

“I WANT TO GO BACK TO WORK”  
Barriers to the Re-Employment of  
Injured Workers with Significant Disabilities in Manitoba

August, 2000

Workers with Disabilities Project

“I WANT TO GO BACK TO WORK”: BARRIERS TO THE RE-EMPLOYMENT OF INJURED WORKERS WITH SIGNIFICANT DISABILITIES IN MANITOBA

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# *Executive Summary*

## **OVERVIEW**

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The title of this report comes from a comment of an injured worker who participated in this study. His words summarize the desire for a timely return to meaningful and sustainable employment that was expressed by most of this study's participants.

WCB statistics indicate that most injured workers return to work shortly after their injuries heal. Some do not, however, so the primary goal of this study was to identify barriers to the successful vocational rehabilitation and re-employment of Manitoba workers who have sustained significant disabilities from workplace injuries. The primary sources of information were interviews and focus group meetings with 34 injured workers with a broad variety of significant disabilities. Additional research activities included a review of previous research, and consultations with staff of the Workers Compensation Board (WCB) of Manitoba, unions, community-based disability agencies, advocates for injured workers, and other researchers.<sup>1</sup> All of these groups have a role to play in assisting injured workers return to work.

This study's participants were drawn from non-random samples, which prohibits generalizing the findings to the total population of injured workers with significant disabilities in Manitoba. In other words, these findings describe the experiences, opinions and concerns of 34 injured workers who participated in the interviews and focus groups. They do not, however, *quantitatively* describe the overall prevalence of these experiences, opinions, and concerns amongst the total population of injured workers with significant disabilities in Manitoba.

Although it would be misleading to extrapolate the findings of this study to all injured workers with significant disabilities in Manitoba, it would be equally misleading to dismiss these findings as the complaints of an atypically dissatisfied group of injured workers.

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<sup>1</sup> Employers were not consulted as extensively as these other groups, but the preliminary findings of the study were presented to a small meeting of employers. Employers also participated in educational workshops held in February 2000.

This study provides a rich set of information about the vocational rehabilitation and re-employment experiences of injured workers with significant disabilities in Manitoba. Many findings highlight barriers and other issues which we hope will be of interest to the WCB, the government of Manitoba, unions, community-based disability agencies, advocates for injured workers, and injured workers themselves.

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## **BARRIERS TO RE-EMPLOYMENT**

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### **Employers**

#### *Findings*

Many<sup>2</sup> of the injured workers who participated in the study were disappointed with the assistance they received (or did not receive) from their employers, the Workers Compensation Board of Manitoba, their unions, or advocates for injured workers. Their most frequent complaints, however, were directed towards the employers for whom they were working at the time of their injuries.

Most participants who were not successful in returning to stable employment with their pre-injury employers reported that their employers either declined to re-employ them—often stating that no suitable work was available—or provided unsuitable accommodations. Some participants subsequently managed to become re-employed with other employers, but most of those who had worked since their injuries continued to experience problems and barriers related to their disabilities. Very few participants had had stable post-injury employment histories, and most were unemployed at the time they participated in this study.<sup>3</sup>

Some participants who were employed reported that their pre-injury employers have aggressive return-to-work programs, and felt they were expected to return to work too soon. One reported that his employer has a modified work program where injured workers with disabilities are sometimes paid to do nothing all day. These participants felt their employers' modified work programs were not intended to facilitate the rehabilitation and re-employment of injured workers, but rather, to reduce the companies' workers' compensation costs.

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<sup>2</sup> In this executive summary, “some” refers to three to five study participants, “many” refers to six or more participants, and “most” refers to more than half of the total group or sub-group of participants being discussed.

<sup>3</sup> This study did not attempt to compare pre-injury and post-injury employment stability, and we are not aware of any previous research which has examined this issue.

### ***Recommendations***

The Government of Manitoba should explore the inclusion of a provision requiring employers to accommodate and re-employ injured workers with disabilities within the Workers Compensation Act. This requirement—which already exists in workers' compensation legislation in Ontario and four other provinces—would make the Manitoba Act consistent with federal and provincial human rights legislation. It would also be consistent with the WCB's hierarchy of vocational rehabilitation objectives, which gives greatest priority to assisting injured workers to return to the same, modified, or different work with their pre-injury employers.

A requirement compelling employers to accommodate and re-employ their workers who are injured during the course of their employment would also have the potential to reduce the overall costs of the workers' compensation system in Manitoba. It would also prevent many injured workers from having to change careers in mid-life, and/or lose valuable seniority and benefits they have earned with their pre-injury employers.

### **WCB Vocational Rehabilitation Services**

#### ***Findings***

Many study participants identified WCB Vocational Rehabilitation staff as important and effective sources of assistance. Additionally, a significant minority of study participants were relatively satisfied with the benefits and services they had received from the Workers Compensation Board of Manitoba. These tended to be injured workers who had high pre-injury earnings or relatively serious injuries and severe disabilities.

Most participants, however, described some dissatisfaction with the vocational rehabilitation assistance they had received from the WCB. Many of the experiences they described suggested that barriers often result from the discretionary provision of services and/or inconsistent application of policies. In other words, some injured workers with significant disabilities reported receiving particular kinds of vocational rehabilitation services (e.g. vocational testing), but others did not.

Contrary to WCB policy, some participants who were receiving or had previously received vocational rehabilitation services from the WCB did not recall ever having a formal Individualized Written Rehabilitation Plan (IWRP). Some participants who did not return to their pre-injury employers felt that they were offered very limited choices of vocational goals. Some participants felt that the training they received from the WCB did not provide them with sufficient qualifications to realistically compete for and obtain the jobs for which they were trained. Although they were not employed, most of

these participants were deemed capable of obtaining the jobs for which they were trained, and saw their wage loss benefits reduced by the wage associated with those jobs.

Some participants raised questions about the purpose, timing, and effectiveness of group workshops on career exploration, job search techniques, resumé writing, etc. Some participants—particularly in Winnipeg—felt that they did not receive adequate individualized job search assistance.

Various sub-groups of injured workers who participated in the project described barriers unique to their sub-groups. These included injured workers outside of Winnipeg, older injured workers, and injured workers with less severe disabilities.

### ***Recommendations***

This report includes 24 recommendations concerning the Workers Compensation Board of Manitoba's vocational rehabilitation services. In addition to addressing the above barriers, the WCB should undertake or fund a major study of the employment outcomes of injured workers with significant disabilities who receive WCB vocational rehabilitation services.

## **Unions**

### ***Findings***

Some union members with significant disabilities who participated in this study were pleased with the assistance they received from their unions, but many other participants felt that they did not receive adequate support from their unions. The most frequent concern was that they felt their unions should have devoted greater attention to problems they experienced when attempting to return to work.

### ***Recommendations***

This and previous research suggests that there are opportunities for organized labour to do more to support union members who are disabled on the job. Unions should ensure that they educate their members about their WCB entitlements, and about what their unions can and cannot do for them if they are disabled by a workplace injury. Different unions assign different priorities and devote different resources to assisting members who are injured/disabled at work. The labour movement can assist disabled injured workers by making workers' compensation issues a greater priority amongst more unions.

## **Disability Agencies**

### *Findings*

Very few study participants had accessed services provided by community-based agencies which provide vocational rehabilitation and/or job search assistance to persons with disabilities. Most participants' comments about a handful of agencies were positive. Some of those who had not accessed the services of agencies indicated that they weren't sure they were "persons with disabilities."

### *Recommendations*

Agencies can assist injured workers with disabilities by ensuring that disabled workers know about their services. Agencies can facilitate this by strengthening their ties with injured workers groups, advocates for injured workers, and unions. The Workers Compensation Board of Manitoba can facilitate this by providing claimants—particularly those whose benefits are concluded—with greater information about these agencies.

## **Worker Advisor Office**

### *Findings*

Some study participants who sought assistance from the Worker Advisor Office were very pleased with the assistance they received, but others were not. The most common source of dissatisfaction was that the Worker Advisor Office did not follow the injured worker's appeal through to its conclusion.

### *Recommendation*

The Government of Manitoba should review staffing levels and caseloads at the Worker Advisor Offices and increase staffing if the review indicates that current Worker Advisors cannot adequately assist the injured workers who seek assistance.

## **Injured Workers Groups**

### *Findings*

Very few of the injured workers who participated in this study were aware of the provincial injured workers organization or several fledgling regional injured workers groups in rural Manitoba.

***Recommendations***

Greater funding from the WCB—and support from the WCB, unions, and disability agencies—would help injured workers groups advocate on behalf of injured workers with disabilities in Manitoba more effectively.

# *Acknowledgements*

The most important contributions to this study came from the 34 Manitoba injured workers who described their efforts to become re-employed, and the barriers they encountered. Without their generosity and openness, this report would not exist.

Don Halechko and I conducted this study. Don's intimate knowledge of the workers' compensation system—as an injured worker and advocate—was invaluable. He suggested recommendations 1, 2, 4, 33, and 34.

The Workers with Disabilities Project Advisory Committee developed the proposal for this study, and provided thoughtful suggestions and guidance. David Martin (Manitoba League of Persons with Disabilities) and Pete Walker (Manitoba Federation of Labour) co-chaired the committee. Dave suggested recommendations 17 and 19, and Pete suggested recommendations 30 and 35.

Other members of the committee included Teresa Andreychuk (Reaching E-Quality Employment Services), Adrienne Campbell (Canadian Paraplegic Association), Terry Kennedy (CEP 460M), Derek Legge (Manitoba Human Rights Commission), Tara Maniar (Reaching E-Quality Employment Services), Greg Messer (Workers Compensation Board of Manitoba), Maureen Morrison (Canadian Union of Public Employees), Bob Sample (Canadian Union of Postal Workers, Winnipeg Region), Brian Stewart (Concept Special Business Advisors), Pat Williamson (Manitoba Labour Education Centre), and Dorothy Wise (Manitoba League of Persons with Disabilities).

Terry Kennedy—a key member of the Workers with Disabilities Project since its inception in 1992—passed away during this study. His contributions will be missed.

The Manitoba League of Persons with Disabilities provided office space, and David Martin (Provincial Co-ordinator) provided day-to-day supervision. Josie Concepcion and Emily Ternette provided outstanding administrative support.

Paula Kierstead (Manitoba League of Persons with Disabilities) and Harry Mesman (United Food and Commercial Workers, Local 832) facilitated educational workshops near the end of the project. Patrick Falconer and Michael Case (The Project Group) were the external evaluators.

The Workers Compensation Board of Manitoba's Community Initiatives and Research Program provided funding for this study. Janice Meszaros—the program's Project Officer—was a valuable source of information.

Gary Annable  
Project Manager

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# *Introduction*

## **BACKGROUND**

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For many Canadians, work is risky: approximately 800,000 workers are injured at work each year in Canada (Human Resources Development Canada, 1999). Fortunately, most of them do not sustain permanent disabilities. Approximately half do not even miss a single day from work, and most others recover from their injuries and return to work several days or weeks later. Unfortunately, however, a small fraction of workers who are injured on the job sustain serious injuries that result in permanent significant disabilities that keep them away from work for many months or even years.

Despite their proportionally small numbers, injured workers with permanent significant disabilities deserve serious attention because their injuries often have serious impacts on their personal, family, and work lives (Canadian Injured Workers Alliance, 1995a and 1995b). Studies of the post-injury employment histories of injured workers have found that many injured workers with significant disabilities experience difficulty returning to employment, either to their pre-injury employers and occupations, or to new employers and/or occupations (Johnson and Baldwin, 1993). Some *never* work again after their injuries. In addition, a disproportionately large share of the costs of workers' compensation plans are devoted to the medical treatment, rehabilitation, and wage loss compensation of injured workers with permanent disabilities (Johnson, Butler, and Baldwin, 1995: 72; Allingham and Hyatt, 1995: 159; Thomason, 1992: 2).

Every workers' compensation board in Canada provides or funds vocational rehabilitation services to facilitate the post-injury employment of injured workers whose injuries result in permanent disabilities. These services are intended to assist permanently-disabled injured workers through the often-challenging process of returning to productive employment. Additionally, vocational rehabilitation services have the potential to yield substantial cost savings to workers' compensation boards by reducing the wage loss benefits that workers' compensation boards pay to injured workers with disabilities who are not employed.

To the best of our knowledge, however, no workers' compensation board in Canada has recently conducted research on the effects vocational rehabilitation services have on the post-injury employment outcomes of injured workers with significant disabilities. There have been numerous published academic studies of the post-injury employment patterns

of injured workers with disabilities in Canada and the U.S., but few of these studies have devoted detailed attention to the influence of the availability, nature, and duration of vocational rehabilitation services.

There are many other factors which can also influence the post-injury employment prospects of injured workers with significant disabilities. The policies, practices, and attitudes of employers are the most crucial factor. Other factors include the policies, practices, and attitudes of the unions to which some injured workers belong; services provided by agencies which assist persons with disabilities; and initiatives of various organizations which advocate on behalf of injured workers (individually or as a group).

## **GOALS AND SCOPE OF THE STUDY**

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The primary goal of this study was to identify barriers to the successful vocational rehabilitation and re-employment of Manitoba workers who have sustained significant disabilities from workplace injuries. In pursuit of this goal, this study examines the roles each of the following play in assisting injured workers with significant disabilities to return to employment following their injuries:

- employers
- the Workers Compensation Board of Manitoba
- unions
- advocacy organizations for injured workers
- agencies that provide employment assistance and other services to persons with disabilities

The primary source of information for this research was injured workers with significant disabilities. Most studies of the post-injury employment of injured workers with disabilities have been based on administrative data collected by workers' compensation boards, or surveys which gathered quantitative data on injured workers' incomes, periods of employment, periods of unemployment, etc. Very few studies have gone directly to injured workers with significant disabilities to ask them to describe their post-injury vocational rehabilitation and employment experiences in detail.

Secondary sources of information were staff of the Workers Compensation Board of Manitoba, staff and representatives of unions and other labour organizations, staff of agencies which provide services to persons with disabilities, and advocates for injured workers.

## CONCEPTS AND DEFINITIONS

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“Significant disability” was operationally defined as *major permanent restrictions in a person’s ability to perform one or more of the basic activities of daily living*.

“Basic activities of daily living” are activities most people perform on a daily basis, and include:

- mobility (e.g. walking, climbing stairs)
- agility/coordination (e.g. bending, twisting, lifting and carrying objects, grasping and handing small objects)
- hearing
- seeing
- learning/thinking
- remembering
- healthy psychological functioning

This definition encompasses a fairly broad range of disability, from comparatively mild disabilities arising from soft tissue and back injuries, to severe disabilities like those resulting from spinal cord injuries, amputations, head injuries, and multiple injuries. In the findings of this report, references to participants with *severe* disabilities refer to persons with the latter kinds of disabilities. Most other participants will be described as having *less severe* disabilities.

# *Workers' Compensation in Manitoba*<sup>4</sup>

For readers who may have a limited knowledge of the worker's compensation system in Manitoba, this section provides a simple overview of this system.

## **OVERVIEW**

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### **History**

The modern Canadian workers' compensation system is rooted in what is commonly known as "the historic compromise" proposed by Sir William R. Meredith, an Ontario judge who conducted an inquiry into workers' compensation from 1910-13. Meredith proposed the creation of a system in which employers collectively fund the cost of compensating workers for workplace injuries. Workers forfeited their right to sue employers, but gained guaranteed no-fault compensation for injuries whether or not the injury was caused or exacerbated by worker negligence.<sup>5</sup>

The Workers Compensation Board of Manitoba<sup>6</sup> was established in 1917. Most other provinces also established workers' compensation boards during the years of World War One.

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<sup>4</sup> A valuable source of information for this section was *An Advocate's Guide to Workers' Compensation in Manitoba*, written by Doug Smith and published by the Community Legal Education Association and the Manitoba Federation of Labour in 1999. Readers interested in a more detailed overview of workers' compensation in Manitoba are urged to consult this publication.

<sup>5</sup> Other underlying principles are guaranteed benefits and independent administration. For further information, see Workers Compensation Review Committee (1987) and Smith (1999).

<sup>6</sup> A note about different spellings of *workers' compensation*. Workers' compensation boards in most other provinces spell *workers'* as a possessive with an apostrophe. The concept *workers' compensation* is also generally spelled with an apostrophe. The Workers Compensation Board of Manitoba does not spell *Workers* with an apostrophe.

## Coverage

In 1999, approximately 325,000 employees of 22,000 Manitoba employers were eligible for compensation under the Manitoba government's Workers Compensation Act and Regulations (WCB of Manitoba, 2000a). Approximately 40 per cent of Manitoba workers work in industries which are exempt from this legislation, and are therefore not eligible to receive WCB benefits and services if they are injured at work.<sup>7</sup>

## Injury Statistics

During 1999, there were 45,652 injury claims<sup>8</sup> reported in Manitoba, and 39,233 of these claims were accepted by the WCB (WCB of Manitoba, 2000b: 48). Approximately half of the accepted claims (19,243) were for injuries or diseases which resulted in absences from work.<sup>9</sup>

According to the WCB's 1998-2003 Five Year Plan, approximately 80 per cent of claimants recover from their injuries and return to work with their pre-accident employers within 12 weeks (Workers Compensation Board of Manitoba, 1999b: 16).

## Funding

The WCB is funded by employers. Most pay an assessment rate calculated as a percentage of their total payroll costs. Assessment rates are calculated according to the accident rates for each industry category. In other words, industries with high accident rates pay higher assessments than industries with lower accident rates.

Within each industry category, individual employers' assessment rates may vary according to their individual claims histories. The process of adjusting assessments according to individual employers' claims histories is known as "experience rating." Employers with lower workers' compensation claims costs can pay up to 40 per cent below the assessment rate for their industry category. Employers with high claims costs can pay up 40 per cent above the category assessment rate (Workers Compensation Board of Manitoba, undated3).

A small number of large employers do not pay a payroll assessment. Instead, they pay the WCB for the actual costs of the benefits and services awarded to their injured workers

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<sup>7</sup> Swarbrick (1995) proposes that all Manitoba workers should be protected by workers' compensation legislation.

<sup>8</sup> "Injury claims" includes claims for occupational diseases.

<sup>9</sup> 21 claims were for fatalities.

and their dependents, plus the cost of administering their claims. These employers are usually referred to as “self-insured” employers.

## **FINANCIAL BENEFITS**

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The 1992 Workers’ Compensation Act<sup>10</sup> provides various benefits and services to Manitoba workers who are injured at work. The three most significant financial benefits are:

- wage loss benefits
- permanent impairment awards
- medical aid<sup>11</sup>

### **Wage Loss Benefits**

The purpose of wage loss benefits is to compensate injured workers for the employment income they lose when they are injured. Wage loss benefits are calculated as a percentage of the difference between an injured worker’s (1) income at the time he or she is injured and (2) the amount he or she is capable of earning after being injured. This difference is called *loss of earning capacity*.

Wage loss benefits are calculated as 90 per cent of the claimant’s net loss of earning capacity for the first two years. During the first two years of their claims:

- Claimants whom the WCB regards as incapable of earning any employment income receive 90 per cent of the net income they earned at the time of their accidents.
- Claimants who are earning some employment income receive 90 per cent of the difference between their net pre-accident employment income and their net post-accident earnings.
- In some cases, the WCB may “deem” a worker capable of earning income he or she is not actually earning, and deduct this amount when calculating his or her lost earning capacity. (“Deemed earning capacity” is discussed in greater detail later in this section.)

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<sup>10</sup> Major changes occurred to the Workers Compensation Act on January 1, 1992. These included changes in the way that workers are financially compensated for injuries resulting in permanent disabilities. For further information about pre-1992 benefits, see Smith, 1999: 33-35.

<sup>11</sup> For detail about the provision of medical aid, see Smith, 1999: 38-39.

After two years, wage loss benefits are reduced to 80 per cent of net loss of earning capacity.

In most cases, the calculation of wage loss benefits is based on a worker's regular earnings at the time of accident. In cases where documentation indicates an irregular earnings pattern, the WCB may base wage loss benefits on the worker's average annual earnings if the WCB feels that average annual earnings provide a more accurate representation of the injured worker's actual lost earnings.

The calculation of net loss of earning capacity and the resulting wage loss benefits also takes into account the tax savings resulting from WCB benefits not being taxable. Benefits a claimant may be receiving from other sources are also deducted. (Other benefits include Canada Pension Plan, private insurance, and payments made by employers to top up a worker's compensation earnings to his or her full pre-accident earnings.)

Wage loss benefits are limited to a maximum amount. In 1999, maximum compensable earnings were \$51,460.

### **Permanent Impairment Awards**

Most injured workers recover fully from their injuries, but others do not. In addition to wage loss benefits, injured workers whose injuries result in permanent disabilities may also receive lump sum permanent impairment awards which the WCB grants to claimants having permanent physical or functional abnormalities or losses as the result of workplace accidents. These awards are rated on loss of range of motion of body parts, loss of function of a body part, and psychological effects.

In 1999, the dollar value of permanent impairment awards were calculated on the following basis:

- impairments assessed as greater than one per cent and less than five per cent receive \$570
- impairments assessed between five and less than ten per cent receive \$1,130
- impairments of ten per cent or greater receive \$1,130 plus \$1,130 for each one per cent of impairment above ten per cent

In 1999, the highest award (100 per cent) amount was \$102,830.

The dollar values of permanent impairment awards granted to claimants over the age of 45 are reduced by two per cent for every year that the claimant is over the age of 45. If the claimant has a pre-existing condition, the WCB may also reduce the award.

According to unpublished statistics provided by WCB staff, 104 permanent impairment awards were granted in 1999.<sup>12</sup> The majority of these awards were for impairments assessed at less than ten per cent, and only nine were for impairments assessed as greater than twenty per cent.<sup>13</sup>

## **VOCATIONAL REHABILITATION**

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The Workers Compensation Board of Manitoba provides a variety of vocational rehabilitation services intended to help injured workers return to employment.

### **Human Resources**

At the time this research was conducted, vocational rehabilitation services at the Workers Compensation Board of Manitoba were delivered by approximately 25 Vocational Rehabilitation Consultants (VRC's) organized into four service delivery units. One of these units is a "Specialized Services Unit" (also known as "Unit 5"). This unit was established in 1995 and provides vocational rehabilitation services to claimants with particularly challenging disabilities (e.g. head injury, chronic pain, psychological problems) as well as providing support to claimants in crisis situations.

