

(APPROVED)

IJA COORDINATORS MEETING

APRIL 6 - 7, 1998

AWCBC
RECEIVED
January 21, 1999

**WORKERS' COMPENSATION BOARD OF ALBERTA
9912 - 107 STREET
EDMONTON, AB
12TH FLOOR BOARDROOM**

Attendance:

Brenda Croucher, AWCBC
Doug Carr, Alberta
Curtis Forbes, Alberta
Maggie Fernandes, Alberta
Frankie LaFayette, Alberta
Pam Cohen, British Columbia
Jay Rowland, British Columbia
Lori Ferguson Sain, Manitoba
Richard Tingley, New Brunswick

Michele English, Newfoundland
Trevor Alexander, Northwest Territories
Nancy MacCready-Williams, Nova Scotia
Natalie Smurthwaite, Ontario
Terry Dunsford, Prince Edward Island
Sophie Genest, Quebec
Evan Bennett, Saskatchewan
Nina Sutherland, Yukon

Chairperson: Trevor Alexander, Northwest Territories

Minutes: Frankie LaFayette, Alberta

Minutes:

Agenda Item #1. Introductory Remarks

Welcome to Committee Members. Review of general housekeeping duties.

Lori Ferguson Sain (MB) thanked Alberta for hosting the meeting.

Review of Agenda Items.

Agenda Item #2. A) Review of Previous Minutes and Business Arising from Previous Minutes

Minutes from prior meeting in Vancouver, September 22 - 23 were reviewed and adopted as is.

Review of business arising from previous minutes, "Definition of Worker" was moved to later on Agenda.

Agenda Item #2. B) Definition of Worker

Due to legislative differences in the various jurisdictions respecting "definition of worker", concerns are that some workers are "falling through the cracks".

Curtis Forbes (AB) states this issue lays with each provinces' legislation. The provinces that limit eligibility due to its "definition of worker" opens the opportunity for the uncovered worker to litigate against their employer.

Trevor Alexander (NWT) agrees this issue arises out of legislation and cannot be changed by this Committee.

ACTION: No action required.

Agenda Item #3. A) Role of the IJA Committee

Trevor Alexander (NWT) welcomed discussion by the members on:

- a) our role as IJA Co-ordinators
- b) whether we continued to need the sub-committees, namely:
 - i) ITA - Trucking Sub-Committee
 - ii) Adjudication - Sub-Committee

Concerns were raised about the current need for the sub-committees presently in existence. The Adjudication sub-committee has not met since completion of the Adjudication Manual for Occupational Disease (S.7).

Concerns were raised regarding whether the Trucking sub-committee (ITA) was becoming more of a committee of its own and not a sub-committee of the IJA. There was unanimous agreement that although this committee has its value, its major issues are those relating to assessments. It was suggested these meetings should continue to be encouraged, but not under the umbrella of the IJA itself.

What is the role of the IJA Co-ordinator?

There was agreement from the group that the IJA Committee Co-ordinator should be responsible for all aspects of the IJA including the trucking (ITA). Sub-committees would report directly to the IJA co-ordinators.

Sophie Genest (QB) cautioned that too many sub-committees can create difficulties as it requires reporting to several levels to gain consensus on issues and, in turn, becomes inefficient. She would rather see a co-ordinator bring along a respective "expert" to an IJA meeting to assist in discussions of topics outside the co-ordinators area of expertise.

After much discussion, it was agreed that the IJA co-ordinators will deal with all the issues arising out of the IJA. With the practice of discussion papers being presented in advance of meetings, the co-ordinators are provided an opportunity to consult with their Board's experts and, if necessary, have them attend along with the co-ordinator at the IJA meetings. For larger issues, working committees comprised of IJA committee members can be created to help facilitate the process.

ACTION:

Motion to disband the two sub-committees (Adjudication and Trucking) by Lori Ferguson Sain (MB), seconded by Pam Cohen (BC), all Committee members voted in favor.

Trevor Alexander (NWT) will prepare a letter advising of the Committee's motion to disband the subcommittees and will copy the Heads of Delegation. The draft letter will be shared with each IJA co-ordinator for input prior to finalizing.

Brenda Croucher (AWCBC) will be sent the draft letter for distribution.

