

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

Attendees:

Mark Powers – BC

Deepak Kothary – BC

Bruce Willis - YK

Doug Mah – AB

Janet Welch – AB

Rhonda Dean - AB

Daryl Davies – SK

Glenn Jones – MB

Mike Triggs – NT/NU

Cynthia Mendes – ON

Liza Bowman – ON

Suzanne Hewitt – ON

Pascale Goulet - QC

Jean Landry – NB

Paula Arab – NS

Sarah Gallant - NS

Kate Marshall - PEI

Carol Anne Duffy - PEI

Ann Martin – NL

Welcome and Introductions

- Agenda Reviewed and Adopted
- Review of May 2008 Minutes. All agree to adopt changes submitted by Pascale Goulet which included:
 - page 3 of 6 – The European model is a different way to avoid duplicate assessments and does not request cost reimbursement. In such cases, there is no possibility of an election because the worker is covered by one board only.
 - page 5 of 6 – in the truckers court decision it was the “worker” not the “employer” that opined
 - page 5 of 6 – in all cases, in addition to the worker’s consent, QC privacy legislation has changed and requires QC to ensure before transmitting a worker’s information outside Quebec, that the receiving jurisdiction will provide the same protection to the worker’s privacy as is required by QC’s privacy legislation.

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

- Minutes approved.
- Action Arising from 2008 Minutes
 - **Discussed work completed last year & thanked everyone for their contributions.**
 - **Access to Information (New Business- 2008 Minutes)**

Bruce Willis asked whether the IJA could be amended to allow the transfer of worker information for the purpose of investigations.

Glenn Jones inquired whether the Yukon Board had the worker sign a consent form at the commencement of the claim. Bruce Willis confirmed Yukon did but still a problem under Yukon Privacy Act because Yukon Board can't rely on a worker's general consent. Paula Arab also said Nova Scotia cannot rely on a worker's general consent either.

Jurisdictions discussed the question "If a worker initiates a claim and signs a consent form, does it allow for widespread disclosure to other jurisdiction(s)?" It would appear legislative requirements to access worker or employer information varies from jurisdiction to jurisdiction. For some jurisdictions such as Manitoba, the worker's signed consent form is sufficient, and in others such as Ontario, this may not be the case depending on the nature and purpose of the request. Yukon suggested alternatives may be to change the consent form at the front end or to amend the IJA to include release of worker information to other jurisdictions. In this way, the requirements of various FOI legislations may be met and co-operative information sharing measures established.

Bruce Willis suggested the IJA be amended so that the information could be shared for the purposed of the IJA but subject to the releasing board's applicable privacy legislation.

There was a query as to whether it was necessary to provide medical information when sending a request to another jurisdiction for reimbursement. Suzanne Hewitt indicated it was needed to decide the issue of employer cost relief.

Action Items:

- A. Each jurisdiction is to look at their own privacy and workers' compensation legislation to determine if it allows them to enter into agreements with other jurisdictions to share information. A due date of July 1st, 2009, has been set, however, Bruce Willis acknowledges that he hopes to receive all responses by August 31, 2009.**
- B. Bruce to compile responses and look at possible solutions for accessing information such as amending IJA or drafting a generic consent form. He will issue survey results and options by September 30, 2009.**
- **Training Materials (Item 2a 2008 Workplan): Rhonda Dean**

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

Rhonda advised the committee she completed a review of the training materials submitted by various jurisdictions (Alberta, Ontario, Nova Scotia, New Brunswick, Saskatchewan). Not all jurisdictions submitted their training materials so it was not a complete review. It would appear the focus of these materials was primarily self-study; Saskatchewan was commended for its ability to link procedures to sections of IJA Agreement. Gaps/inconsistencies in training materials were identified e.g., setting benefit rates and issuing wage loss benefits, examples of denials that are no longer relevant such as where no consent received and exceptions if any. There appeared to be an issue with re-adjudication, where reimbursement was denied even though it was not prohibited by the Board's legislation or policy (e.g. for dependant's costs or pool passes). She also indicated that based on her review of the materials, that typically an IJA claim is managed by the claim owner who is responsible for both billing for reimbursement and for paying out on requests for reimbursement. There seemed to be more success when an area outside of claims processed requests for reimbursement. Rhonda went on to add that the training materials were not directly linked to the IJA; especially section 9(2) to determine the amount of reimbursement. Rhonda said the next step would be to go on to create a manual for all the jurisdictions but there is such a volume of material to go through it is a very cumbersome task.

