enhanced.

Workers in Northern Ontario have limited access to medical specialists, and this inevitably slows the process to prove the work-relatedness of an injury or the extent of disability, thereby setting in place problems relating to mental strain and poverty. Northern workers reported waiting months to see a family doctor, and much longer to see a specialist. Specialist medical visits can require a long drive to an urban area; this is a difficult chore for a worker experiencing pain. Workers who have health complications can be affected by their lack of quick access to their specialist, and their condition might worsen before they are able to get treatment. Due to health care shortages, workers in the north had minimal access to second medical opinions and resorted to walk-in clinics.

Labour market re-entry is affected by the availability and range of jobs available in a region. Workers in heavy industry in small, one-industry Northern towns had limited choices for re-employment as these areas have few employers and limited job selection. Also, word spreads in smaller communities and some workers can be stigmatized by their workplace injury and experience particular problems with re-employment.

Finally, workers referred to the gap between their job industry circumstances and the way that adjudicators, who have no direct industry experience (for instance, in mining or forestry), may understand their situations. For example, a worker described how his adjudicator did not understand the actual circumstances of work in a mine and was unable to grasp how modified work operating a mine elevator was and more health-threatening than work operating an office building elevator.

5.6 How Deeming Complicates Claims Capacity

The term “being deemed” came up in accounts across different parts of this report. “Deeming” refers to the assignment by WSIB of an administrative status to a worker with respect to health or earnings capacity. In our data, the problem of deeming was repeatedly raised in relation to LMR. Participants noted that workers were ‘deemed’ to be sufficiently healthy to engage in an LMR program, or that they were ‘deemed’ to have been trained by an LMR program and were therefore considered employable. The effect of ‘being deemed’ is that possible explanations for a worker’s inability to work that lie in, for instance, poor health or having been poorly equipped by LMR providers for the labour market, are excluded from the realm of possibilities. This assigning of a fixed status to workers complicates claims because it minimises enquiry that might probe reasons for what appears to be non-compliance with a claim. Workers who are deemed have few avenues for changing their status. When a worker’s deemed status is incongruent with the reality of his or her actual abilities, then the worker is at somewhat of a ‘dead end’ with respect to adequate support from the compensation system. The outcomes of this for workers might include deterioration, mental health problems and poverty.

5.7 Fundamental Problems: Toward ‘Informed Realism’

This study leads to several observations about the nature and fundamental assumptions of RTW policy. We suggest that RTW policy is influenced by a stance of idealism and, below, recommend ways of pursuing ‘informed realism’.

Not an ideal workplace

RTW policy appears to assume that workplaces are cohesive and therapeutic environments and therefore adequate environments for a not-fully-recovered worker. However, participants in this study noted that workplaces have a fundamental profit orientation and many are not set up to manage the health problems of workers. It is reasonable to assume that even the best employers will be oriented to commerce. If a worker is particularly valued or valuable, the employer may be oriented to ‘invest’ in this worker’s recovery. However, in many workplaces-- and in many experienced by workers participating in this study-- employer-employee relationships are not so solid. Many workplaces have employees who are short-term or easily replaceable. We found that workers had difficult experiences with work injury and modified work. Employers may not report the injury or be sympathetic. Co-workers may not be supportive, and modified work conditions may be poor. The worker may be stigmatised by co-workers or employers reaction to their injury and health condition. Early return to work leaves the recovering worker in a difficult position of being obliged to a (possible less than ideal) employer and co-workers while still not recovered or able to fully resume work and therefore in a vulnerable condition. RTW Policy that protects the worker’s job with the

injury employer may have the effect of restricting the workers' employment options as benefits are tied to injury workplace and limit the worker's choices.

Not an ideal injury

RTW policy appears to be based on the notion of an ideal injury; that is, a clear-cut, acute, witnessed incident in a workplace such that cause is unambiguous. This report raises many problems related to the assessment of 'proof' of the work-relatedness of a health problem. Workers were sent for multiple medical assessments, and doctor's reports were examined, re-interpreted, and over-ruled. This complex quest for the truth about whether an injury warrants benefits entitlement is particularly problematic in the (not uncommon) event of a non-acute injury incident. The many injuries that are insidious, such as occupational diseases, or musculoskeletal problems, pose problems for compensation decision-makers who must decide whether and how much of an injury is attributable to work. A system providing universal coverage may be able to concentrate on the worker's health instead of on injury attribution and may eliminate many of the problematic health care and waiting time issues identified in this report.

