

IJA Committee Meeting
April 13 & 14, 2000
Richmond, Vancouver
FINAL

Attendees:

Greg MacCallum, PEI	Donna Allen, NWT/Nunavut
Frankie Lafayette, Alberta	Doug Mah, Alberta
Pam Cohen, British Columbia	Jay Rowland, British Columbia
Terry Smith, Saskatchewan	Wayne Dale, Saskatchewan
Lori Ferguson Sain, Manitoba	Cynthia Mendes, Ontario
Pascale Goulet Quebec	Richard Tingley, New Brunswick
Nancy MacCready-Williams, NS	Sheila Lilles, Yukon
Brenda Croucher, AWCBC	

Regrets:

Donna Strong, Newfoundland

Introduction and Welcome

The Chair welcomed committee members and general housekeeping matters were reviewed.

Review of Agenda

The April 13 & 14, 2000 agenda was reviewed. The letter from Mr. Serge Recchi, WSIB, dated November 26, 1999 was added to the agenda under Other Business for discussion.

Review of the Minutes

The November 4 & 5, 1999 IJA Coordinator meeting minutes were reviewed and endorsed. The minutes will be revised and distributed

Action Point: Brenda Croucher

Appreciation was expressed to the AWCBC for the preparation and distribution of the IJA Reference Manual.

It was agreed that the Appeal Tribunal Decision regarding a motor vehicle/workers' compensation case would be distributed to the IJA Coordinators.

Action Point: Richard Tingley

Discussion took place regarding whether the intent of the legislation was to access insurance of automobiles and whether the injured workers' cause of action was taken away.

IJA Brochure

The Committee reviewed and suggested revisions to the IJA Brochure prepared by Donna Strong, NFLD. It was agreed that it would be up to each jurisdiction as to how they choose to

distribute the brochure. The AWCBC will ensure suggested revisions are made to the brochure, it is translated and forward to the IJA Coordinators for appropriate distribution (Print/Website etc.) It was noted that boards/commissions may revise the brochure as they deem necessary but the revisions must be in keeping with the current principles.

Action Point: Brenda Croucher

IJA Coordinators are to ensure that the correct contact phone number is forwarded to Brenda Croucher.

Action Point: IJA Coordinators

It was noted that the Alberta WCB currently distribute a brochure related to the Trucking Agreement.

The IJA Committee noted thanks to Donna Strong, NFLD for the preparation of the brochure.

Amendments

Lori Ferguson Sain reviewed a document that captured the suggested amendments to the IJA Agreement. It was noted that the majority amendments were not substantive but did address housekeeping issues. It was noted that Appendix C may require a grandparenting provision. Suggested revisions noted during discussion will be completed and sent to the IJA Coordinators for review prior to EC/HOD endorsement.

Action Point: Lori Ferguson Sain

Discussion took place regarding the expiry dates for IJA Agreement. It was agreed that input from the CTA and Assessment Working Group was required to assist in evaluating it's effectiveness.

Action Point: Greg MacCallum

Letter to the CTA,
Request input from Assessment Directors at May 15, 2000 meeting,

It was agreed that the amending agreement effective date would be June 26, 2000 and that the amendments would be presented to the Executive Committee and the Heads of Delegations.

Action Point: Brenda Croucher

Include on IJA Coordinator September agenda

The committee expressed their thanks to Lori Ferguson Sain and Nancy MacCready-Williams for their work on this document.

Data Collection

Jay Rowland introduced this agenda item and referenced a document entitled "Definitions of Cost Reimbursement Statistics". This document outlined definitions to be used in the reporting

of semi-annual and annual claims activities within the IJA. This document will be included in the IJA Reference Manual.

Action Point: Brenda Croucher

During discussion it was noted that data related to the number of claims would be of assistance in determining growth trends and making business decisions.

It was agreed that January 1, 1999 – December 31, 1999 statistics would be forwarded to the AWCBC by May 1, 2000.

Action Point: IJA Coordinators

It was agreed that the Assessment Directors would be asked if the following statistics could be gathered:

- Number of parties that are elected in home jurisdiction, multi elected or elected elsewhere
- Payroll dollars in the above 3 categories
- Payroll amounts-assessing board
- Correlation between payroll and assessment revenue

The above information is to be forwarded to the AWCBC for distribution to Frankie Lafayette by April 20, 2000

Action Point: IJA Coordinators

Frankie Lafayette agreed to work out a statistical format in preparation for the Assessment Directors review at their meeting (May 15, 2000).

Action Point: Frankie Lafayette

Arrangements are to be made to seek input from the Assessment Directors with respect to the above statistics.

Action Point: Greg MacCallum

The IJA Committee expressed thanks to Jay Rowland and Frankie Lafayette for their work on the Definitions and Cost Reimbursement Statistical documents.

IJA Committee Mandate

The chair led discussion with respect to the IJA Committee mandate. It was agreed that the current goals and deliverables are tracked in the workplan, which is prepared for the Executive Committees review each quarter and that a revised mandate was not required.

Action Point: Greg MacCallum

NAFTA

It was noted that the Executive Committee had requested that the NAFTA report be reviewed to identify impacts on Workers Compensation Boards/Commissions.

The representative from British Columbia noted that there is no requirement to obtain coverage in Texas and that this raised a number of concerns.

The representative from Quebec noted inaccuracies and revisions to the document.

A question arose with respect to “What laws are there that would bar a worker from claiming compensation in both countries.” It was noted that there is no way of determining if a claimant has claimed in two jurisdictions and therefore monitoring this situation is important.