Agenda Item #3. B) Workplan - Performance Measurement

Trevor Alexander (NWT) introduced the topic and advised that in order to evaluate the effectiveness of this committee, a form of evaluation framework needs to be developed. Would this take the form of a working sub-committee group or would we contract this out to a separate group?

Doug Carr (AB) advised there is no budget to consider contracting out, and therefore, this would not be an available option.

Richard Tingley (NB) advised he has no expertise in this area but there was expertise available within the New Brunswick Commission.

Jay Rowland (BC) advised he is not in a position to commit their Board due to the Royal Commission Review currently underway.

Evan Bennett (SK) advises he would need to take this back to his Board prior to commitment.

Natalie Smurthwaite (ON) would need to take this back to their Board to discuss.

Lori Ferguson Sain (MB) agrees a form of performance evaluation is required.

Nina Sutherland (YK) suggested performance measurement/evaluation should be looked upon as a learning tool that would demonstrate accountability.

Curtis Forbes (AB) is concerned this process of evaluation may best be measured by the results. Would like to see more focus placed upon participation.

Trevor Alexander (NWT) states the Heads of Delegation want the IJA Committee to become more accountable.

Brenda Croucher (AWCBC) suggested the workplan material placed on the Agenda could form the framework and be a starting point for the Committee.

Sophie Genest (QB) discussed IJA implementation and our need to measure our commitment towards implementation. Suggested deadlines may assist. We need to clearly understand what our mandate is.

Curtis Forbes (AB) states he believes that for the committee to really move forward, full participation needs to occur.

ACTION:

Trevor Alexander (NWT) will prepare a First Draft towards a performance measurement model to assist in evaluating the effectiveness of the committee.

All Boards should send information to Trevor Alexander (NWT) by April 30, 1998.

Pam Cohen (BC) has information available from the Royal Commission review that she will share respecting what employers/workers are looking for the IJA to accomplish.

End target date for first draft to be sent to Brenda Croucher (AWCBC) is June 5, 1998.

Agenda Item #4. Reformatted IJA Manual - Review and Discussion

Sophie Genest (QB) advised that Quebec has agreed by way of letter to fully participate in IJA. Brenda Croucher (AWCBC) will forward copies of this letter to all IJA Committee Members.

Brenda Croucher (AWCBC) discussed the new formatting and asked each Board to review its Appendices. Some Boards currently have Appendices for both the old version and new version after S.7 amendments were done.

Curtis Forbes (AB) commented that some Appendices discuss limitations to reimbursements which seem redundant because participation limitations due to legislation and/or policy is already referenced throughout the Agreement.

The committee agreed that one consolidated version with reference to historical data in the form of side notes will be created.

ACTION:

All members will review their Appendices for consolidation and redundancy. These are to be returned to Brenda Croucher (AWCBC) by May 31, 1998.

Brenda Croucher (AWCBC) will consolidate the IJA.

Agenda Item #5a. Financial Statistics

Lori Ferguson (MB) states Manitoba expects to have statistics under the new model operational by June, 1998.

Maggie Fernandes (AB) asked whether the ITA (Trucking) statistics are to be included in the financial report or reported separately.

Sophie Genest (QB) stated she understood these to be separate.

The Committee agreed that ITA (Trucking) statistics are to remain separate.

Brenda Croucher (AWCBC) advised that the statistics submitted should be January to December, 1997 not July to December as indicated on the form.

ACTION:

All Boards who submitted statistics for July to December only are to submit their revised statistics representing January to December, 1997 to Brenda Croucher (AWCBC) by April 30, 1998.

Future statistical reports are to be broken into two separate reports as follows:

- a) Report on General IJA
- b) Report on ITA (Trucking)

Agenda Item #5b. Compulsory Employer not Registered in Accident Jurisdiction

Lori Ferguson Sain (MB) shared a situation where reimbursement was denied under the general IJA (not ITA) because the employer did not have an active account in the accident jurisdiction even though the employer was required to be registered. The Committee Members agreed that the reimbursing Board is obliged to honour the IJA reimbursement if the employer was in a compulsory industry at the time of the accident.

Agenda Item #6. Right of Election

Trevor Alexander (NWT) discussed the absence of a signature component to the Right to Election Form.

Terry Dunsford (PEI) also suggested a Social Insurance Number component. Sophie Genest (QB) advised that Quebec has their own Right to Elect they must use but will ensure the critical components are included.