During this study, the Vocational Rehabilitation Department did not have a Director. Two unit supervisors were Acting Director at different times.

Although employment services are part of vocational rehabilitation, the Employment Services department is organizationally separate from the Vocational Rehabilitation department. Eight Employment Specialists and two Facilitators provide job search assistance to claimants.

All Vocational Rehabilitation and Employment Services staff are centrally located at the WCB's Winnipeg offices. Some travel to other parts of Manitoba to provide services to claimants outside Winnipeg.

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<sup>12</sup> 1999 permanent impairment award statistics provided by Michael Rohatynsky, Research and Policy Analyst, Workers Compensation Board of Manitoba, May 15, 2000.

<sup>13</sup> Since most permanent impairment awards are for impairments of less than 100 per cent, these awards are commonly known as *permanent partial impairment* or *PPI* awards.

## Vocational Rehabilitation Statistics

According to the WCB's 1999 annual report, there were 448 "new entrants to rehab programs" in 1999 and a total of 1,009 "active rehabilitation claims" (WCB of Manitoba, 2000b: 49-50). Vocational Rehabilitation supervisory staff reported that the average caseload of a VRC is approximately 50. Employment Services staff reported that most Employment Specialists have caseloads of approximately 35 claimants. (Employment Specialists who do individualized marketing tend to have smaller caseloads of approximately 10-15 claimants each.)

## Vocational Rehabilitation Policy

The WCB's Policy Manual contains approximately 35 pages under the section of Vocational Rehabilitation, but the core vocational rehabilitation policies are contained in the first 12 pages.<sup>14</sup>

### *Goals and Objectives*

WCB policy 43.00 states that "The goal of vocational rehabilitation is to help the worker to achieve a return to sustainable employment in an occupation which reasonably takes into consideration the worker's post-injury physical capacity, skills, aptitudes and, where possible, interests...Vocational rehabilitation strives to return workers to the salary level they were earning before the accident" (Workers Compensation Board of Manitoba, undated1).

### *Eligibility*

In Manitoba, and in all other provinces and territories except Quebec, vocational rehabilitation services are not an entitlement of injured workers (Association of Workers' Compensation Boards of Canada, 1998: 5). Instead, these services are provided at the discretion of the Workers Compensation Board of Manitoba.<sup>15</sup>

According to policy 43.00, injured workers will receive vocational rehabilitation services if one or more of the following conditions exists:

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<sup>14</sup> Most of the remainder of the section on vocational rehabilitation concerns particular categories of claimants (e.g. part-time workers, spouses of workers who have been fatally injured, workers outside Winnipeg, etc.)

<sup>15</sup> "Vocational rehabilitation may be provided, at the discretion of the WCB, where it is needed to reduce the human and financial effects of a work-related accident. While discretionary, vocational rehabilitation should be consistently applied to all eligible workers" (Workers Compensation Board of Manitoba, undated1: Policy 43.00, 1).

- they will not be able to work for at least six months,
- they will not be able to return to their previous job without help,
- they are at risk of chronic injury,
- their injuries prevent them from doing their pre-injury jobs,
- they require assistance with the activities of daily living.

### *Services*

The Workers Compensation Board of Manitoba provides five sets of vocational rehabilitation programs.<sup>16</sup>

**Adjustment Program:** Some injured workers experience personal, social, or emotional difficulties that need to be addressed before they can make progress on returning to employment. The Adjustment Program addresses these difficulties, with the goal of minimizing the impact on the worker's recovery and rehabilitation.

**Assessment Program:** This program is used to evaluate a claimant's vocational functioning and potential (i.e. determine what she/he is capable of doing and what she/he is capable of being trained to do). Assessment can include aptitude, interest, and achievement tests, functional capacity assessments, medical assessments, job analysis, situational assessments, and work site assessments. The two-week Career Planning workshop provided by Employment Services may also be part of the assessment phase.

**Employment Program:** When an injured worker's vocational rehabilitation plan has a job search component, the Employment Program provides services to prepare the claimant to compete for employment opportunities. The range of services is extensive, and includes interview and job search skills workshops, and individual job search assistance from Employment Specialists who market claimants to employers. This job search assistance may include work experience and work assessment placements, and/or training-on-the-job programs.

**Re-education, Vocational and Academic Training Program.** This program deals with the identification, choice, and funding of academic or vocational upgrading and training.

**Independent Living Program.** This program provides services intended to promote, enhance, and maintain the broader non-vocational quality of life of persons who have

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<sup>16</sup> Detailed descriptions of these services can be found in an undated WCB document entitled *Vocational Rehabilitation at the Workers Compensation Board of Manitoba* (WCB of Manitoba, undated2: 23-29).

experienced serious workplace injuries or conditions resulting in significant disability. These services can include modifications to residences and vehicles, as well as clothing and attendants' allowances.

### ***Individualized Written Rehabilitation Plans***

When a claimant begins receiving vocational rehabilitation services, one of the first steps following assessment is the development of an Individualized Written Rehabilitation Plan (IWRP).<sup>17</sup> The IWRP is a document which outlines the rehabilitation plan, including its goals and objectives, the responsibilities of the claimant, and the benefits and services the WCB will provide to achieve the plan's objectives.

Ideally, the plan is developed—and agreed to—by the Vocational Rehabilitation Consultant, the claimant, and, in some cases, the claimant's employer and/or healthcare practitioner. In cases where the claimant and the VRC do not agree on the content of the plan, the WCB expects the claimant to participate in the plan developed by the VRC. The injured worker may use the appeal process to pursue his/her preferred vocational plan.

### ***Hierarchy of Objectives***

WCB Policy 43.00 indicates that Vocational Rehabilitation Consultants use the following seven-tiered hierarchy of objectives when developing Individualized Written Rehabilitation Plans (IWRP's):

1. return to the same work with the same employer
2. return to the same work (modified) with the same employer
3. return to different work with the same employer
4. return to similar work with a different employer
5. return to different work with a different employer
6. re-training and re-education
7. self-employment

These objectives are pursued in a sequential manner (i.e. each lower objective is pursued only if the higher objectives have been determined to not be appropriate or feasible). Although re-training and re-education is one of the last options in the hierarchy of objectives, re-training or re-education may also be provided where one of the previous

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<sup>17</sup> "Where rehabilitation services are provided, the goals and responsibilities of the worker, the WCB, and the employer (where involved) will be identified through a written vocational rehabilitation plan" (Workers Compensation Board of Manitoba, undated1: Policy 43.00).

options is being pursued. According to Policy 44.101, the final objective—self-employment—is considered only when a claimant cannot participate in conventional vocational rehabilitation programs, or when self-employment is determined to be more likely than other vocational options to allow the injured worker to achieve maximum earnings. WCB staff have also indicated that self-employment is only considered when the claimant approaches the WCB with a feasible business idea. In practice, therefore, it is a six-tiered hierarchy of objectives, with self-employment as an additional option for a limited number of claimants.

### ***Apprentices and Youthful Workers Policy***

While not a part of the Vocational Rehabilitation policy (43.00), the Apprentices and Youthful Workers policy (44.80.30.30) includes a provision related to vocational rehabilitation.

This policy acknowledges that young workers can usually expect to see their earnings increase as they gain work experience. A serious workplace injury can bring that earnings increase to a halt. When apprentices or workers under the age of 25 are seriously injured while earning less than the industrial average wage, policy 44.80.30.30 provides a mechanism to gradually increase their wage loss benefits to the amount they would receive if they were earning the industrial average wage at the time of their injuries.

During the first two years of an eligible worker's claim, his/her wage loss benefits are calculated normally as 90 per cent of net loss of earning capacity. After two years, however, his/her pre-injury earnings are increased 10 per cent each year, until his/her average earnings equal the average industrial wage.

Policy 44.80.30.30 also states that WCB vocational rehabilitation efforts will aim to return an eligible claimant's earning capacity to the industrial average wage, unless her/his pre-injury earnings exceeded the industrial average wage.

### ***Deemed Earning Capacity***

There is considerable debate about whether the goal of vocational rehabilitation services should be to support injured workers until they are actually *employed*, or until they achieve *employability*. Currently, the WCB of Manitoba regards employability as the goal. Therefore, some injured workers' wage loss benefits are concluded or reduced even if they have not managed to return to work. This practice is known as *deeming*.

Deeming occurs when a Vocational Rehabilitation Consultant makes a decision that a claimant is capable of performing a particular job, and that job exists in the labour market. The claimant is "deemed" capable of earning the wage associated with that job,

and her/his wage loss benefits are reduced by this amount, *even if she/he is not actually employed in that or any other job.*

According to WCB policy 44.80.30.20, “deemed earning capacity will generally be used as a last resort after all reasonable or available vocational rehabilitation/re-employment options have been exhausted” (Workers Compensation Board of Manitoba, undated1).

### ***Relocation***

Because Winnipeg and other urban centres tend to have the greatest number of employment opportunities in Manitoba, rural WCB claimants who are receiving vocational rehabilitation services are sometimes asked by the WCB to relocate to a larger community. Policy 43.20.40 states that relocation will “normally be pursued or approved” where there are “few, if any opportunities for suitable re-employment in the community in which the worker lives, and greater prospects for suitable and optimum re-employment exist in another community” (Workers Compensation Board of Manitoba, undated1).

Claimants who decline to relocate for reasons the WCB considers reasonable<sup>18</sup> usually receive wage loss benefits for three years.<sup>19</sup> After three years, however, they may be deemed capable of earning a wage associated with a job that is available in a larger community. In other words, if a rural claimant is deemed capable of performing and obtaining a job that is available in a larger community, his/her wage loss benefits may be reduced by the wage associated with that job even though it may not be available in or near the community where he/she resides.

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<sup>18</sup> “The WCB will consider it reasonable for the worker to decline relocation...where the WCB determines that: (i) The relocation is not considered to be in the best interests of the worker from a rehabilitation perspective. (ii) The worker’s earning capacity in the proposed new community will not support a comparable lifestyle to the one enjoyed in the community in which the worker lived at the time of the injury; or (iii) The worker has a significant attachment to his/her community.” (Workers Compensation Board of Manitoba, undated1: Policy 43.20.40)

<sup>19</sup> The majority receive full wage loss benefits, but a minority are deemed capable of earning some amount during this three year period.

# *Previous Research*

## **STUDIES OF POST-INJURY EMPLOYMENT**

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Since the late 1970's, a number of studies have examined the post-injury employment histories of injured workers with disabilities in the U.S. and Canada. Most of these studies have been primarily concerned with identifying the characteristics of injured workers which correlate with different post-injury employment outcomes.

### **Gender**

Most U.S. studies have found that men tend to return to work sooner than women (Johnson and Ondrich, 1990: 585). A 1989-90 Ontario survey of long-term post-injury employment patterns found that women were just as likely as men to return to work, but those women who did return to work were much more likely than men to experience subsequent periods of injury-related absences from work (Butler, Johnson, and Baldwin, 1995: 466; Johnson, Baldwin, and Butler, 1998: 26). A different study of Ontario workers with musculoskeletal injuries found that men were more likely to return to work, but those women who managed to return to work were *more* likely than men to remain employed (Crook and Moldofsky, 1994).

### **Marital Status**

When marital status is examined along with gender, married men are more likely to return to work than both females and unmarried men (Allingham and Hyatt, 1995: 175). Unmarried women are more likely to return to work—and sooner—than married women (Johnson and Ondrich, 1990). Johnson and Ondrich suggest that married women are less likely to return to work because they “compensate for the limiting effects of their disabilities by substituting household work for working for wages” (1990: 585).

### **Age**

Most studies have found that older workers are less likely to return to work than younger workers (Baldwin and Johnson, 1998; Johnson, Baldwin, and Butler, 1998; Crook, Moldofsky, and Shannon, 1998).

## Type and Severity of Disability

Johnson and Ondrich (1990) found that type of disability is a more important influence on return to work than severity. They found that persons with amputations or bruises and contusions were more likely to return to work sooner than persons with sprains, dislocations, or fractures (1990: 584).<sup>20</sup> Butler, Johnson, and Baldwin (1995) argue that other factors can interact with a workers' type of impairment to exacerbate the work disability he or she experiences.

“Many workers with less than high school education work in physically demanding jobs. As the workers age, their physical capacity declines and their risk of developing a back problem increases. For a low-skilled worker, an episode of back pain is typically disabling because the usual work of such an employee is physically demanding and the worker's ability to perform other jobs is limited by his or her lack of skills. Unless low-skilled workers are protected by seniority rules, such as those mandated by labor unions, those who can no longer perform physically demanding tasks because of a back condition have few opportunities to move to less demanding occupations. If their employers are unwilling or unable to reduce the physical demands of their usual jobs, these workers are likely to be totally work-disabled even though they are physically capable of doing many other jobs. More skilled workers with the same back conditions are likely to be employed.” (Butler, Johnson, and Baldwin, 1995: 462-463)

A recent survey of 113 injured workers across Canada found that most respondents felt that persons with soft tissue injuries have greater difficulties than persons with amputations and other clearly visible disabilities (Canadian Injured Workers Alliance, 1995a: 35). In a study of injured workers in Wisconsin, Galizzi, Boden, and Liu report that injured workers with back injuries face particular challenges because their subjective pain and limitations often do not correlate with objective symptoms (1998: 5).

## Pre-Injury Wage

Two studies based on data collected in the 1970's in Florida, New York, Wisconsin, and Illinois found that workers who earned higher wages at the time of their injuries tended to return to work sooner than workers with lower pre-injury wages (Butler and Worrall, 1985; Johnson and Ondrich, 1990). Similar results were found in a study of injured workers in Ontario (Allingham and Hyatt, 1995).

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<sup>20</sup> The authors do not suggest any explanation for this finding.

## Post-Injury Earning Potential

Baldwin and Johnson found that injured workers with higher post-injury earning potential were more likely to return to work (1998: 51).

## Education

Most studies have found that better educated workers are more likely to return to work than less educated workers (Johnson and Ondrich, 1990: 584-585; Allingham and Hyatt, 1995: 175). For example, Butler, Johnson, and Baldwin (1995: 462) found that 80 per cent of a sample of Ontario injured workers who did not return to work had less than a high school education. The authors suggest these explanations:

“First, a physical impairment is less likely to limit the job performance of better-educated workers because their jobs are not usually physically demanding. Second, better-educated workers have more control over the manner in which they perform their jobs, allowing them to compensate for physical limitations by changing the manner in which they do their usual work. And third, firms’ greater investments in training better-educated workers than less-educated workers, and the relatively high transaction costs of replacing better-educated workers, increase employers’ incentives to provide workplace accommodations for those workers.” (1995: 462)

## STUDIES OF LONG-TERM EMPLOYMENT OUTCOMES

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Most of the studies conducted during the 1970’s, 1980’s, and early 1990’s were primarily concerned with injured workers’ first returns to work. For example, a study conducted for the Alberta Workers’ Compensation Board examined the number of claimants who received vocational rehabilitation services from workers’ compensation boards in eight Canadian provinces in the 1980’s, as well as the number who subsequently returned to work. It found that 7 per cent of claimants with time-loss injuries were referred for vocational rehabilitation services, and 47 per cent of them subsequently returned to work (Association of Workers’ Compensation Boards of Canada, 1998: 9-10, citing Robertshaw, 1991).

Most of these studies assumed that a first return to work after a disabling injury is an accurate predictor of long-term employment success (i.e. a return to work signals a successful end to the worker’s injury-related absence from work).<sup>21</sup> Several of the authors

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<sup>21</sup> Baldwin and Johnson (1998: 49) report that many providers of vocational rehabilitation services also use an injured worker’s first return to work as an indicator of success.

of these early studies noted, however, that this was not always true. For example, Ginnold (1979) found that 25 per cent of Wisconsin workers injured in 1968 who returned to their jobs were not employed eight years later (1976). Most of these workers identified their injuries as the reason they were not working. Similarly, Johnson, Cullinan, and Curington (1979) found that approximately 20 per cent of a sample of U.S. workers who sustained permanent partial impairments in 1970 and returned to work were not employed in 1975, most for at least one year.

The Canadian Injured Workers Alliance (CIWA) conducted a study of the vocational rehabilitation and re-employment experiences of 113 injured workers across Canada in 1995 (Canadian Injured Workers Alliance, 1995a and 1995b). It is the only previous study of the post-injury employment of injured workers with disabilities in Canada we are aware of that is based on the first-hand descriptions, beliefs, and opinions of injured workers.

It emphasizes that “returning to work and *keeping* a job permanently are two entirely different matters” (Canadian Injured Workers Alliance, 1995a: 49; italics in original). 67 of 113 respondents had returned to work at least once since their injuries, most with their pre-injury employers (1995a: 64). However, more than half of those who initially returned to work—38 of 67—were not working at the time of the survey (1995a: 49).

CIWA reports that most of the survey respondents who managed to return to work at least once:

“...gave little credit to the Compensation Boards, Workers’ Advocates, employers, unions or other agencies and mechanisms which exist to assist in the return to work. Rather the two reasons cited most often by respondents for their return to work gave credit to their own initiative and personal support from family, friends and co-workers.” (Canadian Injured Workers Alliance, 1995a: 49)

### **Survey of Ontario Workers with Permanent Impairments (1989-90)**

The most comprehensive and methodologically rigorous studies of the long-term post-injury employment histories of injured workers with disabilities in North America are based on data from a survey of Ontario injured workers in 1989-90. The *Survey of Ontario Workers with Permanent Impairments* was conducted by the Workers Compensation Board of Ontario, and collected data from 10,500 injured workers in that province who had permanent partial disability assessments between June 1989 to June 1990. The survey collected a wealth of data, including continuous information on post-injury

employment for three to fifteen years after injury. This survey has generated a series of publications by Johnson, Butler, and Baldwin throughout the 1990's.<sup>22</sup>

These publications indicate that regarding an initial return to work as a success substantially misrepresents the prevalence of returns to *stable* employment for workers with permanent disabilities. If the only criterion for success was an initial return to work, 85 per cent of the injured workers with disabilities in the survey would have been regarded as "successes." In fact, however, 61 per cent of those who returned to work subsequently had one or more spells of unemployment related to their disabilities. At the time of the survey, 40 per cent of those workers who initially returned to work were not employed because of the effects of their injuries (Baldwin and Johnson, 1998: 48-49).

Butler, Johnson, and Baldwin (1995) and Baldwin, Johnson, and Butler (1996) identified four distinct patterns of post-injury employment amongst a sample of 1,850 of the injured Ontario workers who were able to return to work:

- Pattern 1 describes "successful" return to work (the worker had been employed at the same post-injury return to work job for at least three years, or he/she left the job for reasons unrelated to his/her disability).
- In Pattern 2, the first return to work was unsuccessful, and the worker had not worked since then.
- In Pattern 3, the worker experienced multiple episodes of work and unemployment, but was working at the time of the survey.
- In Pattern 4, the worker experienced multiple episodes of work and unemployment, and was not employed at the time of the survey.

39 per cent of the injured workers who initially returned to work did not have any subsequent injury-related work absences (Pattern 1). 29 per cent who returned to work left or lost their jobs for reasons related to their injuries, and had not worked since (Pattern 2). 21 per cent experienced multiple spells of work and unemployment, but were working at the time of the survey (Pattern 3). 11 per cent experienced multiple episodes of work and unemployment, and were not working at the time of the survey (Pattern 4).

When Baldwin and Johnson examined a subset of workers with back injuries, the error of using first return to work as a measure of success was even more apparent: nearly half of the injured workers with permanently-disabling back injuries who initially returned to

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<sup>22</sup> Note, however, that this survey included all Ontario workers with permanent impairments, even relatively minor impairments. It is likely, therefore, that it included some workers with less significant impairments or disabilities than this study is examining.

work were not employed—for reasons related to their injuries—at the time of the survey (1998: 49).

## **EXTERNAL FACTORS INFLUENCING RE-EMPLOYMENT**

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### **Employers**

Working conditions established by employers directly affect the incidence of work-related injuries and diseases. In addition, employers' policies and practices have a great influence on the post-injury employment prospects of workers who sustain significant disabilities from workplace injuries (Thomason, Burton, and Hyatt, 1998: 5). For example, the 1989-90 Ontario survey of injured workers with disabilities found that 90 per cent of the workers who successfully returned to work following their injuries returned to the employers for whom they were working at the time of their accidents (Johnson and Baldwin, 1993: 33). Forty per cent of the workers who never worked again after their injuries reported that they had sought re-employment with their pre-injury employers, but were rejected (Butler, Johnson, and Baldwin, 1995: 462).

“Most injured workers should find it easier to return to their time-of-accident jobs than to find other employment. Workers with several years of experience with a firm are often so familiar with the physical requirements of their jobs that they can adapt to the limits of an impairment with little or no help from their employer. Experienced workers are also more likely to be helped by their employers since, on an average, they have more firm-specific experiences and training, much of which may have been paid for by their employers.” (Johnson and Baldwin, 1993: 33)

The Canadian Injured Workers Alliance's 1995 survey found that most of the 67 respondents who had returned to work at least once since their injuries said their employers had been at least partly helpful in the return to work process.<sup>23</sup> Not surprisingly, most of the 45 respondents who had not worked since their injuries said that their employers were not helpful (Canadian Injured Workers Alliance, 1995b: 144-151).

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<sup>23</sup> Of those who answered the question “Was the employer helpful?”, 24 answered “yes,” 11 answered “partly,” and 18 answered “no.” (The remaining 14 responses were listed as “no opinion/no answer”.)

### *Accommodation*

Job accommodations provided by employers are important determinants of long-term re-employment following a workplace injury that results in a permanent disability (Baldwin and Johnson, 1998: 52; Johnson, Baldwin, and Butler, 1998: 24-25, 30; Crook, Moldofsky, and Shannon, 1998: 1575). In the 1989-90 Ontario survey, workers whose employers provided accommodations were more likely to have stable post-injury work histories than workers who were not provided with accommodations (Butler, Johnson, and Baldwin, 1995: 465). The authors suggest that “the finding that a strong bond existed between injured workers and firms that provided accommodations supports the contention that firms are most willing to accommodate workers who are unlikely to leave the firm’s employ” (1995, 465-466). It may also be argued that workers are more likely to remain loyal to employers who accommodate them.

