



SBCI UPDATE

March 2008

NEWSLETTER

MESSAGE FROM THE CHAIR

In this, my last, Message as Chair of SBCI, firstly I want to thank the two SBCI Directors who are standing down from the Board.

Margaret Milligan retired from her school board in late February and therefore has stepped down from the SBCI Board. At the same time, Georges Groulx is retiring at the end of the academic year and has just completed his last term of office as an SBCI Director. I thank both Margaret and Georges for their contributions to the Co-operative over the past years, and wish them both a long and happy retirement.

At the SBCI Annual General Meeting on April 11, the two vacant positions on the SBCI Board were filled by Damian Borrelli, Hamilton-Wentworth DSB and Carolyn Miljan, Conseil scolaire de district des écoles catholiques du Sud-Ouest. Congratulations to you both and I trust that you will find serving on the SBCI Board of Directors as rewarding as I have.

In April, Byron Franson joined the Attendance Support team to assist Lynn Porplycia with the expanding number of school boards requesting our assistance. Byron has a strong disability management and training background. Welcome, Byron.

In early 2006, SBCI introduced a service providing Health and Safety advice and guidance to our member boards. We did not increase our fees on the introduction of this service. However, due to the demand for training sessions, the SBCI Board has agreed that SBCI should charge a fee for conducting training

sessions of groups of employees, such as Custodians or Principals. The fees will take effect from June 1, 2008 and a separate letter is being sent to all member school boards providing details.

As part of this H&S service, we have just completed a Violence Prevention guidebook which will be sent to all member boards in the very near future. We trust that this will prove useful to you in the protection of school boards staff.

If you have any questions, comments or ideas regarding the Co-operative, please give me a call or send me an email. I can be reached at 519-255-3368 or kathy_czackowski@gecdsb.on.ca.

Kathy Czackowski
Chairperson

RECENT TAX CASE RE-EXAMINES THE ISSUE OF WSIB - Advances & Remittances to Canada Revenue Agency

In the recent case of *Ville de Quebec v. Canada* the Tax Court of Canada considered an appeal by an employer municipality against a ruling by the Canada Revenue Agency that prohibited the municipality from deducting from remittances the value of income tax and employment insurance and CPP premiums otherwise payable for employees off work due to work related injuries and receiving advances from the employer. The Tax Court of Canada found in favour of *Ville de Quebec*.

Since 2000 the Canada Revenue Agency Employers' Guidelines stated that only in cases where an employer had indicated in the payroll at the time of payment, that the portion represents an advance on the amount of indemnity from a workers' compensation board is an employer exempt from making deductions and remittances for income tax, CPP and employment insurance. Under the policy, the employer was prohibited from recovering amounts that it had already remitted and it was required to remit amounts deducted. This policy change came about following an earlier Tax Court of Canada decision in *Fraser*. The decision in *Fraser* turned on the court's interpretation of the wording in the collective agreement governing the payment of advances.

In the decision re *Ville de Quebec* the Tax Court of Canada placed emphasis on the "nature of a payment." The court was clearly of the view that advances to the employee were payments that the employee would later receive or receive

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entitlement for from an indemnity plan. These indemnity payments from a workers' compensation board are not taxable and the employer is not required to make source deductions on them. The situation prior to the decision in Ville de Quebec penalized employers who paid advances and did not follow the very narrow approach set out in the Canada Revenue Agency Guidelines. Canada Revenue Agency did not distinguish between remittances required on salary for services rendered by employees and remittances paid on advances that ultimately turned out to be indemnity payments on approved workers' compensation benefits. To be clear though, remittances made in respect of top-up paid to an employee above and beyond the level of compensable benefits allowed under the relevant workers' compensation legislation still need to be paid.

This is a good decision for employers but it remains to be seen if the Canada Revenue Agency will appeal the decision. This article is not intended to provide specific legal or accounting advice. It is recommended that your school board speak to your professional legal and accounting advisers for advice on your school board's own circumstances before making any changes to your remittance practices. If you would like a copy of the decision please send an e-mail to Chris@sbcj.org.

REFRESHER ON WSIB ENTITLEMENT & "COVERED BY ADVANCES"

Many large unionized employers have agreements with their unions that provide that when an employee has a work-related injury and a WSIB claim has been submitted to the WSIB that the employer will continue to pay the employee's regular salary if they are off work under certain circumstances. This is commonly referred to as "Covered by Advances" because the employer is advancing the employee the money before there has been an entitlement decision rendered by the WSIB. Most school boards have these agreements at least with some of their unions and many have an outline of the key terms in their collective agreement or in a memorandum of understanding. The actual terms of these

agreements varies from employer to employer and even within an individual school board among the different bargaining units.

