

FINAL Minutes
IJA Meeting April 19, 2004
Toronto, Ontario

Attendees

Carol Anne Duffy, Executive Sponsor, PEI
Pam Cohen, Chair, BC
Bonnie Blakney, PEI
Bruce Willis, Yukon
Doug Mah, Alberta
Patty Cunningham, Alberta
Jan Glemba, Alberta
Terry Smith, Saskatchewan
Cynthia Mendes, Ontario
Serge Recchi, Ontario
Jean Landry, New Brunswick
Mary-Anne Hook, Northwest Territories & Nunavut
Paula Arab, Nova Scotia
Lori Ferguson Sain, Manitoba
Pascale Goulet, Quebec
Brenda Croucher, AWCBC

Regrets:

Donna Strong, Newfoundland

Attending for Specific Agenda Items

Maureen Mullen, Ontario

Welcome and Introductions

Review of Agenda

The chair called for a review of agenda for revisions, deletion or addition of agenda items.

Review of Previous Minutes

The June 9, 2003 IJA Committee meeting minutes were reviewed and accepted as per suggested revision.

Moved: Pascale Goulet

Seconded: Lori Ferguson Sain

Minutes to be distributed to the Heads of Delegations

Action: Brenda Croucher

Action Arising Out of Previous Minutes

Inclusion/Exclusion of Hearing Loss in Section 7

The Chair provided background information to the committee regarding the inclusion/exclusion of hearing loss claims in Section 7 of the Interjurisdictional Agreement (IJA).

Ontario's noted that of 12 claims, there were 4 potential cross jurisdictional exposure claims that were redirected to other jurisdictions for consideration but were not pursued by the worker. It was confirmed that all four claims would have had the opportunity to claim in other jurisdictions. Ontario noted that the exclusion of hearing loss claims in Section 7 of the IJA had been endorsed by their Executive Committee.

DECISION: It was agreed that a recommendation to continue with the exclusion of hearing loss claims in Section 7 of the IJA would go forward to the Heads of Delegations

Inclusion of Pilot Car Drivers in Interjurisdictional Agreement-Trucking

The Chair provided background information to the committee with respect to consideration of including pilot car drivers in the Alternative Assessment Procedure (Appendix E) of the existing IJA.

The Ontario Trucking Association was contacted to obtain their opinion via correspondence dated June 13, 2003. Mr. Doug Switzer responded on behalf of the Ontario Trucking Association on October 15, 2003. In his correspondence, (distributed) it is noted that the Ontario Trucking Association supports the inclusion of pilot car drivers where the driver is employed by a trucking firm that travels in more than one Canadian jurisdiction; and where the trucking firm supplies the pilot vehicle. The Ontario Trucking Association does not believe that the agreement should be expanded to include firms that specialize exclusively in the supply of pilot car drivers and vehicles since they are not engaged in the business of moving freight—they only provide a service to the companies that do move freight. Consequently, the Ontario Trucking Association does not consider pilot car drivers to be “a part of the trucking industry”.

DECISION: It was agreed that further contact would be made with the Ontario Trucking Association to obtain their rationale for non-inclusion of pilot cars before further consideration by the committee at their next meeting.

ACTION POINT: Ontario

Occupation Disease Case Update

Ontario referenced an occupational disease claim where the worker had shared exposure in Manitoba, Ontario and Quebec. Cost reimbursement was requested by Ontario and confirmation of reimbursement has been determined by Manitoba.

Quebec has denied reimbursement based on their assertion that there was insufficient evidence to show that that client actually worked in Quebec, and if so, with which employers. Quebec will not accept lung cancer claims unless there has been a diagnosis of silicosis or asbestosis. The Mining Master File used to determine Quebec exposure only indicated the cities in Quebec where the worker was employed, rather than specific employers. Due to the long latency period for the disease process, income tax and other

evidentiary documentation is not available to assist with obtaining clarification of employment information.

It was noted that, in general, a worker's statement taken at the time of employment in the mining industry and gathered as part of the mining master file would be considered sufficient evidence to confirm a worker's employment, in the absence of other records. Evidence such as this is not considered to have been tainted with potential secondary gain issues.

It was noted that unless there is a statutory limitation in Quebec legislation i.e. silicosis vs. lung cancer, or there is exclusion of a specific occupational disease noted in IJA appendices, this claim should be considered for acceptance.

DECISION: It was agreed that Quebec would review the claim to determine if the condition would be included/excluded as per Quebec legislation/appendices and if these findings would alter the decision to deny Ontario's request for reimbursement.
Action: Quebec to advise committee of outcome by June 15, 2004.