ACTION:

The Committee agreed all Boards can use their own Right to Elect form but must ensure they have a Signature and Social Insurance Number block included.

Agenda Item #7. Section 10.4

Sophie Genest (QB) requested this item be deleted from Agenda. She will prepare material and include it on the next IJA Committee Agenda.

Agenda Item #8. Section 12.1

Sophie Genest (QB) wanted to remind Committee Members of previous agreement not to charge for translation costs.

Richard Tingley (NB) advised that the Heads of Delegation will be discussing the use of the two official languages with respect to translation costs. The results of these discussions may address this issue.

ACTION:

Brenda Croucher (AWCBC) will place the issue of translation costs under S.12.1 on the list of amendments for the Heads of Delegations meeting June, 1998.

Agenda Item #9. Exclusion - Nature of Employment - Discussion

Sophie Genest (QB) asked for this matter to be moved to the end of the agenda.

It was later deferred to the next IJA meeting due to time restraints.

Agenda Item #10. Case Studies

a) Duplication of Benefits

Pam Cohen (BC) shared a situation that occurred where both Provinces had accepted a claim for the same progressive work condition (asbestosis). Due to the policy difference between the two provinces, the worker enjoyed a higher level of benefits in Alberta. Alberta asked BC to rescind their claim. Alberta will refund BC the funds expensed and continue the carriage of this worker's claim. Pam believes the IJA forum allows for resolution/identification of these types of situations.

ACTION: No action required.

b) Lent Employee

Review of material and issues, surrounding the Lent employee were discussed. Certain jurisdictions (Saskatchewan, Yukon, Manitoba, Quebec) have legislation and/or policy that clearly identifies who would be the employer in these types of circumstances.

ACTION: No action required.

Agenda Item #11. Engaging Dispute Resolution (S.14) - No Material

Sample scenario was provided by Evan Bennett (no hand-out) for group discussion as follows:

Board "A" has an acceptable hernia claim.

Board "B" has a subsequent claim (head injury) for this worker resulting from an injury in its province. However, Board "B" under this claim (head injury) also begins to cover the hernia. Several years pass and after three recurrent hernia repairs, Board "B" revisits its responsibility for the hernia, determines it is Board "A's" responsibility and requests costs from Board "A". Board "A" denies responsibility for the subsequent hernia surgeries as being related to their original claim.

Jay Rowland (BC) advised that BC has clear policies surrounding hernia claims, in that, after 18 months, recurrent hernia problems are deemed to be due to the noncompensable underlying condition.

Curtis Forbes (AB) stated that the facts of the case and medical evidence must be used when arriving at decisions. The fact another claim exists is a red herring. The reason for denying must be due to the facts of the case and not because the worker has an issue with another Board.

Trevor Alexander (NWT) agrees. If the reason for dispute is solely due to one Board not agreeing to look at a claim although the responsibility may be theirs, then this can be directed to the IJA Co-ordinator.

Otherwise, the appeal process within each jurisdiction is intended to be exercised and should be the avenue used to achieve resolution.

Summary of Discussion:

Trevor Alexander (NWT) summarized discussions by stating each Board should rely on the decisions made by another Board and keep open discussions on claims that may include another jurisdiction whenever denying a claim. It is understandable that some claims may not be acceptable in any jurisdiction.

Evan Bennett (SK) asked the Committee members what would be the other provinces' position if Saskatchewan WCB assisted a worker in pursuing an appeal with another Board.

After some discussion, the Committee members agreed that a call to the respective Board would be welcomed, however, formally assisting in an appeal would be outside the role of the IJA Committee members.

ACTION: No action required.

Agenda Item #12. Reimbursement of Capital Costs

Curtis Forbes (AB) requested this issue be tabled as the discussion papers were still being worked out. Alberta will have the discussion papers ready well in advance for the next IJA meeting so each respective Board can have their financial experts review in preparation for discussion at the next meeting.

Agenda Item #13. Shortfalls on Invoices

Frankie LaFayette (AB) presented the discussion paper respecting shortfalls and discussed the impact on employer's accounts and future invoicing.

Each Board agreed to look over its particular practices in an effort to minimize these impacts. Clearly, it will remain each Board's responsibility to determine how they will individually handle these issues.

Agenda Item #14. Implementation of Limitation Period

Frankie LaFayette (AB) presented the discussion paper. There was general discussion surrounding the impact of nonparticipating Boards suddenly becoming operational and how this may impact the reimbursing jurisdictions.