Not ideal health care provision

RTW procedures appear to rest on the model of workers who have long-term family doctors and accessible specialists who have the time to listen to and understand workers' complex situations. These ideal doctors will have the time to complete detailed WSIB forms and will (with reported uncompetitive compensation) liaise with WSIB and employers in order to access the best outcome for their patient. They will accept the logic of early RTW policy and be willing to have their patients participate in modified work. We found that, in contrast, physicians will often not have the time to interact with WSIB in a way that provides adjudicators with clear health information, and that health care providers will avoid WSIB patients because of paperwork, hassle, and poor compensation. Physicians who indicate that workers cannot return to work will find themselves over-ruled by compensation decision-makers who are strongly oriented to returning workers to modified work.

Not an ideal worker body

RTW policy appears to focus on the part of the worker's body that is affected by the injury with the implicit assumption that the rest of the worker's body is unproblematic. Therefore, only medication and treatment related to the injury is compensated, even if the worker is without an income and has other costly (unaffordable without benefits) and problematic health problems that can detract from recovery from the injury. Many workers reported ongoing health problems unrelated to a work injury, such as arthritis, diabetes, or mental health problems. This study identified several ways (LMR and MMR, health benefits coverage) that RTW process takes little consideration of ways that neglect of

the 'rest of the body' can affect the success of a return to work. When a worker cannot afford to pay for medication for secondary health conditions, his overall health and ability is affected. When a worker cannot focus on retraining because of chronic back pain, the injured body remains present.

Not an ideal worker family

When workers are injured they will need social and emotional support to help them to manage health care and work. RTW policy appears to assume that workers' families will play a supportive or at least benign role in return to work. However, work injury affects whole families. Families can be negatively affected by loss of an income and an active parent, upset about financial strain, and unable to manage complicated physical and mental health problems. These problems in workers' homes can compound problems related to coping with other issues such as pain, modified work, and navigating the compensation system.

Not an ideal worker

The RTW system is complex. In the event of any claim contestations or ambiguity, it appears that a worker would need to be informed, literate, English-speaking, and flexible in order to be able to navigate the compensation system. However, the workers we encountered for this study rarely met this profile. Workers were intelligent and keenly aware of their circumstances, but they lacked the experience and language to navigate intricate processes and details associated with a complex claim.

In sum, these ideals relating to the workplace, injury, health, body, family and worker appear to underlie RTW policy. The problems experienced by workers with prolonged claims direct us to an alternate stance of "informed realism." That is, we suggest that policy needs to consider that often workplaces are not cohesive, injuries not discrete, bodies not young and healthy, families not supportive, and workers not informed and able choice-makers. A policy stance of informed realism might build from the premise that social stigma is present, social relations are imperfect, that RTW barriers will exist, and take stronger consideration of the reality that workplaces and health care providers operate with their own logic and constraints.

Although experience-rated workers' compensation claims are intended to create employer incentives for optimal conditions for prevention and work-injured staff, there is a disjuncture between a relatively abstracted economic incentive system and a grounded, socially imbued RTW process. In other words, fines and rebates given to businesses on the basis of reported injuries do not translate directly to safe and thoughtful RTW practice. Similarly, although the WSIB does offer

compensation to health care providers for their time, this compensation may be uncompetitive and in any case providers may be unconvinced about the therapeutic benefit of early return to work.

A stance of informed realism could also take into consideration that, in the event of any system process complexities, it is always the worker who suffers the keenest loss. Workers with injuries can experience general social stigma, and this put them at a disadvantage with RTW and LMR.

Additionally, workers are at a structural disadvantage in a system that can damage them—through poverty and strain—while it may only inconvenience other players such as employers and health care providers. For instance, if these parties fail to complete forms in a timely manner, it is the worker who suffers as benefits are delayed. Any delay always impacts the worker the most, and the worker's fair and timely treatment is subject to the timely and honest actions of many other players.

Our findings are based on RTW process complexities and roadblocks as described by injured workers who have experienced problems with RTW and service providers who are directly familiar with these issues. These problems arose mostly when workers' claims had not gone smoothly and involved denials, appeals, and being 'cut off' when considered by the adjudicator to be non-cooperative with the RTW process. As we have shown, some workers with prolonged claims are caught in fields of rules, policies and relationships that overwhelm or override their individual needs and circumstances.

