Introduction

Workers' compensation systems have a longer history than other modern social programs. The systems emerged as the result of a series of trade-offs between workers and employers and there is continued debate over who fared better in the resulting compromise. Before 1914, workers in Ontario could sue employers for injuries that came out of the workplace; at that time, workers were increasingly litigating and winning their cases. A formal workers’ compensation system was seen as a way to provide no-fault, rapid insurance to injured workers, insurance that would eliminate their need to resort to the courts. At the same time, workers forfeited their rights to sue employers. For employers, who were thought to pay the costs of compensation, freedom from litigation and relatively predictable costs were eventually welcomed. Workers’ compensation acts were in effect in some provinces for as long as twenty-five to thirty years before unemployment insurance was implemented by the Canadian government. By the time health insurance, the CPP/QPP, and social assistance programs were introduced, workers’ compensation had been in existence for about half a century in Ontario, British Columbia, Nova Scotia, Alberta and Manitoba.

Employers and workers have long had a vision of workers’ compensation as a free-standing private insurance plan. Workers were subject to the risk of being injured on the job. If an injury occurred on the job, medical authorities could determine the nature and extent of the injury and could specify the appropriate recovery period. Based on the nature of the injury, compensation would then be paid to the workers. Two important changes have challenged this idealized vision of workers’ compensation.

1 See Jennissen (1981)
First, the nature of workplace hazards has changed. Where most work-related disabilities once resulted from discrete and observable accidents, now many disabilities (such as those resulting from toxic exposure or chronic psychological stress) evolve slowly over time and have causes that are hard to pinpoint. Moreover, our increasing knowledge of the long-term effects of occupational hazards has expanded the definition of “occupational injury” far beyond the vision that underlies workers’ compensation legislation.

Second, workers’ compensation in Canada is now part of a social safety net that insures Canadians against a variety of risks, including unemployment, health problems that are not job-related and the consequences of old age and poverty. Over time these different programs have become closely interrelated.

One purpose of this report is to review the relevant literature in order to document these two changes. Establishing that workers’ compensation is only one of many programs that help needy Canadians is quite straightforward. Section I provides a brief overview of the relevant programs.

Despite widespread acknowledgement that workplace hazards are now much different than they once were, the exact causes of the disabilities that might result from these new hazards are extremely difficult to determine precisely. Because workers’ compensation is available only for injuries that occur on the job and as the result of the job, and because expanding the range of compensable conditions may be expensive, the formal determination that a disability is work-related can be quite controversial. In the words of one author, 2 “… recognition in principle that these diseases are work-related is almost universal, yet their acceptance for compensation purposes continues to attract controversy, contestation and delay.” Section II of this report summarizes the available literature on the changing nature of workplace hazards.

We then turn to the consequences of these two changes. One branch of literature that we review here argues that very large numbers of workers do not receive compensation for work-related disabilities. We label this underinsurance, which we define as occurring if job-related injuries or diseases are not covered by workers’ compensation. The implication of the arguments of these authors is that the problem of underinsurance is so pervasive that the system of providing support for people with disabilities must be changed so that the level of support depends not so much on the cause of the disability as on its consequences for economic security. We review the literature on the existence and prevalence of underinsurance in the first part of Section III.

In any targeted program, safeguards must be put in place to prevent individuals from claiming program benefits inappropriately. In the case of workers’ compensation, such safeguards are intended to make sure that benefits are paid only for work-related injuries and only for the time needed to recover from the injuries.

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2 McBrearty, King and Sobel (1996, p.13)
The safeguards are not perfect, however. In some cases, compensation may be paid for injuries that are not work-related or may be paid for longer-than-necessary periods of time. We label these cases “erroneous approvals.” In other cases, workers may be denied benefits to which they are entitled under existing legislation. We label such cases “erroneous denials.” Erroneous approvals and erroneous denials are discussed in Sections III.2 and III.3, respectively.

Underinsurance, erroneous approvals and erroneous denials all involve people receiving workers’ compensation when they should not or, conversely, not receiving workers’ compensation when they should. Because workers’ compensation is now one of a number of social programs, these phenomena will lead to changes in the caseloads and costs faced by the other programs. The effects of these “errors” on other programs is discussed in Section III.4.

This is the point to warn the reader that the literature on workers’ compensation contains more heat than light. While there is evidence of the existence of underinsurance, erroneous approvals and erroneous denials, we found little convincing evidence as to their extent. The magnitude of their effect on other social programs is therefore uncertain. Part of the problem here is the lack of careful research, but another part of the problem is that the very nature of “newer” disabilities (such as chronic stress or repetitive strain) makes it extremely difficult to allocate “fault” between on-the-job and off-the-job conditions.

Section III tries to establish that the position of the workers’ compensation system within a wider set of social programs means that any errors in granting compensation will have effects on the other programs. Section IV goes even further by reviewing the literature on whether the workers’ compensation system has effects on other parts of the Canadian economy, apart from other social programs.

The existence of unfunded liabilities with workers’ compensation systems raises both equity and efficiency concerns. Several provinces have accumulated large unfunded liabilities and we discuss them in the first part of Section IV. We then turn to the question of who ultimately pays for workers’ compensation. Both employers and workers seem to believe that employers pay for the premiums, perhaps because employers do pay the premiums in the first instance. However, most economists are united in believing that the bulk of the ultimate burden of workers’ compensation premiums is borne by workers. In the short-run, however, there may be significant macroeconomic costs imposed by changes in payroll taxes, including those imposed to finance workers’ compensation.

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3 We should emphasize that erroneous approvals and denials are not necessarily the result of fraud or of administrative error. Many errors may occur simply because information about workplace injuries is necessarily imperfect and, perhaps, has become more imperfect as the nature of workplace injuries has changed over time.
In Section V, we discuss three options for reform. The first is establishing closer relationships between workers’ compensation and other social programs. We discuss several possibilities for bringing about that closer relationship.

The second option for reform is changing the way in which the workers’ compensation system is held accountable to the citizens of British Columbia. We propose that workers’ compensation be set within a broader accountability framework that acknowledges the wider social policy sector within which it operates. This does not necessarily imply that workers’ compensation should become less like private insurance and more like general social assistance; it implies only that the wider effects of its operation should be acknowledged and considered in developing the future direction of the system.

The third option for reform is really a call for more and better research. That research should address not only the relationship between workers’ compensation and other social programs, but should examine the whole set of inter-relationships among Canadian social programs.

The conclusion of the report summarizes the overall argument that we are trying to put forward.

I.  A Brief Overview of the Canadian Social Safety Net

The workers’ compensation system in British Columbia is one of a number of large social programs that help Canadians in need of income support. Some of these programs — social assistance, employment insurance, old age pensions and health insurance — serve individuals who need help regardless of whether or not they have disabilities. Other programs provide support only to Canadians with disabilities. We begin, in Section I.1, with very brief descriptions of the broader social programs and then turn to the narrower set of programs aimed at people with disabilities in Section I.2. Because of the particular relevance of the general health care system to workers’ compensation, it is discussed separately in Section I.3.

I.1 General income support programs

Employment Insurance

Employment Insurance (EI) is a federally-funded and federally-administered program designed to protect workers who are temporarily and involuntarily without work due to an inability to find paid employment. EI requires that individuals establish a work history in order to be eligible and provides cash benefits when they are unable to find work. Benefits are also paid to people who undertake approved employment-related courses and training. Both employees and employers pay into the unemployment insurance fund.
In the past few years, a number of changes have been made to the Employment Insurance legislation. A distinction is now made between frequent and infrequent recipients. Benefit entitlement is now based on the number of hours worked (including part-time work) rather than on weeks worked. EI premiums have been reduced as has the time period for collecting benefits; the period of work time required before being eligible for benefits has been increased.

*Old Age Security Pension (OAS), Guaranteed Income Supplement (GIS), Spouse’s Allowance (SPA)*

OAS, GIS and SPA are federal income plans that provide a measure of financial support to older Canadian citizens and residents. The OAS provides a basic pension while the GIS and the SPA supplement the income of older people who have no other income.