During the 1980’s, the Canadian Charter of Rights and Freedoms and a variety of human rights legislation established the human rights of persons with disabilities in Canada. Under federal and provincial human rights legislation, employers are prohibited from discriminating against persons with disabilities. The Manitoba Human Rights Code states that it is discrimination to fail to make reasonable accommodation—up to the point of undue hardship<sup>24</sup>—for the special needs of an individual or group that are based on protected characteristics, including persons with disabilities (Manitoba Human Rights Commission, undated). Injured workers with disabilities whose employers unreasonably refuse to re-employ or accommodate them may seek remedy by filing a human rights complaint.

Although human rights legislation is considered paramount to workers’ compensation legislation, an increasing number of provinces have chosen to incorporate within their workers’ compensation legislation a provision requiring employers to re-employ and accommodate injured workers. Quebec was the first province to legislate injured workers’ rights to be reinstated by their pre-injury employers in 1985, and was followed by Ontario and New Brunswick in 1990, and Prince Edward Island and Nova Scotia in 1995 (Gunderson, Hyatt, and Law, 1995: 143). Workers’ compensation legislation in

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<sup>24</sup> The exact determination of what constitutes undue hardship varies from case to case. Some factors which may be considered include financial costs, disruption of collective agreements, morale of other employees, interchangeability of work force and facilities, size of an employer’s operations, and safety factors.

Newfoundland and all provinces west of Ontario—including Manitoba—does not require employers to accommodate and/or re-employ injured workers.<sup>25</sup>

The details of the reinstatement provisions of each province's legislation vary<sup>26</sup>, but all require employers to re-employ an injured employee when the worker is able to resume work, either in the position she or he held at the time of injury, or an equivalent position. If the worker is not physically capable of performing the essential duties of job she or he was doing at the time of injury, the employer is obligated to offer the worker any suitable jobs which become available.

Many of these provinces limit the obligation to re-employ to workers who have been employed by the employer for at least one year. Many provinces also provide exceptions for employers with fewer than 20 employees, as well as employers in the construction industry. The obligation to re-employ has a time limit in some provinces (e.g. one year after injury in Prince Edward Island; two years after injury for New Brunswick employers with more than 20 employees, one year for employers with 10-20 employees).

Gunderson, Hyatt, and Law (1995) link the emergence of these provisions to the development of anti-discrimination and human rights legislation during the 1980's, as well as employment equity initiatives during the same period. They also note that reinstatement provisions are also consistent with the most desirable objectives in most workers' compensation boards' hierarchies of objectives: return to the same or similar employment with the same employer.

There has been no comprehensive research on the success of these reinstatement provisions (Association of Workers' Compensation Boards of Canada, 1998: 21), but there are suggestions that a "right" to re-employment may not always benefit injured workers with disabilities (Canadian Injured Workers Alliance, 1999). For example, other vocational rehabilitation options (e.g. re-training for a new occupation) that may be more appropriate for some injured workers may be difficult to access if re-employment with the pre-injury employer is a legislated right. Similarly, some workers may be at risk of re-injury if they resume their pre-injury employment without modifications to address the factors which caused the original injury (Royal Commission on Workers' Compensation in British Columbia, undated2). T.G. Ison argues that employers who re-

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<sup>25</sup> The recent Royal Commission on Workers' Compensation in British Columbia recommended the adoption of a "duty to accommodate" requirement in that province (Royal Commission on Workers' Compensation in British Columbia, 1999: Volume II, Ch. 1, 43-50).

<sup>26</sup> For detailed comparisons of each province's reinstatement provisions, see Association of Workers' Compensation Boards of Canada, 1998: 20-32.

instate an injured worker only because of the legal obligation may create negative working conditions that make the injured worker's employment precarious. He also argues that workers who quit or are terminated under such conditions may have difficulty re-establishing eligibility to compensation benefits or vocational rehabilitation services (Association of Workers' Compensation Boards of Canada, 1998: 22, citing Ison, undated).

## **Vocational Rehabilitation**

Every workers' compensation board in Canada provides or funds vocational rehabilitation services to facilitate the post-injury employment of claimants whose injuries have resulted in permanent disabilities (Association of Workers' Compensation Boards of Canada, 1998: 6). Although each board's specific policies vary, the general goal of vocational rehabilitation is to help each injured worker return to an occupation and wage as similar as possible to the occupation and wage he or she held at the time of injury (Allingham and Hyatt, 1995: 158).

Vocational rehabilitation services are intended to play a major role in assisting permanently-disabled injured workers through the often-challenging process of returning to productive employment. In addition, vocational rehabilitation services have the potential to yield substantial cost savings to workers compensation boards: by helping injured workers with disabilities return to productive employment, these services reduce or eliminate the wage loss benefits that workers' compensation boards pay to injured workers with disabilities who are not employed. One might assume, therefore, that there would be considerable research devoted to the effect vocational rehabilitation services have on the post-injury employment of injured workers with disabilities. That does not appear to be the case.

To the best of our knowledge, no workers' compensation board in Canada has recently conducted research on the effects vocational rehabilitation services have on the post-injury employment outcomes of injured workers with significant disabilities. Allingham and Hyatt suggest that a major reason for this shortage of research relates to the fragmentation of data in jurisdictions where vocational rehabilitation services are provided by external agencies rather than the workers' compensation board.

"The provider of workers' compensation insurance (and benefits) is often not the provider of vocational rehabilitation, and instances where hard data on the worker, the worker's injury, rehabilitation assistance, benefit payments, and post-injury labour-market experiences are found together are rare." (Allingham and Hyatt, 1995: 159)

Very few of the major studies of the post-injury employment patterns of injured workers with disabilities in Canada and the U.S. devoted much attention to the influence of the availability, nature, and duration of vocational rehabilitation services. Instead, most of these studies have been primarily concerned with identifying various characteristics of injured workers (e.g. age, gender, education) which are related to stable post-injury employment, unemployment, or unstable employment. The few studies which have examined the impact of vocational rehabilitation services have done so superficially, such as by comparing the post-injury employment outcomes of injured workers who received vocational rehabilitation services to the post-injury employment outcomes of injured workers who did not receive these services. Other studies have performed questionable cost-benefit analyses, often using file closures—not post-injury employment—as the measure of successful vocational rehabilitation (Davidson, 1994).

Using data from the 1989-90 Ontario survey, plus additional data from the WCB of Ontario's vocational rehabilitation administrative files, Allingham and Hyatt found that only 39 per cent of the injured workers with permanent disabilities who participated in a vocational rehabilitation program eventually returned to work, compared to 91 per cent of those who did *not* participate in a VR program (Allingham and Hyatt, 1995: 169). The authors warn, however, that this disparity is misleading, arguing that claimants who require and participate in vocational rehabilitation programs are likely to have greater barriers to re-employment than claimants who do not access VR services (1995: 171).

To provide a more useful comparison between the two sub-samples, Allingham and Hyatt controlled for permanent disability rating. Amongst the sub-sample of injured workers who had not received vocational rehabilitation services, a one per cent increase in disability rating resulted in a substantial 1.4% reduction in likelihood of return to work. Amongst the sub-sample of persons who *had* received vocational rehabilitation services, however, a one per cent increase in disability rating only resulted in a 0.09% reduction in likelihood of return to work. Allingham and Hyatt conclude that "it appears that vocational rehabilitation is having the intended effect—it is reducing the impact of residual disabilities on the return to work of injured workers" (1995: 171).

In an evaluation of workers with back injuries, the Workers' Compensation Board of British Columbia found that only 43 per cent of the workers who returned to work credited the WCB of BC's vocational rehabilitation services with helping them to "find or keep the job they returned to" (Royal Commission on Workers' Compensation in British Columbia, 1999: Vol. 1, Ch. 6, pg. 9).

Approximately half of the 113 injured workers who responded to the Canadian Injured Workers Alliance survey felt that the vocational rehabilitation services they received were

not useful (Canadian Injured Workers Alliance, 1995a: 61). Slightly more than half of the respondents who had been referred to vocational rehabilitation services reported that they had not received a formal vocational assessment (1995a: 59), and many felt that they were offered a limited choice of vocational rehabilitation goals and training programs (1995a: 25). Many respondents also reported difficulties in choosing goals for their vocational rehabilitation, describing the process as "...a *negative* process, not one where the voc rehab officer and client work in partnership" (1995a: 59; italics in original).

## Unions

Preventing disability or death from work-related injuries or illnesses is among the oldest and most enduring goals of labour unions (Schurman, Weil, Landsbergis, and Israel, 1998: 121). Unions negotiate contract provisions to enhance workplace health and safety, and are also politically active in the promotion of legislation and other initiatives designed to prevent workplace injuries and diseases, and to compensate workers who do become disabled at work (Thomason, Burton, and Hyatt, 1998: 4).

Hirsch, MacPherson, and Dumond (1997) list the following ways unions may influence the frequency of workplace injuries and workers' compensation claims:

- Compensation for workplace injuries is more likely to be understood as a right by unionized workers and their employers. In the event of an injury, unionized workers are more likely to be already aware of their entitlement to workers' compensation benefits, or are quickly alerted to this entitlement by co-workers, shop stewards, or supervisors.
- Managers are less likely to discourage unionized workers from reporting workplace injuries, since such actions might be reported to the union and provoke a grievance.
- Unionized workers are less likely to be penalized or believe they will be penalized if they report workplace injuries and file claims for workers' compensation.
- Although most of the historical evidence suggests that unionized workplaces tend to be more dangerous than non-union workplaces, collective bargaining may allow unions to provide their members with safer working conditions.

Unions are democratic institutions, however, which clearly are obligated to represent all of their members. Injured workers with disabilities make up a small fraction of union members. Although many non-disabled workers are sympathetic to the problems and needs of workers with disabilities, they are often more concerned about issues which immediately affect them (e.g. wages and job security) than with the accommodation or rehabilitation issues of workers with disabilities (Thomason, Burton, and Hyatt, 1998: 4).

A recent report by the Canadian Labour Congress warns that the development of joint health and safety committees during the 1970's and 80's has resulted in the de-politicization of workers' compensation issues within the Canadian labour movement. As a result, the report argues that health, safety, and workers' compensation issues are now regarded more as technical rather than political issues.

"This perspective has served the employers and governments well who seek to de-politicize health and safety and workers' compensation. The results achieved by joint committees will continue to decline without immediate action from the labour movement to bring health and safety representatives into the mainstream of the labour movement and to bring activism back into health, safety and workers' compensation." (New Strategies Sub-Committee, 1996: 5)

### ***Return to Work***

There is mixed evidence on the role unions play in helping workers return to productive employment following a workplace injury. A study of 1,461 Wisconsin workers who sustained back injuries during 1989 and 1990 found that union members were more likely than non-union members to return to work with their pre-injury employers. Union members also had a lower incidence of "long-term nonemployment after the first return to work" (Galizzi, Boden, and Liu, 1998: 101-102).<sup>27</sup>

Several other U.S. studies also found that unionized workers were more likely to return to work than non-unionized workers, but union members tended to return to work *later* than non-union members (Butler and Worrall, 1985; Johnson and Ondrich, 1990). Johnson and Baldwin suggest that this occurred because unionized workers protected by seniority rules do not face the same risk of losing their jobs as non-union workers and may, therefore, "invest more time in recuperation" (Johnson and Baldwin, 1993: 53).

The 1989-90 survey of injured workers with permanent disabilities in Ontario found that union membership was a highly significant, positive influence on returns to work for men and women. Johnson, Butler, and Baldwin (1995) reported that union members were more likely to return to work than non-union members, and union members who returned to work returned 20 to 40 per cent sooner than those who were not union members.<sup>28</sup>

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<sup>27</sup> 76 per cent of the sample in this study had not received permanent disability benefits.

<sup>28</sup> Baldwin, Butler, and Johnson suggest that unionized injured workers in Canada may return to work sooner than their counterparts in the U.S. because of "differences in the unions' positions with regard to advocacy of the right to return to work. This is an important issue in Canada but is

“The effect of union membership on returns to work in Ontario appears to reflect unions’ attempts to help their injured members return to work...Although 66 per cent of the workers [in the study] were unionized, only 49 per cent of the workers who did not return to work were unionized. More than one-quarter of the workers who moved to new jobs after being injured did so with the help of their labour union” (Johnson, Butler, and Baldwin, 1995: 80).

Although union membership encouraged prompt return to work, a subsequent publication by the same authors clarified that union membership had less of an impact on the long-term success or sustainability of union members’ returns to work (Butler, Johnson, and Baldwin, 1995).

“These results, combined with the previous finding showing that union members were more likely than nonmembers to return to work, suggest that unions do best at protecting workers’ time-of-injury jobs while they recuperate from their injuries but contribute less to successful outcomes among those who return to work.” (Butler, Johnson, and Baldwin, 1995: 463)

Most of the unionized injured workers who participated in the 1995 survey of Canadian injured workers were dissatisfied with the role their unions played in the return to work process. Most felt that their unions should have taken greater action on their behalf (Canadian Injured Workers Alliance, 1995b: 151-156).

“Views about union assistance were largely based on criticism of the union for inaction on behalf of the injured worker’s case...We would like to make a special point about respondents’ unhappiness with the role of unions in assisting them in the return to work process. One would expect that unions would be a helpful source of support for injured workers employed in a unionized workplace at the time of their injury. But this is NOT the case.” (Canadian Injured Workers Alliance, 1995a: 66; capitals in original)

That report also argued that injured workers with disabilities were competing with older workers with greater seniority for limited numbers of less demanding jobs.

“[T]he senior workforce (because of seniority, etc.) and disabled injured workers are now in greater competition for the limited number of jobs in the Modified Work Programs.” (Canadian Injured Workers Alliance, 1995a: 7)

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often seen as threatening to the seniority system in organized workplaces in the United States” (1996: 637).

“Labour sees that an injury could happen to anyone of us but everyone looks forward to lighter duty as we gain seniority. Returning an injured worker to work is only one of their many issues.” (Canadian Injured Workers Alliance, 1995a: 26)

The report also suggests that older workers may sometimes feel that workers with disabilities have the advantage in this competition.

“Seniority issues—a lot of tension here. Older workers who are looking forward to the less demanding jobs are seeing these jobs go to the injured and disabled.” (Canadian Injured Workers Alliance, 1995a: 28)

## **Disability Agencies**

Since the mid-1980's there has been considerable research on the labour force participation of persons with disabilities in Canada (Study Group on Employment and Disability, 1991; Roeher Institute, 1992; Bunch and Crawford, 1998). Several studies have examined the impact community-based agencies have on the re-employment of persons with particular disabilities (Canadian Paraplegic Association, 1996), but we did not find any previous research examining the influence of these agencies on the re-employment of *injured workers* with significant disabilities.

## **Injured Workers Groups**

According to the Canadian Injured Workers Alliance's web site (<http://www.ciwa.ca/>), there are approximately 80 regional injured workers groups in Canada. The Injured Workers Association of Manitoba has existed since the early 1970's, and is located in Winnipeg. There are also several small fledgling injured workers groups outside of Winnipeg.

CIWA's 1995 survey contains the only reference to the impact of injured workers groups found during this review of previous research. 76 of the 113 injured workers who participated in that survey provided an opinion about whether or not injured workers groups were helpful. The majority (52) answered “yes.” Most of those who answered “no” indicated that an injured workers group did not exist in their area, or that they were not aware of one which existed (Canadian Injured Workers Alliance, 1995b: 161-165).

# *Method*

The main source of information for this report were interviews and focus groups with injured workers who have significant disabilities. Project staff also consulted with unions, disability agencies, advocates for injured workers, employers, and staff of the Workers Compensation Board (WCB) of Manitoba.

## **SAMPLING PLAN**

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49 candidates for the study were recruited from non-random samples of injured workers with significant disabilities drawn from two main sources:

- the Workers with Disabilities Project's network
- a mailing to 199 claimants of the Workers Compensation Board of Manitoba

### **The Workers with Disabilities Project Network**

Since its inception in 1992, the Workers with Disabilities Project has developed an informal network of organizations with shared interests in the employment of persons with disabilities. These organizations include labour unions, consumer advocacy organizations of persons with disabilities, service agencies for persons with disabilities, and injured worker advocacy organizations.

According to Statistics Canada, approximately 35 per cent of Manitoba workers are members of labour unions (Akyeampong, 1999), suggesting that a large portion of workers who sustain significant disabilities from workplace injuries and diseases belong to unions. Additionally, injured workers with disabilities sometimes seek services and support from organizations which provide these services and supports to persons with disabilities. Injured workers also sometimes seek assistance and support from injured worker advocacy organizations.

Written information about the project was mailed or faxed to over 100 organizations throughout Manitoba during the first and second months of the project. Project staff subsequently met or had telephone conversations with representatives of:

- 31 unions and other labour organizations,
- 8 agencies that provide services to persons with disabilities,
- 3 organizations of persons with disabilities,

- 4 injured worker advocacy organizations

Some organizations agreed to print articles about the project in their newsletters, but most chose to directly contact members, consumers, or clients they felt would be suitable and interested in participating in the study. Contacts with the WDP's network resulted in 20 injured workers contacting the study as potential study participants.

### **Mailing to 199 WCB Claimants**

During the second, third, and fourth months of the study (April to June 1999), project and WCB staff discussed various ways the WCB could assist in identifying and inviting claimants with significant disabilities to participate in the study. It was eventually decided to send information about the study to claimants who had:

- initiated claims since 1992
- received Permanent Partial Impairment (PPI) awards of 10 per cent or greater
- received or were currently receiving WCB vocational rehabilitation services

The WCB generated a list of 470 claimants who met these three criteria.

At the request of the Specialized Services Unit ("Unit 5"), clients of this unit were not included in this list. Because of WCB concerns that the vocational rehabilitation of some claimants might be negatively affected by participating in the study, this list was circulated to Vocational Rehabilitation (VR) staff for review. During this review, VR staff decided that it would be in the best interest of 271 claimants to remove them from the list. The remaining 199 claimants were mailed an information package inviting them to participate in the study. 29 of the 199 claimants subsequently contacted the project.

### **TELEPHONE SCREENING INTERVIEWS**

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Telephone screening interviews were conducted with each injured worker who contacted the project. These interviews gathered information on each candidate's occupation, injury, disability, and the progress of their vocational rehabilitation and re-employment efforts.

Following these screening interviews, project staff excluded several candidates because they did not have disabilities of the significance this study was addressing. Several others were excluded because they were retired or otherwise not interested in re-employment. Several others declined to participate in formal interviews or focus group meetings. Project staff were subsequently unable to reach several other persons who initially expressed interest in the project.

In total, 34 injured workers with significant disabilities—16 from the WDP network, 18 from the WCB mailing—were accepted into the study.

## **SOCIO-DEMOGRAPHIC CHARACTERISTICS OF STUDY PARTICIPANTS**

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### **Gender**

Approximately 75 per cent of study participants were men.<sup>29</sup>

### **Age**

Approximately 45 per cent of study participants were over 50 years of age. Another 45 per cent were between 35 and 49. Only four participants—all men—were under 35.

### **Nature of Injury and Disability**

The majority of study participants had injuries which resulted in disabilities that restricted their mobility, agility, or coordination (e.g. walking, bending, lifting, grasping). Approximately 25 per cent had back injuries (not including spinal cord injuries). Injuries of the hand, arm, shoulder, feet, ankles, and hip were each represented by at least two participants. Several persons with significant disabilities related to speaking, learning, and thinking were also represented, as well as several persons with disabilities related to psychological functioning (both as the primary “injury” as well as a factor secondary to a physical injury). Several participants were paraplegic or quadriplegic from spinal cord injuries, several had amputations of limbs or extremities, several fell from great heights, and several were struck by heavy falling objects.

No persons with significant hearing or seeing disabilities participated in the study.<sup>30</sup>

Most study participants had received lump sum Permanent Partial Impairment (PPI) awards<sup>31</sup>, but some could not remember or declined to disclose the percentage or dollar amounts. Of those who described their PPI awards, approximately half received awards

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<sup>29</sup> When the under-representation of women became apparent during the first several months of data collection, project staff increased efforts to recruit from organizations in the Workers with Disabilities Project network which have large numbers of female members, clients, consumers, etc. Unfortunately, these efforts did not substantially increase the representation of women.

<sup>30</sup> WCB statistics indicate that there are relatively few claims for injuries resulting in significant hearing and seeing disabilities.

<sup>31</sup> A small number of participants whose injuries occurred prior to 1992 received Permanent Partial Disability (PPD) awards. PPD awards were replaced by wage loss benefits and PPI awards on January 1, 1992. For further information, see Smith, 1999: 33-34.

in the 10-14 per cent range. Approximately one-quarter had awards of 15-50 per cent, and approximately one-quarter had awards greater than 50 per cent.

### **Pre-injury Employment**

Most male participants were injured while working in the construction, mining, or transportation industries. Most female participants worked in manufacturing.

### **Current Employment Status**

At the time of their interviews and/or focus group meetings, approximately 30 per cent of the total sample were employed. All were doing different jobs than they were doing at the time of their injuries. Approximately half were employed by the same employers for whom they were working at the time of their injuries, and half were working for different employers. Almost all had received WCB vocational rehabilitation services.

Another 30 per cent were active WCB claimants who were receiving vocational rehabilitation services, including assessments, aptitude testing, educational upgrading, re-training for new occupations, and/or developing self-employment initiatives.

Another 30 per cent were former WCB claimants who were unemployed when they were interviewed. Most of this group had received WCB vocational rehabilitation services in the past.

Several other participants were not employed, but were not actively seeking work. Some of these were included in the study because they were persons with particularly significant disabilities who had chosen alternatives to paid employment, which the WCB was supporting. A few others in this category were older workers in their late-fifties and sixties who were relatively content to not be working.

## **COMPARISON OF THE TWO SAMPLES**

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The samples of injured workers recruited through the Workers with Disabilities Project network and the mailing to WCB claimants were different in some ways.

## **Year of Injury**

All of the claimants who responded to the WCB mailing were injured between 1992 and 1997. Some of those recruited from unions, agencies, and other organizations had injuries that occurred prior to 1992.<sup>32</sup>

## **Complexity of Case**

Most of the WCB sample had relatively straightforward claims for single “sudden onset” injuries. About half of the sample recruited from the project network had complex cases (e.g. multiple accidents/claims, extended onset injuries, medical complications, etc.)