There is not space in this article to cover all of the different types of agreements but we would like briefly to outline one of the most common arrangements. Typically an agreement will set out that the school board will continue to pay the employee their regular salary provided that they have sick leave credits in the bank and the school board will deduct a day of sick leave for every day of absence until such time as the WSIB has made a ruling approving the claim and the payment of lost time benefits. Once the WSIB approves a period of lost time then the school board normally does a retroactive adjustment to the employee's sick leave bank so that they are not charged for the value of the approved loss of earnings benefits awarded by the WSIB. It needs to be remembered that the Workplace Safety & Insurance Act awards loss of earnings benefits at the rate of 85% of net earnings not 100% of gross earnings.

Many agreements provide that the employee will be paid more than the 85% of net by the school board so long as they have sick leave in their bank. This is often referred to as "topping up" because the school board is giving the employee the extra benefit beyond what they are entitled to receive under the legislation. In many agreements the school board is entitled to charge the employee's sick leave bank for the value of the top-up on each day that the employee receives their full earnings while off work and approved WSIB absence. Some collective agreements are vague in their wording on how the value of the top-up shall be calculated in which case an individual calculation should be done to determine the percentage of a sick day to be charged for each day of top-up.

Some collective agreements provide a set percentage to charge the employee's sick leave bank for every day of top-up. A charge of 15%-25% of a sick day for every day of top-up is not uncommon. The lower the percentage charged the more favourable the arrangement to the employee and the higher the actual cost to the employer. In the absence of an

agreement on the percentage to be charged for each day of top-up it is advisable to do an individual calculation of the difference between 85% of net and 100% of gross for that individual. Individual calculations are necessary because the value of top-up is going vary from individual to individual because of their tax category and whether they earn more than the WSIB maximum earnings ceiling. The WSIB maximum earnings ceiling in 2008 is \$73,300. This means that if an employee earns more than \$73,300 then the WSIB will only calculate their compensable level of earnings at 85% of net using a maximum gross of \$73,300. If you have an employee earning a gross annual salary of \$90,000 then the cost of topping them up to 100% of gross is going to be quite significant. In contrast, if you are dealing with an employee earning \$25,000 a year, the value of top-up to 100% of gross could be quite small perhaps 17% of a sick day for every day of top-up. School boards need to take care not to overcharge an employee for the value of the top-up.

Some years ago, a school board had an arrangement with its unions whereby they charged their employees 100% of a sick day for every day of top-up. This was excessive and an employee complained to their Claims Adjudicator who then asked the WSIB Special Investigations Branch to look into the situation. The Special Investigations Branch took the position that overcharging the employee for the value of top-up equated with asking them to contribute to the cost of their WSIB claim which is contrary to the provisions of section 95.1 of the Workplace Safety & Insurance Act. No charges were laid against the school board, which promptly renegotiated the arrangement with their unions to a more reasonable rate of 25% of a sick day charged for each day of top-up. The necessary adjustments were then made to the sick leave bank of the employee who filed the initial complaint and the matter was resolved on an amicable basis.

If you have questions concerning the issue of Covered by Advances and the calculation of the value of top-up start by looking for clear language in your relevant collective agreements and any side agreements. Paying Covered by Advances and topping-up your employees

who are off on WSIB benefits with sick leave is costly for school boards but where there is a provision in your collective agreement it will be difficult to eliminate it. If you need help with this issue you may contact Chris at SBCI to help you sort out a reasonable approach.

WSIB PROPOSED NEW SERVICE DELIVERY MODEL

The WSIB has announced that it is changing the structure and role of the Service Delivery Model that has been in place since November 1997. The tentative implementation date is September 2008.

The highlights of the changes are as follows:

Adjudicator – the role is divided into two dedicated functions; eligibility and case management.

Eligibility Adjudicators will be solely responsible for initial entitlement decisions and will be separated from Case Management Adjudicators. There will be Teams of Eligibility Adjudicators. The narrow focus will be on timely and quality decisions.

Case Management Adjudicators will be divided into 2 categories; Short-Term and Long-Term Adjudicators.

Nurse Case Managers – the role is divided into two dedicated functions; Short-Term and Long-Term.

Teams of Short-Term Adjudicators will focus on short-term early intervention directed at early, safe and sustainable return to work and early recovery. This Case Management Team will consist of a Case Manager Short-Term, Nurse and Return to Work Specialist.