In addition to the federal programs, five provinces and both territories have an income top-up for seniors who depend solely on the OAS/GIS pension or on SPA. In British Columbia, for example, a special program called the Guaranteed Available Income for Need (GAIN) Act helps low-income seniors. Benefits are paid to older residents who are in receipt of the GIS or SPA. Other financial assistance programs for seniors in BC include: (a) a Land Tax Deferment Program that allows senior citizens, widows, widowers and certain homeowners with disabilities to defer property taxes on their principal place of residence; (b) the Home Owner Grant Program, which offers all homeowners some relief on property taxes, and seniors an even higher amount of relief; and (c) the Shelter Aid for Elderly Renters (SAFER), for low-income persons 60 years or older whose rental costs exceed 30 per cent of their gross income.
**BC Benefits**

Those who are not working, and who are not eligible for Employment Insurance or for an old age pension, may be supported by provincial social assistance programs. Responsibility for these provincial programs rests primarily with the Ministry of Human Resources. Under the present government, most income support programs are organized under a policy called BC Benefits. BC Benefits includes:

- **Youth Works**: Job search, work preparation and training assistance for employable young people age 19 to 24;
- **Welfare to Work**: Income assistance and work preparation and training support for employable adults age 25 and over;
- **Disability Benefits**: Income support for people age 18 and over with a severe mental or physical disability; the income support is intended to allow recipients to live as independently as possible;
- **BC Family Bonus**: A monthly payment available to all low- and modest-income families in the province to help with the cost of raising children and youth up to age of 18; and,
- **Healthy Kids**: Basic dental and vision care to children and youth up to age 18 in low-income families not covered by federal programs or employer sponsored insurance plans.

The Ministry of Human Resources also provides Hardship Assistance for people who do not qualify for basic income assistance and face hardships; a Bus Pass Program for low-income seniors and people with disabilities; and a Child in the Home of a Relative Benefit. The Ministry also provides a measure of income support for unemployed single people between ages 60 and 64.

Funding for provincial social assistance programs comes partly from the federal government. Until 1996, federal funding to provincially administered social assistance programs was made through the Canada Assistance Plan (CAP). CAP was a cost-shared program with the federal government paying fifty percent of the eligible costs of provincial and municipal social assistance and certain types of social services. Under CAP, the provinces were required to meet a number of standards in order to receive the federal fiscal transfer.

In 1996, CAP was replaced with the Canada Health and Social Transfer (CHST). The CHST combined the former CAP and the Established Programs Financing (EPF) block grant. Under CHST, the federal government no longer provides cost-shared transfers to the provinces for welfare programs and services but rather provides a block grant that the provinces can use for subsidizing health, education and social assistance. The amount of money available to provinces under CHST was smaller than that available under CAP. At the same time, the standards for social assistance were dropped, with the exception of the residency requirement.
In light of the reduction of funding by the federal government and the restructuring occurring under the CHST, provinces have come under increasing financial pressure and have dealt with this in various ways. A number of the provinces have cut their welfare budgets and others are introducing new legislation. The government of Ontario, for example, has recently replaced the Family Benefits Act and the Vocational Rehabilitation Services Act with the Ontario Disability Support Plan. Among other things, this act has a new and restricted definition of disability. Moreover, the former General Welfare Act has been replaced with the Ontario Works Act. These changes to provincial welfare legislation have the potential of making it more difficult for persons with disabilities to claim social assistance benefits in Ontario.

**Canada/Quebec Pension Plan (CPP/QPP)**

The Canada Pension Plan (CPP) is a federally-administered work-related pension intended to protect workers and their families against loss of income due to retirement, disability or death. In order to be eligible for the pension, a person must have had some attachment to the workforce. The plan is funded by employee and employer contributions and by interest earned on investments in the fund. Most employed people between the ages of 18 and 65 are covered by this pension. Self-employed people can pay into the plan but must provide both the employer and employee contributions. The CPP provides a range of benefits including retirement benefits, disability benefits, a disabled contributor's child benefits, surviving spouses benefits, an orphan benefit and a one-time death benefit. The disability part of CPP/QPP is discussed below.

**Private Insurance**

In addition to relying on government programs, individuals can protect themselves against the loss of income by purchasing private insurance, covering them against a variety of risks including automobile and other accidents, property damage, theft, old age and disability.

### 1.2 The larger disability "system" in Canada

Programs and services for persons with disabilities in Canada are quite fragmented, spread as they are across various federal and provincial government ministries. Many of these programs and services were not specifically designed with persons with disabilities in mind. Instead, they simply contain some provisions for those with disabilities. The

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4 Quebec operates its own plan, the Quebec Pension Plan, similar to the CPP.
programs and services include income support, compensation for injury and disease, employment assistance and tax relief.\(^5\)

As the following inventory indicates, programs for persons with disabilities are of two types: (1) those related to work, and (2) those not related to work. Work-related disability programs provide services to persons who have been in the workforce for a period of time and have made contributions based on their labour force participation. Examples of these programs are workers' compensation, Canada/Quebec Pension Plan (CPP/QPP), and the Veterans Disability Pension. Programs that are not work-related are for people with disabilities who have never been in the workforce or who are no longer in the workforce. These programs include provincial social assistance and the Disabled Person's Tax Credit. Generally, there are more services and programs for people with disabilities who have had an attachment to the workforce than there are for those who have never worked.

**Workers' Compensation**

Workers' compensation legislation provides protection to workers and their dependants in cases of income loss due to injury, illness or death resulting from work.\(^6\)

The workers' compensation system is based on the principles of collective liability on the part of employers and on compulsory, no-fault insurance for workers guaranteed by a publicly-administered insurance fund (HRDC, 1997, 24). Employers in a given class of industry are jointly liable for the costs of all injuries and deaths in that class. Each firm in each classification must pay a yearly assessment consisting of a percentage of insurable payroll.

Both full and part-time workers in insured industries are eligible for benefits when they have been injured on the job or have contracted an occupational disease from work. Workers are not compensated in cases where the disability endures for less than a stipulated period or where the injury is attributed solely or primarily to the willful misconduct of the worker if it does not result in death or serious disability. A worker may be required by the workers' compensation board to undergo a medical examination to determine the extent of the injury and rights to compensation may be suspended if a

\(^5\) In addition to the supports listed above, the provincial and territorial governments provide aids and devices to people with disabilities. These can include "any item, piece of equipment or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities." Eligibility for assistance with aids and devices that relate to disabilities varies by province and territory. Some are provided by social assistance programs while others are located in separate programs (HRDC, 1997, p. 4).

\(^6\) In some jurisdictions the term "workers' compensation" has been changed in legislation. In 1997, in Ontario, for example, the Workers' Compensation Act was changed to the Workplace Safety and Insurance Act, which is operated by the Workplace Safety and Insurance Board, formerly, the Workers' Compensation Board.
worker refuses to comply. Injured workers are encouraged to undergo any necessary physical and vocational rehabilitation to obtain suitable employment as soon as they are able.

Compensation rates are based on the earnings of the injured worker at the time of the accident up to a maximum amount.\(^7\) The cash component of the compensation benefit can be for a temporary disability, a permanent disability or for workers’ survivors in the case of death. Workers’ compensation programs also provide physical, vocational, medical and other services to injured workers.

A large majority of Canada’s labour force is covered by provincial workers’ compensation systems. For the small portion of the labour force under federal jurisdiction, the Federal Workers Compensation Service funds four programs that provide benefits to certain groups (HRDC, 1994):

- federal government employees who suffer work-related accidents or injuries;
- survivors of federal employees killed in the line of duty;
- merchant seamen injured or disabled as a result of their work and who are not covered by a provincial workers’ compensation board;
- former prison inmates injured while incarcerated as a result of participating in an approved training or work activities program

**Canada/Quebec Pension Plan (C/QPP) - Disability Benefits**

CPP/QPP regards people as “disabled” if a medical examination shows that their impairments are so severe and prolonged that the individuals are prevented from pursuing regular, gainful employment (HRDC, 1997, p. 5). Monthly disability benefits are paid to those deemed eligible.