## **Nature of Injury**

Many of the sample recruited from the Workers with Disabilities Project network had disc-related back injuries. Few of the WCB sample had these kinds of injuries. The participants drawn from the WDP network included approximately five persons with spinal cord injuries. None of the persons who responded to the WCB mailing had spinal cord injuries.

## **Satisfaction**

Although most of those who responded to the WCB mailing were not fully satisfied with the benefits and services they had received from the WCB, a significant minority were relatively satisfied. Very few of those recruited through the WDP network were satisfied.

## **Unit 5 Clients**

Four claimants receiving services from the WCB’s Specialized Services Unit were recruited through the WDP network. The mailing to WCB claimants excluded all Unit 5 clients, and subsequent discussions with Unit 5 staff resulted in only one additional Unit 5 client contacting the project.

## **Appeals**

Several injured workers recruited through the WDP network had formally appealed their WCB claims. None of those who responded to the WCB mailing had initiated appeals.

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<sup>32</sup> For further information about the changes to WCB benefits and services which occurred on January 1, 1992, see Smith, 1999: 33-35.

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## INTERVIEWS

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In-depth interviewing is a semi-structured interview technique in which the researcher begins with a loosely defined set of open-ended questions. As each participant responds to these questions, the researcher shapes new questions to obtain additional detail about the information the participant provides. This technique contrasts with quantitative data collection techniques like surveys which seek limited answers to specific, pre-determined questions which can then be statistically analyzed.

Between June and October 1999, 34 injured workers were interviewed:

- 18 interviews took place in the offices of the Manitoba League of Persons with Disabilities
- 7 interviews were conducted by telephone.
- 5 occurred in restaurants or hotels
- 4 took place in the homes of study participants

17 study participants lived in Winnipeg, and 17 lived outside Winnipeg.<sup>33</sup>

Interview participants were asked a series of broad questions about their occupations at the time they were injured, the nature of their injuries, medical care they received, the disabilities resulting from their injuries, the initial adjudication of their WCB claims, attempts they made to return to their pre-injury employers and jobs, WCB vocational rehabilitation services they received, WCB employment services they received, Permanent Partial Impairment (PPI) awards they received, support unionized participants received from unions, and their use of external resources for injured workers and/or persons with disabilities.

Each participant had considerable influence on the content of his/her interview. For example, a participant who perceived his/her medical care and continuity of WCB benefits as the most significant barriers to re-employment had the opportunity to discuss those issues in detail. Another participant may have had little or nothing to say about these issues, and her/his interview therefore gave greatest emphasis to the issues that *were* of greatest concern to her/him.

The interviews varied in length from 30 to 120 minutes, with most lasting approximately 90 minutes. Audio recordings were made of 22 of these interviews. (Several early

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<sup>33</sup> Project staff made four automobile trips totaling approximately 5000 kilometers to conduct interviews with injured workers outside of Winnipeg.

interviews were not recorded. A few interviews were conducted in locations that precluded tape recording, e.g. public places with loud background noise. A few participants declined to be recorded.)

Following each recorded interview, project staff wrote narrative descriptions using direct quotations transcribed from the audio recordings. Interviewers' notes were used to write summary narratives following interviews which were not recorded.

## **FOCUS GROUP MEETINGS**

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Researchers use focus groups to collect qualitative data based on participants' personal experiences, perceptions, feelings, and beliefs. Focus group meetings compliment individual interviews because the interactions between participants can generate data which may not emerge during an individual interview. The moderator of a focus group plays a less intrusive role than an interviewer, devoting more of his/her energy to facilitating interaction between the participants.

Like in-depth interviews, focus groups contrast with quantitative data collection techniques which seek limited answers to specific, pre-determined questions which are then statistically analyzed.

A focus group of five previously interviewed injured workers who live in or near Winnipeg met three times between August and October 1999. (One person was unable to attend the first and third meetings.) An attempt was made to include participants with diverse characteristics, including:

- age (from early 20's to mid-40's)<sup>34</sup>
- gender (four men, one woman)
- overall satisfaction with the WCB (relatively satisfied to very dissatisfied)
- injury (back, hand, brain, legs)
- union involvement (3)
- agency involvement (2)
- injured worker advocate involvement (2)

Three focus group participants came from the sample recruited from the WDP network, and two were from the sample who received the letter sent to 199 WCB claimants.

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<sup>34</sup> An additional participant over 50 originally agreed to be a focus group member, but withdrew before the first meeting.

Each focus group meeting lasted 150 to 180 minutes. Participants summarized their injuries and subsequent experiences during the first meeting, and discussed their initial attempts to return to work. The second meeting addressed the services they had received from the Workers Compensation Board's Vocational Rehabilitation and Employment Services departments. The third meeting addressed their knowledge and use of external resources (agencies, unions, advocates).

Quotations of selected participant comments were transcribed from audio recordings of each meeting.

An additional focus group meeting with three injured workers aged 50 and over was held in November 1999.

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## **INFORMAL MEETINGS**

Project staff also held two small, informal meetings with injured workers outside Winnipeg during the third month of the project. A total of five injured workers attended these meetings.

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## **CONSULTATIONS**

An advisory committee of representatives of organized labour, persons with disabilities, and the Workers Compensation Board of Manitoba oversaw the research, meeting once per month.

In the course of this study, project staff met with staff (primarily supervisors) of the Workers Compensation Board of Manitoba's Vocational Rehabilitation, Employment Services, Adjudication, and Program Planning departments. Project staff also met with staff of unions, disability agencies, and advocates for injured workers.

Following the production of a preliminary report on the findings of the interviews and focus group meetings with injured workers, consultation meetings were held with representatives of disability agencies, unions, and employers during November 1999.<sup>35</sup> The primary purpose of these meetings was to solicit comments on the preliminary report's findings.

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<sup>35</sup> Employers were not consulted as extensively as the other groups, but the preliminary findings of the study were presented to a small meeting of employers. Employers also participated in the educational workshops held in February 2000.

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## **EDUCATIONAL WORKSHOPS**

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During the final months of the project, an educational workshop was developed and presented twice to a total audience of approximately 75 persons from the WCB, unions, disability service agencies, employers, advocacy organizations, and government. Workshop participants examined fictional case studies based on the study's findings, identified barriers to re-employment, and developed innovative approaches to more effectively assist injured workers with significant disabilities to return to work.

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## **PRESENTATION OF THE FINDINGS**

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Some experiences, opinions, and concerns expressed by the injured workers with significant disabilities who participated in this study were expressed frequently. Other experiences, opinions, and concerns were described by a smaller number of participants, sometimes a single participant. In qualitative research, the exact frequency of responses is of less importance than in quantitative research, but some quantification of responses provides additional context for the findings. In the presentation of the findings, therefore, the following ranges of participants will be used: "one," "two," "three to five," "at least six," and "more than half."

The findings in this report are illustrated with selected quotations transcribed from the interviews and focus group meetings. Italics are used to indicate words and phrases given particular verbal emphasis by study participants. Where necessary, explanatory information in square brackets has been inserted in some quotations.

To provide anonymity to the injured workers who participated in the study, some participants' comments have been edited to remove information that could possibly reveal the identity of the participants. For example:

- The cities and towns where individual participants live will not be identified. Where a particular experience, opinion, or concern was more common for participants outside Winnipeg, this "outside of Winnipeg" factor will be noted.
- When participants' comments include information that could reveal their identities (e.g. names of employers, precise dates or periods of time), the quotations substitute generic terms (e.g. "employer" or "company") or approximations (e.g. "a training program lasting 6-12 months") in square brackets rather than the name or figure stated by the injured worker.
- The gender of personal pronouns (she, he, his, her) in some participants' comments have been altered (i.e. some men's comments are reported as "she said" and some women's comments are described as "he said"). This same practice has also been used in comments which include references to WCB staff.

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## LIMITATIONS OF THE DATA

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The findings of the interviews and focus group meetings qualitatively describe the experiences, perceptions, and concerns expressed by the 34 study participants. As noted earlier, efforts were made to recruit participants with diverse characteristics. In some cases these efforts were successful. For example, participants had diverse occupations and had sustained a fairly broad range of injuries and disabilities. For other characteristics, the study group was less diverse. As noted above, relatively few women and persons under the age of 35 volunteered to participate in the study. Residents of the Eastman, Westman, Parkland, and Northern regions of the province were included in the 17 participants from outside Winnipeg, but the majority of them were from the Westman and Parkland regions.<sup>36</sup>

As with any study based on interviews, the validity of the findings depends on the value that can be attributed to self-reported data. Participants who described experiences which appeared to conflict with WCB policy were asked additional questions to ensure that these experiences were described and recorded accurately. The consultations with unions, agencies, employers, and WCB staff provided additional verification of our findings. Where these consultations have suggested that an experience, belief, or concern reported by injured workers may be inaccurate, this will be noted in the discussion of the findings.

Both of the samples drawn from the Workers with Disabilities Project network and the mailing to WCB claimants were non-random samples, which prohibits generalizing the findings to the total population of injured workers with significant disabilities in Manitoba. In other words, these findings describe the experiences, opinions and concerns of 34 injured workers who participated in the interviews and focus groups. They do not, however, *quantitatively* describe the overall prevalence of these experiences, opinions, and concerns amongst the total population of injured workers with significant disabilities in Manitoba.

Although it would be misleading to extrapolate the findings of this study to all injured workers with significant disabilities in Manitoba, it would be equally misleading to dismiss these findings as the complaints of an atypically dissatisfied group of injured workers. For example, despite the study's emphasis on identifying barriers to re-

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<sup>36</sup> Only one of the study participants recruited from the mailing to 199 WCB claimants was from the highly-industrialized Northern region. Efforts to recruit Northern participants from the WDP network were also disappointing, resulting in a total of fewer than five injured workers from Northern Manitoba participating in the study.

employment, many of the 34 participants had *positive* things to say about the assistance they had received from Workers Compensation Board of Manitoba and other organizations which assist injured workers.

This study provides a rich set of information about the vocational rehabilitation and re-employment experiences of injured workers with significant disabilities in Manitoba. Many findings highlight barriers and other issues which we hope will be of interest to the WCB, the government of Manitoba, unions, community-based disability agencies, advocates for injured workers, and injured workers themselves.

# Findings

Findings specifically related to re-employment and vocational rehabilitation are presented first, followed by other issues raised by the injured workers with significant disabilities who participated in this study.

## RETURN TO WORK

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“When I was first hurt, I thought they [pre-injury employer] *had* to take you back. But then I found out they didn’t have to.”

“I *want* to go back to work. They’ve *got* a return to work policy at work, and they’re not doing anything.”

Once their injuries had stabilized, more than half of the participants attempted to return to the employers for whom they were working at the time of their injuries. Three to five were successful, but the majority were not. Even amongst the small number who succeeded in returning to their pre-injury employers, most had to overcome substantial barriers along the way, or were dissatisfied with the way their employers had accommodated them.

“The problem with the job I’m in right now is that it’s going absolutely nowhere, other than sitting on that chair until they carry me out. It’s a dead-end job.”

More than half of the injured workers who participated in the study felt that their employers were not willing to provide satisfactory accommodations, modified duties, or alternative employment. More than half of the participants who were not successful in returning to stable employment with their pre-injury employers reported that their employers either declined to re-employ them—often stating that no suitable work was available—or provided accommodations that proved to be unsuitable. Three to five participants shared their employers’ beliefs that they could not be accommodated in their pre-injury workplaces, but more than half felt that their employers could accommodate them.

Three to five participants reported that they felt their employers had had suitable positions available, but had declined making them available to the participants. Three to five participants felt that other injured co-workers—especially relatives of

owners/managers and favoured employees—*had* been accommodated with suitable positions.

“They have light duties for certain people, but not for other people.”

Three to five participants believed that their employers sabotaged their return to work, either by insisting the injured workers do their pre-injury jobs/duties, by providing alternative positions that exceeded the injured workers’ physical restrictions, or by providing alternative positions the injured workers felt demeaning.

One participant’s employer offered him a position he felt was satisfactory. But his union was not involved in the decision to make the position available to him, and he lost the position when his union representative discovered him working in the job.

“They [employer] tried to be underhanded and didn’t talk to the union, so that it would be the union that put me out on the street...I realized then that this company isn’t one that I want to try to bet the rest of my life on.”

Another participant was offered what he called a “baby-sitting job”.

“I agreed to it, but that just lasted [less than a month]. They pulled the position and told me I had to go back [to pre-injury job] or I wouldn’t have a job there...[Employer] told me ‘if you don’t like it, it’s too bad. If you’re here to work, you do what you’re told’...They were just trying to get me back there so their WCB premiums would go down.”

One participant told of returning to her pre-injury employer and job. Her employer accommodated her fairly well at first, but a new supervisor insisted she perform duties that were outside of her restrictions.

“I said ‘look, I cannot do this stuff.’ And [supervisor] said ‘stop being such a damn baby and get back to work.’”

She was later offered a different job she thought might be a satisfactory match for her skills and restrictions. Before she accepted it, however, she told her employer that she wanted her WCB Vocational Rehabilitation Consultant (VRC) to assess the physical requirements of the job to ensure that it would not require her to do restricted activities. Her VRC determined that the job exceeded her restrictions.

“The next day, my boss called me and said ‘what’s this I hear that you don’t want the job?’ And I said ‘I *didn’t* say that I don’t want the job. Compensation just has to okay it first.’ And he said ‘why the hell are you dragging Compensation into

this? They have no business being involved in this.' And I said 'they have *every* right to be involved in this because this is my well-being.' And he said 'just forget I ever offered you the job' and hung up."

She was fired shortly afterwards, and is currently pursuing re-training for a new occupation provided by the WCB.

Other participants reported that their WCB VRC's were less supportive in ensuring that employers provided suitable accommodations. Three to five indicated that their employers had suitable alternative positions the participants felt they could do, but their VRC's steered them towards re-training.

"My VRC is backing them [employer] up, saying 'do you really want to go back there?' Do you think I'm ready to lose my benefits and pension if I get re-trained and go work somewhere else?...As far as I'm concerned, I'm being penalized for getting hurt. Instead of [WCB] going after them [pre-injury employer], they're going after me, and I feel like a hostage..."

"I'll lose all my seniority. I'll lose my holidays. I'll lose my benefits. I don't think the WCB considers those things."

"It was mostly me initiating the movement to go back to [pre-injury employer]. But Compensation was saying 'no, go back to school. We'll pay for it'...I've got [approximately 20] years of seniority. I'd rather stay with [pre-injury employer] for another 10-15 years and then retire."

Another participant felt that the WCB should play a more active role in ensuring that pre-injury employers provide suitable accommodations when injured workers return to work.

"The WCB should be protecting you from abuse [by employer]. If they [employer] create a job for you, and [less than six months] later they get rid of you, the WCB should say 'hold on, you have to justify why you took that man out of that job.'"

## **Modified Work**

Three to five employed participants outside Winnipeg reported that their employers have aggressive return-to-work programs. These injured workers felt they were expected to return to work too soon, often the day after the injury.

“Everybody who’s injured goes on modified duties. Modified work is the company’s way to hide lost time accidents. They’re trying to save on what they have to pay Compensation.”<sup>37</sup>

One participant reported that his employer has a modified work program specifically for injured workers. He indicated that workers with minor injuries and skills related to the activities done in the modified work program often do productive work there, but others who have more serious injuries are sometimes paid to do nothing all day. One participant described a co-worker in the latter situation.

“He’s in the [modified work program], but he’s doing nothing. He goes to work, but does he have a *job*? No, he just sits there.”

Another reported that after he returned to a different position with his pre-injury employer, the employer paid him for disability-related time away from work rather than submitting claims to WCB.<sup>38</sup> When he was subsequently laid off, he had difficulty renewing his claim because the WCB had no record of him having any disability-related time away from work following his return to his pre-injury employer. He challenged this decision, and was satisfied with the WCB’s reassessment of the claim and subsequent provision of vocational rehabilitation services. His current employer is also continuing to pay his full salary rather than reporting lost time to the WCB, primarily because he would have to see a doctor each time he misses work.

“WCB said ‘we’ll pay your employer for the days you miss, but you’ve gotta go see the doctor every day you’re off work.’ So I’d be tying up some doctor who’ll just write ‘yes, he’s having [disability-related problem]’ anyway. And you can’t see a

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<sup>37</sup> On the surface, experience ratings appear to be an effective mechanism for encouraging employers to provide their workers with safer and healthier workplaces. Workers’ compensation critics, however, argue that some employers reduce their claims statistics, improve their experience ratings, and lower their payroll assessments by discouraging workers from reporting injuries and illnesses, and by vigorously contesting injured workers’ claims for workers’ compensation benefits. In-house rehabilitation and modified work programs are another way employers can reduce their WCB claims costs and experience ratings (Alberta Federation of Labour, 1996).

<sup>38</sup> Section 19(1) of the Workers Compensation Act and Regulations states that “No employer or person acting on behalf of an employer shall attempt to compel or induce a worker by intimidation, coercion, promise, the imposition of a pecuniary or other penalty, threat, including a threat of dismissal, or by any other means, not to make application for compensation under this Part...Every person who contravenes or fails to comply with subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine not exceeding \$5,000.” (Government of Manitoba, 1987).

doctor here the same day, so I'd be missing *more* time off work going to see a doctor a day or two later [when problem may no longer be present]."

Two participants described injury report forms with three questions about modified work (is it available? has it been offered? has the worker accepted it?). When their employers provide modified work, study participants reported that injured workers have no alternative but to accept it.<sup>39</sup>

These participants also felt that the Workers Compensation Board does not adequately monitor these return-to-work programs.

"If you don't go [to modified work program], Compensation will cut you off. They [WCB] don't keep an eye on what's going on. They [company] don't have to get [WCB's] approval."

### **WCB VOCATIONAL REHABILITATION SERVICES**

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Although the majority of the injured workers who participated in this study expressed dissatisfaction, frustration, and/or anger with the Workers Compensation Board (WCB) of Manitoba, three to five participants were relatively satisfied with the benefits and services they had received from the WCB.

"They've been super. They've been behind me 110 per cent."

"Overall, my experience with Workers Comp has been very good. I can't say I've *enjoyed* it, but it's been a lot better than some of the other experiences I've heard about."

"I had some problems initially, but since then it's been great."

"With me, they've been really good."

Most of these participants had (a) high pre-injury earnings or (b) relatively serious injuries and severe disabilities.

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<sup>39</sup> If an injured worker refuses to participate in a modified/alternate work program the WCB regards as suitable, the injured worker's "compensation benefits may be reduced or eliminated by an amount consistent with the amount the worker would have earned in the modified/alternate work situation" (Workers Compensation Board of Manitoba, undated1: Policy 43.20.20).

## Vocational Rehabilitation Consultants

At least six participants indicated that they were relatively satisfied with the support they had received from their WCB Vocational Rehabilitation Consultants (VRC's).

Interviewers did not ask participants to name their VRC's, but more than half of the participants volunteered this information during interviews and/or focus groups. Three to five of those who named their VRC's had generally positive things to say, sometimes unrestrained praise.

“[VRC] has been really good. I couldn't ask for a better caseworker. If I've asked him for something, he's done it.”

“[VRC] has been exceptional with me.”

Others praised their VRC's, but identified the WCB “system” as a major constraint on VRCs' abilities to fully assist claimants.

“My voc rehab counselor is a decent guy, and I believe that he's working in my best interests. But you can tell that he's working under a system where he's not happy, where his hands are tied.”

“They're all fairly decent people, but they can only do so much. They've got a job to do, and if they don't do it, somebody else will. It's WCB *policy* that buggers things up.”

Others, however, felt their VRC's were not acting in their best interests, were not listening to their concerns/desires, etc.

“If you have a better worker [VRC], you're going to get more. If you have a shittier worker, you're going to get less. If you've got a sort-of-okay worker—but not the greatest—what do you do? Do you say you want a new one? Are you going to get somebody worse or somebody better?”

One study participant whose VRC's caseload included Winnipeg and rural claimants reported frustration that his VRC was often out of Winnipeg when the participant telephoned.

## Eligibility for Vocational Rehabilitation Services

As described earlier, injured workers are not automatically entitled to receive WCB vocational rehabilitation services. Instead, vocational rehabilitation services are provided at the WCB's discretion.

WCB Policy 43.00 states that one of the conditions resulting in eligibility for vocational rehabilitation services is a long-term loss of earning capacity. The policy defines “long-term” as the earliest of (1) six months, (2) when it is determined that the worker will not be able to perform her/his pre-injury work without help, or (3) where there are reasonable indicators that there is a risk of chronicity.

One study participant met every one of these eligibility criteria, but could not recall ever being offered any vocational rehabilitation services by the WCB.

## **Adjustment**

“I used to work so hard, and now I have to sit idle. One of the harder adjustments was getting over the feeling like I was taking charity.”

More than half of the participants with severe disabilities reported receiving (or being offered) counselling to help them adjust to their disabilities. Two said they declined the counselling that was offered. At least six participants with significant—but less severe—disabilities did not recall being offered any services to help them adjust psychologically to having a disability. Others were offered and accessed these services. Two participants said they were disappointed by the limited choice they were given when selecting psychiatrists.

## ***Family Members***

“WCB and [employer] cost me my house, my children, and a wife.”

At least six participants commented on the impact their injuries had on their family lives. Three to five reported having marital difficulties which resulted in divorce. More than half of those who reported that their injuries had affected their family lives indicated that their inability to share sports and recreational activities with their children was a major loss. One participant reported that his children resented having to do household chores that he could no longer do.

“Your family life changes drastically. You can’t do the things you used to do with your kids.”

“My wife never had to work before. Now I have to send her out to work. It hurts.”

Three spouses of participants sat in on interviews, and also provided descriptions of marital and family problems they felt arose from their spouses’ injuries. Three to five participants reported that they were offered and accessed services to help spouses and

children, but others reported that they were not offered these services, and/or their efforts to access them were unsuccessful.

