

Regina AGM
Question and Answer
May 6, 2008

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DAVID EBERLE

We would like to just limit the questions to one per individual so that everybody gets an opportunity to ask questions of any of the information that you were given in this morning's presentation. I will open it up. If you have questions, feel free to ask. Also, before you leave today, take a minute and come and look at the new posters. They really send a very, very strong message about workplace prevention. Any questions? Yes, sir? There's a mike right behind you, sir.

MR. BROWN

(INAUDIBLE)

PETER FEDERKO

I'm not going to just speak for the Board members, but from an administrative perspective. The information being released is within the confines of our legislation. Our legislation, specifically Section 171 of our Act, governs the disclosure requirements that have to be met when information is released to either employer or worker. The information that you're referring to in this hypothetical, I guess, would need to be considered relative to the relevancy of whatever the worker is asking for it in order for it to be released. But, you know, without specifics –

MR. BROWN

Well, I'm just wondering how the industry –

DAVID EBERLE

Well, Mr. Brown, maybe the easiest way to handle this is to deal with the matter one-on-one with us after the meeting. We want to try and limit it to one question per individual.

And I understand your concern here and maybe we need to deal with it outside of this environment.

MR. BROWN

Alright, fair enough.

DAVID EBERLE

But thank you very much for your question. Next question?

DR. RONALD KATZ

I would need a few minutes. So if there's other questions, I would like them to go first so I could perhaps take your indulgence and take the time I need.

DAVID EBERLE

Any other questions? To my left?

UNIDENTIFIED

Yes, under your disaster reserves, I was just wondering, have you incorporated into this the pandemic planning at all?

PETER FEDERKO

Pandemic planning?

UNIDENTIFIED

Yes, that's correct.

PETER FEDERKO

The disaster reserve actually has two parts to it. Under our legislation there is a definition of what a disaster would be or where relief would be granted to an employer under the disaster reserve. It's when – if memory serves me correctly – when the costs of the claim exceed ten times the maximum accessible. That's the first thing, regardless of the kind of injury, if the costs of the injury exceed ten times maximum accessible, then relief over and above that comes out of the disaster reserve. The second thing that's been incorporated into our expanded disaster reserve are items of the nature that you describe. Whether it's, a Westray Mine disaster, whether it's a, a bus crash where

hundreds or thousands of people are injured, or a pandemic that would expose workers within health care, for example – one of the things I guess we need to just remind everyone is the Workers' Compensation Board only accepts responsibility for injuries or disease that are related to the workplace. If there was a general pandemic outbreak, unless an individual contracted the disease directly through their employment, I'm not sure that it would be Workers' Comp responsibility. However, in the event of a pandemic where the SARS outbreak in Ontario, for example, where many health care workers were impacted and had no choice but to get exposure through their occupation, then the costs of those kinds of disasters, the catastrophic events, yes, would also come out of the disaster reserve.

DAVID EBERLE

Thank you, Peter.

MARG ROMANOW

Thank you. What is the status of the Committee of Review recommendations? And specifically I'm thinking about discussions you've had with government so far in the maximum wage rate, excluded industries and – and in health care they still have the highest injury rates. So what type of preventative programs have been implemented or looked at? And that was part of the Committee of Review as well.

PETER FEDERKO

The Committee of Review Report was tabled at the, with Minister Forbes in the previous administration a year ago or so, a year ago in January, maybe. There were 69 recommendations made by the Committee of Review and in our analysis there were roughly 30 of them that could have been addressed or could be addressed through the administrative processes or procedures of the Board. And we are endeavouring to deal with those – I think it's actually 29, Marg, that we've identified can be addressed through policy. The one you've referenced, the excluded industry review, for example, we have undertaken that as a project and will have a – I think the project's due to be completed in 2000 and – is it 9, Gail? 2009. We'll have a report to the government in 2009 relative to regulatory changes. The other 40 recommendations were specific to the legislation. We have provided the government with, again, our analysis, including full costing of all the recommendations, including the maximum wage rate, and the government, as far as I'm