Recently, eligibility for CPP disability benefits has become more restrictive. Those deemed "disabled" can collect benefits (if over the age of 18) if they have contributed to the plan for four years of the past six years. Benefits continue to be paid until the people with disabilities can return to work or until they reach age 65 (at which point the benefits become retirement benefits). Since the CPP/QPP began in 1966, the number of disability beneficiaries has increased substantially even though the numbers have stabilized in recent years (HRDC, 1997, p. 7.)

\(^7\) In BC, workers can choose between: (a) a benefit that is a function of their pre-injury earnings and the extent of their disability; and (b) a benefit based on the difference between their pre-injury earnings and the earnings they might receive in suitable and available post-injury employment.
Employment Insurance (EI) - Sickness/injury benefit

Since 1971, the federal unemployment insurance program has provided benefits to insured workers for fifteen weeks in the event that sickness, injury or quarantine prevented them from working (HRDC, 1997, p. 10.). Unlike the regular unemployment insurance benefits described above, sickness benefits are means-tested, taking into consideration any other benefits that the person may be collecting. While EI covers temporary sickness and injury, it does not cover long-term disability. For this, workers must depend on private insurance, the CPP/QPP, workers' compensation, or social assistance.

Social Assistance – Disability Benefits under BC Benefits

For people with disabilities who are not eligible for any of the other programs, social assistance is still available. As noted in the last section, BC Benefits, the provincial social assistance program, has a component called Disability Benefits that serves people with disabilities.

Veterans’ and Civilians' Disability Pensions

Under this program, pensions are awarded to current and former members of the Armed Forces or their survivors, for disabilities or deaths arising out of military services. It includes wartime service in the merchant marine and the service of certain civilians who worked in close support of the Canadian Armed Forces during wartime. Former prisoners of war (or those who escaped capture) and veterans of the Allied Forces may receive these benefits if they meet residency requirements. Survivor pensions are also available and veterans with spouses and dependants receive additional awards.

Vocational Rehabilitation of Disabled Persons Program (VRDP)

The federal and provincial governments, through cost-sharing agreements, fund a range of benefits and services for persons of working age who have physical or mental disabilities, and who require vocational rehabilitation to become capable of regular gainful employment (Prince, 1992). Provinces have sole responsibility for the design and administration of these programs, which may be delivered by provincial agencies or provincially-supported voluntary agencies. VRDP activities are financed from federal and provincial general budgetary revenues. The VRDP is to be replaced by the federal/provincial Employment Assistance for People with Disabilities (EAPD) program.
Health and Income Support Tax Expenditures

Numerous social policy benefits are delivered through the tax system in the form of credits, exemptions or deductions and special tax rates. Such measures are called tax "expenditures" because they represent government spending in the form of revenue foregone. Under the personal income tax system there are about 13 major tax expenditures that directly relate to health care and income maintenance (Canada, 1997b). Several of these deal with the non-taxation of income benefits and pensions. Others concern the non-taxation of employer-paid health and dental benefits, group term life insurance, EI premiums, and CPP/QPP premiums. Under the Goods and Services Tax (GST) legislation, there are tax expenditures in relation to medical devices, health care services and prescription drugs. Some of the personal income tax expenditures that are most relevant to people with disabilities are briefly described below. It is worth noting that the coverage of most of these tax measures has been broadened in recent federal government budgets, and that these measures result in the reduction of provincial tax revenues, as well as federal revenues.

Disability tax credit

The disability tax credit reduces the federal and provincial taxes of people with severe physical or mental disabilities that restrict their daily activities (Hess, 1992, p. 58). The disability must have lasted or be expected to last for at least 12 months. Persons eligible for this credit deduct it from their income taxes. The disability tax credit is non-refundable but any unused portion of the tax credit can be transferred to the spouse, supporting parent or grandparent. This tax credit complements the medical expense tax credit by providing assistance for disability-related expenses. Projected foregone revenue in 1998 for this tax expenditure is $275 million (Canada, 1997b, p. 27).

Medical expenses tax credit

This credit complements the disability tax credit by providing tax relief for extraordinary medical expenses. It provides a tax credit for eligible medical expenses in excess of a certain percentage of net income. It is a non-refundable tax credit but a taxpayer can claim it for the medical expenses of a spouse or dependant. Projected foregone revenue for this tax expenditure in 1998 is $355 million (Canada, 1997b, p. 27).
Infirm dependant credit

This credit may be claimed for mentally or physically infirm dependants including children over the age of 19, parents, grandparents, brothers and sisters, aunts and uncles (including in-laws). This credit reduces the federal tax that the claimant has to pay by a specified amount. The foregone revenue for this tax measure is quite small.

Child care expense deduction

Child care expenses of up to $5,000 per child may be deducted for children aged 7 to 14 with a severe and prolonged mental or physical impairment who also qualify for the disability tax credit. The tax credit for non-disabled children in this age group is $3,000 per child. Up to $3,000 in child care expenses may be deducted for children 14 and older who are physically or mentally disabled but who do not qualify for the Disability Tax Credit. Child care expenses usually cannot be claimed for children 14 years and older. The revenue foregone as a result of this tax expenditure is projected to be $345 million in 1998 (Canada, 1997b, p.30).

Non-taxation of workers' compensation benefits

While workers' compensation benefits are reportable income under Canada's personal income tax system, an offsetting deduction to net income is provided for any such benefit, thereby exempting workers’ compensation benefits from taxation by either level of government. In the calculation of eligibility for income tested tax credits, such as those outlined above, workers’ compensation benefits are included. The revenue foregone as a result of this item is projected to be approximately $610 million in 1998 (Canada, 1997b, p. 27).

Work-related and non-work-related programs for people with disabilities

One way to classify the various programs is according to whether the benefits provided are conditional on having established a history of paid work. Table 1 lists each of the above programs and classifies them according to whether or not they are work-related.
### Table 1

Federal/Provincial/Territorial Programs and Services for People with Disabilities in Canada

<table>
<thead>
<tr>
<th>Social Program</th>
<th>Work-related</th>
<th>Not work-related</th>
<th>Jurisdiction</th>
<th>Type of Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social assistance</td>
<td>X</td>
<td></td>
<td>Provincial/Territorial</td>
<td>Income support</td>
</tr>
<tr>
<td>Canada/Quebec Pension Plan (C/QPP)</td>
<td>X</td>
<td></td>
<td>Federal</td>
<td>Income support</td>
</tr>
<tr>
<td>Employment Insurance (EI)</td>
<td>X</td>
<td></td>
<td>Federal</td>
<td>Income support</td>
</tr>
<tr>
<td>Employability Assistance for People with Disabilities (EAPD) (formerly VRDP)</td>
<td>X</td>
<td></td>
<td>Federal</td>
<td>Employment Assistance</td>
</tr>
<tr>
<td>Workers' compensation (WC)</td>
<td>X</td>
<td>Provincial/Territorial</td>
<td>Income support</td>
<td></td>
</tr>
<tr>
<td>Disabled Person's Tax Credit</td>
<td>X</td>
<td>Federal</td>
<td>Tax measure</td>
<td></td>
</tr>
<tr>
<td>Medical expense</td>
<td>X</td>
<td>Federal</td>
<td>Tax measure</td>
<td></td>
</tr>
<tr>
<td>Tax credit</td>
<td>X</td>
<td>Federal</td>
<td>Tax measure</td>
<td></td>
</tr>
<tr>
<td>Infirm dependant Tax credit</td>
<td>X</td>
<td>Federal</td>
<td>Tax measure</td>
<td></td>
</tr>
<tr>
<td>Child care expense deduction</td>
<td>X</td>
<td>Federal</td>
<td>Tax measure</td>
<td></td>
</tr>
<tr>
<td>Non-taxation of workers’ compensation benefits</td>
<td>X</td>
<td>Federal</td>
<td>Tax measure</td>
<td></td>
</tr>
<tr>
<td>Automobile accident insurance</td>
<td>X</td>
<td>Provincial/Territorial</td>
<td>Income support</td>
<td></td>
</tr>
<tr>
<td>Veteran's and Civilians’ disability pensions</td>
<td>X</td>
<td>Federal</td>
<td>Income support</td>
<td></td>
</tr>
<tr>
<td>Private insurance</td>
<td>X</td>
<td>X</td>
<td>Private sector</td>
<td>Income support</td>
</tr>
</tbody>
</table>

### I.3 The general health care system and workers’ compensation

The general health care system is a very prominent part of the overall social safety net in Canada, providing medical care for all Canadians. For people with disabilities, including those eligible for workers' compensation, the nature of the health care system is especially relevant. In British Columbia, general health insurance is provided by the Medical Service Plan (MSP). As noted above, coverage for work-related accidents or diseases is provided by the workers’ compensation system. Since the MSP covers medical costs for all BC citizens and residents, any costs incurred by injured workers that are not covered by workers’ compensation will be borne by MSP.