An issue was also discussed with respect to employers having to pay duplicate assessments in both countries.

It was agreed that the issues should be monitored for “problem industries” and that there were no further action points for the IJA Committee. The report back to the Executive Committee will indicate that “there are no cross border events and that in the future, each jurisdiction will monitor events in their own jurisdiction, with the assistance of their respective legal departments, and report to the Executive Committee as required.” The report to the Executive Committee will include the above statement.”

Action Point: Greg MacCallum

The NB representative highlighted an issue with respect to the increased mobility of workers between the Maine/NB border. NB has a residency requirement, which requires a worker to “overnight.” There have been situations where workers from Maine who are working in NB are not being paid. The employer is indicating that they are not covered. This may result in exposure to lawsuit. It was noted that amendments to legislation in Maine are underway which indicates that if worker is a non-resident, Maine will not cover.

The Manitoba representative noted that an issue exists about the description of coverage. It was noted that it is important for the employer to be aware that although Manitoba, for example, extends coverage, there should be contact with the jurisdiction in which the worker/student is working in.

The NWT representative noted that an issue arises with respect to the employer relationship when a worker is working in another jurisdiction.

It was requested that a copy of the covering note/letter that was attached to the NAFTA report and the “Comparative Guide” referenced in the report be obtained.

Action Point: Brenda Croucher

Trucking/Cut Off Date

The Chair noted that the Trucking Agreement is in effect until December 31, 2001. PEI and Yukon's participation remains limited. PEI is committed to reviewing this issue and amending their policy/legislation to fully participate. The Yukon does not anticipate that there will be an opportunity to open their legislation until 2003 but due to their ceiling (\$60,000) this issue is less significant.

The Chair noted that Paul Krismer will attend the Assessment meeting on his behalf and that he will request that Paul raise issues related to the Trucking Agreement that arise of the IJA meeting.

Action Point: Greg MacCallum.

The BC representative noted that many employers do not understand the Trucking Agreement and that some employers are only reporting to one Board even though they may have workers in other jurisdictions. As a result, BC feels that there may be under assessment. A message to employers is required to clarify that assessments are based on residency.

The Alberta representative noted the importance of being notified of an employee's change of residence and determining who is responsible for notification. It was agreed that it may be appropriate for the Assessment Directors to review this issue when reviewing the Trucking pamphlet (Alberta's)

Action Point: Greg MacCallum

Alberta legal counsel will obtain clarification as to whether the Alberta Trucking pamphlet can be used by other jurisdictions.

Action Point: Doug Mah

The Quebec representative reviewed a case where differing cut-off dates may create a problem. As a result of discussion, it was requested that the Assessment Directors provide their view with respect to the best practice for new and renewed applicants. (Go forward or retroactivity)

Action Point: Greg MacCallum

A question arose regarding how reimbursements impact Experience Rating Programs. Alberta noted that they have a discussion paper that addresses how shortfalls are handled. It was agreed that this issue should be brought forward to the next agenda.

Action Point: Obtain the Discussion Paper from Alberta and include on next agenda.

Brenda Croucher

Case Studies

The BC representative reviewed Case Study #2, (see meeting materials) and noted that BC is losing assessments because of the APP. Employers are only paying assessment in the province

they are working in and unless employer applies in the other province, assessments will not be received. Following discussion, it was noted that it is important to ensure that employers are aware of their registration requirements.

The BC representative reviewed Case Study #1, (see meeting materials). Following discussion it was noted that the worker would have the right to election and that it is important that employers are aware that they must pay as per residency. It was agreed that this issue would be included in the letter to the CTA.

Action Point: Greg MacCallum

Case Study #3 (Quebec)

Following a review of the summary of facts it was agreed that it is important to separate the worker rights from the employers obligations to avoid having the worker fall through the cracks. It was noted that this is not necessarily an IJA issue. The Saskatchewan representative advised that this case would be reviewed further to determine if Saskatchewan would pay this claim.

Action Point: Terry Smith

Case Study #4 (Manitoba) Dependent's Benefits and Reimbursement

The Manitoba representative reviewed the facts of this case. The case referred to workers who may have multiple dependents and whether there is one claim per worker or one claim per dependent. Issues with respect to the following were discussed: Is there overcompensation/duplicate payment? How are employers assessed when partially reimbursed? What happens if one elects to bring own action? (IJA states that no reimbursement takes place until right of action clarified).

It was agreed that each jurisdiction would provide a response to the AWCBC with respect to their policies/practices.

Action Point: IJA Coordinators

Appeal Decision on Cost Relief

The BC representative reviewed a case where a WCB had accepted a claim and BC was requested to reimburse. The employer requested relief from BC stating that there was a pre-existing condition that prolonged the claim. It was noted that if BC is reimbursed cost relief could be provided to the employer in the sense of a disallowed claim.

Other Business

Letter from Ontario November 26, 1999 – Participation in Section 7

Comments previously noted at the last meeting were highlighted with respect to Ontario participating in Section 7. (Page 9 & 10 November 4 & 5, 1999 IJA Committee minutes) It was requested that the IJA Coordinators confirm if they are in agreement with the comments and advise Pam Cohen by May 1, 2000. During the meeting NS, ALTA, YK confirmed agreement with comments.

Action Point: IJA Coordinators

It was agreed that a letter would be prepared and forwarded to the WSIB upon receipt of the input from the IJA Coordinators.

Action Point: Pam Cohen

Next Meeting

It was agreed that the next meeting would be in Toronto on September 28 & 29, 2000