Ann Martin said a lack of information in this area but very hard to develop a general manual as depends on the audience- whether front line adjudicators or within the legal department or a designated IJA officer.

Suzanne Hewitt asked Rhonda if Saskatchewan's training manual was the best example and where it could be used as a precedent. Rhonda said no, because each board had a very different structure and some training is based on internal procedures.

The committee wants to work towards a uniform framework for decision making; to have training materials that reference the IJA itself and are understandable to IJA front line staff as well as a broader audience.

Liza Bowman inquired whether Rhonda Dean could put together a report that could be distributed to everyone and Rhonda agreed to give a brief report but not prepare the training materials. Liza Bowman said that it seemed apparent that the materials from the IJA committee meetings should be incorporated into the training materials and reviewed annually.

Action Items:

- A. Daryl Davies to e-mail his jurisdiction's training manual to requesting IJA Committee members.**
- B. Rhonda to summarize best practices/gaps in training materials received to date and will indicate where more inclusions required to deal with section 9 in particular. (September 30, 2009)**
- C. All are to review Rhonda's report against their own internal practices to identify gaps and find common issues to discuss.**

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

- D. Initiate compilation of Best Practices/Training Guide by addressing the following modules: 1. Elections (Pascale Goulet & Ann Martin); 2. Cost Reimbursement [including (a) section 9; (b) AAP; and (c) long latencies- section 7 claims] (Kate Marshall); 3. Alternative Assessment Procedure (Deepak Kothary); 4. Dispute Resolution (Doug Mah). Target Date: May 2010.**

➤ **MARS Material (Item 4b-2008 Workplan): Doug Mah**

Doug advised the committee that his contact in Alberta regarding the MARS agreement has moved to another post. The MARS agreement has been amended so as to recognize the right of workers to elect in their home jurisdiction or the jurisdiction of injury. Previous wording contained in the MARS Agreement conflicted with the IJA: *“Consequently, injured personnel who may have entitlement to benefits in either their home jurisdiction or where the injury occurred must elect in the adjudicating jurisdiction.”* The Committee agreed that the MARS agreement is no longer in conflict with the IJA and the action point no longer needs to be completed because it does not impact on a WCB coverage issue.

Previous clause (5.10 2nd paragraph) in the MARS Agreement read:

“Although injured personnel have the right to elect coverage from the agency in which the injury occurred, it is recommended that personnel elect coverage from their home jurisdiction. The costs of any claim arising in such circumstances are payable by the Workers Compensation Board (WCB) in whose jurisdiction the injured worker is resident.”

The revised clause now reads:

“Injured personnel may have the right to claim compensation in their home jurisdiction or the jurisdiction in which they are injured. In such event, they may make a claim to the workers' compensation agency of one or the other but not both. The costs of the claim will be paid by the workers' compensation agency administering the claim.”

Pascale Goulet inquired whether other boards found that agencies were creating agreements like the MARS without consulting the board in that jurisdiction. For example, the CSST was not contacted prior to the development of new agreements on migrant workers. Doug confirmed that it was an issue in Alberta because he had only discovered agreements had been made with other provinces and countries when a claim was submitted. These agreements were not necessarily in sync with the Alberta Workers' Compensation Act.

➤ **Emergency Management Services Material (Item 4b-2008 Workplan): Doug Mah**

Doug provided the committee with responses he had received from some jurisdictions regarding the following survey questions:

How does each Canadian jurisdiction manage the coverage of emergency service workers who are:

1. Exported from its jurisdiction to provide emergency management services in another jurisdiction?

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

2. Imported into its jurisdiction from another jurisdiction to provide emergency management services within its jurisdiction?