5.8 Study Strengths and Limitations

Our findings are based on in-depth interviews with 69 injured workers and service providers who are familiar with problems associated with workers who experience prolonged workers' compensation claims. This sample size—large for a qualitative study-- offers a strong sweep across situations and understandings. The goal was to gain an understanding of a variety of situations as they exist within particular contexts rather than to identify a statistically representative sample. Workers were recruited from a variety of sources in order to generate a sample that was not politically or experientially oriented in a uniform direction. We conducted in-person interviews with workers from across Ontario and across industries. Service providers were carefully selected for their actual experience working with workers with prolonged and complex claims, and a variety of service provider types offered multi-disciplinary perspective on the problems associated with prolonged workers' compensation claims. An analytic process involving dual coding, team-based analysis and planning, and an audit trail together with multi-stakeholder Advisory Committee assist analytic integrity. Rich detail is provided so that readers can examine the relevance of findings vis-a-vis their own contexts.

This study is limited to findings about workers who have had prolonged and difficult workers' compensation claims experiences. Findings therefore may not be relevant to the majority of workers

who have relatively unproblematic claims experiences. However, we argue that, just as 'best cases' guide practice, so must 'worst cases'; each offer insight into practice improvement. Participants may have misunderstood their interactions with providers or have attempted to present a particular reality to the investigators. However, the possibility that our data are skewed is reduced by the remarkable convergence of accounts across workers and service providers, as well as across gender, region and industry. These repeated, patterned situations and understandings indicate that participants' experiences speak to common experience with a system rather than to particularities of individual incidents or interpretation.

Unionised workers are under-represented in this study (19 of 48 workers). This may have influenced results. However, it may also be that unionised workers have more support through representation and so constitute a minority of workers with complex claims.

5.9 Recommendations and Next Steps

Our findings about system process problems associated with prolonged workers' compensation claims lead to the following recommendations.

1. We recommend improved communication pathways between WSIB decision-makers (adjudicators) and injured workers. Direct, face-to-face contact may reduce communication errors and misunderstandings and give workers the assurance that they have been heard.
2. We recommend adequate payment to health care providers such as physiotherapists and chiropractors for the proper care and assessment of injured workers.
3. We recommend enhanced regulatory oversight of workplace compliance in relation to the provision of appropriate and safe modified work.
4. We recommend reduced waiting times for entitlement and benefits decisions. Although our system requires activities related to ascertaining proof of work-relatedness and degree of disability (and these requirements in themselves create problems), we suggest that there be a way of speeding decisions and also providing financial support to workers during this time.
5. We recommend that financial support be given to workers to cover all of their health expenses, and not just those directly related to the injury. This holistic approach may support the ability of the worker to recover and to regain employment.
6. We recommend that workers be provided with independent expert support to help them understand their rights and to navigate the workers' compensation system. The Office of the Worker Adviser (OWA), the Fair Practices Commission (FPC), and Injured Workers Outreach Services (IWOS) fulfil part of this mandate. However, the OWA serves only non-unionised workers and their extended waiting times for service may discourage some

workers, the FPC does not give individual claims advice, and IWOS does not have the resources to assist the numbers of workers in need.

7. We recommend that policy be based on models of 'informed realism' that takes into full consideration the reality of imperfect workplace social relations, healthcare conditions and worker bodies. Policy that is aligned with actual conditions may lead to more cohesive partnering among RTW parties.

The researcher's next steps include:

- Publication of the results of this study. This report does not include a review other literature on this topic. In publications, we will situate our findings in the academic literature in order to establish our unique contribution to the knowledge base about injured worker experiences and workers' compensation claims system processes.
- We will communicate our findings with both academic and community groups.

This study has raised new questions (some of which are addressed in new studies listed in Appendix A):

- How can decision-makers more effectively interact with the claims process system?
- How do physicians interact with the WSIB and why are they reluctant to deal with workers?
- How does the LMR system work in practice?
- How does deeming work in practice?
- How do mental health and medication use problems occur among injured workers?
- What is the experience of vulnerable groups, such as immigrant injured workers, as they navigate the work injury and compensation system?
- What mechanisms are required to provide workers with choice in the compensation process?

6. APPENDIX A

To explore issues raised in this study, we have launched five new research studies to further our understanding of issues raised in the current study. Each study listed below is guided by an Advisory Committee of injured workers, health care providers, WSIB representation, and other relevant stakeholders:

MacEachen, E (P.I.). & Kosny, A. Development of a Green Light and Red Flag Toolkit for Persistent Claims. Workplace Safety and Insurance Board of Ontario RAC. 2007-08.