Re-draft of IJA Agreement

A preliminary draft of a revised IJA document was distributed to committee members. Revisions included the incorporation of appendices C & E into the agreement on a permanent basis and general revisions to assist with improved organization of the content of the document. It was noted that a "plain language" rewrite would require extensive work and that the definition of "policy" may have to be reviewed.

DECISION: It was agreed that committee members would review the revised draft and provide comments and jurisdictional appendices to Lori Ferguson Sain with copies to Pam Cohen and Brenda Croucher by June 15, 2004.

IJA/Alternative Assessment Procedure Statistics

The 2003 IJA and Alternative Assessment Procedure statistics were referenced.

Cost Reimbursement-Limits on Re-Adjudication

Alberta prepared and referred to a document entitled "A Discussion Paper on Re-adjudication of Cost Reimbursement Claims under the Interjurisdictional Agreement (IJA)" that addressed the extent of permissible re-adjudication under the IJA.

DECISION: It was agreed that committee members would advise the AWCBC of their jurisdictions confirmation that the intent of the agreement is to facilitate the acceptance of compensable claims subject to statutory limitations and policy when contained within legislation.

Action: Committee Members

DECISION: It was agreed that:

- o The dispute resolution mechanism could be appropriate in some jurisdictions when questioning the correctness of an adjudicating

jurisdiction's decision through the reimbursing jurisdiction appealing the decision of the adjudicating jurisdiction in the adjudicating jurisdiction's appeal system.

- o Employers in the reimbursing jurisdiction are entitled to cost relief based on a difference of opinion between the reimbursing jurisdiction and the adjudicating jurisdiction.
- o Dispute resolution outcome may not always be binding as some jurisdictions cannot delegate legal authority to an arbitrator and as a result the current related definition would require revision.

Turn Around Time on Accounts Payable

General discussion took place with respect to the appropriate timeframes to process payments to jurisdictions. Currently, billing takes place quarterly and oldest invoices are addressed first. It was suggested that boards/commissions consider centralization of IJA claims to assist with facilitating the billing process.

DECISION: It was agreed that accounts would be paid within 90 days from receipt of billing.

Reference Manual

Reference was made to the benefits of the manual. It was requested that the Reference Manual be distributed to committee members.

Action: Brenda Croucher

Jurisdictional Legislation/Policy/Procedure Changes

DECISION: It was agreed that major legislative updates would be forwarded to the AWCBC for distribution to the committee and that correspondence should include details regarding legislative changes that may have impacted requests for reimbursement.

Election Form

An interjurisdictional agreement questionnaire regarding election forms was prepared to address the following questions. When would a worker be asked to sign an election form as per section 4 of the IJA and would a copy be sent to the jurisdiction where the worker resided? A question arose as to why jurisdictions are not receiving as many election forms as expected.

DECISION: It was agreed that:

- o each jurisdiction would send notification of a worker's potential right to elect
- o when a worker does elect there is an obligation to advise the other board/commission and provide appropriate background claim information
- o a reminder to staff would be sent requesting that they screen for potential IJA claims.

Dispute Resolution

Time frames for identifying an issue for the purposes of launching a dispute resolution were discussed.

DECISION: It was agreed that a limitation period of two years would be applied to initiate the dispute resolution mechanism from the date of receipt of the decision in dispute.

IJA Committee Funding

The Executive Sponsor advised the committee that funding requests for projects/initiatives may be submitted to the Heads of Delegations for approval via the submission of appropriate background information including rationale and timelines etc.

Terms of Reference

Following discussion, the importance of establishing a terms of reference for the committee was established to ensure consistency in roles, principles and committee membership.

DECISION: It was agreed that Bruce Willis, YK, Doug Mah AB and possibly Pascale Goulet, QU would participate in sub committee work to prepare a draft terms of reference for the committee's review.

Previous documentation regarding an evaluation that was completed to review the committee's effectiveness and recommendations arising out of the evaluation was referenced.

ACTION: Brenda Croucher to provide background information pertaining to the mandate of the IJA Committee to the sub-committee.

IJA Workplan

General discussion took place with respect to required updates to the 2004 IJA Committee workplan.

ACTION: The Chair will update and submit the IJA Committee workplan to the AWCBC for Executive Committee review by June 10, 2004.

Emerging Issues

It was noted that enough time may not have elapsed to evaluate the impacts of recent firefighter legislation. It was further noted that in British Columbia, 30% of fatal claims relate to mesothelioma claims.

AWCBC Update

Brenda Croucher provided an update that summarized activities related to committee work, emerging issues and upcoming events.

Other Business

Pam Cohen noted that the provincial governments have an Interagency Firefighting Agreement in place to facilitate cost reimbursement as was required in British Columbia last summer. It was noted that this is apart from the IJA and GECA agreements.

Next Meeting

DECISION: The next IJA Committee meeting is scheduled to take place in Toronto on April 4, 2005.

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