Doug advised the committee that there are agreement/protocols for national or international sharing/importing/exporting of workers both at the federal and provincial/territorial level to provide emergency services. For example, Alberta has entered into an emergency services agreement with particular state in Mexico to exchange such services. Doug has advised that a group of Mexican firefighters was injured when their plane hit turbulence while leaving AB. The Alberta Board now has to decide whether coverage will be provided because there was no prior consultation with his Board regarding this issue.

Doug indicated that governments may not necessarily be informing their WCBs of such agreements and his example of the Mexican firefighters shows why boards need to be involved in discussions where other organizations are creating agreements that touch on WCB coverage. Doug said his next step would be to try to answer the question he posed in his paper.

Action Items:

- A. Emergency Service Workers: Jurisdictions which have not responded to the survey are asked to submit their materials to Doug by August 2009 (Yukon).**
- B. Jurisdictions are to determine if their governments have entered into any Agreements regarding Emergency Service Workers and to advise Doug by August 2009.**
- C. Summary report articulating issues/high level guidance on how to deal with workers in these situations is to be prepared by Doug by October 31, 2009, for discussion at next IJA meeting.**

➤ Access to Information from Department of Transport (Item 4d-2008 Workplan): Jean Landry

Jean reported there may be a number of trucking companies who have chosen not to take advantage of AAP, and if so, they may be under-reporting to jurisdictions. There are external provincial agencies that could possibly assist in identifying and tracking inter-provincial trucking activities: 1) the International Registration Plan (IRP) through Department of Public Safety, produces a report that identifies the name of the carrier, their address, list of vehicles, % of total travel in each jurisdiction, actual mileage for previous year, estimated travel for coming year; 2) International Fuel Tax Agreement (IFTA) through Department of Finance has an on-line report that identifies particular trucking carriers and their kilometres travelled by jurisdiction, total number of litres consumed and total litres purchased in each jurisdiction. Jean also noted that 3% of carriers are audited annually for IFTA purposes so there is an internal deterrent to under-reporting which would suggest the database is fairly accurate.

Jean advised that he met with the administrator of the IRP in NB and identified a problem with attempting to use the IRP database to audit trucking companies. A single employer was allowed to report several fleets of truck within one company, so it would require a lot of reconciliation to figure out exactly the mileage travelled. The IRP person suggested IFTA may be a better database because each company only has one fleet and is therefore easier to track. Each driver

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

is required to prepare a report for each trip which the company then has to compile with the rest of its drivers' reports and submit as a package. To date only NB and SK are registered online but noted if the Boards had a contract, then they could obtain a list of every trucking company travelling through all jurisdictions. This would allow internal comparison with the AAP list. NB requires 3 workers before considered an employer in its jurisdiction so it would be fairly easy to determine if this was met based on the number of kilometres reported by the trucking firms.

The next step is to determine whether there is any appetite for this information. It is really an assessments collection issue and should be turned over to them. IFTA won't share information without an MOU which will be a time consuming exercise.

The committee noted this was primarily an assessment issue. MOUs may be required to access information from the various agencies.

Glenn Jones asked if it would be more feasible to have an MOU directly with the IFTA governing body as opposed to each board attempting to MOU with its provincial IFTA administrator. Jean did not know but it may be something to consider once feedback has been received from assessment departments as to whether or not it would be useful information.

Action Items:

- A. All to canvass their respective assessment areas to determine if there is an interest in pursuing access to IRP information, in time for their Assessment Directors meeting in June.**
- B. Jean to provide background information to National Assessment Committee (May 2009).**
- C. Deepak Kothary to determine if this issue can be raised as an agenda item at the next Assessment Directors meeting.**
- D. Jean to report back to committee on any developments at next IJA meeting.**

➤ **Double Compensation (5a-2008 Workplan): Daryl Davies**

Daryl reported that his canvass of jurisdictions did not result in identification of any double compensation cases. Jurisdictions will determine amongst themselves, the most appropriate method for recovering costs in situations where a worker has elected to claim and received benefits in one jurisdiction, and thereafter chosen to elect in another.

Pascale Goulet said she did have cases where the worker (1) claimed in two jurisdictions and never received an election form from one of them and; (2) applied to another board, did not sign an election form and then later applied to the CSST. QC relies on the election form to ensure the worker has not claimed in another jurisdiction.