There are some notable differences between MSP and workers’ compensation in terms of their history, financing, administration, scope of population coverage and range of benefits provided. The workers’ compensation system in British Columbia is far older than MSP and is funded by payroll taxes whose level is determined by industry-specific claims experience. In contrast, funding for MSP comes largely from general tax revenues. The MSP is administered by the Ministry of Health, a line department directly accountable to a
cabinet minister, whereas the BC Workers’ Compensation Board is a separate statutory body operating at arms-length from the government.

Workers’ compensation in BC covers a smaller population and range of risks than the general health care system. Though workers’ compensation covers about 90 per cent of employees, this represents less than half (about 45 per cent) of the provincial population. The main risks covered are occupational diseases and employment-related injuries and illnesses; the vast array of other maladies that might affect BC residents are covered (if they are covered at all) by MSP.

There are important commonalities between MSP and the workers’ compensation system. Both are provincial programs in a primarily provincial jurisdiction. Both are social insurance programs rather than means-tested programs. Both involve matters of health care and thus medical judgement. Both have been criticized over the years as being overly oriented to illness with insufficient attention given to prevention and health promotion. Both are also subject to the "moral hazard" that they will be over-used or abused by clients.

Both the MSP and the workers’ compensation system share the same medical infrastructure (including physicians and hospitals). The medical aid available from the Workers’ Compensation Board dovetails with the MSP to include all necessary medical benefits including hospital costs. Injured workers have the right to choose their treating physician, though in certain circumstances the workers’ Compensation Board does control the choice of physician. The fees paid by the Workers’ Compensation Board for medical services are based, with some adjustments, on a fee schedule determined by the BC Medical Association and the Ministry of Health.

II. The changing nature of workplace health and safety issues

Canadian workers, governments and employers have been concerned with workplace health and safety since the early years of industrialization in the latter part of the nineteenth century. As early as the 1870s, governments began to introduce policies to regulate industrial work by passing legislation to protect miners, brakemen on trains, factory workers, and shop workers. Industrial accidents were brought to the forefront of Canadian politics in 1889 by the federal Royal Commission on the Relations of Capital and Labour. In addition to protective legislation, governments also introduced policies

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8 Physicians treating an injured worker may initiate a workers’ compensation claim. Physicians serve on Medical Review Panels as part of the workers’ compensation appeals process.

9 The Workers’ Compensation Board in BC has its own medical staff that provides advice to claim adjudicators on the extent of workers’ disabilities and their eligibility for medical benefits, and on pension assessments.

10 See Canada (1889)
to compensate workers once accidents had occurred. Early health and safety legislation, both protective and compensatory, focused largely on observable, physical injuries such as cuts, falls, amputations, burns and broken bones.

Since these early years of industrialization, the Canadian workplace has undergone major transformations and physical injuries are now only one of a number of hazards that can arise at a place of employment. Contemporary workplace hazards are typically divided into five categories — physical, chemical, biological, psycho-social and ergonomic (Montgomery, 1996). Physical hazards include lighting, noise, vibrations, temperature extremes and radiation. Drugs, lead, pesticides and solvents are common chemical hazards found in the workplace. Biological hazards include infectious diseases such as chicken pox, rubella, and tuberculosis and a number of other bacteria, viruses and fungi. Psycho-social factors include mental stress and ergonomic hazards involving heavy lifting, the use of hazardous materials, faulty equipment or equipment design and the organization of work space.

Workplace hazard can have either acute or chronic effects on workers. An acute effect (caused, for example, by a burn) is one that is immediately evident. Acute effects are usually easy to identify, are sometimes reversible and have origins that can usually be traced. By contrast, chronic effects are those that do not appear until some time after exposure, and their causes are often difficult to pinpoint because of long latency periods and complex, multi-faceted etiologies (Montgomery, 1996). Occupational diseases, chronic pain and stress fall within this category (Ontario Federation of Labour, 1982, p. 27).

Occupational injuries and diseases continue to occur in traditionally hazardous workplaces such as mines. In addition, a number of factors have contributed to significant changes in the nature of occupational hazards or to our understanding of those hazards:

- the changing nature of work and of work sites
- the increased use of toxins in the workplace
- the increased labour force participation of women

**The changing nature of work and of work sites**

More people than ever work in office environments, which were once regarded as relatively safe for workers. Yet they have proved to be anything but safe and healthy (Montgomery, 1996, p. 245).

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11 See, for example, the study by Leyton (1997) who provides ten autobiographies of injured miners in Newfoundland.
There are a variety of office types, all with unique health and safety hazards, but many share common problems such as poor air quality, the possibility of spreading communicable diseases, violence and psychological stress. For example, in a recent study of 1,500 workers, psychological stress was identified as a major health and safety concern by equal proportions of men and women, and more often by white collar workers than blue collar workers.\(^{12}\)

There are also a number of problems associated with working with office computers and video display terminals (Mogenson, 1996, p. 2). These hazards include

- back and neck strain, and tendinitis
- carpal tunnel syndrome, caused by repetitive hand motions
- problems such as stillbirths, miscarriage and other reproductive health problems

A study completed in 1995 concluded that one-third of all workers’ compensation claims in British Columbia over a five-year period were the result of ergonomic considerations that are often relevant in office environments. These claims cost the BC Workers’ Compensation Board $400 million for 100,000 ergonomics-related claims (Montgomery, 1996, p. 207).

The nature of work has also become increasingly "irregular" in Canada, meaning that it is more likely to be part-time, temporary, or casual. Irregular work schedules, shift work and excessive hours of work are thought to create psychological stress that can lead to health problems.\(^{13}\)

\(^{12}\) The study notes that unlike the UK and the US, stress in Canada is not generally covered by workers’ compensation legislation. See Earl Berger in *The Canada Health Monitor*, April 8, 1998.

\(^{13}\) Lowe (1989, p. 11); Landsbergis et al. (1993).
The increased use of toxins in the workplace

The use of toxins in the workplace has increased dramatically in the past thirty years and many toxins are known to be associated with serious health problems including asthma, cancer, heart disease, immune system disorders, lung problems and reproductive health problems. In North America, it has been estimated that 65,000 different chemicals are now in use in the workplace and approximately 700 new ones are introduced each year (Montgomery, 1996, p. 155). In the US in 1984, comprehensive data were available for only 18 percent of all drugs, 10 percent of pesticides, and less than 10 percent of all other classes of chemicals (Messing, Courville and Venzina, 1991, pp. 67-68). The unknown effects of toxic chemicals probably far outnumber the known effects.14

The increased labour force participation of women

The increased labour force participation of women in the workplace since the 1960s has led to more research on the nature and extent of the occupational risks that they face, even in cases where the hazards themselves are not new. Although “women’s jobs” have been regarded as relatively safe, recent studies have pointed to some serious health and safety concerns.15

Women are disproportionately represented in "women's jobs" — clerical work, services and sales, and managerial and administrative work (Messing, 1991, p. 19). Relative to other job categories in which men are disproportionately represented, these job categories are characterised by low pay, low rates of unionization, irregular work patterns, and limited opportunities for advancement.