Teams of Long-Term Adjudicators will focus on the longer duration cases with chronic/complex conditions. This Case Management Team will consist of a Case Manager Long-Term and Nurse.

The WSIB is stating that they needed to make changes to the 10 year existing model for the following reasons:

- The scope of the work for an Adjudicator is too big.

- There is a lack of role clarity and accountability.
- There are inconsistent approaches from role to role, team to team, office to office.
- The nature of the work is changing and the complexity of cases is increasing.
- There is too much administrative work done by the frontline Adjudicator.
- The renewed focus is on helping injured workers achieve early, safe and sustainable return to work and support the workplace parties in preventing injuries.
- Expected knowledge of a Manager is too broad.

This new proposed model moves away from a “one-stop shopping” generalist approach to greater specialization. What this means for our WSIB school board contacts is that you will no longer have one or two Adjudicators handling your cases. The WSIB is returning to a pre-1997 model whereby an employer is serviced by many different Adjudicators in a single case and a different Adjudicator in each of your cases.

The scenario is that there may be a Primary Adjudicator who makes the simple straight-forward types of decisions and then transfers the case to a Short-Term Adjudicator, if there is no return to work date. Initial entitlement cases that are considered too complex for a Primary Adjudicator; such as cases with delays, gradual onset, third party, out of province, prior conditions, etc. will be handled by the Eligibility Adjudicator. If the injured worker is not back to work once that decision is made, then the file is transferred to the Short-Term Adjudicator. If the injured worker is off work for an extended period of time (yet to be communicated) for LMR services, FEL, LOE to age 65, complex recovery situations, then the case will be transferred to the Long-Term Adjudicator.

As we receive information on the changes, SBCI will provide you with updates.

ATTENDANCE SUPPORT PROGRAMME – DISABILITY’S HIDDEN COSTS

School boards are recognizing the substantial costs behind absenteeism, exclusive of WSIB, and the negative effect that it is having on staff and students. The direct costs associated with absenteeism can be clearly defined by examining sick leave data.

These direct costs of replacing absent workers represents only a portion of the costs of absenteeism since indirect costs can be as much as 3 – 10 times higher than this figure. Indirect costs include: lost productivity, diminished morale, increased administrative costs, and retraining. Absences also have a direct impact on student learning and achievement.

A disrupted school impacts both directly and indirectly on student achievement. For example, teachers develop relationships with their pupils and this allows the instructor to maximize their students’ in-class performance. When disruptions occur, continuity in the classroom is broken affecting student achievement. The absent employee can also affect other staff by applying increased pressure, overload and creating friction amongst co-workers.

Administrative costs are escalated since time is used to find replacement staff, retrain/orientate staff, and to deal with external complaints and concerns from parents when dealing with the absent employees.

Having a caring employer involved in their health and well-being, both when they are at or away from work, improves employee morale. Studies show that Principal/Supervisor involvement in this area has the most effect and success in maintaining or improving morale. This in turn improves attendance.

By taking an active role in the health and recovery of employees who go off work repeatedly because of health issues, the school board can help maximize the recovery, and minimize the amount of accommodation required under Human Rights. Unions and employees are taking a closer look at their rights under this

legislation and more employers including school boards are facing legal costs when appropriate accommodations are not being made. Human Rights Legislation and the Duty to Accommodate apply equally to both occupational and non-occupational absences. Applying a standard which treats both equally ensures fairness in the management of all disability claims.

Having an ill or injured employee at home on income replacement means not only is a school board paying salary continuation costs but it needs to account for the psychological costs to the workplace and the potential legal/cost implications of not having a consistent/fair practice. This can result in grievances/arbitrations and legal costs associated with not complying with Human Rights legislation.

Through the implementation of an effective Attendance Support Programme, encompassing Disability Management, Attendance Management and Wellness Programming, school boards are becoming more financially responsible as well as providing an important service to their ill or injured employees.

WORKSHOPS ON ERGONOMICS

SBCI along with ERGO Inc is holding Provincial Workshops for Custodians on Ergonomics

Soft tissue injuries continue to be prevalent in the Education sector and in particular with Custodians, who suffer the majority of these injuries. SBCI is offering a practical hands-on workshop for facilities personnel that will give them the skills and knowledge needed to work safely and prevent injuries.

The majority of the session focuses on ergonomic hazards as they relate to each of the daily tasks that a Custodian or maintenance worker performs. Strategies to reduce these hazards will be discussed, with a focus on proper work methods. Other strategies to reduce risk, including modification to existing tools and the design of the workplace, will be presented. These are hands-on training sessions that will engage the group

attending to problem solve and develop solutions to minimize ergonomic hazards.