➤ **Triggers for Potential IJA Claims (5b-2008 Workplan): Pascale Goulet**

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

Pascale discussed some triggers her jurisdiction uses to identify potential IJA claims such as health insurance number, employer address, worker's address. The election form serves not only to inform the worker of the right to elect, but also facilitates cost reimbursement between jurisdictions, and assists in deterring double compensation claims. Committee agreed it was important to educate our respective employees that workers must be advised of their potential right of election, regardless of whether or not the election can be offered in the other jurisdiction. Quebec suggested that at the basis of this issue is the question of how the Committee wishes to apply section 4 of the IJA. Yukon also noted that this is another area in which information sharing comes into play.

Action Items:

- A. All Boards are to provide Pascale the list of triggers used to identify IJA claims and advise how each deals with election forms including whether there is any reason why each Board's Act can't force an election on its workers. (October 31, 2009)**
- B. Pascale will incorporate triggers to identify potential IJA claims into training manual. (2010)**
- C. All to remind staff to issue and provide signed election forms to applicable jurisdiction(s).**

➤ **Long Latency Claims (6-2008 Workplan): Kate Marshall**

Kate advised that she will incorporate best practice/methodology for long latency diseases into draft training manual including:

1. confirmation of employment & employment history;
2. medical information; and
3. principles applied to adjudication.

Bruce Willis asked if all the information can be shared and Kate indicated the intent was to prevent re-adjudication of these claims under multiple Acts.

Action Item:

- A. Kate to include module on best practices/methodology for long latency diseases into training manual. (2010/2011)**

➤ **Statistics (Items 8, 9-2008 Workplan): All**

Committee agreed that existing statistics are sufficient. For jurisdictions wanting to monitor IJA claim activities for business planning/staffing purposes, it may be beneficial to track election forms issued/received in addition to invoices requested/received for reimbursement.

There was also discussion as to whether the \$1,000.00 threshold was sufficient given the IJA was from 1993 and perhaps it would be worth tracking internally to see how many requests are

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

actually over \$5,000.00 to consider increasing the threshold. There was no consensus as to whether this was worth pursuing.

➤ **Fatality Statistics (Items 8, 9-2008 Workplan): All**

In some jurisdictions, the amount charged may be an average amount and in some jurisdictions, it's a maximum. In cases where there are no dependants, costs still charged. Jurisdictions vary as to how the costs are applied for experience rating purposes. In general, a jurisdiction records a fatality if it pays the cost of the claim, for experience rating purposes. Carol Anne Duffy confirmed that the AWCBC does have a definition for statistics they collect. All agreed that the fatality should only be counted in the jurisdiction where it occurred.

For AWCBC purposes Carol Anne confirmed the fatalities were being counted accurately because this was followed up on last year.

Daryl Davies noted the AWCBC definition of fatality was where the claim was accepted so it may be different than the boards' own fatality statistics as they may use different criteria to record a fatality.

Glenn Jones noted that it was possible to have multiple claims on the same fatality in separate jurisdictions because dependents could claim with a different jurisdiction than where the deceased worker's claim was accepted.

➤ **Self-harm Protocol (Item 11- 2008 Workplan): All**

Jurisdictions reported their self-harm protocols as follow:

NS: have a psychiatrist for contact and a recent pilot program;
ON: does have protocol, but does not have a contact for enquiries from outside the jurisdiction;
NL: nothing in place to identify at early stages;
BC: has suicide awareness training and sensitive claims use Jennifer Laney as a contact;
NT: adjudicator contacts medical units so have to coordinate with its board;
SK: file owner contacts worker's personal physician;
AB: has protocol and is online with 4 psychologists who can perform immediate assessments;
They prefer not to get involved unless it is an emergency due to liability issues because they do not have the patient's chart and would potentially be treating another doctor's patient
PEI: could only contact the worker's doctor;
MB: has a special unit to deal with sensitive claims and would assist other board with an emergency if requested as best it could;
NB: similar to MB;
QC: no in-house treatment.

Mark Powers suggested that a list be made of each board's contacts for psychiatrists etc. but it was determined that such a list would become quickly outdated and it would be more practical to call the other board for assistance given such instances are infrequent and on an ad-hoc basis.