Women who are finding employment in occupations traditionally identified as "male work" (for example, forestry, construction and senior management) are finding that these workplaces have been set up largely for men and do not easily accommodate women. The design of clothing, equipment and work stations often are not made to accommodate the female body. Ill-fitting equipment and ergonomically unsound work spaces pose a range of hazards for women. Women employed in "male jobs" are also more prone to discrimination and sexual harassment, both of which lead to psychological stress.

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14 The Medical Centre at Duke University recently studied the toxicological impact of multiple chemical exposures and concluded that a combination of two or three pesticides which are commonly considered to be acceptable at low levels were up to 16,000 times more powerful in their impact on hormones than when they were used individually. The study concluded that "The prevailing view that chemicals are safe until proven otherwise is no longer valid and all manufacturers must be required to prove the safety of their products when used in conjunction with other chemicals." Canadian Centre for Occupational Health and Safety, http://www.ccohs.ca

15 See for example, Seifert, Messing and Dumais (1997).
One of the most complex aspects of health and safety in the workplace that has come to light largely through greater women's participation in paid work is the problem that arises from the interaction of paid work with unpaid work, or lifestyle. For example, diseases which are partially caused by work may be aggravated by conditions prevailing outside the workplace.

For most women with families, working in the paid labour market has meant a significant net increase in the combined amount of paid and unpaid work that must be performed on a daily basis. In a 1990 study, 78 per cent of Canadian women reported that they had sole responsibility in their families for meal preparation, and 10 per cent of men had sole responsibility (Lero and Johnson, 1994, pp. 7-8). Increasingly, women in mid-life who have raised their children are continuing to care for their elderly parents and disabled family members (Aaronson, 1991, pp. 138-168). These competing demands of paid work and work in the home lead to psychological stress, particularly among parents with pre-school children (Lero and Johnson, 1994, p. 23; Lowe, 1989, p.7).

In summary, this section has highlighted two important changes that have occurred since the early days of workers’ compensation in Canada. The first is that the changing nature of work has shifted occupational risks away from acute, observable injuries and toward chronic diseases of uncertain etiology. The second is that our knowledge of the human body and the impact of various hazards on it has improved dramatically over the past thirty years. As a consequence of both these changes — and of new research spurred by increases in women’s labour force participation — our definition of occupational hazard has greatly expanded.16

III. Underinsurance, Erroneous Approvals and Erroneous Denials

One kind of potential “error” in workers’ compensation occurs when workers suffer job-related injuries or contract job-related diseases but do not receive compensation for the resulting disabilities. If this occurs because some job-related injuries or diseases are not deemed compensable by the workers’ compensation system, we will say that these errors are the result of underinsurance.

Both because of the changing nature of occupational injury, and because of our increased understanding of the links between labour force participation and disability, underinsurance may now be more likely than before.

If underinsurance is widespread, it poses a dilemma for workers’ compensation systems. If the system must insure workers against even a fraction of the forms of job-related

16 An example of this is that early workers’ compensation acts (such as those of Ontario in 1914 and British Columbia in 1915) identified six occupationally related diseases as compensable. In 1996, the British Columbia Workers’ Compensation Act includes 18 categories of diseases.
disability that some authors claim are not now covered, the financial costs borne by both employers and workers will be enormous. If the system does not compensate workers for these newer forms of disability, then the claim that the system compensates workers for all work-related injuries is cast into doubt.

Moreover, to the extent that workers’ compensation does not compensate workers for the newer forms of work-related disability, other Canadian income support programs will bear the cost of helping the injured workers. Faced with those increasing costs, and armed with growing evidence that the income losses are caused partly or wholly by occupational conditions, governments might well ask whether the workers’ compensation system is fulfilling its traditional obligation.

Another (and more widely-studied) kind of “error” that might characterize the operation of a workers’ compensation system involves workers who receive workers’ compensation for injuries that were not work-related or who receive compensation for a longer period that is medically necessary. Such “errors” also result in an overlap among social programs because the workers’ compensation system is incurring costs that should be borne by other social programs. We call such errors “erroneous approvals.”

As noted in the Introduction, all social insurance systems institute administrative safeguards to prevent erroneous approvals. In the case of workers’ compensation, the safeguards involve requiring that workers demonstrate that their injuries are job-related, requiring extensive medical evidence before approving claims, and contesting claims with varying degrees of intensity. In some cases, these safeguards may lead to cases in which workers have incurred compensable injuries but are not granted compensation. We call such cases “erroneous denials.” Errors in denials may also occur if employers or fellow workers pressure the injured person into not claiming compensation.

In the first three parts of this section, we review the literature on underinsurance, erroneous approvals and erroneous denials. In Section III.4, we discuss how these kinds of “errors” might affect other social programs.

The literature that we review refers, by and large, to workers’ compensation systems in jurisdictions other than British Columbia; the reader is therefore cautioned not to leap to the conclusion that these relationships would necessarily be found in British Columbia.

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17 The difference between “erroneous denials” and “underinsurance” is that the cases we consider to be “erroneous denials” generally involve injuries or diseases that have already been deemed compensable by the workers’ compensation system. “Underinsurance” occurs when job-related injuries are deemed non-compensable. There is potential overlap in the two categories, however, in cases where the injury or disease would be compensable if it could be shown to be job-related but the system requires a standard of proof that is difficult or impossible to meet.
III.1 Underinsurance

Every workers’ compensation system must determine the maladies against which it will insure. The larger the range of insured injuries and diseases, the greater the cost of the insurance.\(^{18}\) Employers may believe that they bear the costs of workers’ compensation (as opposed to passing them on to workers in the form of lower wages or to consumers in the form of higher prices).\(^ {19}\) If so, employers have an incentive to reduce the number of successful claims. If workers believe that they must ultimately bear the burden of higher premiums, they too may have an incentive to limit costs.

One way to limit the number of claims is to limit the extent to which newer, more difficult-to-observe workplace injuries are deemed to be covered by workers’ compensation.

We begin this section of our study by reviewing the literature on the “errors” that may occur because of underinsurance. Our purpose is not to argue that any one kind of injury or disease should or should not be compensable. Instead, the purpose is to raise the possibility that significant numbers of disabilities are both job-related and not compensable under existing legislation. If so, other social programs may have to bear the cost of supporting some workers with disabilities.

The goal of the workers’ compensation system is to provide compensation for injuries and disease that: (a) occur in the workplace; and (b) occur because of workplace conditions. As discussed in Section II, our understanding of the nature and extent of such injuries and diseases has changed as we have learned more about the long-term effects of workplace conditions. While the number of injuries and diseases deemed compensable has increased, there is evidence that important kinds of job-related risks may not be adequately covered. Here we review the literature on three kinds of risks—occupational disease, cumulative trauma disorder and psychological stress— that some have argued are not adequately covered by the workers’ compensation system.

To anticipate the conclusion we draw from the literature, we believe that significant numbers of disabilities that are at least partly due to job-related hazards are not now covered by workers’ compensation legislation. The strength of that belief, however, is tempered by the relative paucity of research in this area and by the methodological limits of the existing research. Far more work needs to be done before we can be confident of the empirical dimensions of underinsurance.\(^ {20}\)

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\(^{18}\) There is a substantial literature, which we do not review here, on whether the existence of workers’ compensation leads to greater workplace safety, so that greater coverage may lead to greater safety and therefore lower costs in the longer run. That literature, however, is far from united on the existence of a positive relationship between workers’ compensation and the level of workplace safety.

\(^{19}\) The question of whether employers ultimately pay workers’ compensation premiums or if they pass them on to workers or consumers is discussed in Section IV.