“I they [WCB] should have a compensation package separate from his [for spouses and children]...There should be something to help keep the family together. We almost split up [several] years after [injury]...We were having trouble with the kids. With support from the family, the doctor, everything worked out okay, but I still blame it on the injury.” [spouse]

## **Independent Living**

Approximately one-third of the participants had particularly severe disabilities. More than half of them reported receiving various benefits to enhance their independence. These included relatively modest home modifications, vehicle modifications, and attendant services.

One participant indicated that home modifications are a one-time opportunity, and has foregone modifications to his current rented home because he hopes to be able to purchase a home in the future.

## **Assessment/Testing**

Three to five participants reported that the vocational rehabilitation services they received did not include any formal testing to determine their interests, aptitudes, and/or capabilities to assist in the selection of an appropriate vocational goal.

“Compensation has done tests for other people to find out whether they can or can’t do a job they want to do. But that was never an option for me.”

Two reported that they received extensive testing, but did poorly because the testing was administered while they were experiencing problems related to their injuries (e.g. pain). They felt that those poor results subsequently limited the vocational rehabilitation opportunities available to them.

“I asked my consultant if there was a possibility of going back to school, but he said ‘no’ because the results of the original assessment were not to go back to school...You’d think it would be to their advantage to help you upgrade your education, because you would have a better chance of getting a job that paid enough so they wouldn’t have to pay you any benefits anymore. It might cost the WCB a little more up front, but they’d save money in the long run.”

## Individualized Written Rehabilitation Plans

More than half of the participants who had received WCB vocational rehabilitation services reported that they had formal Individualized Written Rehabilitation Plans (IWRP's), but at least six did not recall having IWRP's. Two were persons with severe disabilities who were not currently pursuing re-employment. Others were at early stages of their vocational rehabilitation (e.g. assessment, selection of vocational goals). Others, however, reported that they were receiving—or had received—vocational rehabilitation services, but were not aware of ever having had formal Individualized Written Rehabilitation Plans.

Three to five participants reported that they had encountered problems completing various activities (education, training, job search) of their IWRP's within the specified timelines. Some of them indicated that their VRC's responded by adjusting/extending their IWRP's, but others reported that their VRC's were inflexible about the timelines of their IWRP's.

## Vocational Goals

Five participants reported that they felt that their WCB Vocational Rehabilitation Consultants offered them very limited choices of vocational goals when developing Individualized Written Rehabilitation Plans (IWRP's). Most of them wanted to pursue goals they felt were more desirable and consistent with their capabilities and past experience, but reported being forced to choose between several occupations with very high labour market demand. At the time of their interviews, none had been able to pursue their preferred goals. (Two were still negotiating their goals.)

“They make it sound like you have a choice, but you don't. Do you want to get paid? Then you have to finally agree to *their* plan. You're not really agreeing, because there's no choice...I don't know why they even ask you what you want to do. They should just tell you 'here's what we'll allow you to do' and not give you the illusion that there's some choice.”

“I wanted to take [program lasting two to three years] but Comp directed me to [ten month course]. It's easier to get a job with [two to three year program], but the course was too long and cost too much money. Comp doesn't want to pay for the long-term schooling.”

“[Participant's preferred vocational goal] was ruled out from day one. They wouldn't even let me talk about it...they just said 'no'. I asked for an explanation, and they just said 'medical reasons'. They wouldn't elaborate. I wrote a letter

begging them to assess me in [preferred vocational goal]. They can't tell me I can't do something when they don't know themselves."

He eventually agreed to pursue the vocational goal his VRC recommended, completed a 6 to 12 month training program, and found a job on his own. But he found the job boring and had difficulty concentrating, and was soon laid off.

Two participants felt that their preferred goals had greater potential for long-term career development and satisfaction.

"I tried to explain to them that [claimant's preferred vocational goal] has more potential than [WCB's preferred vocational goal]. Sure, maybe when you start out the wage might be lower, but you have more room to move up."

Another participant wanted to pursue a vocational goal at which he felt he would be successful, but acknowledged that the labour market demand for that occupation was not as great as the labour market demand for the vocational goal recommended by his VRC.

"Compensation steered me away from [his preferred vocational goal]. I guess they [WCB] were worried about 'where's the job after?' They [employers] aren't hiring [preferred vocational goal] all the time. But as a [WCB's preferred goal], I could go to ten different places in Winnipeg and get a job...Compensation looks at the overall job market and [WCB's preferred goal] is really big right now."

He is currently pursuing training for the occupation suggested by his VRC, and is considering paying the cost of taking night classes for his preferred goal.

Claimants earning relatively low wages at the time of their injuries had most difficulty pursuing their preferred vocational goals.

"I was a low wage earner, so they weren't paying me a lot of benefits. I was the one who was pushing them about getting me back to school so that I could get working again."

At the time of their interviews, three to five participants were in the process of choosing vocational goals and developing IWRP's. One expressed his anxiety.

"It's very scary...What if it's the wrong decision? Am I going to be able to go back and try again, or are they going to say 'too bad, that's it, sink or swim?'"

## Education and Training

At the time of their interviews and/or focus group meetings, approximately one-third of study participants were participating in WCB-funded education or training, or had received education/training in the past. Three to five participants—mostly high wage earners—had completed or were enrolled in multi-year community college and university programs. The most common kind of training, however, were various introductory computing courses, typically six to twelve months long. Some involved classroom instruction, but many were self-directed programs with little or no classroom instruction.

Three to five low wage earners described short-term courses that provided them with what they felt was only a basic introduction to a new occupation. Following a brief and unsuccessful job search period, more than half of the participants in this situation were deemed as capable of earning the average wage for that occupation. Deeming reduced their benefits substantially, eliminating their benefits completely in some cases.

One participant who was earning approximately \$10 an hour when she was injured reported that the WCB provided her with introductory training on computers and Windows to prepare for employment as an entry-level office worker.

“It’s not enough, even for an [entry-level office job]. I kind of compare my training in computers to somebody who gets sent for a first aid course, then gets told to get a job as a doctor. When I look in the paper for [entry-level office jobs], all the different [software] programs that you’re supposed to know, I have no idea what these things *are*.”

Deeming at the wage for an entry-level office worker subsequently reduced her benefits to approximately \$100 a month. Another participant described a similar experience.

“Everything I’ve ever done was pretty physical, so I was stuck between a rock and a hard place. They finally broke down and decided they would do some training, but they didn’t want to do a lot of training—whatever minimum amount they could get away with. The course I wanted was a three year program at [community college]. But they wouldn’t go for that. And they wouldn’t go for any two year training. So I ended up at the bottom of the line.”

He agreed to enroll in a self-directed business administration course offered by a for-profit school. He didn’t complete the program, but managed to find a job with the assistance of a WCB Employment Specialist. The WCB provided the employer with a

wage subsidy for several months, but the injured worker was let go when the wage subsidy ended, and was unemployed at the time of his interview for this study.

“It [the training] counts for very little, because it was just the basics.”

One participant who was enrolled in a six to twelve month course at a technical school reported that he had learned of a WCB study that found that most employers were not hiring graduates of the course.

“Nobody’s hiring any WCB claimants who are taking [course] at [technical school]. They’re hiring all the people from [community college].”

### **Self-employment**

Three to five participants reported that they had expressed interest in pursuing self-employment as a vocational goal. Two who were earning high incomes at the time of their injuries reported that the WCB was considering supporting their self-employment ideas. Two participants who expressed interest in self-employment reported that WCB support for their business ventures might require them to relinquish any claim for future WCB benefits and services if their business ventures are not successful.

“It’s a scary thing to sign your cheque away. It’s a gamble. If it [business] fails, then I’m stuck, I’m on my own. I don’t agree with that. I would think that if they were to give you that money, that maybe there might be something in case it fails. But they’re telling me there isn’t. They must have had some deals gone bad in the past. I’m sure that’s what happened. And now they cover their tracks by saying ‘here’s a contractual agreement you need to sign, so that if it fails, we’re not obligated to continue to pay you.’”

Another participant reported that his self-employment idea was not being supported by the WCB.

“They’d tried that [self-employment] years ago [with other claimants], and spent some pretty big money, but it never seemed to work out. People would go into business, and right away they’d be in financial trouble. So now they just shoot down the idea.”

### **Employment Services**

About one-third of the injured workers who participated in the study had received services from the WCB Employment Services department. More than half of them were

not employed at the time they were interviewed for this study. Approximately half of them had been deemed or expected to be deemed in the near future.

Approximately ten participants were working at the time they were interviewed. Approximately half reported having some contact with Employment Services staff and/or programs. All of them felt that they had obtained their jobs on their own, or with limited assistance from WCB Employment Services. Three to five, however, reported that Employment Services provided wage subsidies to their new employers during some portion of the first year of employment.

More than half of the study participants who had received WCB Employment Services and were not employed when interviewed were disappointed with the assistance they received. Three to five didn't understand the purpose of the courses they took, and didn't find the information useful.

"I didn't understand what I was there for. And the person who was running the course couldn't tell me why I was there. But I did the program as best I could. They show you how to write resumés and go through the computers to find out what kind of work you're suited for. For me, it came up with [injury occupation], farmer, and truck driver, all the stuff I couldn't physically do."

"They sent me on the resumé writing course where there's a cheerleader pumping you up, saying 'you can go to university, you can do *anything* you want,' and then at the end of the week...they take away everything and tell you that you have to be realistic."

"When I went on the WCB career seminar, I found it really difficult. I was really afraid about having to decide what I want to do for the rest of my life."

More than half of the participants outside Winnipeg who had received job search assistance from WCB Employment Services indicated that they had received individualized assistance and/or their Employment Specialists had marketed them as candidates to local employers. Three to five Winnipeg participants, however, were disappointed that their Employment Specialists did not actively market them as candidates to the WCB's employer contacts. Instead, more than half of the Winnipeg participants reported that the individualized job search assistance provided by their Employment Specialists consisted primarily of lists of potential employers and access to the Employment Services resource centre.

"An Employment Specialist gave me a list of [over 100] places [employers]. This list must have been *at least* five years old. I went to places that didn't exist

anymore...But I put in a resumé or application at every single place I went to. I didn't get any phone calls, so I called up my [Employment Specialist] and asked 'now what do I do?' And [Employment Specialist] just said 'just wait and see what happens'. But I said 'you guys are going to cut me off!'"

After completing a multi-year community college program, one participant reported that he was provided with group sessions on resumé, cover letters, and job search skills, then was directed to Employment Services' resource centre. He felt that the resource centre's directory of employers was out of date and was no more useful than the Yellow Pages. He felt that his new skills combined with his knowledge of his pre-injury industry would make him a strong candidate for jobs in that industry, but he reported that he did not receive any individualized assistance identifying potential employers ("Nobody did any door-knocking for me").

Two participants whose Employment Specialists did market them to employers felt that this may have hindered their employment opportunities.

"I applied at so many places, and [Employment Specialist] would go in and talk with them. I sometime wonder if that *hurt* my chances of getting a job, because she's with Workers Comp, and employers just don't want to deal with Workers Comp."

Three to five participants commented that they felt they didn't have adequate access to individual assistance from Employment Services.

"At the WCB job finding club, they [facilitators] were busy afterwards, they didn't have time to answer questions, or they'd say 'we're not supposed to discuss that with you'. We weren't even supposed to talk to each other."

Three to five participants told of being provided with work experience placements they felt were unsuccessful because the placements were poor matches for the injured workers' skills, interests, and/or physical limitations. For example, a woman over 45 told of being placed in a customer service position with a retail store that caters to and generally employs young women.

One participant described difficulties he experienced when WCB Employment Services placed him with an employer that did not have WCB coverage for its employees. When his injury became aggravated, he was not eligible to receive WCB benefits and services. He subsequently also had difficulty claiming benefits from his employer's private disability insurer.

## Deeming

The practice of reducing some claimants' benefits even if they have not managed to return to work is controversial. Proponents of deeming—particularly employers and others concerned with the costs of worker's compensation—argue that deeming is a necessary tool to ensure that WCB wage loss benefits are not a disincentive to working. For example, they argue that some claimants who are capable of working would choose to continue receiving wage loss benefits rather than working. Similarly, some claimants may not cooperate in their vocational rehabilitation, also extending the period they are receiving wage loss benefits.

Others argue, however, that deeming can unfairly penalize injured workers who are eager to work but do not have jobs, yet have their wage loss benefits reduced because they are deemed to be “employable”.

“While there is certainly a need for such a procedure in cases of last resort, significant potential exists for overuse of the ‘deeming process’ in situations where the policy focus is on developing employability rather than actual placement.” (Hunt, Barth, and Leahy, 1991: 93-94)

“[T]he primary advantage of deeming is that compensation does not serve as a disincentive to return-to-work for those capable of working. The primary disadvantage is that workers who would choose to return to work but are unable to do so, may not receive compensation to cover their economic loss.” (Royal Commission on Workers' Compensation in British Columbia, 1999: Vol. 1, Chapter 6: 25)

Three to five of the injured workers who participated in this study had had their benefits reduced by deeming, and three to five others had IWRP's that provided for deeming if they were not able to find employment in the near future. All of these participants had PPI awards of approximately 10 per cent.

“Why would they send me on a course where I'm only going to make half the wage I was making when I got hurt? Why wouldn't they...send me on a [longer] course where I'd be able to make the same wage I was making before?...It's a cheap fix for WCB, a quick out. After [approximately one year] for the course and six months for job search they can pretty well cut my benefits in half, even if I don't have a job...They should choose a vocational goal that will get you back to

the full wage you were earning [at time of injury] instead of just a quick fix course that allows them to deem you if you can't find a job in six months."<sup>40</sup>

One participant began a brief (less than six months) training course, but problems related to his disability prevented him from completing the course. Since then, he has received little further vocational rehabilitation assistance from WCB. He has been informed that he will be deemed capable of earning approximately \$10 an hour at the conclusion of his IWRP.

"With the training that I supposedly had, I'm supposed to be able to make ten dollars an hour, and they say I should be able to work eight hours a day. So they're going to cut me down to [less than \$100] a week...I've never even come close to going back to work full-time...Now they're just waiting for the clock to run out. If they're going to deem me, they should deem me at the number of hours [a day] I might be able to work...I can't go back to work in this condition. Besides, who's going to employ me? I can't see any employer putting up with my restrictions."

Two participants who had been deemed had completed vocational plans but were not fully employed. Following the completion of their vocational plans, they had experienced significant improvements in their health, and had requested additional vocational rehabilitation services from the WCB. They were disappointed that the WCB declined to provide additional vocational rehabilitation assistance.

"I wanted Workers Compensation to help me find work again. I said 'I'm feeling better, can you guys help me find a job?' But they said no. They wouldn't do it. Even with all the letters from my doctors saying 'you should help this guy find work'...It seems like, after you get deemed, that's it, they kind of wash their hands of you."

## **Discontinuation of Vocational Rehabilitation Services**

Three to five participants who became employed while receiving WCB vocational rehabilitation services found that their jobs did not last long. Some were laid off due to lack of work. Others experienced pain or other injury-related medical problems that

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<sup>40</sup> WCB policy 43.00 states that "Vocational rehabilitation strives to return workers to the salary level they were earning before the accident" (Workers Compensation Board of Manitoba, undated1).

prevented them from performing their job duties. Most had been provided with several job placements, but their requests for additional assistance were eventually declined.

One study participant who had over ten years experience as a skilled industrial worker sustained an injury that prevented her from resuming that occupation. After being off work for several years, a WCB Vocational Rehabilitation Consultant arranged for several unpaid work experience placements in various customer service positions. None led to paid employment, but she was subsequently assisted in obtaining paid employment in a different occupation and industry. She described being relatively satisfied there, but was laid off several months later when the employer had a lack of work. Her request for additional vocational rehabilitation services was denied.

“I went back to Compensation, told them what happened, and asked for my Vocational Rehabilitation Consultant to help me find another job. But they said ‘no, that’s it’. They won’t help me anymore. So now I’m on my own.”

## **Relocation**

Three to five participants outside Winnipeg reported having IWRP’s which provided for deeming if they were not employed by the conclusion date of the plan. Some of them reported that the jobs they will be deemed capable of obtaining are not readily available in their communities. They cannot, therefore, realistically obtain these positions without moving to Winnipeg. Three to five reported that the WCB had offered to pay the cost to move their families to Winnipeg, but most declined. More than half of these participants reported that they declined because their spouses had secure employment in their rural communities, and the jobs the claimants and their VRC’s felt they could obtain in Winnipeg paid low wages that would not replace their spouses’ incomes.

“My husband isn’t going to leave [town] and I’m not going to leave him after [over 25 years] of marriage to move to Winnipeg to [perform low wage job].”

Other participants outside Winnipeg felt that relocating to Winnipeg was not in their and/or their families’ best interests because they had school-age children, housing and other costs are higher in Winnipeg, and/or they had lived in their rural communities for many years.

“In the condition I’m in, I don’t think it [relocating to Winnipeg] would be any advantage. Here—where people know you—they understand where you’re coming from, there’s a little more tolerance. I don’t think I’d get that in the city.”

One rural participant who declined the WCB's relocation offer reported that he was subsequently told that it would be realistic to commute to Winnipeg to do the low wage job he will eventually be deemed at. This participant lived 200-300 kilometers from Winnipeg, and felt commuting was unrealistic.

Two rural participants reported that the jobs they will be deemed capable of performing *are* available in their communities, but pay lower wages than similar jobs in Winnipeg. They felt, however, that the wages specified in their IWRP's—the amounts they will be deemed capable of earning—are based on Winnipeg wages, not the wages paid by employers in their communities.

Two other rural participants reported that the WCB wanted them to relocate to Winnipeg for re-training.

“They wanted me to move to Winnipeg. Well, the cost of living in Winnipeg is a lot higher than it is here. I've got a house here. My family's here. My kids are still going to school. But they figured I should move to Winnipeg for training. They kind of corner you. They make you absolutely deny that you'll move to Winnipeg. They'll say 'are you refusing to relocate to Winnipeg to participate?'”

### **Injured Workers with Low Pre-Injury Earnings**

Three to five participants—including high wage earners—noted the inequities in vocational rehabilitation assistance available to claimants whose pre-injury wages were low.

“I was a high wage earner, so they have to find me something where I'm going to be earning a comparable wage. But what happens to a young guy who's just starting off at minimum wage?”

“When I meet other WCB claimants, they can't believe I have a [more than three] year plan. They say 'we just get a year or two. How did you get [more than three]?' The only thing I can think of is 'how much money were *you* making when you got hurt?' What I get out of it, it [vocational goal] has to be somewhat similar to the wage you were earning previous to your injury. So they have to get something that would enable me to make that kind of money again. If I was only making \$20,000 a year, they probably wouldn't be paying me all this money to go to school.”

Two participants with relatively mild disabilities (PPI awards of approximately 10 per cent) and high pre-injury wages were receiving wage loss, vocational rehabilitation, and

other benefits and services they felt were likely to cost well over \$100,000. Three to five participants with more severe disabilities and higher PPI awards—but low pre-injury wages—were receiving less extensive VR services.

Two participants asked the WCB to finance various fitness activities to address problems related to their workplace injuries (e.g. stress, declining physical fitness). One had a comparatively mild disability, but was earning a high wage at the time of his injury. The other had a more severe disability, but was a low wage earner. The claimant with the milder disability and higher pre-injury wage had his request granted. The claimant with the more severe disability and lower pre-injury wage had his request denied.

### **Injured Workers Outside Winnipeg**

All WCB Vocational Rehabilitation Consultants and Employment Specialists are based in Winnipeg, but some travel to provide vocational rehabilitation and employment services to claimants outside of Winnipeg. Approximately half of non-Winnipeg participants were satisfied with the frequency and nature of the contact they had with their VRC's. The other half were disappointed with the vocational rehabilitation services they received.

One participant's spouse commented that injured workers outside of Winnipeg don't have the same access to WCB staff opinions and advice when negotiating return to work arrangements with their employers.

“In Winnipeg, you have the [WCB] office there. Here, they don't come up...Well, they do come up, but they're not going to be able to come up every time you set a meeting up [with employer].”

Two who were disappointed reported that they had received minimal assistance from WCB VRC's, but had been told that the WCB would provide training and/or wage subsidies if the participants found employers willing to hire them.

“They don't believe it's their job. They want me to come up with ideas. But I said 'I've already come up with all the ideas I can think of.'”

Interestingly, the majority of the study participants who had managed to become re-employed lived outside of Winnipeg. Three to five had returned to work with their pre-injury employers, while two were working for other employers in their communities. Two were involved in modified work programs they felt were unsatisfactory, but more than half of the participants outside Winnipeg who had become re-employed were

relatively satisfied with their duties and wages, and had successfully taken on new responsibilities or were enrolled in training to qualify for promotions.

Two of these participants reported that the Workers Compensation Board subsidized their wages for an initial period of employment.

### **Injured Workers with Severe Disabilities**

Three to five participants with particularly severe disabilities indicated that they felt that re-employment was not a realistic option for them. More than half of them reported that the WCB was supporting that choice.

“When I first got injured, WCB said I could have anything I needed. When I needed something, I’d call my adjudicator and he’d arrange for it. And then they left me alone.”

One participant with a severe disability who felt that re-employment was not a realistic option was concerned that the continuity of his wage loss benefits would be jeopardized if he did not agree to pursue vocational rehabilitation activities recommended by the WCB, but which he felt were inappropriate. He also indicated an interest in pursuing casual volunteer opportunities, but worried that his wage loss benefits would be reduced or discontinued if the WCB became aware that he was doing a few hours of volunteer work each week.

### **Older Injured Workers**

Three to five participants over 50 felt that they were offered more limited vocational rehabilitation opportunities than younger persons. One older injured worker who was provided with introductory computer courses reported:

“I went to a workshop on how to write resumés and how to apply for jobs. There were other people there who were going to school full time, five days a week, taking different computer programs. I asked one of the guys from Workers Comp ‘why can’t I do that?’ And he said I didn’t qualify for that. And I said ‘how do you determine who qualifies for what kind of training?’ And he said they take into account the education you had, the amount of money you were earning at your job where you got hurt, and your age. My education wasn’t that good, I wasn’t making a high wage, and I’m an older worker...I think they don’t re-train older workers because they know [older workers] will never find a job. Why would a company hire somebody who has no training or experience, for maybe five years of employment [before reaching retirement age] when they could get young people out of school with a lot more training, who’ll be there a lot longer?”