All agreed that if encountered with such a situation, they would contact applicable jurisdiction or worker's physician to determine the nature and type of assistance that may/may not be provided.

➤ **Cost Reimbursement (Items 10, -2008 Workplan): All**

Suzanne Hewitt raised the question of increasing minimum threshold for cost reimbursement as well as introducing a threshold for secondary cost reimbursement requests. Ontario, for example,

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

intermittently receives invoices for less than \$10 and the cost for staff to review the request and issue reimbursement is considerably more than the invoice itself. Suzanne briefly discussed her review of a sample of claims to determine the impact of raising the reimbursement threshold. There was also a description of the European model, which is a different type of reimbursement. The Committee agreed that this issue would be raised at the next IJA meeting.

Action Item:

A. All to examine benefits/drawbacks of raising minimum threshold for cost reimbursement and to discuss same at next IJA meeting.

- New Business:

- **Motor Coach – Application to Participate in Alternative Assessment Procedure**

The committee welcomed Wendy Pauling, Benefits Policy Analyst from the Ontario WSIB, who facilitated discussion about Motor Coach's application to enter into the AAP. Wendy advised that the jurisdictions most likely impacted by this request would be Ontario and Quebec, however, with the upcoming winter Olympics in B.C., Motor Coach intended to have around 200 coach tours going to that province. Motor Coach applied in July, 2008 to be added to the AAP. The issue came up because the bus companies were not reporting to outside jurisdictions but have now realized they have to report where they travel through so they want to join the AAP for administrative convenience. There are approximately 400 companies with 200 in ON and QC. 2/3 are tours and 1/3 are scheduled runs such as Grey Hound and Grey Goose. 1/3 of them therefore also have terminals in more than one jurisdiction. In addition, Wendy pointed out that tours may have a guide or mechanic accompanying the bus driver, and if so, should they be included. It was noted that the request from pilot car operators to join the AAP was previously denied.

Jurisdictions discussed their experiences with the AAP and their potential stand on Motor Coach's application. Issues with the AAP included: late notification of acceptance/opting out of the AAP; jurisdictions not advising if employer being accepted into the AAP was the result of a new account or change to an existing account and the applicable effective date; employers incorrectly or not fully completing application forms; employers not notifying jurisdictions of any changes related to their trucking activities; cost reimbursement when worker's residency and employment connection are debatable. Some jurisdictions suggested these were internal administrative issues that needed to be ironed out.

Suzanne Hewitt said there are issues with the AAP application forms such as the effective date needs to be indicated and if the account is a new or continuing account.

British Columbia pointed out that employers are very happy with the Alternative Assessment Procedure and that it is a viable mechanism for WCBs to collect assessments. A suggestion was made by Mark Powers that consideration be given to altering the AAP so that employers pay assessments to only one jurisdiction regardless of worker residency or employment connection. Requests for cost reimbursement would then be made to the jurisdiction that collected the assessments.

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

Preliminary discussion resulted in the view that Motor Coach's application should be accepted. Carol Anne Duffy pointed out that the IJA would have to be altered if the decision to allow Motor Coach's application was approved by AWCBC Executive and Heads of Delegation. She suggested that the request be discussed with AWCBC Executive during the May 21st, 2009 afternoon session and thereafter determine next steps.

Glenn Jones advised that MB would assist in drafting the amendment to the AAP, but would need to be given timeline.

Paula Arab noted that the AAP will need to be changed each time a new industry joins. Doug Mah noted the urgency of the Olympics would require a decision now if going to possibly get the bus industry in by Jan 1, 2010. Carol Anne Duffy noted that if we did not add the bus industry to the AAP, the alternative would be to have the bus companies register with the Boards based on a pro-rating.

It was agreed the AAP should be extended to the bus industry and Motor Coach should be advised its application is being considered, but they would not be able to join until January 1, 2010, at the earliest. Some jurisdictions have procedures to follow when modifying the IJA, and this may require time to follow through on.