\(^{20}\) Even if underinsurance exists, it does not necessarily follow that all workplace hazards should be covered by workers’ compensation insurance. As discussed in the section on accountability, we believe that extent of coverage is a political decision that should taken by the government at large (rather than by a workers’ compensation board).
**Occupational diseases**, such as those that might be caused by exposure to workplace toxins, seem to be an important component of underinsured job-related disabilities. Kraut (1994, p. 267) estimates that between 77,900 and 112,000 new cases of occupational diseases and between 2,381 to 6,010 occupational-disease related deaths occur in Canada each year.

Given that occupational diseases appear to be important, a number of researchers in both Canada and the United States have criticized the workers' compensation system for not adequately covering victims of occupational diseases. In a submission to the Ontario Royal Commission on Workers' Compensation in 1995, McBrearty, King and Sobel (1996, p.13) argued that "… recognition in principle that these diseases are work-related is almost universal today, yet their acceptance for compensation purposes continues to attract controversy, contestation, and delays."

In the American context, Beckwith (1992, p. 61) cites a study that estimates that only 5 per cent of workers suffering from work-related illnesses receive compensation, and less than 3 per cent of all workers' compensation cases deal with occupational diseases. In a similar vein, Ritzen and Rosenstock (1993, p. 30) claim that there is evidence that most cases of occupational disease are uncompensated in the US. They indicate that only 2 per cent of all claims for benefits are for occupational diseases. Moreover, they argue, workers are unlikely to file for diseases since their claims are regularly rejected, primarily on the basis of failure to prove work-relatedness.

According to Kraut (1994), Canadian workers face a number of barriers to receiving compensation for work-related diseases. Issues of latency and multifactorial causation make it difficult to determine the role of occupational factors in the genesis of a wide range of diseases. Consequently, Kraut argues (p. 267) that, "the true extent of morbidity and mortality due to occupational diseases remains unknown." He asserts that data from workers' compensation boards in Canada routinely underestimate long latency diseases such as cancer. He points to the fact that less than 50 per cent of those who die of asbestos-related malignancy in Ontario (where such malignancies are compensable under the workers’ compensation system) actually received death benefits. Kraut concludes (p. 276) that:

> … occupational disease-related morbidity and mortality contribute significantly to the total burden of disease in Canadian society. Increased recognition of the extent of occupational diseases should stimulate research into their identification, and ultimately help eliminate the exposures and conditions which lead to their causation.

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22 Although there are significant differences between the workers' compensation and occupational health systems of Canada and the United States, there are also many similarities in occupational hazards. Therefore, the situation described by Beckwith and by Ritzen and Rosenstock may apply to Canada as well.
There are a number of explanations for why workers’ compensation systems have been slow to respond to occupational diseases. The most obvious is cost-related. Once a disease has been linked to the workplace, employers and workers become liable for compensating injuries resulting from the hazard.

Consider, for instance, the number of chemicals in the work environment that have been identified as actual or potential health hazards. Even though they represent only a small portion of the total number of chemicals in use, the costs associated with compensating for even the small number identified as hazardous would be significant. The prospect of having to insure against the effects of all chemicals may create a powerful incentive for the workers' compensation system to limit liability for any toxic exposure.

*Cumulative trauma disorders* (CTDs) are another set of disabilities that are commonly featured in the literature on health and safety in the workplace. Of the CTDs, the most frequently diagnosed problem has been carpal tunnel syndrome which involves the median nerve of the hand and which can result in a painful disability. Carpal tunnel syndrome is caused by jobs that subject the hand to repeated mechanical stresses. Over the last decade there has been at least a 10-fold increase in reported CTDs, including carpal tunnel syndrome, and while this increase may be due, in part, to improved systems of reporting, studies have suggested that work speed-up and the on-going breakdown of jobs into simple, repetitive tasks have also played a significant role (Landsbergis et al., 1993, p. 50).

Kraut (1992, p. 275) has estimated that in 1989, 27,500 cases of carpal tunnel syndrome existed in Canada in the population of aged 24-65. Of this number, he estimates that 31-55 per cent were related to occupation. In an article on the history of carpal tunnel syndrome, Dembe (1997, p. 21) argues that this malady was slow to be brought into the workers’ compensation system for two reasons. First, it was traditionally associated with middle-aged women. Second, although investigators voiced their suspicions that occupational factors may have played a role in this disorder, there was no medical agreement or acceptance of this position for many years.

*Psychological stress* is another occupational health issue which has proven difficult for workers to claim through the workers' compensation system. Unlike numerous other work-related hazards, stress cannot be linked to any obvious tangible agent in the workplace. A number of models of job stress exist. For example, the "job strain" model (Landsbergis et al., 1993, p. 43) emphasizes the "interaction between demands and control in causing stress, and objective constraints on action in the work environment." Other work-related stressors, according to this model, include increased working hours, conflict between work and family roles, and sexual or racial harassment or discrimination. According to Landsbergis et al., job strain plays a critical role in chronic diseases such as heart disease and hypertension but these problems can be counteracted with preventive strategies that provide workers with, among other things, more control over their work environments.

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23 Dembe, 1997, p. 15.
In summary, workers’ compensation systems once had to operate within a simpler world in which it insured largely against acute conditions resulting from observable accidents that had clearly occurred on the job. That simple world may now be gone, overcome by the changing nature of work and by our greater knowledge of how occupational conditions may affect health.

There is, no doubt, considerable room for argument about the extent to which workers’ compensation systems, in their current form, should be asked to insure against job-related hazards such as occupational disease, cumulative trauma disorders or chronic stress. There is also room to argue about the exact extent to which these hazards result from working conditions. Nonetheless, according to the literature reviewed here, workers’ compensation systems in Canada seem not to insure workers against a significant number of job-related risks.

### III.2 Erroneous Approvals

Considerable research attention has been paid, largely by economists, to the possibility that the relative generosity of workers’ compensation programs gives individuals important incentives to attempt to qualify for workers’ compensation when they “should” be applying to other programs (or to none at all). Smith (1989, p. 115) summarizes these incentives, at they exist in all social insurance program, quite well:

Social insurance programs that compensate individuals for loss of earnings create incentive problems of three kinds. First, because they receive income support when not working, and lose such support upon returning to work, individuals often face diminished labor supply incentives. Thus, workers receiving more generous social insurance payments as compensation for some economic calamity can be expected to take longer to recover from that calamity. Second, offering insurance payments to those suffering losses can raise the probabilities that such losses will occur. People insured against losses frequently face diminished incentives to avoid risky outcomes, and in cases of overinsurance they can even find it in their best interests to deliberately cause the loss to occur (the problem of moral hazard). The third problem inherent in social insurance programs involves false reporting. Insurance payments are triggered by the occurrence of some contingency, and the temptation to falsely report an occurrence can be quite strong — especially if penalties for misrepresentation are weak and/or the benefits are high.

An “optimal” benefit level would adequately compensate workers for their injuries while simultaneously encouraging them to return to work when medically appropriate. Moreover, that benefit level would minimize, to the extent possible, the negative effects of the incentives described by Smith.
Because the safeguards that stand in the way of workers responding to these incentives are not perfect, some workers’ compensation benefits will be paid erroneously or will be paid for longer periods than are medically necessary. In such cases, the existence of other social programs means that erroneous approvals will have effects beyond the workers’ compensation system itself.

In this subsection, we will examine two areas in which those effects might be felt. The first is the interface between workers’ compensation and unemployment insurance. One argument is that, because workers’ compensation benefits are more generous than unemployment insurance benefits, workers who are both unemployed and injured may attempt to qualify for workers’ compensation in cases where their injuries are not work-related. Alternatively, in expectation of a period of unemployment, injured workers may try to extend the period during which they receive workers’ compensation benefits and shorten the period over which they expect to receive EI benefits. A related argument is that unemployed workers who are no longer eligible for EI benefits and who cannot find other work may attempt to qualify for workers’ compensation benefits. Yet another way in which erroneous approvals could occur would be if, in order to retain valued employees during a temporary recession, employers colluded with workers to have the workers receive workers’ compensation instead of being laid-off. In the extreme, disability policy can be a substitute for unemployment policy — a way of providing early retirement to less healthy or older unemployed workers — as seems to have happened in the Netherlands until recently.