The Committee members agreed in principle that a limitation period should be included. Details respecting the length of the limitation period, the date the limitation period would commence (date of accident vs date of application) needs to be worked out by the Heads of Delegation.

ACTION:

Brenda Croucher (AWCBC) will place this request on the list of amendments for the Heads of Delegation meeting in June, 1998.

Agenda Item #15. NAFTA

Michele English (NFLD) distributed NAFTA handout and advised that Katherine Crosby will provide more feedback at the next IJA meeting.

Sophie Genest (QB) advised that Government of Quebec has agreements with nine countries respecting coverage under the WCB and suggested these agreements may be assistance to the NAFTA Committee.

Agenda Item #16. Communication of IJA to Employer - No Material

Trevor Alexander (NWT) advised that he sees a need to educate the employer stakeholders respecting the IJA.

Frankie LaFayette (AB) advised Alberta has begun sending letters to employer on IJA claims and has seen similar letters from Manitoba. The Committee members would like to see examples of these letters for consideration of adopting a similar form of communication.

ACTION:

Frankie LaFayette (AB) will send examples of letters to Brenda Croucher (AWCBC) by April 30, 1998.

Agenda Item #17. Heads of Delegations Reports - No Material

Lori Ferguson Sain will represent the Committee members to present the issues identified to the Heads of Delegations meeting in June, 1998.

Agenda Item #18. Future Issues

Discussion was directed to Agenda Item #3, Objective C1 of our handout, namely:

C1:2. Develop standards for providing coverage to workers sponsored in on-the-job training programs.

General discussion respecting the problems arising when accidents occur on out-of-province TOJ employers. The difficulties arise due to legislative differences among the various jurisdictions respecting definition of worker. Possibly outside the scope of the IJA.

C1:4 Identify and discuss mechanisms to address self-insured employer issue.

Conclusion of this discussion was that Section 3(f) of the Reimbursement Guidelines speaks for itself on this matter.

Adhoc Items

1. Sophie Genest (QB) distributed a chart of benefits available with the Quebec WCB.
2. Jay Rowland (BC) advised that Revenue Canada will tax the interest payable on the Widow's Pensions that was recently decided in the Courts. No action required. Information only.
3. Ontario WCB letter of March 11, 1998 referred to as "**Ontario's Issues**".

Natalie Smurthwaite (ON) advised her instructions were to provide copies of the letter to each IJA Committee member and that each Province can reply in writing.

Lengthy discussions surrounding each issue identified in Ontario's letter and what Ontario was hoping to achieve. Lori Ferguson Sain (MB) believes the issues Ontario is presenting is one of good faith, in that, are the Provinces going to honour the agreement.

The Committee members agreed one letter would be drafted and signed by all Committee members. Lori Ferguson Sain (MB) will prepare the letter for signatures.

Doug Carr (AB) asked the Committee's position with respect to Issue 1 - Hearing Loss. If changes are being recommended to include hearing loss, this will need to be signed off by the Heads of Delegation. Sophie Genest (QB) advised this would require the Quebec Government's signature too.

Brenda Croucher (AWCBC) expressed concerns with the length of time required to get the signing completed. After lengthy discussions, the Committee members recommended Section 7 of the IJA remain intact as is for at least a trial period to see how it works. Inclusion of hearing loss and changes to the minimum dollar requirement can be tabled for inclusion once the trial period has been completed.

Pam Cohen (BC) suggested Ontario track its hearing loss claims to determine how many S.7, as written, impacts.

ACTION:

Lori Ferguson Sain (MB) will draft a letter for signing by all IJA Committee members. Input can be directed to her.

Agenda Item #19. Next Meeting

Brenda Croucher (AWCBC) states AWCBC will be willing to assist with costs of meeting rooms for any Boards limited in space.

Nancy MacCready-Williams (NS) offered Nova Scotia WCB to host the next meeting. Tentative date: September 28-29, 1998. Dates will be confirmed by Nancy MacCready-Williams (NS) upon her return. Trevor Alexander (NWT) will continue to chair for next IJA meeting.

**Next Meeting: Halifax, Nova Scotia
September 28 - 29, 1998 (to be confirmed)**

Committee members thanked Alberta WCB for hosting the meeting.

Meeting adjourned.