Action Items:

- A. Co-chairs, Executive Sponsor to discuss Motor Coach's application with AWCBC Executive. (May 2009).**
- B. If decision is to allow Motor Coach's application, Manitoba will edit the IJA accordingly. (2009/2010)**
- C. Jurisdictions will have to approach their individual executive to obtain approval. (2009/2010)**
- D. Co-chairs to notify Motor Coach of status (May 2009).**

➤ **Nova Scotia – Questions – Paula Arab**

- a. Employer's Experience Rating - Are jurisdictions reflecting reimbursement from another jurisdiction for experience rating purposes?** - Discussed various scenarios and most jurisdictions do reflect this on employer's statements. All jurisdictions reduce experience rating if reimbursed. Some such as Manitoba reduce only the actual amount received, while others such as Alberta remove 100% even if they only get a partial reimbursement from another board.
- b. How do jurisdictions flag potential IJA claims?** - Paula advised issue had previously been discussed under "Elections and Potential Triggers" A major issue is the inconsistent practice of not requiring workers injured in their respective jurisdictions to sign election forms due to the right to claim under their legislation. Suzanne Hewitt said ON would not accept such requests without the election form.
- c. Do jurisdictions seek reimbursement for claims costs they have already paid over \$1,000 if worker chooses to elect in another jurisdiction?** – Nova Scotia noted their

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

jurisdiction adjudicates/pays benefits in a claim before receiving the election form back whereas other jurisdictions do not. NS noted that under its legislation the worker has 6 months within which to elect and they try to obtain the election from the worker as soon as they are notified by the case manager. Under the IJA, one of the criteria for cost reimbursement requires that the requesting jurisdiction have an election form. Requests outside of cost reimbursement under the IJA would be on a case-by-case basis dependent on an agreement reached between the two jurisdictions and would not be cases for dispute resolution.

Glenn Jones noted that the “election” in the NS legislation would mean the worker’s actual decision to choose to accept compensation from NS, not the actual IJA election form. Therefore, it is reasonable that NS could provide compensation without requiring a worker to sign the election form, once the worker has chosen to be compensated by NS. Paula agreed it was a valid point.

Pascale said section 4.1 of the IJA requires an election where the worker may be entitled to benefits in more than one jurisdiction. She stated a board still needs to get the election signed as soon as possible to know not to accept a duplicate claim. Pascale said it would assist the CSST if there was good communication with other boards at the beginning of the claims process. Furthermore, if a worker were to re-elect (change which board it wants to claim with) then the original board should contact the new board before allowing its worker to attempt the change.

B.C. and AB advised that their jurisdictions do not require an election form if the accident happened in their jurisdiction, even where the worker was not a resident of their jurisdiction. This is because under their respective Acts a worker has a right to coverage and therefore cannot be required to elect for such coverage. Due to this AB does not ask the workers to sign an election form unless it identifies it as a potential IJA claim. It was noted however, that there is nothing preventing AB from asking all the workers to sign such an election; there would just be no way to enforce the request if a worker refused to sign.

Glenn Jones noted that Manitoba can refuse to provide coverage until such time as a worker provided all the information required to adjudicate his/her claim which includes such an election form.

- d. How much information do you provide to workers about benefit levels in another jurisdiction to make the election.** – Jurisdictions varied in their response, indicating some provided basic information if they knew, however, the majority indicated they would advise the worker to contact the WCB in the other jurisdiction. There is a comparison chart available on the AWCBC website.
- e. What claim documents do you require from the province seeking reimbursement?** – Jurisdictions advised they need all claim file documents. Typically the medical is not reviewed except when an employer asks for cost relief because reimbursing board is not to re-adjudicate. The reimbursing board needs enough to be able to calculate the wage loss and pension as those are limited by legislation and internal policy and need to be calculated according to same. Ontario would like to continue to receive the entire claim file including medical.

➤ Submission - Alberta

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

- a. **Timeliness of Response to Reimbursement Requests** – Alberta advised they have encountered situations where a request for reimbursement is taking several months. Several jurisdictions indicated that they have encountered a “flood” of reimbursement requests as AB has now made staff available/dedicated to processing files. Some of these requests cover periods dating back to 2001. This places a burden on the jurisdictions that have to review the requests to determine reimbursement. Other jurisdictions pointed out that some requests require extensive file reviews thereby affecting the timeliness of processing the work. Question of an interest penalty was raised. Jurisdictions determined a number of negative outcomes including staff time needed to amend the IJA to incorporate this aspect and to calculate the interest owing. Furthermore, employers may not be amenable to having interest charges reflected on their cost statements. MB noted it would be prevented from paying interest as it is not contemplated under its Act. Jurisdictions agreed they will make best effort to issue and pay invoices in a timely manner. Status of the compliance to reimburse within three month timeframe will be reviewed at the next meeting if Alberta feels this continues to be a problem.