aware – and maybe David can offer more insight – but is still considering those recommendations. We have not received any further direction relative to implementation. So I can only tell you of the administrative ones. In terms of the health care injury rate, you're right, Marg, it is the highest in the country for health care providers. It's not the highest injury that we report. All the injury rates for each of our industry codes is published in our Annual Report – it's public information. But relative to health care and the health care sector in Saskatchewan, by about two times the national average has the highest injury rate in the country. We have targeted health care for a couple a years now. It's included in our plan for WorkSafe moving forward, targeting specific employers within the health care sector who appear to need our help the most. I do know that, we will continue to work with the Safety Association, with SAHO to get a strategic plan in place to provide whatever support that we can to help the facilities themselves reduce the injury rate.

DAVID EBERLE

Thank you, Peter. Next question?

UNIDENTIFIED

Yeah, in regards to loss time incidents, the rules around it, if you get in an accident and then they go and see a doctor in the same day it's not considered a loss time. But as you are aware, with our health care provider and the shortage of it, and especially in small places like Weyburn and Estevan, they can't get in to see a doctor till the next day or the day after, and in a case like that, it's obviously not a – you know, they're not gonna lose time due to work. It's just a matter of being able to get in to see the doctor to assess it. I was wondering if there's any opportunity to discuss with someone possible changes to that program as well as the return-to-work program?

PETER FEDERKO

With respect to your last question, absolutely. If you want specific one-on-one discussions relative to injury prevention, you could speak to Gail or Phil Germain, who is holding up the pillar at the back wall there, our Executive Director of Prevention. You probably can't see him behind the pillar, there. But if you want to talk about injury prevention, you could certainly approach Phil and express your concerns. If you want to talk about return-to-work, you could talk to Graham, after. But with respect to the no time

loss issue, a time loss injury is one where the worker misses work beyond the day of injury. It's not dependent upon when they seek medical attention; it's dependent upon when we start paying wage loss. Under the legislation, we do not pay wage loss for the day the injury occurs. We start paying the day after the injury occurs. If we start paying wage loss payments, we start counting that claim as a time loss claim. The individual may not have yet seen a physician, but if they've missed work, it becomes our responsibility, we begin paying wage loss, and we start counting it as a time loss claim. With respect to access to medical, if that's sorta maybe built into your question as well, again you should speak to Graham. We are taking steps to try and expedite access to medical treatment. I know we have been working with the facilities in the Weyburn area. If you wanted to talk to Graham specifically about that, again, he can put you in touch and let you know what may or may not be available.

UNIDENTIFIED

Thanks.

DAVID EBERLE:

Thank you for the question.

SUE HAY

Hi. We have the second largest injury rate in Canada. How are we benchmarked? Is that per claims reported, time loss, the whole gambit? Can you explain that?

PETER FEDERKO

The statistic that we use for benchmarking purposes, Sue, is strictly time loss paid. That's the common definition that all of us in Canada have accepted and we benchmark each other against.

SUE HAY

Can I just add to that, then? We are coming down in our time loss claims, so we should see some positive results hopefully as we go forward in decrease in time loss claims, if what we're seeing is right. And the last thing, Donna, this is a question for you. That stepping stool, is it a safe work practice?

DAVID EBERLE

It is. I checked it before she stepped on it. That's part of our Mission Zero project. Thank you for the question.

We're back to you, sir.