Included in the session are topics such as:

- What is a Repetitive Strain Injury (RSI)
- Types of RSIs related to custodian and maintenance tasks
- What contributes to injury
- How to identify injuries – signs and symptoms of RSIs
- Ergonomic Workplace Hazard Identification – risk factors and ergonomic hazards
- Injury Prevention strategies and solutions, including practical and proper work methods
- Show and Tell of ergonomic cleaning equipment

These workshops are a half day each and are at no cost to member boards to attend.

These are great sessions intended to advance your board's knowledge of ergonomic control strategies.

REGIONAL TRAINING

In place of the conference that School Boards' Co-operative Inc. usually hosts in either April or May, this year we are arranging regional training.

An SBCI Satisfaction Survey for WSIB Claims Management Services was conducted in the fall of 2007. The surveys were sent out in October 2007 and responses were due in early November 2007. The responses we received showed a high level of interest in regional training workshops.

Several topics were suggested, as follows:

- Return to work plans
- Cognitive restrictions
- Human Rights
- Preparing for appeals
- Group discussions on difficult management cases
- Small group networking
- Disability Management of cognitive abilities
- Disability Management processes and best practices

We are arranging a full day session to include WSIB and Disability Management and Human Rights sessions.

We are hoping to have our first session towards the end of May 2008.

This session will take place in one regional location with others occurring later in 2008 throughout the province. We will advise you once details have been finalized.

SBCI RETURN TO WORK GUIDEBOOK

SBCI developed a Return to Work Toolkit a few years ago for member school boards. As a result of suggestions from various school boards, we have now updated this product and renamed it Return to Work Guidebook. The English version was updated and mailed to all WSIB Disability Managers in January 2008. The French version will also be updated in the near future.

The Guidebook now includes Cognitive Demands Analyses for the Elementary Teacher, Secondary Teacher, Educational Assistant, Principal and Custodian/Caretaker. We have also included 2 sample Psych-Cognitive Abilities Forms (Version 1 and Version 2), which can be used in the interim with the health care provider. Your school board may also wish to use the CDAs and the abilities form for non-occupational absence situations. Chris James at SBCI is currently working with the WSIB on a committee developing a prescribed cognitive form.

The Guidebook has the new approved WSIB Employer's Report of Accident (Form 7) and Functional Abilities Form. As well, SBCI developed new Internal Incident Reports for the Supervisor/Principal and Employee which are modeled after the new WSIB Form 7 for ease of completing the report.

The previous Toolkit contained Simple Return to Work Plans listing tasks for the position of Custodian and Educational Assistant. Additional Task Lists were added to the Guidebook for Elementary and Secondary Teacher. These sample Return to Work plans can be used by the Supervisor/Principal when discussing job accommodations with their employee in the straightforward, simple types of return to work situations.

All of the forms and CDAs are on a disk for ease of uploading on to your system for use. The disk is located inside the binder. If you have any additional suggestions or questions, please contact Mary Luck, SBCI Claims Manager at 905-669-4449 Ext 229.

2008 SCHEDULE 2 EMPLOYERS' GROUP CONFERENCE

The 2008 Schedule 2 Employers' Group Conference will take on October 1 & 2, 2008 at the Sheraton Parkway Hotel in Richmond Hill. The conference committee is hard at work contacting potential speakers and lining up exhibitors and sponsors. The keynote speaker on the morning of the first day will be well known Orthopaedic Surgeon and author, Dr. Hamilton Hall. The workshops will have a mixture of topics dealing with health and safety, WSIB, disability management, attendance management and wellness. Please mark your calendars and look out for the registration materials in early July 2008. If you have any questions concerning the conference please do not hesitate to contact Chris at SBCI.

POST OFFER PRE- EMPLOYMENT SCREENING INITIATIVE – CUSTODIAN POSITION

SBCI has developed a Post Offer Pre-Employment Screening Protocol for member school boards. This was mailed to the Superintendent or Manager of Human Resources at each of the school boards in November and December, 2007. French versions were mailed to respective school boards in January 2008.

SBCI would be interested in your feedback of this product and if you will be implementing such an initiative within your school board. Please contact Mary Luck at 905-669-4449 Ext 229 with your feedback or questions.

PARKLANE UPDATE

Parklane has recently released a new software upgrade which includes the new REO7/WREO7 forms recently amended by the WSIB. The announcement and instructions for downloading from Parklane's website were emailed to each contact at the school board. Please ensure your Parklane System is updated with these latest software changes. If further information is required, please contact Parklane Computer Systems @ 519-657-3386.