The second area is the relationship between workers’ compensation and the health care system. In the US, it has been observed that a disproportionate number of workers’ compensation claims are made on Monday. Moreover, among Monday injuries, there are relatively more difficult-to-observe injuries (such as those involving strains and sprains) and relatively fewer difficult-to-conceal injuries (such as burns or cuts). One possible explanation for this phenomenon is that workers attempt to gain access to generous workers’ compensation benefits when their injuries did not occur on the job.

In all these cases, the effect is that the workers’ compensation may end up providing benefits to individuals who “should” be receiving benefits from other social programs.
Workers’ Compensation and Unemployment Insurance

One broad area of overlap that has been extensively investigated in the academic literature is that between disability programs and labour force participation. The narrower interaction between workers’ compensation and labour force participation has been less intensively studied. Only one article (Fortin and Lanoie, 1992) looks specifically at the interaction between workers’ compensation and unemployment insurance. They write (p. 288):

…many reasons may suggest the existence of a potentially strong interdependency in the effects of these insurance systems. The basic reason is that … the structures of WC and UI are quite similar. In particular, both provide insurance against “an adverse consequence (work injury or unemployment) that leads to time away from work.” [Ehrenberg, 1988, p. 71].

Two scenarios have attracted most of the attention. First, injured workers who have received workers’ compensation may go on to receive unemployment insurance benefits when they can no longer receive workers’ compensation benefits. Second, workers who are already unemployed (or who anticipate unemployment) may apply for workers’ compensation for injuries that may not be related to their work. The difference between the two scenarios lies in which event – injury or unemployment – caused the initial period of unemployment.

Both scenarios presume that the use of the workers’ compensation system is not completely determined by the medical aspects of the injury and of the worker’s rehabilitation from the injury. In principle, every injury occurring in the workplace leads to a period on workers’ compensation, the length of which is determined entirely by medical criteria. In practice, not every injury is reported and, for claimed injuries, the period during which the worker is off-the-job is determined by factors in addition to medical opinion.

We first discuss the published work that addresses the impact of workers’ compensation on the post-injury labour force behaviour of the injured workers. One strand of this literature finds a positive relationship between participation in the workers’ compensation system and the level of available benefits, holding occupation constant. For example, Krueger (1990, p. 95) finds that “…a 10 percent increase in benefits is associated with about a 7 percent increase in recipiency.” Another branch supports the idea that greater workers’ compensation benefits lead to a greater duration of time-away-from-work, holding the nature of the injury constant (Johnson and Ondrich, 1990). While these are undoubtedly “labour market impacts”, they need not imply an interaction between workers’ compensation and unemployment insurance.

Two articles – Hyatt (1996) and Butler, Johnson and Baldwin (1995) – come closer to the interaction of the two programs by looking at the question of whether workers’ compensation benefits affect the likelihood that an injured worker will return to work.
Implicit is the possibility that injured workers who do not return to work will then claim unemployment benefits.

Hyatt studied a group of injured Ontario workers who received permanent partial disability benefits from the workers’ compensation system. The data refer to workers injured before 1990 when, importantly, benefits were awarded as a lump-sum dollar amount, with the amount based on the nature of the injury. Based on a simple microeconomic model of labour force participation, such a benefit would be expected to reduce the labour supply of most workers. The basic idea, in Hyatt’s words (p. 292) is that “in general, as the economic returns to disability increase relative to the returns to work, individuals may be less likely to participate in the labour market.”

Hyatt’s data consisted of a subsample of about 2,000 workers who were interviewed as part of the Survey of Ontario Workers with Permanent Injuries. These workers were interviewed between 6 months and 18 months after the date of their injury and within 30 days of when their physician (and the claim adjudicator) determined that they had reached the point of maximum medical improvement. Using the available data, Hyatt sets out to discover the determinants of the probability of working at the time of the survey (well after the accident but soon after they had reached the point of maximum medical improvement). The variables thought to explain the post-injury labour force participation decision were Hyatt’s estimate of the workers’ potential post-injury earnings, Hyatt’s estimate of the size of each worker’s workers’ compensation benefit, and sets of variables summarizing the nature of the worker’s injury and his or her demographic characteristics.

Hyatt found that higher benefits led to reduced labour force participation, holding health status constant as best he could. He also found that higher potential post-injury earnings increased the probability of working after having been injured and concluded that “policies aimed at increasing the labour market earnings an injured worker can expect following the injury can offset the disincentives of workers’ compensation benefits.” The importance of that finding for our purposes is that the nature of the workers’ compensation system — the benefits it offers and the vocational rehabilitation services it makes available — can influence the likelihood of post-injury employment. Since unemployed workers with disabilities are likely to need support from social programs such as Employment Insurance or provincial social assistance, there is the potential for interaction between workers’ compensation and those parts of the social safety net.

Only Fortin and Lanoie (1992) directly address the interaction between workers’ compensation and UI. They argue that (p. 288):

… as long as the risk of these events [work injury and unemployment] is partially determined by employer and employee behavior one could expect behavior in the labor market to be affected by the characteristics of both systems. Thus, as long as

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24 That expectation was supported in the empirical work of Johnson and Ondrich (1990) who looked at the experience of workers who were injured in three American states in 1970.
the worker’s net replacement ratio provided by UI is smaller than the corresponding WC ratio, some workers suffering from a workplace injury may, ceteris paribus, have incentives to take action in order to obtain a longer period of recovery compensated by WC. This is more likely to be the case in industries where the level of unemployment … is such that many injured workers expect to be unemployed and to receive UI benefits after their period of recovery.

The empirical part of the work of Fortin and Lanoie uses data from Québec, aggregated by industry, across the years from 1974 to 1987. Their goal was to test the hypothesis that the generosity of the workers’ compensation system and of the unemployment insurance system had statistically significant effects on the industry and year-specific frequency of reported accidents per employee and on the average number of workdays lost. They estimated (p. 310) that “a 10 per cent … increase in the generosity of the unemployment insurance system could lead to a 5-7 percent reduction” in average accident duration.

Even though the data were available only on an aggregate level and not on the level of individual workers, these empirical results are consistent with the theoretical idea that workers choose, based on the relative generosity of each program, between workers’ compensation and EI in determining how to spend their time away from work. Fortin and Lanoie conclude (p. 310) that “altogether, our analysis raises an important issue for policy-makers: the necessity of considering the possible interaction between social insurance programs when studying the impact of new key parameters in a given program.”

An even more striking example of how disability policies can become entangled in unemployment policy comes from the Netherlands, where the workers’ compensation system is integrated with the general disability system. That is, whether the injury occurred in the workplace or not is not relevant to the determination of eligibility for the disability programs.

One often-heard complaint of Canadian employers is that, over time, the workers’ compensation system has gotten “out of control,” that it has come to look more like a general social insurance program and less like a private insurance program.

The experience of the Netherlands over the past 25 years provides a dramatic illustration of the mechanisms through which disability policy can become, in essence, a part of unemployment policy. As Aarts et al. (1996) write (p.1):

25 Both Krueger (1990) and Fortin and Lanoie (1992) formulate game-theoretic models in which the probability of an on-the-job accident depends on employer behaviour (in maintaining safe workplace conditions) and on employee behaviour (in taking safety precautions on the job). Since the efforts of employers and employees are not directly observable, the empirical relationships derived by these authors should be “… thought of as reflecting the net influence of employer and employee incentives” (Krueger, 1990, p.87). That is, the existence of a relationship between benefit levels and claim levels should not be attributed only to the behaviour of workers.
Dutch policy outcomes illustrate the fiscal dangers of using disability policy to protect workers from job loss due to economic as well as health factors. By the 1990s, the Dutch system’s combination of loose eligibility criteria and lenient administrative control had resulted in a program whose beneficiaries and expenditures surpassed those of all other OECD countries over the previous quarter century.