DR. RONALD KATZ

Okay, thank you. I'd like to introduce myself. My name is Ronald Katz. I'm a physician. I've been a physician in Saskatchewan since 1980, and over those years I was initially confused, found it curious and with time became very frustrated with certain elements of WCB adjudication of certain workers and their injuries. Before I get into the details of the criticisms that I do have, I do want... (Inaudible) ...and take care of them as one would expect, so that I don't want any comments that I make to be taken as a generalization of how compensation is functioning. However, that said, there is an area in which there is a serious failure to meet the needs of a subgroup of injured workers which I've come into contact with. And I provide general primary care services and I see these injured workers on first contact. I have estimated, based on my practice and based on the number of general practitioners in the province, that there are some 20 to 30,000 injured workers who have been mistreated and mishandled through compensation over the years. Given the number of injuries that occur, that's actually relatively small. But none the less, the injuries are serious. I'm talking about a subgroup of back injuries. And I need to have your indulgence, because without explaining a few things ahead of time, it's impossible to understand what I'm going to be talking about. I'm talking about disc injuries. If you look at page 37 of the booklet that we have, each of us, on our desk, there's a nice model of a spine and between each vertebra there is a beige disc. Now, if anyone here has not been to Tim Hortons, could they put their hand up. No one, okay. Everyone will understand. A disc is a fibrous structure and this structure has in the middle of it, like a Tim Hortons jelly donut, a central portion which is soft and putty like, called a nucleus pulposus. And it takes up the injury potential vibrations and forces that occur between the vertebra. When you bend forward and flex the spine forward, you push back and this central portion abuts against the containment. On occasion, this ruptures. Now the rupturing is actually quite common. On autopsy studies, between 37 and 45% of autopsy studies report disc bulging in people who never complained of back injury. So simply having a back bulging or a disc bulging doesn't, in itself, relate to pathology.

DAVID EBERLE

So you have a question, here, sir?

DR. RONALD KATZ

Well, I don't have a question, I have a comment. And if you want to cut me off, I'll go away. Because this is serious and if I don't lay down some basic issues here so everyone can understand, the point of me being here ends. So I do need a few minutes and your indulgence.

DAVID EBERLE

I guess – would your time not be better served – and I don't mean – my intention is not to be rude – would your time not be better served if you dealt with us directly?

DR. RONALD KATZ

No, I think this is – there are enough injured people out there that it really needs to be publicly aired. I don't mind if people will eventually criticize what I have to say, but it does need to be said publicly. And I thought this would be a reasonable forum, since these are injured workers who are being mishandled in a serious way.

DAVID EBERLE

Well, I guess my concern is, with the comment that Workers' Comp is mishandling them, my suggestion would be that you deal directly with us so that –

DR. RONALD KATZ

I have, I have. I've done it for many years and the frustration level is here. The injured workers are being robbed, they're being sent back to work, they're having further injuries occur. No, I've done that portion already.

DAVID EBERLE

Well, given the fact that I'm relatively new on this, I would be prepared to have you contact me directly and then I will discuss with the other Board members –

DR. RONALD KATZ

Well, we could do that as well. But it is appropriate, I believe, to not sweep this one under the rug.

DAVID EBERLE

It's not my intention to –

DR. RONALD KATZ

Then they should be – people here should have a right to hear it. If you don't want to afford me the time, as Chair, then of course they won't hear it.

DAVID EBERLE

Well, would you please make it quick, sir?

DR. RONALD KATZ

Well, that's why I waited, so that everyone would have a chance to give their questions, because I didn't want to take away from anyone else's opportunity. So if there's some –

DAVID EBERLE

Please make it quick.

DR. RONALD KATZ

Well, I will make it reasonably quick, but I need about five or six minutes. You'll time me?

DAVID EBERLE

I'll give you five minutes, sir.

DR. RONALD KATZ

Okay, great. What happens here to these patients is that they develop what's called a central disc, that is, it pushes back, they get terrible back pain and there's no running down one leg or the other initially, and they're just written off as "We will fix your back strain," when the problem is not back strain at all. These patients do not get timely MRIs, they are subjected to physiotherapy, which is useless or potentially harmful, and they're

sent back to work with potential injuries. In addition to that, they don't get timely care when the injury is identified. Now, I have three cases which I would like to tell everyone about which are poster children of what's going on, because our reason to be is the injured worker.

DAVID EBERLE

Don't give us any names.

DR. RONALD KATZ

No, there will be no names.

DAVID EBERLE

And I'll restrict you to one case. But you've only got about three minutes left.