Two older participants said that they were relatively content not working, and indicated that the WCB was supporting their decisions.

“They’ve accepted that, at my age [approximately 60], there isn’t much they can do to put me in the work force. So they’re just paying me now and leaving me be. And to be honest, I’m comfortable with that.”

### **Younger Injured Workers**

When asked if the Apprentices and Youthful Workers policy (WCB Policy 44.80.30.30) had been applied to their claims, two participants whose injuries occurred when they were under 25 reported that they were either unaware of the policy, or that it had not been properly applied to their claims.

## **WCB: ADJUDICATION, BENEFITS, AND OTHER ISSUES**

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### **Adjudication**

More than half of the participants reported that their claims for WCB benefits were accepted without difficulty or delay, but at least six participants—particularly those with significant disabilities resulting from extended onset injuries and/or back injuries—reported various difficulties. Three to five persons with multiple injuries/claims also reported difficulties, particularly with injuries they regarded as aggravations of pre-1992 injuries which were adjudicated as new injuries.

Two participants reported that they had difficulty getting the WCB to accept their claims for injuries they first thought were minor, and did not report. One participant waited approximately six months—and several appeals—before his claim was accepted.

“I didn’t think I’d hurt myself that badly, so I didn’t file a Workers Comp claim. That’s why they denied my claim when I did file it, because I didn’t fill out that green slip of paper. But when you’re a [occupation], you’re forever getting scrapes and bruises, and you don’t go crying to the front office saying ‘give me a Compensation form’ every time you rip a nail.”

At least six participants said that their WCB benefits were ended before they and their physicians believed their injuries had healed sufficiently to allow them to return to work or become re-employed.

“They’re not listening to our doctors. They go by their book. They say ‘you’ve been off for six months. For your injury, the book says you should be back at

work.' Click, that's it. And if you don't go back to work, you don't have a job. You've got no backing, because your doctor doesn't count."

"They give you so many months, and if you're not cured, that's too bad, you're off. That's the way Compensation treats you. They've got this book that says 'for this you get 15 treatments, and you're gonna be just fine, because we say so.' There's no consultation, no examination. I was never ever examined by WCB."

Three to five participants reported that their adjudicators had changed two or more times during their claims, often causing frustration for the claimant because each new adjudicator was not familiar with the injured worker's claim.

"My adjudicator has changed three times already, and that's not right."

"I never did talk to the adjudicators much because—every six months—they changed them. So they don't really know your file."

Three to five participants indicated that they felt adjudicators had not given sufficient consideration to medical opinions provided by specialists and participants' personal physicians.

"I've had Comp doctors who have never seen me make decisions about my claim. One signed off on a denial of an appeal. How can they make decisions affecting your life without actually examining you?"

"All of the doctors I've dealt with have told me 'we've had it with Workers Comp.' They say 'we write down everything, we give the objective findings, but Comp takes the portions that they feel are relevant,' or they take what the doctor has said out of context, and they basically make it fit whatever they wanted to do anyway, or dismiss it completely."

## **Wage Loss Benefits**

At least six participants commented about the economic impact of their wage loss benefits being reduced from 90 per cent to 80 per cent of their net pre-injury wage after two years.

"We were getting by on the 90 per cent, but when they chopped it down to 80 per cent, that really hurt."

One participant who felt his severe disability would prevent him from ever working again felt that wage loss benefits should be *increased* after two years, not reduced.

“I’m getting 80 per cent of my wages. When you’ve been used to making good money, it’s like being on the poverty line. And I could always do extra work when we needed extra money. I can’t do that now...When they determine that you’re permanently disabled and incapable of working, why can’t they take you back up to 100 per cent of your wage instead of cutting you back to 80 per cent?”

Two participants reported that they were not formally notified that their benefits would be reduced from 90 per cent of net to 80 per cent of net.

“I didn’t know it was coming. All of a sudden, boom, there it was, and that was a bit of a shock.”

Other participants recalled receiving advance notice of the reduction, but found the timing ironic.

“The week they told me they were cutting me from 90 per cent to 80 per cent, that was the same week they gave [approximately ten] million dollars back to the employers.”

Three to five participants reported that their WCB benefits were substantially less than 90 per cent (or 80 per cent after two years) of the net amount they were earning at the time of their injuries. These were most often workers in occupations which paid bonuses, or where there was substantial but irregular overtime. Others who worked in occupations with seasonal or yearly fluctuations in income reported that their benefit calculations were based on an average of their previous one or two years’ incomes. One participant who was injured shortly after starting a new job reported that his benefits were calculated on an average of his income over the previous two years, which were poor years for the industry in which he worked.

“I was flat on my back...You need your strength to say ‘I think this is wrong, I don’t agree with this.’ I don’t know whether it would have made any difference. I was just told that was it. At the time, I thought there wasn’t much use in fighting it. And then, always in the back of your head, I’d heard that it [benefits] could be reduced [further]. It’s a little fear thing, almost like a threat. You can appeal it [income averaging], but it could go the other way too.”

WCB claimants who become employed but are earning less than their pre-injury wage may continue to receive some wage loss benefits to bring their total earnings to 80 per cent of their pre-injury earnings (90 per cent during the first two years). Three to five participants who were employed (or anticipated becoming employed soon) noted that claimants who are working and earning less than 80 per cent of their pre-injury wage

have little incentive to take overtime, pursue promotions, etc. because any increase in their earnings is deducted dollar-for-dollar from their WCB wage loss benefits.

“When you get a [wage] increase, they [WCB wage loss benefits] decrease...If I decided to get a part-time job, anything I make there would be taken off what they [WCB] give me.”

“When you get back to work, you should be entitled to what you were earning when you were injured, not 80 per cent. There should be some incentive to working. Even 90 per cent would be *some* incentive.”

### Loss of Employment Benefits

At least six participants were dissatisfied with the loss of employment benefits (healthcare, dental, CPP, company pension, Employment Insurance, etc.) while collecting Workers Compensation benefits.

“They take off what you were getting deducted for Canada Pension Plan and Employment Insurance, yet they don’t pay that money into CPP or EI.”<sup>41</sup>

“You lose a lot of other stuff. I lost my dental, I lost my medical. I’m not paying into Canada Pension.”

“We shouldn’t lose the benefits we had with our employer...When your union negotiates a contract with your employer, benefits have a monetary value. Once you’re on [WCB benefits] for a while, the WCB should have a benefit plan for long-term claimants.”

“It’s really nice that they’re paying me 90 per cent of my wage tax-free while I’m at home. [But] I would rather be paid 100 per cent of my wages, and pay all my taxes, my Canada Pension, and my company pension. The way it is, you suffer down the line when it’s time to retire...But I think the WCB is looking after that now. After you’ve had a claim for more than two years, they reduce your benefits to 80 per cent of net, but they put five per cent away in a little pension plan.”

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<sup>41</sup> In the calculation of wage loss benefits, the WCB subtracts claimants’ CPP and EI contributions from their gross earnings, but the WCB does not actually “deduct” CCP or EI contributions and cannot, therefore, remit these amounts.

## Permanent Impairment Awards

More than half of the injured workers who participated in this study had received Permanent Partial Impairment (PPI) awards. Three to five others indicated that they expected to receive PPI awards in the future, but would not be assessed until the WCB determines that their injuries have stabilized sufficiently to accurately measure the extent of their impairments.

Some participants declined to reveal the percentage or dollar amount of their PPI awards. Others indicated that they did not remember the figures. Of those who described their PPI awards, approximately half received awards in the 10-14 per cent range. Approximately one-quarter had awards of 15-50 per cent, and approximately one-quarter had awards greater than 50 per cent. The dollar amounts of PPI awards ranged from approximately \$1000 to almost \$100,000.

Almost all participants with PPI awards under 50 per cent were dissatisfied.

“There is no fair payment. I’d give back all the money, I’d go work two minimum wage jobs if I could [return to pre-injury condition]. There’s no payment high enough. I used to do everything in the world. Now I can’t play [various sports], even playing with my kids. I’d give *everything* back in a heartbeat.”

“They have a formula they use to determine what the payment will be. I was at [approximately ten] per cent. I don’t think that—by any stretch of the imagination—pays me for my lifetime impairment.”

One participant who received a PPI award of approximately \$1000 reported that “my VRC told me that before 1992, I probably would have been looking at over \$100,000.”

Three to five participants—particularly those with back and soft-tissue injuries—felt that their PPI assessments did not consider the disabling effect of pain.

“They assessed me at [approximately ten] per cent impairment. That’s another thing I don’t agree with. I’ve got range of motion—I can move around—but it’s what happens after I do that that’s preventing me from going to work. Some days, I don’t have to do *anything* [to cause pain that prevents her from working].”

Another participant who sought advice on challenging his PPI assessment reported:

“I was told ‘don’t go there.’ He told me that I’ve already got the highest [PPI award] you can get for a back injury. He said that if you go back for a re-evaluation, your chances of being evaluated worse [greater impairment rating] are

very minimal. He said ‘they’ll probably evaluate you *better* [lower impairment rating] and ask for money back.”

Three to five participants over the age of 45 felt that it was unfair that their PPI awards had been reduced by two per cent for each year they were over the age of 45.

## Communication

Three to five participants reported that they were not informed of benefits and services to which they were entitled.<sup>42</sup> Some of these benefits/services were clothing allowances, specialized footwear, specialized beds, and respite relief for family members.

One participant described the difficulties his wife experienced taking care of their children and him while he recovered from his injury.

“It was a big strain on her. She damn near had a nervous breakdown. But a couple of years later, after we got through all that, I was talking to somebody who told me that I could’ve requested home care. A nurse would have come in to give my wife some time off. So I called my counselor and asked him if I could have had home care. He said ‘yes, but I didn’t think you’d need it, so I didn’t offer it. But if you’d *asked* for it, I would have given it to you.’”

Another participant said that:

“Everything I’ve ever got out of the Compensation Board, I’ve had to fight for. They don’t sit you down and tell you everything you’re entitled to. It’s the wrong thing to do to a person who’s injured. You’ve got enough on your mind.”

At least six participants indicated that they felt intimidated and threatened in their communications with the WCB.

“I just want Compensation to let me get on with my life, put me through my training, and then leave me alone. They think they own your life, and if you don’t do what they say, you’re not going to get your cheque. I was so scared of them. I was doing everything they said because I needed the cheque.”

“Every time I get a threatening letter from WCB, it sets me back again. I’ve had three threatening letters in the last year. How is that supposed to help me?”

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<sup>42</sup> Union representatives who reviewed the preliminary findings of this study indicated that the WCB has made significant improvements in this area recently.

Three to five participants reported past difficulties and frustrations contacting WCB staff by telephone, but many acknowledged that there have been recent improvements to the WCB phone system.

## Confidentiality

Three to five participants stated that they felt WCB staff had improperly released confidential information from their files to employers, doctors, and/or other insurance providers (e.g. Manitoba Public Insurance).

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## MEDICAL ISSUES

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Many of the injured workers with disabilities who participated in this study were satisfied with the medical care they received for their injuries, but at least six others expressed dissatisfaction with their medical treatment.<sup>43</sup> Three to five experienced years of treatments they felt were ineffective before receiving more effective medical care. Three to five were still searching for satisfactory treatments.

“They tried Cortisone, they tried physiotherapy, they tried all kinds of gizmos and gadgets, but nothing worked. They just caused me even more pain. I had no faith in the medical community after that.”

“[Improper treatment] might have been part of the problem. They’re not as good doctors in [small town] than you’d receive in Winnipeg, or even Thompson.”

Three to five believed their injuries and the resulting disabilities were aggravated by following doctors’ advice that the best thing to do was continue to work—often with pain killers.

“I kept saying to the doctor ‘I can’t keep doing this...’ but he said ‘just keep sticking it out until you can’t take it anymore.’ I damn near took him by the throat [and said] ‘I can’t take it anymore *now*.’”

“It kept getting worse and worse, but they [doctors] kept saying ‘keep working, it’s the best thing for you.’ They gave me all kinds of pain killers. I think that screwed it up worse.”

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<sup>43</sup> The Canadian Injured Workers Alliance reports that medical professionals often make educated guesses about the treatment of injured workers’ injuries, sometimes leading to inappropriate medical interventions or surgery which cause further complications and/or disability (Canadian Injured Workers Alliance, 1995a: 2).

Three to five participants felt they were discharged from hospitals prematurely and/or without appropriate assistance.

Persons with a broad range of injuries told of medical problems, but more than half were persons with extended onset, soft tissue, and/or back injuries. At least six participants continued to experience significant pain many years after their injuries. Three to five had attended pain clinics outside of Manitoba, but none found major relief from their symptoms at these clinics.

Two participants in one city outside Winnipeg indicated that they experienced long delays in seeing their family physicians, and felt that the local hospital emergency department did not provide thorough diagnosis and treatment of non-life threatening injuries. A participant in another city outside Winnipeg reported that injured workers in that city have better access to some kinds of treatment than persons who experience non-workplace injuries.

More than half of the participants outside Winnipeg had to travel to Winnipeg for at least part of their medical treatment. Three to five indicated that this was inconvenient, but remarkably few felt it was an unreasonable burden. One person indicated that seeing a specialist takes longer for persons outside Winnipeg because Winnipeg residents are often able to get appointments on short notice when other patients cancel appointments.

More than half of the persons who traveled to Winnipeg for medical treatment indicated that their travel expenses were adequately and promptly compensated by the WCB.

## **UNIONS**

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Approximately one-half of the 34 study participants were union members at the time of their injuries. Three to five did not expect or seek their union's assistance in dealing with problems they encountered. For example, one did not seek union assistance because he did not expect to return to his pre-injury occupation. Another did not expect assistance because his union had extremely limited staff resources.

The majority of study participants who belonged to unions at the time of their injuries expected their unions to be of assistance, and most of them sought this assistance. Two indicated that their unions had prepared appeals for them. (Neither appeal involved vocational rehabilitation issues.) One of these injured workers also reported that his

union had assisted him in obtaining other financial assistance when his WCB benefits were concluded/terminated.<sup>44</sup>

At least six of the participants who sought assistance from their unions felt that they did not receive adequate support. One participant reported that the telephone messages he left for his union's workers' compensation specialist were returned by a person who was not helpful. Three to five participants reported they were dissatisfied with the attention their unions gave to various return to work problems they experienced, most commonly about employers not providing satisfactory accommodations.

One person indicated that he was happy with support provided by his union local, but dissatisfied with the union's national office. Another participant reported that she sought her union local's assistance in trying to get an available light duty position, but later discovered that her request for the position had never been forwarded to the union head office by her union local.

"There was a union rep who was [less than five] numbers away from getting that [light duty] job. If I'd got that job, he would have been [one number further] away, so I knew I'd never get that job."

Other participants indicated that their unions were struggling with the tension between seniority and duty to accommodate.

"A lot of people don't know about it [duty to accommodate]. The union doesn't want to use it because it's pitting one member against the next. This guy here with twenty years is going to put in a grievance against this other guy [with a disability and only ten years seniority]. I can't blame them [union members]. They need to know more...It causes major friction in the membership. They [union] are kind of scared to get into it, because of the friction and shit it's going to cause. But it's going to have to happen because we have so many people who are getting screwed."

One participant felt that his union did not vigorously support his efforts to obtain an alternative position with his pre-injury employer because the union did not want to jeopardize the contract negotiations in progress with his employer. Another attributed his lack of support to his previous criticism of his union. One participant described how his *own* union did not support him, but that another union provided valuable assistance.

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<sup>44</sup> Neither of these interviews were recorded, so quotations and/or detailed descriptions are not available.

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## DISABILITY AGENCIES

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Well over half of the study participants had not accessed any services provided by agencies that provide employment assistance to persons with disabilities. Two participants said they had difficulty thinking of themselves as “persons with disabilities.”

“I’ve often wondered what might be available to me. I have a permanent impairment, but I don’t look at myself as being ‘disabled.’ When I think of ‘disabled,’ I think of somebody in a wheelchair, or somebody who can’t function on a daily basis. I get around okay, but I have some limitations, so I guess I *am* disabled. One of the reasons I never looked at support groups for people with disabilities—in fear, I guess—that people might look at me and say ‘you’re not disabled’ because they don’t know the nature of my injury.”

More than half of the small number of study participants who were aware of these agencies had utilized at least one agency. Three to five participants subsequently accessed agencies after learning about them during interviews for this study. More than half of the participants who were aware of community agencies said they did not learn about them from the WCB.

“All of the organizations I’ve ever been involved with have all been because of word-of-mouth from someone I knew, or just throwing the net out, like looking in the Yellow Pages. The only reason I found out about [community agency] was because I was working at another non-profit organization and we got pamphlets from other services. But if I hadn’t been working in that place, I might never have found out about them. Comp certainly never told me.”

In general, participants’ comments about a handful of agencies were positive.

“[Community agency] has self-help groups, and there are other organizations that help people with [disability]. But I haven’t used them, because I don’t want to use up their resources. I’d rather use up the Workers Compensation Board’s resources. But the [community agency] helps me, and it also helps my [spouse]. It’s good to have contact with other people who are having the same troubles.”

“I have good things to say about them [community agency]. First of all, they really listened to me. They understood what I was saying about my disability, and my fears about re-entering the work force.”

The same participant also appreciated the follow-up assistance the agency provides after persons become employed.

“Once you’re placed with an employer, they [agency] stay active. If there’s anything that needs to be adjusted or any problems, they’re there to help out. They don’t cut the strings and say ‘see ya’.”

One disability-specific agency was identified as being very helpful by three to five participants with that disability.

## **ADVOCATES FOR INJURED WORKERS**

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### **Worker Advisor Office**

Three to five participants had sought advice and assistance from the three provincial government Worker Advisor Offices in Winnipeg, Brandon, and The Pas. More than half were relatively pleased with the services they received.

“I had a representative from the Worker Advisor. He represented me really well. He made a really good speech [at hearing]. He was the best person I had on my side since I’ve been dealing with WCB.”

One participant outside Winnipeg who was not satisfied with the assistance he received from the Worker Advisor Office said:

“When they [WCB] are trying to force you into something or push the situation, there’s really no place you can go for any decent advice, where there’s somebody who can tell you ‘yes, you have to do what they’re saying,’ or ‘no, you don’t.’ Or tell you what the outcome is if you don’t do what they [WCB] want you to do.”

Two participants who were originally pleased with the assistance they received were later disappointed because they felt that the Worker Advisor Office ended their assistance before the issue was fully resolved. In one case, the participant’s appeal was still in progress when the Worker Advisor Office declined to provide further assistance.

### **Private Advocates**

Three to five Winnipeg participants described having some contact with an agency which provides assistance preparing appeals for injured workers on a fee-for-service basis.

## **INJURED WORKERS GROUPS**

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Very few participants were aware of injured workers’ groups in Winnipeg and other parts of Manitoba.

# *Discussion and Recommendations*

These recommendations are based on the findings of the interviews and focus group meetings with injured workers with significant disabilities, as well as previous research, workers' compensation legislation and policies in other provinces, and consultations with community-based disability agencies, unions, advocates for injured workers, and WCB staff.

WCB staff who reviewed a draft of this report indicated that the WCB has already made some changes which address—at least partially—some of the recommendations. Nevertheless, the Workers with Disabilities Project believes that all 46 of this report's recommendations remain relevant.

## **EMPLOYERS**

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### **Duty to Accommodate**

More than half of the injured workers who participated in this study—including most of those who had managed to return to work—felt that the employers for whom they were working at the time of their accidents did not actively facilitate their re-employment. At least six reported that their employers simply told them that there was no suitable work available for them. Other employers provided alternate work that study participants felt was demeaning because it was unsuited to their skills and previous work experience. Three to five participants felt their employers' efforts to accommodate them were designed to result in failure.

Previous research indicates that injured workers whose employers accommodate and re-employ them are more likely to have more stable, long-term post-injury employment histories than injured workers who are not accommodated and re-employed by their pre-injury employers (Butler, Johnson, and Baldwin, 1995). A WCB Vocational Rehabilitation Consultant interviewed during this project indicated that employers' attitudes towards persons with disabilities are a significant barrier to VRC's efforts to assist claimants in returning to work.

The Canadian and Manitoba Human Rights Codes prohibit employers from discriminating against persons with disabilities. Injured workers with disabilities may, therefore, file a human rights complaint if an employer refuses to re-employ or accommodate them. Very few study participants had done so.

**RECOMMENDATION 1: That the Workers Compensation Board of Manitoba develop a policy to advise all employers, unions, injured workers, and WCB staff that the Canadian and Manitoba Human Rights Codes prohibit discrimination against persons with disabilities, and that failure to reasonably accommodate is a form of discrimination.**

**RECOMMENDATION 2: That the Workers Compensation Board of Manitoba provide training on duty to accommodate to all WCB case management, vocational rehabilitation, and employment services staff. This training should include the roles and responsibilities of WCB staff in the promotion, implementation, and/or monitoring of the accommodation and re-employment of injured workers with disabilities.**

Manitoba is one of the declining number of provinces whose workers' compensation legislation does not include a statutory requirement for employers to accommodate and re-employ injured workers. Except for Newfoundland, every province east of Manitoba *does* include duty to accommodate in its workers' compensation legislation, and the recent Royal Commission on Workers' Compensation in British Columbia recommended adoption of a similar provision in that province's legislation.

**RECOMMENDATION 3: That the Government of Manitoba explore adding a provision to the Workers' Compensation Act which would require employers to accommodate and re-employ injured workers with disabilities.**

## **Modified Work**

Three to five study participants outside of Winnipeg worked for employers who have disability management programs which, the participants felt, pressured them to return to work prematurely. One participant reported that his employer has a modified work program where injured workers with serious injuries and disabilities are sometimes paid to do nothing. These participants felt their employers' aggressive return to work programs were not intended to facilitate the rehabilitation and employment of injured workers, but rather, to contain the companies' workers' compensation costs.

**RECOMMENDATION 4: That the Workers Compensation Board of Manitoba promote and support the development of worker-based disability management**

**programs which provide injured workers with disabilities with suitable, meaningful, and sustainable employment.**

Study participants employed by employers with aggressive return to work programs felt that WCB staff should play a more active role in ensuring that these return to work arrangements are appropriate and sustainable (e.g. by inspecting work sites, doing physical demands analyses, on-going monitoring, etc.)