Electronic Form 7 Update

The WSIB is currently testing the transmission of Form 7s electronically from Parklane to the WSIB. The testing is being conducted with a small group of employers (ten of which are Parklane clients). It is anticipated that Parklane will be in a position to roll out this new process by the 2nd quarter of 2008. Parklane has communicated to its clients that there will be a requirement for your internal IT resources to be involved to assist in the new set up. Parklane will continue to communicate updates to its clients as they become available.

Important Note: Parklane Forum

Parklane has just introduced an on-line Forum that all Parklane users and IT administrators must register for. The forum will include changes and corrections to Parklane software, the latest copy of user guides and software changes. This on-line Forum will replace the Parklane Quarterly Bulletins so users are encouraged to check the forum on a regular basis of any changes and corrections. If you require further information or assistance on registering for the Forum, please contact Parklane Customer Support @ 519-657-3386.

If your school board has recently changed staff please contact Parklane Computer Systems to ensure their contacts are up to date. This will ensure that your board receives any communication bulletins.

SURFING THE NET



On the WSIB website, the stakeholder response to the interim policies to support Bill 187 Amendments is now available. Bill 187, which was introduced by the Ontario Government on March 22, 2007, sets out a series of workplace safety and insurance reforms to enhance injured workers' benefits. In response to these legislative amendments, the WSIB had to develop/revise existing policies to support the implementation of Bill 187 in a relatively short timeframe. The stakeholder feedback is in response to these policies.

New fees for Health Professionals, effective February 25, 2008, are now on the WSIB website. For example, physiotherapy fees for the initial and continuing visit are now \$24.

A short overview of the new Service Delivery Model is available in the current issue of @wsib - there is a link to this newsletter on the website. The new model adopts a case management approach that will focus on the delivery of prevention, health care and return to work services. It includes newly defined roles and processes to support integrated case management across a range of programs and services. The roll-out of the model is scheduled to start in the second half of 2008.

The Forms Simplification Project has revised the Employer's Continuity Report (WREO7) and the Post-1998 – Re-open Claim Earnings Report (WREO7E). A link to these forms is on the website and if you request one of the forms, it will be attached to the other form – these forms are submitted together when reporting a recurrence.

Valuable tips about faxing a document to WSIB are given on the front page of the website.

Attached is the link to the WSIB website to view the above information:

www.wsib.on.ca

The most recent version of the Workplace Safety and Insurance Appeals Tribunal newsletter is found on their website www.wsiat.on.ca

A link to the WSIAT reporter is on this website. The WSIAT Reporter contains the full text and headnotes of selected decisions of the Workplace Safety and Insurance Appeals Tribunal. This is a good resource to determine how other cases with similar issues to yours have been decided.

The MSD Prevention Guideline has now been released and is available for employers in Ontario. Musculoskeletal Disorders are the number one type of work-related, lost-time claims in Ontario. A link to this guideline is provided through this website: www.ergoconsulting.net.

CALENDAR OF EVENTS



Board of Directors Meeting:

May 16, 2008

SBCI SERVICES

TOTAL EMPLOYEE ATTENDANCE MANAGEMENT & SUPPORT (TEAMS)

- Attendance Support -
- WSIB Claims Management -
- Health and Safety -
- Wellness -

ACTUARIAL

- PSAB -
- Sick Leave Utilization -
- Group Benefits Consulting -

SBCI STAFF

Brian Brown, Chief Executive Officer
Mary Luck, Senior Claims Manager
Darlene Iwaszko, Claims Manager
Christopher James, Claims Manager & Lawyer
Kelly Melanson, Claims Manager
Robert Orrico, Claims Manager
Louise Bellamy, Financial/Office Co-ordinator
Lisa Chaplin, Claims Analyst
Monica Wroblewska, Executive Assistant
Neera Ramkorun, Data Entry Clerk
Audrey O'Connor, Data Entry Clerk
Rolly Montpelier, Marketing Consultant
Robbin Lavoie, Senior H & S Specialist
Paul Engelbrecht, H & S Specialist
France Germain, H & S Specialist
Lynn Porplycia, Attendance Support Practice Leader
Byron Franson, Attendance Support Co-ordinator
Cheryl Luke, Attendance Support Co-ordinator
Wendy Achoy, Chief Actuary
Vince Capicotto, Actuarial Consultant
Joseph Chan, Actuarial Analyst
Brad Bowen, Actuarial Analyst
Maggie Zhong, Actuarial Analyst