A problem facing WSIB and system partners is the growing number of prolonged workers' compensation claims. Although claim rates have declined in recent years, the duration of existing claims is growing. This problem could be reduced if key players who represent or make decisions about claims were able to identify situations when procedures are working particularly well and conversely, when workers may be at particular risk of not being able to complete their expected return-to-work trajectory. Using our unique database, we will develop a Green Light and Red Flag Toolkit for Persistent Claims. This database of richly detailed, qualitative interviews focuses directly on processes, situations, and problems of injured workers with long-term claims. The Toolkit will be work-shopped with a range of system users. Our final product will further the development and targeted application of system resources, assist with more efficient use of existing system resources, and ultimately improve the claims experience of injured workers.

MacEachen, E. (P.I.). & Chambers, L. "An Ethnographic Study of Injured Workers' Claims Experiences: A Focus on Mental Health and Substance Use Issues", from Tompa et al. 2006-2011 Community-University Research Alliance Grant, Social Science and Humanities Research Council. 2006-2008.

Injured workers with compensation claims that extend beyond the expected healing time are of concern to the WSIB because their claims costs are higher than expected for their condition, and research has shown that social and mental health difficulties can increase in proportion to time away from work. However, the various studies that have documented links between prolonged claims and injured worker mental health difficulties have not examined in detail the dimensions of these links and how they are sustained. This study will use qualitative methodology to examine the complexity of injured worker's prolonged claim experience, including their trajectories through health care and compensation systems and their experiences with home and community, and how these experiences may relate to mental health and substance use outcomes. Grounded theory analysis will be conducted with approximately 40 in-depth injured worker interviews. The study results will be of interest to injured workers and their representatives, worker's compensation boards, and clinical practitioners.

MacEachen, E. (P.I.). & Franche, R. Groundwork for an Injured Worker and Mental Health Intervention Study. Centre of Research Expertise in Improved Disability Outcomes Pilot Project Grant. 2007-08.

We will conduct a qualitative study of systemic pathways to mental health problems among injured workers. Our earlier analyses identified complex causal connections between injured worker mental health problems and three interrelated issues: chronic pain, medication use and coverage, and early return to work policy. We will conduct in-depth interviews with expert informants in order to solidify our understanding of particular mechanisms linking work injury and health and to plan an intervention study. The objectives of this project are to:

- Produce a detailed model of systemic pathways to mental illness among injured workers.

- Explore particular complex causal connections between systemic determinants and individual outcomes that were identified in an earlier analysis
- Identify the components of these pathways to mental health problems that are amenable to intervention.

MacEachen, E. (P.I.), Kosny, A., Lippel, K., Franche, R.L. "An ethnographic study of process and experience with Labour Market Re-Entry". Workplace Safety and Insurance Board of Ontario RAC. 2007-09.

Although much research has been conducted on early and safe return to work, very little is known about situations when the return is not early or to the pre-injury employer. When workers cannot return to their original employment because of the nature of their injury or because their employers cannot (or will not) offer them continued work they become clients of the WSIB's Labour Market Re-Entry (LMR) Program. The LMR is program is described by WSIB as aiming to provide the worker with the skills, knowledge, and abilities needed to successfully gain employment. The objective of this study is to gain an understanding of how LMR is carried out and of the particular challenges and opportunities in the LMR process. Using a sociological approach which examines patterns of practice and behaviour, we will study direct injured worker and provider experience of LMR. We will locate these experiences within their broader contexts of regional differences (access to education, employment and healthcare) as well as contractual and practical aspects of LMR provider integration within the WSIB system. In doing so, we will identify areas of possibility (and concern) for the re-integration of injured workers to the workforce.

Kosny, A. (P.I.), MacEachen, E., Smith, P., Shields, J. "Immigrant workers' experiences after work-related injury and illness." Workplace Safety and Insurance Board of Ontario RAC. 2007-09.

Immigrant workers are very important to the Canadian labour force and represent a majority of labour force growth. Yet there is some indication that the experiences of these workers can be problematic. Immigrant workers, even with high levels of formal education, are more likely to work in poor-quality, low-paying jobs. Workers with high job insecurity, poor language skills, and limited familiarity with Canadian social programs may face particular challenges when injured at work. They may not report injury if they have poor knowledge of their rights or fear job loss. These workers may also have trouble accessing and navigating the compensation system. Working closely with community groups, we will examine the experiences of injured immigrant workers in Toronto – a city with the highest level of immigration in Canada. We will interview service providers and ask immigrant workers about their experiences after injury with their employer, with health care providers and with the compensation system. This study will provide information about workers that represent an important and growing segment of our labour force. We hope that the study can help guide workplace practices, health care services and compensation policies so they can best serve immigrant workers.