DR. RONALD KATZ

One case. Well, I'll have to pick the worst one, then. A young man involved in a job which involves heavy lifting hurts his lower back. There are no initial signs of nerve involvement. He is unable to go back to work and is eventually sent to physiotherapy. Physiotherapy does nothing for him. But the physiotherapist ensures him he will be fit to return to work. He doesn't get better, the worker has to quit his job because he can't cope with the pain – he's a young man – and eventually returns to another doctor's office who then contacts a neurosurgeon. The first neurosurgeon's request for a MRI is denied by WCB. The patient then goes on to return to work and gets worse. Eventually he's seen by a second neurosurgeon and every disc of his lumbar spine is ruptured. He has to quit work and he tries to go to school to carry on with life, but he can't even sit in a chair. He makes an appeal to WCB on recommendation from the physician – this is really a WCB case – and the worker is denied benefits. This is one case in a pattern. If it was one case, you could say he fell through the cracks. But when it becomes a standard of response, then there's a serious issue with a small subset of people who are suffering serious injury. And that is the reason to be for WCB, is to serve and help the people who are injured.

DAVID EBERLE

Well, it is my understanding – and correct me if I'm wrong, Peter – and I want to bring this to a close. It is my understanding in situations like that, that they always have the course of action to take this to a medical review panel. Am I wrong there?

PETER FEDERKO

Once our appeal process has been exhausted, if there remains a medical question fundamental to the individual's disability or entitlement, ability to return to work, then upon receipt of a enabling certificate from a physician or chiropractor, a medical review panel of specialists can be struck and make the determination relative to the medical question, and that determination is binding on all parties. But if I might just for a minute, Dave. Dr. Katz, I'd really like to get more detail and maybe get into some of the specific cases. Because if you're telling me that in, within the last 14 years a neurosurgeon has requested an MRI and WCB denied the MRI, I would really like to know about that.

DR. RONALD KATZ

I could show you the letter the patient received.

PETER FEDERKO

I would love to have one-on-one with you sometime and have you share some of the specifics with me. Because it is clearly not our position or protocol to decide who ought to and who not ought to get an MRI or any other medical treatment. Those decisions are left to the primary or specialist who's treating the individual. And if an MRI is ordered, not only do we entertain that MRI, but in many cases, where it's a serious matter, where we will actually expedite the receipt of the MRI either in province or if that is not available, out of province. So I am very curious to know when we would have, as an organization, said no to a physician's request for some specific diagnostic.

DR. RONALD KATZ

With the permission of the patient I'm quite sure I would obtain it. I can give you that information.

DAVID EBERLE

Well, Peter has kind of opened the door for you. I would suggest that you make use of his invitation and bring to light the cases that you feel were handled improperly by WCB. And I would be more than happy to try and facilitate the discussions with Peter if that is necessary. But I am sure that Peter will be more than happy to discuss the issues that you have brought forward today.

DR. RONALD KATZ

Thank you.

DAVID EBERLE

We certainly do not intent – and as long as I am Chair of the Board – and I'm sure the Board takes the same position – that we will do everything possible to treat injured workers in the manner that they are entitled to be treated.

DR. RONALD KATZ

I'm not suggesting that this is policy of the WCB, but I am telling you that this is happening which is contrary to what is the public policy.

DAVID EBERLE

I appreciate it and thank you very much for bringing it to our attention.

DR. RONALD KATZ

You're welcome.

DAVID EBERLE

Please arrange the discussions with Mr. Federko and we will follow up on it. Thank you very much. Any other questions? Well, that brings to a close this meeting. And if we can just end with one final comment from myself on behalf of the Board.

I thank you for all attending. I would appreciate it if all of you would lend support to Mission Zero. I personally – and I know the Board are with me on this – take this as a very, very worthwhile endeavour. If we can get that number down to zero, then let's do it. And you may ask why zero. Well, my answer to that is, if it's one, I'm not volunteering. Thank you.