The standard in section 9.5 is for reimbursement to be requested either when the claim is closed or at a minimum of quarterly on a calendar basis. However, it appears to be a general practice that when an amount is less than \$100.00, the requesting board will often wait a longer period until more costs accrue or the claim is ready to be closed as it is not administratively cost effective to pursue.

Doug Mah noted some boards are denying because the other board is not receiving quarterly billings but then not reimbursing other boards on a quarterly basis which should not be allowed. The requirement should apply both ways.

Bruce Willis advised the Yukon has not reimbursed for any of the old requests sent by AB. The invoices are for several hundred thousand dollars going back to 2001 and are several years late. He indicated it is extremely hard for a small board to absorb such costs and the expectation is that such lump requests should not occur again in the future.

Suzanne Hewitt agreed it was very hard even for a big board like ON to repay these requests within three months because these claims require extensive review before processing of invoices can take place. ON would prefer not to receive reminder notes under these circumstances.

Daryl Davies noted that at past meetings, there were concerns with AB's ability to process IJA reimbursements in a timely manner. However, this does not appear to be the case now, and therefore jurisdictions should not have issue with it.

Glenn Jones noted timeliness is important for cost reimbursement requests in order to impact the employer's account. For example, Manitoba has a 5 year window for employer experience rating. It is important that reimbursements are made in a timely manner so that they do impact the employer account.

Doug Mah asked why quarterly billing exists in the IJA if it is not being applied. Suzanne Hewitt explained the reference to the three months is the minimum time between reimbursement requests rather than an actual requirement. (Many jurisdictions bill on an annual basis for their long term claims.) It may take longer to respond to a request if the employer is not properly registered which can cause delays.

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

Suzanne also said it costs approximately \$30 to \$40 to process each cheque so it makes little sense to send a small amount each quarter as opposed to waiting until it is an amount worth sending. Suzanne noted there was discussion last year as to whether it was feasible to increase the threshold to at least \$5,000.00 because one should know within 2 years if costs are likely to exceed \$5,000.00.

Daryl Davies noted SK sends its requests automatically regardless of the amount as they done by a computer system.

Rhonda said AB commits to future billing within 6 months and there are no more old files expected to be sent.

- b. Decision Letters:** Alberta requested that where a decision results in a denial or shortfall on a claim, the decision letter should contain a full explanation of the reasons, including references to legislative authority and policy that are being applied. This will enable the requesting jurisdiction to identify a possible “re-adjudication” or to pursue options such as encouraging a fuller discussing of the case, appealing or resorting to dispute resolution. Some jurisdictions indicated a lack of training may be the problem. It was suggested that development of template letters may assist staff handling IJA claims to draft decision letters that provide supporting legislative or policy references. PEI suggested that the Committee may want to extract procedures from the IJA so that both the procedures and Agreement would be easier to amend.

There was a general consensus that most of the problems on shortfalls arose where the person providing the reimbursement was not aware of, or properly trained on the issue of re-adjudication.

Glenn Jones noted Jean Landry had made a suggestion that it may be useful to draft policies to accompany the IJA to flesh out the agreement and provide additional guidance. These policies could be revised annually at the meeting without the need to revise the IJA itself to reflect changes in current interpretation.

Carol Anne Duffy said it may be best to have procedures moved into training materials.

All boards agreed they would try to provide more explanation on any reimbursement that resulted in more than a minor shortfall.

- c. Communications:** IJA Coordinators requested to update front line staff handling IJA claims about decisions, discussions (reflected in minutes) and protocols that IJA Coordinators have agreed to.

Doug Mah noted that the IJA is often administered by persons other than those attending the IJA conferences. It would be helpful to have these individuals discuss IJA issues (via telephone, e-mail) so as to have them correlate with annual committee discussions.