**RECOMMENDATION 5: That the Workers Compensation Board of Manitoba revise policy 43.20.20 to provide for on-going monitoring of modified/alternate work arrangements, to ensure that these arrangements provide injured workers with suitable, meaningful, and sustainable employment.<sup>45</sup>**

## **WCB VOCATIONAL REHABILITATION SERVICES**

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### **Effectiveness of Vocational Rehabilitation Services**

Previous research indicates that many injured workers with disabilities in Canada have difficulty returning to work (Johnson and Baldwin, 1993). Additionally, many of those who initially return to work subsequently have unstable employment histories (Butler, Johnson, and Baldwin, 1995). The literature also indicates that benefits paid to injured workers with significant disabilities who have not returned to work account for a disproportionately large percentage of the total cost of workers' compensation (Allingham and Hyatt, 1995; Johnson, Butler, and Baldwin, 1995).

The Workers Compensation Board of Manitoba's 1998 annual report states that worker satisfaction with the WCB's services has improved steadily from 6.2 (on a scale of 10) in 1994 to 7.1 in 1998. These figures, however, include a large number of claimants with simple uncomplicated claims for minor injuries which heal quickly and completely after very brief work absences. Union representatives and advocates for injured workers report that satisfaction decreases significantly for claimants whose injuries result in permanent disabilities which keep them off work for more than a few months.

According to Vocational Rehabilitation and Program Planning staff, the WCB of Manitoba has not recently conducted any internal research on the effectiveness of vocational rehabilitation services for claimants with significant disabilities. This Workers with Disabilities Project study provides a valuable qualitative "snap shot" of some of the major barriers to re-employment experienced by injured workers with disabilities in

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<sup>45</sup> Modifications to Policy 43.20.20 which came into effect June 1, 2000 partially address the concerns of this recommendation.

Manitoba, but it does not examine the long-term employment patterns of injured workers with disabilities who receive assistance from the WCB.

**RECOMMENDATION 6: That the Workers Compensation Board of Manitoba conduct or fund a major quantitative study of the employment outcomes of claimants with significant disabilities. Given the literature which indicates that an initial return to work is not an accurate predictor of long-term employment success, this research should examine employment outcomes for at least several years post-injury.**

## Eligibility

WCB Policy 43.00 states that “Vocational rehabilitation may be provided, at the discretion of the WCB, where it is needed to reduce the human and financial effects of a work-related accident. While discretionary, vocational rehabilitation should be consistently applied to all eligible workers.” Policy 43.00 also states that one of the conditions resulting in eligibility for vocational rehabilitation services is a long-term loss of earning capacity. The policy defines “long-term” as the earliest of (1) six months, (2) when it is determined that the worker will not be able to perform her/his pre-injury work without help, or (3) where there are reasonable indicators that there is a risk of chronicity.

One study participant met every one of these eligibility criteria, but reported that she was never offered any vocational rehabilitation services by the WCB.

**RECOMMENDATION 7: That the Government of Manitoba explore subsection 27(20) of the Workers Compensation Act and consider making vocational rehabilitation services an *entitlement* of all claimants who may experience a long-term loss of earning capacity, or meet other current eligibility criteria detailed in policy 43.00.**

**RECOMMENDATION 8: That the Policy Committee of the Workers Compensation Board of Manitoba review policy 43.00 to ensure that vocational rehabilitation services are offered to all claimants who have not successfully returned to stable employment six months after injury.**

## Adjustment

The Canadian Injured Workers Alliance (CIWA) reports that “Returning to work is not as simple as making the work place accessible and the job fit or even learning new skills, as important as all those things are. Injured workers must cope with fundamental changes at a deeply personal level” (CIWA, 1995a: 2).

Most of the participants in the current study who had severe disabilities reported being offered services to help them adjust to their disabilities. At least six other participants, however, did not recall being offered these kinds of services. All had significant disabilities, but generally less severe disabilities than most of the persons who *were* offered adjustment services. Nevertheless, many of those who reported that they did not receive adjustment counselling also reported that they had experienced difficulties coming to terms with their disabilities.

**RECOMMENDATION 9: That the Workers Compensation Board of Manitoba ensure that all workers who sustain permanent disabilities—even mild or moderate disabilities—are offered services to help them through the process of adjusting to their disabilities.**

### **Vocational Testing**

Three to five participants who were dissatisfied with the vocational goals developed by their WCB Vocational Rehabilitation Consultants reported that they did not receive any formal testing to assist in the selection of an appropriate vocational goal.

**RECOMMENDATION 10: That the Workers Compensation Board of Manitoba ensure that all claimants who are eligible for Vocational Rehabilitation services receive formal vocational testing to help in the selection of realistic and appropriate vocational goals.**

### **Individualized Written Rehabilitation Plans**

Policy 43.00 states “Where rehabilitation services are provided, the goals and responsibilities of the worker, the WCB, and the employer (where involved) will be identified through a written vocational rehabilitation plan.” At least six study participants reported that they did not have formal Individualized Written Rehabilitation Plans (IWRP’s). Two were persons with particularly severe disabilities who were not currently pursuing re-employment. Others were at early stages of their vocational rehabilitation (e.g. assessment, selection of vocational goals). Others, however, reported that they had received—or were still receiving—vocational rehabilitation services, but did not recall having formal Individualized Written Rehabilitation Plans.

**RECOMMENDATION 11: That the Workers Compensation Board of Manitoba ensure that—as currently described in Policy 43.00—an Individualized Written Rehabilitation Plan is developed for each claimant who receives vocational rehabilitation services, and that the claimant receives a copy.**

## Vocational Goals

Well over half of this study's participants were not able to return to their pre-injury employers and/or occupations. When they were developing alternate vocational goals with their WCB Vocational Rehabilitation Consultants (VRC's), five felt that their VRC's offered them a limited choice of vocational goals, typically one of several occupations which had a very high labour market demand. Most of these five participants wanted to pursue different vocational goals they felt were more consistent with their skills, aptitudes, and/or previous work experience, and which they felt would provide them with greater long-term satisfaction than the goals presented by their Vocational Rehabilitation Consultants. Most of them also felt that their preferred vocational goals would provide them with realistic employment opportunities.

Most of these five participants eventually agreed to pursue training for one of the limited number of occupations recommended by WCB staff. VRC's are skilled professionals with considerable experience, but it appeared, in some cases, that WCB staff had greater influence on the selection of claimants' vocational goals than the claimants themselves. This finding is consistent with the findings of the Canadian Injured Workers Alliance's 1995 survey of injured workers (CIWA, 1995b: 114-115).

**RECOMMENDATION 12: That the Workers Compensation Board of Manitoba revise policy 43.00 to acknowledge that effective vocational rehabilitation recognizes and gives priority to workers' personal preferences, independence, and accountability for vocational choices and the outcomes of those choices.**

## Education and Training

Three to five participants who had low earnings at the time of their injuries reported that the only training they received were short-term courses that provided them with what they felt was only a basic introduction to a new occupation. Following an unsuccessful job search period, more than half of those in this situation were deemed, and their wage loss benefits were reduced by the wage they would have earned if they were actually employed in that occupation.

One other participant who was being re-trained by the WCB reported he had learned of a WCB study that found that most employers were not hiring graduates of the technical school course he was attending.

**RECOMMENDATION 13: That the Workers Compensation Board of Manitoba ensure that re-training provides claimants with specific skills and other relevant qualifications necessary to secure employment in the new occupation.**

## Employment Services

A recent article in the Workers Compensation Board (WCB) of Manitoba's newsletter to employers projected that WCB Employment Services would help approximately 360 injured workers return to employment during 1999, an increase of almost 50 per cent from the previous year (Workers Compensation Board of Manitoba, 1999c). WCB Employment Services staff report having a placement rate of 95 per cent.

Approximately half of the study participants who had managed to become re-employed had received some assistance from WCB Employment Services, but more than half of them attributed their employment to their own efforts rather than to the assistance they received. At least six of the study participants who had received employment services reported that they had attended group workshops on job search skills, resumés, cover letters, etc. Group workshops are valuable because individuals often learn from each other, but three to five of the participants who attended Employment Services workshops had concerns about the purpose or timing of the workshops, and/or felt they were ineffective.

**RECOMMENDATION 14: That Vocational Rehabilitation and Employment Services staff clearly communicate the purpose of Employment Services workshops to participating claimants.**

**RECOMMENDATION 15: That the Workers Compensation Board of Manitoba ensure that claimants with significant disabilities are referred to Employment Services workshops only after their injuries have stabilized and after receiving other vocational rehabilitation services (e.g. adjustment and assessment).**

Many agencies which provide employment assistance to persons with disabilities work to provide persons with disabilities with the skills, confidence, and resources to conduct independent job searches. Individualized job search assistance—including creative job development and marketing to prospective employers—is more labour intensive and costly than group services, but these individualized services are also valuable, particularly to many persons who are changing occupations or who have not conducted a job search in many years.

More than half of the participants outside Winnipeg who received WCB employment services reported that a WCB Employment Specialist had provided individualized job search assistance and individualized marketing to prospective employers. Few Winnipeg participants reported receiving this kind of assistance. Instead, more than half of the Winnipeg participants who had received employment services reported that these

services consisted primarily of workshops and use of the WCB Employment Services resource centre/library.

**RECOMMENDATION 16: That the Workers Compensation Board of Manitoba review Employment Services' caseload and staffing levels, and—if necessary— increase staffing to ensure that claimants with significant disabilities—particularly those in Winnipeg—have adequate access to individualized job search assistance.**

Three to five participants reported that they were provided with lists of potential employers which they felt were outdated or no more effective than the Yellow Pages.

**RECOMMENDATION 17: That WCB Employment Services review and update its list of employer contacts annually.**

## Deeming

Deeming is a controversial practice. Its critics argue that it penalizes injured workers who would prefer to be working, but have not been able to obtain employment. Proponents of deeming argue that wage loss benefits would provide a disincentive to working if there were no mechanism to limit the duration of compensation benefits and services.

Three to five of the injured workers with significant disabilities who participated in this study had had their benefits reduced by deeming. Three to five others had IWRP's that provided for deeming if they were not able to find employment in the near future. All of these participants had Permanent Partial Impairment (PPI) awards of approximately 10 per cent.

According to WCB policy 44.80.30.20, "deemed earning capacity will generally be used as a last resort after all reasonable or available vocational rehabilitation/re-employment options have been exhausted." Three to five of the participants who had been or were about to be deemed had received extensive vocational rehabilitation and/or job search assistance, but three to five others—typically those living outside of Winnipeg—reported that they had received limited services from the WCB.

The most common deeming scenario was when a claimant was not employed at the conclusion of his/her IWRP, but was deemed to be "employable". Three to five other claimants living outside Winnipeg reported that they had declined WCB offers to relocate to Winnipeg, and had IWRP's which provided for deeming after three years (see "Injured Workers Outside Winnipeg" below).

**RECOMMENDATION 18: That the Workers Compensation Board of Manitoba truly utilize deeming only as a last resort, such as when a claimant (a) does not**

**actively participate in his/her vocational rehabilitation, (b) cannot demonstrate that she/he is actively seeking employment, or (c) has completed multiple Individualized Written Rehabilitation Plans.**

**RECOMMENDATION 19: That the Workers Compensation Board of Manitoba conduct a study examining the post-deeming employment experiences of claimants whose benefits are reduced by deeming.**

### **Injured Workers Outside Winnipeg**

Three to five participants living outside Winnipeg reported that they had declined WCB offers to relocate them to Winnipeg. More than half of them had three year IWRP's which specified that they would—at the conclusion of the plan—be deemed capable of earning the wage of a low skill job available in the larger Winnipeg labour market. All felt they had compelling reasons for declining to relocate to Winnipeg, most commonly a spouse with secure, well-paying employment in their rural community, school age children, and/or deep roots in their rural communities.

More than half reported that they had received little or no vocational rehabilitation or job search assistance since declining the WCB's offers to relocate to Winnipeg.

**RECOMMENDATION 20: That the Workers Compensation Board of Manitoba assist injured workers outside Winnipeg to qualify for and secure employment in or near their home communities.**

All WCB staff are centrally located in Winnipeg. Approximately half of the study participants outside Winnipeg expressed some dissatisfaction with the vocational rehabilitation services they had received. The greatest level of dissatisfaction was amongst the three to five participants from Northern Manitoba, and their dissatisfaction was primarily concerned with their companies' return to work programs.

**RECOMMENDATION 21: That the Workers Compensation Board of Manitoba explore the establishment of a Northern office staffed by a person whose responsibilities would include the determination and approval of suitable modified/alternate work arrangements, as well as regular on-going monitoring of these arrangements.**

### **Younger Injured Workers**

The Apprentices and Youthful Workers policy acknowledges that the time-of-injury earnings of persons disabled by workplace injuries before their 25<sup>th</sup> birthdays often do not accurately reflect their long-term lost earning capacity. In addition to annual

increases in wage loss benefits, this policy specifies that WCB vocational rehabilitation efforts will aim to qualify young injured workers for occupations at the industrial average wage, not young claimants' actual earning capacities at the time of their injuries (unless their pre-injury earnings exceeded the industrial average wage).

Two study participants who were under 25 when their injuries occurred reported that (a) they were not aware of this policy or (b) that it had not been properly applied to their claim.

**RECOMMENDATION 22: That the Workers Compensation Board of Manitoba ensure that the Apprentices and Youthful Workers policy (44.80.30.30) is applied to all eligible claimants.**

### **Older Injured Workers**

Three to five participants over the age of 50 felt that they were offered more limited vocational rehabilitation opportunities than younger persons. Two participants in their late fifties and sixties were relatively content not actively pursuing re-employment, and indicated that the WCB was supporting that choice by continuing to pay the participants' their full wage loss benefits.

**RECOMMENDATION 23: That the Workers Compensation Board of Manitoba provide vocational rehabilitation services to all injured workers with significant disabilities.**

### **Injured Workers with Severe Disabilities**

Compared to study participants with less severe disabilities, participants with severe disabilities tended to be less dissatisfied with the financial benefits and vocational rehabilitation services they had received from the Workers Compensation Board of Manitoba. Three to five were very satisfied with the supports they had received. These included persons with spinal cord injuries, brain injuries, amputated limbs, and multiple injuries.

From the comments of more than half of the study participants with high Permanent Partial Impairment (PPI) awards, the WCB appears to have a strong commitment to timely intervention, individualized services, claimants' vocational interests and goals, flexibility, etc. for most claimants with severe disabilities. For example, none of the participants in this study with PPI awards greater than 10 per cent had had their benefits reduced by deeming, even those who had been receiving wage loss benefits for five or more years. Even amongst more than half of the participants with high PPI awards who

had *not* returned to work, there was a relatively good level of satisfaction with the benefits and services they had received from the WCB.

More than half of the three to five participants who had managed to return to satisfactory and stable employment following their injuries were persons with spinal cord injuries or serious amputations. Three to five persons with severe disabilities who were not employed were in the midst of vocational rehabilitation plans. Three to five others were not actively pursuing re-employment, and more than half of them indicated that the WCB was providing varying degrees of support for other activities (e.g. volunteer work) that the participants felt were contributing to their overall rehabilitation and adjustment to their disabilities.

Facilitating the vocational rehabilitation and re-employment of some injured workers with severe disabilities can be very challenging. For example, two unemployed participants with severe disabilities did not complete high school, had worked in physically demanding occupations since leaving school, and had strong aversions to working indoors. Nevertheless, injured workers whose circumstances make vocational rehabilitation and re-employment particularly challenging should not be consigned to a lifetime of 80 per cent of their net pre-injury earnings.

The WCB's Specialized Services Unit provides vocational rehabilitation and other services to many claimants who have severe disabilities. Additionally, two participants with severe disabilities reported that their VRC's were able to assist them more effectively after their VRC's attended training on the participants' particular disabilities.

**RECOMMENDATION 24: That the Workers Compensation Board of Manitoba continue specialized vocational rehabilitation services for injured workers with severe disabilities.**

**RECOMMENDATION 25: That the Workers Compensation Board of Manitoba provide Vocational Rehabilitation staff with training opportunities specifically for enhancing their abilities to provide effective vocational rehabilitation services to injured workers with severe disabilities.**

Three to five participants with severe disabilities indicated that the WCB was supporting their choices to not actively pursue re-employment. One other participant with a severe disability, however, reported that she felt her VRC was pressuring her to pursue vocational rehabilitation activities which the participant felt were not in her long-term best interest.

**RECOMMENDATION 26: That the Workers Compensation Board of Manitoba support the preferences of injured workers with severe disabilities who feel that re-employment is currently not a realistic goal, and/or not in their long-term best interest.**

During consultations with community-based agencies, three to five agencies reported that they have contractual arrangements with the WCB to provide some vocational rehabilitation services to injured workers with the kinds of disabilities in which these agencies specialize. Two of these agencies noted, however, that the services currently contracted by the WCB were more limited than in the past. They felt that this reduction was a result of their agencies' concern with the overall rehabilitation of the persons they assisted, which sometimes conflicted with the WCB's greater emphasis on vocational rehabilitation and re-employment.

**RECOMMENDATION 27: That the Workers Compensation Board of Manitoba strengthen its links with community-based agencies which have expertise in the vocational rehabilitation and re-employment of persons with disabilities.**

### **Injured Workers with Less Severe Disabilities**

Compared to most injured workers with severe disabilities who participated in this study, participants with less severe disabilities tended to be more dissatisfied, particularly persons who were earning relatively low wages at the time of their injuries. Some of the barriers to employment that some of them reported experiencing included: no adjustment services, no vocational testing, limited choice of vocational goals, training they felt was inadequate, and job search assistance they felt was insufficient.

Although their disabilities may not be severe, many injured workers with less severe disabilities still face considerable barriers and challenges. Some may actually face *greater* barriers and challenges than some persons with more severe disabilities. For example, three to five participants with permanent impairment awards of over 50 per cent were re-employed—and relatively satisfied—approximately one year after their injuries. Other participants with permanent impairment awards in the 10 per cent range had not worked in several years.

Accommodating a person with a severe disability may sometimes be *less* complicated than accommodating a person with a less severe disability. For example, the only major accommodations required by a person who uses a wheelchair may be a workplace with an accessible entrance and washroom. Even if more extensive accommodations are required, they are typically one-time adaptations. Persons with less severe disabilities

often have varying degrees of limitation. They may be relatively free of limitations some of the time, but very limited or completely unable to work other times.

### ***Injured Workers with Back Injuries***

At least six of the study participants who had experienced major barriers to re-employment were injured workers with disabilities resulting from back injuries. Two had fractured or crushed vertebrae, but most experienced disk injuries.

A study of injured workers in Wisconsin found that back injuries often result in complicated disabilities because “the extent of impairment often is difficult to measure because objective symptoms do not always correlate to subjective limitations and pain” (Galizzi, Boden, and Liu, 1998: 5). More than half of the current study’s participants with back injuries had experienced medical complications. Three to five consented to surgeries that worsened their conditions. More than half continued to experience frequent pain years after their injuries. Three to five had attended pain clinics in and outside of Manitoba, but none had experienced significant reduction in pain or disability.

Returning to work can be a major challenge for persons with back injuries. The authors of several studies based on the 1989-90 survey of injured workers with disabilities in Ontario argue that other factors can interact with a back injury to exacerbate the degree of disability the injured worker experiences.

“Many workers with less than high school education work in physically demanding jobs...For a low-skilled worker, an episode of back pain is typically disabling because the usual work of such an employee is physically demanding and the worker’s ability to perform other jobs is limited by his or her lack of skills. Unless low-skilled workers are protected by seniority rules, such as those mandated by labor unions, those who can no longer perform physically demanding tasks because of a back condition have few opportunities to move to less demanding occupations. If their employers are unwilling or unable to reduce the physical demands of their usual jobs, these workers are likely to be totally work-disabled even though they are physically capable of doing many other jobs” (Butler, Johnson, and Baldwin, 1995: 462-463).

**RECOMMENDATION 28: That the Workers Compensation Board of Manitoba conduct research on current best practices in vocational rehabilitation services for injured workers with back injuries.**

## **Collaboration with External Resources**

An educational workshop developed at the conclusion of this study was delivered to 75 persons from the Workers Compensation Board of Manitoba, unions, community agencies, advocates for injured workers, and persons with disabilities. During case study exercises, small groups with diverse participants generated innovative solutions to employment barriers faced by injured workers with significant disabilities.

**RECOMMENDATION 29: That the Workers Compensation Board of Manitoba, in collaboration with the Workers with Disabilities Project, develop a regular forum for Vocational Rehabilitation and Employment Services staff to consult, network, and collaborate with community-based agencies, unions, advocates, and organizations of persons with disabilities.**

## **OTHER WCB BENEFITS AND SERVICES**

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### **Adjudication**

Three to five study participants reported that the adjudicators responsible for their claims changed frequently. Claimants were often frustrated by the inconveniences and delays which sometimes resulted before new adjudicators became familiar with their claims. An advocate for injured workers who was interviewed for this study estimated that 75% of current WCB adjudicators have less than two years experience.

**RECOMMENDATION 30: That the WCB take action to provide for improved continuity of adjudicators, particularly for claimants with significant disabilities and/or complex claims.**

### **Maintenance of Employment Benefits**

At least six of the injured workers with disabilities who participated in this study experienced financial difficulties while receiving WCB wage loss benefits based on 90 per cent of the net income they were earning at the time of their injuries (80 per cent after two years). At least six participants also noted that they had lost employment benefits such as health, dental, and pension plans. Although it is difficult to place a monetary value on these benefits, it is clear that their loss constitutes an additional financial burden for workers who receive part of their total employment compensation in the form of fringe benefits.

Ontario employers are required to maintain their contributions to injured workers' employment benefit plans for up to one year following injury. This requirement includes healthcare benefits, life insurance, and pension plans, but excludes vacation and sickness

credits, Employment Insurance premiums, and Canada Pension Plan contributions. The recent Royal Commission on Workers' Compensation in British Columbia has also recommended that that province adopt a similar "maintenance of employment benefits" requirement.