- d. Readjudication:** Jurisdictions agreed that varying workers’ compensation legislation results in differing supporting documentation requirements for reimbursement requests. Quebec described an Agreement they have reached with the EU to deal with workers’ compensation issues. Under this Agreement, workers are issued a “certificate of

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

coverage” when they leave to work in another jurisdiction. This certificate facilitates cost reimbursement and case handling between the jurisdictions.

There was general discussion that concluded that cost reimbursement requests could only be denied if the reimbursing board’s Act and/or policies did not allow it.

Rhonda advised Alberta was still getting denials for pension requests because there was no clinical examination. Rhonda also noted Alberta sometimes manipulates its system to convert requests into different forms of payment in order to meet the reimbursing requirement.

Action Item:

A. Quebec to provide all jurisdictions with a copy of the Agreement reached with EU for discussion at next IJA meeting.

e. **Differing Interpretations of the ITA/AAP:** Jurisdictions generally discussed the issue of only looking at the worker’s residency in situations of reimbursement. For the purposes of the AAP, no formal definition exists. In Ontario, residence of a worker is not considered sufficient on its own to be considered a worker under the *WSIA*, but rather there must be an employment connection. It was agreed that a person would have to first meet the definition of a worker under the Act, before it could be determined whether or not AAP cost reimbursement or employer assessment requirements applied. B.C. indicated they do not have a residency requirement. Quebec stated they require an actual employer location in Quebec to which the employer has an employment connection. Quebec will cover non-Quebec residents with an employer with a Quebec location, but only for accidents that happen in Quebec. As these workers would not be covered for accidents outside of Quebec, Quebec can only accept workers with Quebec residency (“domicile”) into the AAP.

There was a lengthy discussion regarding the residency of a worker that was causing problems with administering the AAP. B.C. suggested an alternative may be to have an employer register all of its employees in the AAP with the one board in the jurisdiction it has the most substantial connection to.

Glenn Jones asked about an ongoing AAP claim from MB to QC where the worker was a resident in QC at the time of the accident and has been ever since. The worker was injured in MB, and his employer was registered with the AAP in MB. MB attempted to obtain AAP transfer of assessments and QC refused because employer did not meet business location requirement in QC and so was not an employer under the AAP in Quebec. Therefore, MB has paid for the QC worker’s claim and is unable to recoup claim costs. QC suggested MB collect employer assessments by pro-rating that employee’s wages. Paula Arab said NS has the same issue with a QB worker in NS- NS pays but what if the employer does not meet the business location requirement in Quebec, then is it fair that QC does not have to pay? Pascale Goulet noted that QC’s residency requirements are based on the necessity of substantial connection to Quebec in order to apply Quebec legislation outside Quebec.

Jean Landry said some boards won’t register an employer if they are only in the jurisdiction for a couple of days. Bruce Willis said the Yukon has a 10 day requirement for non-Yukoners.

AWCBC ALL COMMITTEE CONFERENCE

INTERJURISDICTIONAL COMMITTEE MEETING: MAY 20 – 21, 2009

The Marriott Hotel, 90 Bloor Street East, Toronto Ontario

- f. **Second Injury under the “IJA”:** Many jurisdictions have “second injury” policies allowing for recognition of injuries that result directly from the initial work-related injury. Jurisdictions discussed various scenarios and generally concluded that second injury costs should be awarded to original injury jurisdiction.

There are three very distinct types of injuries that occur after the initial injury which are (i) reoccurrence, (ii) intervening event and (iii) secondary injury. The secondary injury, like the recurring injury, should go back to the reimbursing board to pay. A secondary injury happens when the work-related injury causes a new accident resulting in a new injury, usually to another part of the body.

Third Party Cases: When should IJA cost reimbursements be made if there is possible third party recovery of costs? Jurisdictions noted there is a two year time limit to make the request, but often, third party recovery takes longer. It was agreed that the reimbursement request should not be sent until the third party recovery action is complete; and that by sending a notice of intent for possible reimbursement before the two year time limit would preserve the right to send the future request.

Adjourned 10:31 a.m.