**RECOMMENDATION 31: That the Government of Manitoba examine the Workers Compensation Act and consider requiring employers to maintain contributions to injured workers' healthcare benefit plans, life insurance policies, and private/company pension plans for at least one year following injury.**

This and previous research indicates that many injured workers with significant disabilities experience difficulty returning to employment, and many of those who do return to work have unstable post-injury employment histories. Section 43 of the Workers Compensation Act and Regulations states that the WCB may establish or contract for the provision of healthcare and other kinds of benefits for injured workers receiving WCB wage loss benefits for more than two years. Subsection 43(3) states that "A benefit program or group insurance plan established by the board under this section shall be funded by the board from the accident fund, by participants in the benefit program, or in such other manner as the board may determine."

**RECOMMENDATION 32: That the Workers Compensation Board of Manitoba establish a healthcare benefit program for claimants who have received wage loss benefits for more than two years.**

## Communication

Three to five participants reported that they were not informed of benefits and services to which they later learned they were entitled.

**RECOMMENDATION 33: That the Workers Compensation Board of Manitoba provide all claimants with print materials describing the full range of benefit/service entitlements, and direct WCB staff—especially adjudicators and vocational rehabilitation consultants—to discuss these benefit entitlements with claimants.**

At least six participants indicated that they felt intimidated, threatened, or pressured in their communications from/with WCB staff.

**RECOMMENDATION 34: That the Workers Compensation Board of Manitoba ensure that all communications with claimants are open, non-intimidating, readily available, and in clear language.**

## Accident Reporting

Two study participants indicated that they sustained injuries they initially felt were too minor to bother officially reporting. When their injuries turned out to be more serious, they experienced difficulty having their claims for compensation accepted.

**RECOMMENDATION 35: That the Workers Compensation Board of Manitoba undertake a broad public education initiative to advise workers that all workplace accidents—no matter how minor—should be reported promptly.**

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## WORKER ADVISOR OFFICE

Three to five study participants sought assistance from the Government of Manitoba's Worker Advisor Office. More than half were very pleased with the assistance they received, but others were not. The most common source of dissatisfaction was that the Worker Advisor Office did not follow the injured worker's appeal through to its conclusion.

**RECOMMENDATION 36: That the Government of Manitoba review staffing levels and caseloads at the Worker Advisor Offices in Winnipeg, Brandon, and The Pas, and increase staffing if the review indicates that current Worker Advisors cannot adequately assist the injured workers who seek assistance.**

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## DISABILITY AGENCIES

There are many community agencies in Winnipeg which provide vocational rehabilitation and job search assistance to persons with disabilities. Outside of Winnipeg, these services are more limited.

Well over half of the injured workers who participated in this study had not made use of the services provided by disability agencies. Most of those who had accessed services provided by these agencies reported that the agencies were helpful. Two participants who had not accessed these agencies' services reported that they were reluctant to do so because they did not regard themselves as "persons with disabilities." One community-based disability agency in Winnipeg has formed a relationship with the provincial injured workers association, and assists injured workers with disabilities referred from that association.

**RECOMMENDATION 37: That community-based disability agencies in Manitoba explore methods to strengthen their ties with organizations of injured workers.**

During consultations with agencies, two reported that they had previously had fee-for-service arrangements with organizations like the Workers Compensation Board (e.g. Manitoba Public Insurance.) They described conflicts between attempting to provide quality services to persons with disabilities and satisfying the contracting organization's concerns with timeliness and costs. Two agencies funded through the federal-provincial EAPD/VRDP cost-sharing program reported that they sometimes assist former WCB claimants, but their funding agreements specifically prohibit them from providing services to persons who have active WCB claims. One agency without this restriction estimated that approximately five per cent of the agency's caseload are active WCB claimants. The WCB provides wage subsidies for claimants who become employed with the agency's assistance.

**RECOMMENDATION 38: That the Workers Compensation Board of Manitoba maintain relationships with community-based agencies which provide other vocational rehabilitation and employment services to persons with disabilities.**

When the WCB concludes claimants' eligibility for benefits and services, claimants receive transitional services about non-WCB resources which may be able to assist them. Discussions with WCB staff indicated that transitional services may provide departing claimants with some information on external employment resources, but are primarily focused on financial and psychological issues.

The WCB booklet entitled *Where to Now* provides discontinued claimants with extensive information about sources of financial assistance, but it does not include any information about community-based agencies which may be able to assist injured workers with disabilities become re-employed. A recently developed WCB transitional services brochure entitled *Helping you get the help you need: Your Guide to Community Support Services and Resources* also provides brief information about financial and psychological counselling services. A list of community resources includes the names and telephone numbers of two agencies which provide employment services to persons with disabilities. It does not, however, provide any information about the kinds of services these agencies' provide, their eligibility criteria, etc.

**RECOMMENDATION 39: That the Workers Compensation Board of Manitoba produce a new claimant information document listing detailed information about community-based agencies which provide employment assistance to persons with disabilities. This document should describe each agency's contact information, eligibility criteria, and services provided.**

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## UNIONS

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The 1989-90 Ontario survey of injured worker with disabilities found that union members were more likely to return to work—and sooner—than non-union members (Johnson, Butler, and Baldwin, 1995). Union members, however, were just as likely as non-union members to have subsequent periods of unemployment (Butler, Johnson, and Baldwin, 1995).

The Canadian Injured Workers Alliance's 1995 survey found that most respondents who were union members—including most of those who had returned to work—were dissatisfied with the role their unions played in the return to work process. "Views about union assistance were largely based on criticism of the union for inaction on behalf of the injured worker's case" (CIWA, 1995a: 65-66; 1995b: 151-156).

During the past decade, many unions and other labour organizations have devoted considerable attention and effort to accommodating and assisting injured workers and other persons with disabilities. In Manitoba, the Workers with Disabilities Project partnership formed in 1992 provides a forum for labour and disability organizations to better understand each others' concerns and undertake projects of mutual interest. The Manitoba Federation of Labour's workers' compensation advocacy course has helped many unions in Manitoba assist and represent their injured members more effectively. Nationally, the Canadian Labour Congress will hold a conference in Montreal in November 2000 to develop strategies to address the needs of injured workers, workers with disabilities, and workers with family members who are disabled.

Like the Canadian Injured Workers Alliance study, however, this research found that at least six of this study's participants who were union members were less than satisfied with the role(s) their unions played in their efforts to return to work. When these findings were discussed with staff of unions, many stressed that unions are not a formal part of the workers' compensation system, and therefore have limited ability to influence injured workers' returns to work. They argued that employers (who control re-hiring decisions) and the WCB (which controls financial benefits and vocational rehabilitation services) have far greater influence.

Some union staff also commented that some union members have unrealistic expectations of what their WCB entitlements are, and/or what their unions are able to do for them if they are injured. They also reported that some union members do not actively seek their unions' assistance for problems the unions may be able to help them with, or only seek their unions' assistance when the problems have grown so complex that there is no longer much assistance the union can provide.

**RECOMMENDATION 40: That Manitoba unions educate their members about how their unions can assist them if they are disabled by a workplace injury. Also, that Manitoba unions educate their members about how and when to access this assistance.**

Some union staff reported that some unions devote considerable resources to assisting members whose workplace injuries have resulted in significant disability, but that other unions give less priority to workers' compensation issues. During this study, some unions who were contacted showed great interest, and devoted considerable effort to helping recruit potential study participants from their memberships. Others, however, including several large unions, did not demonstrate the same level of interest. Additionally, most unions and labour councils contacted outside of Winnipeg did not show great interest in this study.

A 1996 Canadian Labour Congress report argues that organized labour should make "health, safety, environment and workers' compensation issues popular and political and owned by the labour movement—health and safety is a union's issue! This means taking health, safety, environment and worker's compensation into the mainstream of the labour movement" (New Strategies Sub-Committee, 1996).

**RECOMMENDATION 41: That the Manitoba Federation of Labour educate representatives, officers, and members of Manitoba unions about issues and concerns of injured workers with significant disabilities, particularly issues and concerns related to re-employment.**

The 1989-90 survey of injured workers with permanent disabilities in Ontario found that unions enhance return to work by protecting unionized workers' jobs while they recuperate from their injuries. The survey also found, however, that union membership did not have a significant impact on the long-term success of union members' post-injury employment (Butler, Johnson, and Baldwin, 1995).

The Manitoba Federation of Labour (MFL) developed and delivers a popular course on workers' compensation advocacy. As a result of this course, injured workers in Manitoba who are members of unions now have greater access to advocates who can assist them with the adjudication of their claims, mediation of disputes, preparation of appeals, etc. In addition to an advocacy course like the MFL's, the Ontario Federation of Labour has also developed a specialized course on return to work strategies. Some of the topics covered in this course include essential duties, suitable work, accommodation, job restructuring, rehabilitation assistance, employers' obligations, and contract language.

**RECOMMENDATION 42: That the Manitoba Federation of Labour develop a specialized course on return to work strategies for injured workers with significant disabilities, and offer this course to all Manitoba unions.**

During consultations with agencies which provide employment assistance to persons with disabilities, three to five agency representatives suggested that unions sometimes are barriers to employers' efforts to accommodate injured workers. They reported that some employers who appear to be willing to accommodate an injured worker or other person with a disability argue that they cannot do so because the union might grieve the accommodation. They also expressed frustration with the priority unions' place on seniority. (One agency representative commented "for unions, the only resolution mechanism is seniority.")

During subsequent consultation with unions, some union staff explained that unions have a responsibility to represent all of their members, and seek accommodations that are least disruptive to the provisions of the collective agreement. Union staff also reported that employers sometimes deliberately restrict accommodation options to ones that infringe on these provisions (especially seniority), then insist they cannot accommodate the worker because of the possibility that the union might grieve such an accommodation.

This and other topics raised during conversations with disability agencies and unions suggest that there is still considerable work to be done to ensure that the two groups understand and respect each others' priorities, concerns, and challenges. From 1992-97, the Workers with Disabilities Project provided many opportunities for disability and labour organizations to network and develop better understandings of each other, but there have been relatively few of these opportunities since 1997.

**RECOMMENDATION 43: That the Workers with Disabilities Project provide regular forums for staff and representatives of disability agencies and unions in Manitoba to develop better understandings of each group's priorities, concerns, and challenges.**

## **INJURED WORKERS GROUPS**

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Injured workers groups (a) provide peer-based support to individual injured workers, and (b) speak for and lobby on behalf of injured workers as a group. The 1995 Canadian Injured Workers Alliance survey found that most of the injured workers who participated reported that they felt that injured workers groups were helpful (CIWA, 1995b: 161-165).

Only three to five of the injured workers with significant disabilities who participated in this study were aware of the provincial injured workers' organization based in Winnipeg. Even fewer participants outside of Winnipeg were aware of several fledgling injured workers groups in rural Manitoba.

These groups receive little, if any, funding. For example, the provincial organization is currently staffed by two part-time employees funded by project grants from the Workers Compensation Board of Manitoba.

**RECOMMENDATION 44: That the Workers Compensation Board of Manitoba provide funding for the development and maintenance of consumer-driven injured workers' groups which (a) provide services and supports to individual injured workers, and (b) lobby on behalf of all injured workers in Manitoba.**

Our contacts with injured workers groups in Manitoba suggest that most have limited memberships and organizational resources.

**RECOMMENDATION 45: That the Workers Compensation Board of Manitoba provide additional funding to injured workers groups for the purpose of enhancing their advocacy, community development, management, and other organizational skills.**

Labour and consumer-based disability organizations have considerable experience in community development, group advocacy, project development, lobbying, etc.

**RECOMMENDATION 46: That the Manitoba Federation of Labour, the Manitoba League of Persons with Disabilities, and other members of the Workers with Disabilities Project partnership strengthen their links with injured workers' groups, and offer their expertise to assist these groups to develop and enhance the skills required to effectively support and advocate on behalf of injured workers with disabilities.**

# *Summary and Conclusions*

## **OVERVIEW**

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There are approximately 45,000 compensation claims for workplace injuries each year in Manitoba. Most are minor injuries which heal quickly and completely, but some workers sustain serious workplace injuries and diseases which result in significant permanent disabilities. Previous research indicates that injured workers with significant disabilities often experience post-injury employment problems. Some manage to return to work with their pre-injury employers, while others find employment with other employers. But many injured workers with significant disabilities experience lengthy periods of unemployment. Some never work again.

## **METHOD**

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From May to November of 1999, the Workers with Disabilities Project conducted interviews and focus group meetings with 34 Manitoba workers who had sustained significant disabilities from workplace injuries. During these interviews and meetings, study participants were asked about:

- their occupations at the time they were injured,
- the nature of their injuries,
- medical care they received,
- the disabilities resulting from their injuries,
- the adjudication of their Workers Compensation Board (WCB) of Manitoba claims,
- attempts they made to return to their pre-injury employers,
- vocational rehabilitation services they received from the WCB,
- employment services they received from the WCB,
- Permanent Partial Impairment (PPI) awards they received,
- assistance union members received from their unions,
- their use of external resources for injured workers and/or persons with disabilities.

Additional research activities included a review of previous research, and consultations with Workers Compensation Board staff, unions, community-based disability agencies, advocates for injured workers, and other researchers.

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## LIMITATIONS OF THE RESEARCH

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The findings of the interviews and focus group meetings qualitatively describe the experiences, perceptions, and concerns expressed by the 34 study participants. Like any study utilizing a non-random sample, it is difficult to generalize our findings to the total population of injured workers with significant disabilities in Manitoba. In other words, these findings do not *quantitatively* describe the overall prevalence of these experiences, opinions, and concerns amongst the total population of injured workers with significant disabilities in Manitoba.

Nevertheless, the 34 study participants reported a broad variety of challenges and barriers to re-employment. If these problems exist amongst a relatively small sample of 34, we believe that they are not rare or isolated occurrences.

Additionally, it should be emphasized that many WCB claimants who have significant disabilities did not have the opportunity to participate in this study. As was described in the “Method” section, the WCB originally generated a list of 470 claimants who were potential study participants. This list excluded all clients of the Specialized Services Unit (Unit 5), and was subsequently circulated to WCB Vocational Rehabilitation (VR) staff for review. Because of concerns that participating in the research might have a negative impact on some claimants’ vocational rehabilitation, VR staff removed 271 claimants from the original list, leaving just 199 of the original 470.

Concern for the well-being of injured workers must be the Workers Compensation Board’s primary concern, and we applaud the WCB for protecting claimants from influences which it feels may not be in claimants’ best interests. We would be remiss, however, if we concluded this report without wondering about the claimants who were excluded from having the opportunity to participate in this study. More specifically, one must wonder if some of them may have experienced different or greater barriers to re-employment than the 199 claimants who did have the opportunity to decide whether or not they wanted to participate in this study.

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## BARRIERS TO RE-EMPLOYMENT

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### Employers

The primary goal of this study was to identify barriers to re-employment experienced by injured workers with significant disabilities in Manitoba. Accordingly, most<sup>46</sup> of the

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<sup>46</sup> “Some” refers to three to five study participants, “many” refers to six or more participants, and “most” refers to more than half of the total group or sub-group of participants being discussed.

injured workers who participated in the study were not employed. Many of them were disappointed with the assistance they received (or did not receive) from their employers, the Workers Compensation Board of Manitoba, their unions, or advocates for injured workers. Their most frequent complaints, however, were directed towards the employers for whom they were working at the time of their injuries.

Previous research indicates that injured workers tend to have more stable post-injury employment histories when their pre-injury employers accommodate and re-employ them. Most of the injured workers who participated in this study attempted to return to work with their pre-injury employers. Very few were successful, and most of the small number who *did* return to their pre-injury employers reported having to overcome considerable barriers, and/or were dissatisfied with the way their employers had accommodated them.

### ***Major Findings***

Most participants who were not successful in returning to stable employment with their pre-injury employers reported that their employers either declined to re-employ them—often stating that no suitable work was available—or provided unsuitable accommodations. Some subsequently managed to become re-employed with other employers, but most participants who had worked since their injuries continued to experience problems and barriers related to their disabilities. Very few had had stable post-injury employment histories, and most were unemployed at the time they were interviewed for this study.

Some employers do a good job of accommodating and re-employing injured workers with disabilities. Our findings indicate, however, that many employers do not, despite the existence of human rights legislation which protects persons with disabilities against discrimination.

### ***Major Recommendations***

We recommend that the Government of Manitoba explore the Workers Compensation Board Act and consider adding a provision requiring employers to accommodate and re-employ injured workers with disabilities. This “duty to accommodate” requirement would make the WCB Act consistent with the federal and provincial human rights legislation. It would also be consistent with the WCB’s hierarchy of vocational rehabilitation objectives, which gives greatest priority to assisting injured workers to return to the same, modified, or different work with their pre-injury employers.

A requirement compelling employers to accommodate and re-employ their workers who are injured during the course of their employment would also have the potential to reduce the overall costs of the workers' compensation system in Manitoba. It would also prevent many injured workers from having to change careers in mid-life, and/or lose valuable seniority and benefits they have earned with their pre-injury employers.

We must note, however, that some workers' compensation critics argue that the mandatory reinstatement provisions in workers' compensation legislation in other provinces have not proven to be panaceas to the employment barriers faced by injured workers with significant disabilities. A duty to accommodate requirement for the Manitoba legislation should be developed with a thorough understanding of the new challenges that such legislation may create for some injured workers with significant disabilities.

## **WCB Vocational Rehabilitation Services**

### ***Major Findings***

Many study participants identified WCB Vocational Rehabilitation staff as important and effective sources of assistance. Additionally, a significant minority of study participants were relatively satisfied with the benefits and services they had received from the Workers Compensation Board of Manitoba. These tended to be injured workers who had (a) high pre-injury earnings or (b) relatively serious injuries and severe disabilities.

Most participants, however, described some dissatisfaction with the vocational rehabilitation assistance they had received from the WCB. Many of the experiences they described suggested that barriers often result from the discretionary provision of services and/or inconsistent application of policies. In other words, some injured workers with significant disabilities reported receiving particular kinds of vocational rehabilitation services, but others did not.

For example, most participants with severe disabilities were offered services to help them adjust to their disabilities, but many participants with less severe disabilities did not recall being offered any adjustment services. Many of them reported that they had experienced difficulties coming to terms with their disabilities. Similarly, some participants who were not able to return to their pre-injury employers or occupations did not receive formal interest, aptitude or capability testing to assist in the selection of appropriate vocational rehabilitation goals. In both cases, participants often felt that not receiving these services hampered their vocational rehabilitation and their abilities to become re-employed.

Adjustment counselling and formal testing—like all vocational rehabilitation services—carry price tags. But if these services contribute to claimants' successful re-employment, they are small costs in relation to wage loss benefits that unemployed claimants receive.

Participants described a host of other issues. Contrary to policy 43.00, many participants who were receiving or had previously received vocational rehabilitation services from the WCB did not recall ever having a formal Individualized Written Rehabilitation Plan (IWRP). Some participants who did not return to their pre-injury employers felt that they were offered very limited choices of vocational goals. Some participants felt that the training they received from the WCB did not provide them with sufficient qualifications to realistically compete for and obtain the jobs for which they were trained. Although they were not employed, most of these participants were deemed capable of obtaining the jobs for which they were trained, and saw their wage loss benefits reduced by the wage associated with those jobs.

Some participants raised questions about the purpose, timing, and effectiveness of group workshops on career exploration, job search techniques, resumé writing, etc. Some participants—particularly in Winnipeg—felt that they did not receive adequate individualized job search assistance.

Various sub-groups of injured workers who participated in the project described barriers unique to their sub-groups. These included injured workers outside of Winnipeg, older injured workers, and injured workers with less severe disabilities.

### ***Major Recommendations***

In addition to addressing the above barriers, the Workers Compensation Board of Manitoba should undertake or fund a major study of the employment outcomes of injured workers with significant disabilities who receive WCB vocational rehabilitation services.

### **Unions**

Previous research found that union members are more likely to return to work following a disabling injury, but unionized and non-union workers are equally at risk of having unstable post-injury employment histories. A national survey of injured workers found that most respondents who were union members were dissatisfied with the role their unions played in the return to work process.

### ***Major Findings***

Some union members with significant disabilities who participated in this study were pleased with the assistance they received from their unions, but many other participants felt that they did not receive adequate support from their unions. The most frequent concern was that they felt their unions should have devoted greater attention to problems they experienced when attempting to return to work (e.g. employers declining to provide satisfactory accommodations).

### ***Major Recommendations***

This and previous research suggests that there are opportunities for organized labour to do more to support union members who are disabled on the job. Some union staff consulted during this project indicated that union members sometimes have unrealistic expectations about their WCB entitlements, or what their unions are able or required to do if they have problems resulting from a workplace injury. At the very least, therefore, unions should ensure that they educate their members about their WCB entitlements, and about what their unions can and cannot do for them if they are disabled by a workplace injury.

Different unions assign different priorities and devote different resources to assisting members who are injured/disabled at work. The labour movement can assist disabled injured workers by making workers' compensation issues a greater priority amongst more unions.

## **Disability Agencies**

### ***Major Findings***

Very few study participants had accessed services provided by community-based agencies which provide vocational rehabilitation and/or job search assistance to persons with disabilities. Most participants' comments about a handful of agencies were positive. Two of those who had not accessed the services of agencies indicated that they weren't sure they were "persons with disabilities."

### ***Major Recommendations***

Agencies can assist injured workers with disabilities by ensuring that disabled workers know about their services. Agencies can facilitate this by strengthening their ties with injured workers groups, advocates for injured workers, and unions.

## **Injured Workers Groups**

### ***Major Findings***

Most of the injured workers who participated in this study were not aware of the provincial injured workers organization or the fledgling regional injured workers groups in rural Manitoba.

### ***Major Recommendations***

Greater funding and support would allow injured workers groups to more effectively advocate on behalf of injured workers with disabilities in Manitoba.

## **The Workers with Disabilities Project Partnership**

### ***Major Recommendations***

During its early years, the Workers with Disabilities Project provided many opportunities for disability and labour organizations to network and develop better understandings of each other. Consultations with labour and disability organizations during this study suggested that there is still considerable work to be done to ensure that the two groups understand and respect each others' priorities, concerns, and challenges. The Workers with Disabilities Project can assist injured workers and other persons with disabilities by providing forums for unions and disability agencies in Manitoba to develop better understandings of each group's priorities, concerns, and challenges.

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