Another feature of the Dutch system is that the degree of disability is a function not of the medical nature of the disability but of the degree to which labour market earnings are affected. A person who is injured or impaired and who cannot work at a job “commensurate” with their labor market experience and training is disabled to the extent that they are unable to earn “what a physically and mentally healthy person in similar circumstances usually earns.”

The mechanism through which individuals in the Netherlands end up on disability benefits is instructive (Aarts and De Jong, 1996, p. 38):

…disability, early retirement, and unemployment … offer three distinct but interconnected exits from work. In trying to shift workers among these three categories, program gatekeepers play an especially important role with respect to disability, since the disability risk cannot be adequately defined without reference to both vocational and health characteristics. In the Netherlands, this confounding of economic conditions and health was aggravated by the administrative interpretation of explicit labor market considerations in the disability program. In practice, any worker with a chronic ailment was entitled to a full benefit as long as he or she was unable to find a commensurate job. This threw the gates of the disability program wide open …

Aarts et al. (1996) argue that, in the 1970s, demographic trends combined with changes in labour force participation rates — the entrance of the baby boom onto the job market and rising female labour force participation rates — led to disability policies being used “to achieve more general social policy goals, the most important being the attempt to lower unemployment by inducing older workers and less healthy workers out of the labor force” (p.2).

The situation in the Netherlands is, of course, quite different from the situation in British Columbia. The reason to discuss the Dutch system here is that it illustrates the substitution among programs that can occur if disability and unemployment policies are not kept separate. One result of that lack of separation is that individuals who would not be classified as “disabled” in British Columbia are receiving disability benefits in the Netherlands. This is not to say that the Dutch system is better or worse — though the system was radically reformed in 1994 and 1995 — only that the scope for overlap is quite large.
Workers’ Compensation and Health Insurance

The “Monday effect” is the name given to the observation, in the US, that a higher proportion of injuries resulting in workers’ compensation claims occur on Mondays and that, among injuries occurring on Monday, hard-to-observe injuries such as sprains and strains are more prevalent than on other days of the week.

In this section, we review two American studies of the “Monday effect.” The first is Smith’s 1989 work which brought the Monday effect to prominence and the second is a piece of David Card and Brian McCall which confirms the existence of the Monday effect but questions whether fraudulent reporting is the reason for its existence.

Smith (1989) used 1978-79 data from a number of US states. He shows (Table 5-2, p. 121) that on Mondays, a greater percentage of injuries were “strains and sprains” as compared to the proportion of such injuries on other days. The differences are not large but they are statistically significant. These data confirmed Smith’s general hypothesis that injuries “more susceptible of delayed treatment and concealment” would be more likely to be reported on Monday. One theoretical explanation would be that some workers suffering such injuries on the weekend would report them as work-related injuries on Monday in order to get access to the medical care and indemnity benefits available through workers’ compensation. The injuries would be reported on Monday rather than on other weekdays because Smith assumed the injuries were real and that the person would be in need of treatment. Smith concluded (p. 127) that “while the bad news is that there is strong circumstantial evidence to support the contention that workers’ compensation is paying for some off-the-job injuries, the good news is that the extent of misrepresentation appears relatively small — at least among the common, less expensive types of injuries.”

Card and McCall (1996), using data from the state of Minnesota in the period 1985-89, confirm (Table 1, p. 693) that the number of injuries occurring on Monday were disproportionately likely to be “sprains and strains.” Back injuries were even more disproportionately represented in the set of Monday injuries.

Card and McCall then tried to test the hypothesis that the over-reporting was particularly likely to occur among workers who had a lower-than-average probability of being covered by medical insurance. They found, contrary to their expectation, that the patterns of injury reporting was roughly the same for all workers, when the workers were classified according to the probability that they were covered by health insurance. Since access to free medical care would presumably be a powerful incentive to falsely report the origins of an injury, this finding casts doubt on the hypothesis that the Monday effect was caused by misrepresentation by workers. Card and McCall provide the tentative conclusion (p. 705) that “the interpretation of the ‘Monday effect’ in injury rates as evidence of fraudulent claim behavior may be inappropriate …” and that an “alternative explanation for the
Monday effect is that a higher fraction of strains, sprains and back injuries truly arise on Mondays, perhaps as a consequence of the return to work after a weekend hiatus."

We found no published studies of a Canadian “Monday effect.” However, a prime rationale for false reporting — the desire by workers without medical insurance to obtain free medical care — is unlikely to be relevant in Canada, where free universal health care is available to all. Our conversations with officials of the British Columbia workers’ compensation system generated two hypotheses about Monday effects (on the assumption that they exist). One is the Card and McCall hypothesis that the less observable injuries are more prevalent on Mondays because of the weekend hiatus; the other is the idea that there may be more injuries reported on Mondays because office staff may not work on weekends and Monday may therefore be the first chance that workers have to fill out the required paperwork for weekend injuries.

III.3 Deterrents to Filing Claims for Compensable Injuries

The workers' compensation system is seen by some as a cumbersome system that operates to keep people from making claims rather than supporting injured workers, as the original acts intended.\(^\text{26}\)

We now turn to the question of whether some workers are deterred from filing claims, even for injuries that are known to be compensable under current regulations. Based on our review of the scant literature in this area, we discuss three ways in which injured workers might be so deterred. One possibility is that some workers are pressured not to file claims, either by employers or by fellow workers. A second possibility considered here is that, for several reasons, physicians might not support legitimate claims. A final possibility that we consider is that the nature of workers’ compensation — and in particular the need to prove that disabilities occurred on the job and because of the job — leads either to the rejection of legitimate claims or to negative effects on the recovery process.\(^\text{27}\)

\(^{26}\) This theme comes across very strongly in testimony by workers in the hearings of the Royal Commission on Workers’ Compensation in Ontario in 1995. See http://www.ontla.on.ca/handsard/36_parl/sessio/cttee/resdev

\(^{27}\) Another method by which claims might be discouraged is extending the waiting period before claims can be filed. Some of the provinces in Canada have extended the waiting period and this change has apparently led to a reduction in compensation claims. In a study of work injuries, Statistics Canada (1995) reported that New Brunswick experienced a 15 per cent decrease in claims for workplace injuries and indicated that this decrease was “probably an after-effect of a program, which, in 1993, extended the waiting period from one day to three days before a worker is eligible for compensation.” Krueger (1990) also found a negative relationship between the length of the waiting period and the probability of filing a claim.

By increasing the waiting period, compensation for some job-related injuries will no longer be provided and the claims thus avoided might be therefore considered “underinsurance.”
Pressure not to file claims

Pressure not to file workers’ compensation claims for legitimate job-related injuries may arise from fellow workers or from workers’ fears of employer reprisals.

The incidence of employer reprisals for making compensation claims and the importance of the fear of reprisals as an inhibitor to filing claims are not well-documented. Nonetheless, concern over job security may create a disincentive to filing a claim, particularly for temporary injuries. This concern was clearly articulated to the Royal Commission on Workers’ Compensation in Ontario:

In my opinion the current economic climate has created a 'chilling effect' that pressures workers into remaining silent about the hazards and health problems they face out of fear of intimidation and unemployment.

In BC, the following testimony was heard (Submitter Summary #: D-UNA-006, May 14, 1997), from representatives of the BC Provincial Council of Carpenters, concerning the relationship between experience rating and the fear of reprisals:

The experience rated assessment system which ties claims costs to employer assessments is a strong motivator for employers to pursue claims suppression. This combined with lack of job security for construction workers increases the problem because to admit injury means losing one's job. This suppression takes the form of employers putting pressure on workers not to report injuries and workers lending themselves to this pressure.

Tarasuk and Eakin (1995), in a study of workers in Ontario who had taken time off work and claimed compensation for back injuries, found that the workers expressed concern about their job security. They write (1995, p. 211):

Some workers wondered if their jobs might be at risk simply because they had filed compensation claims: 'The people I work for don't like it when somebody goes on workers' compensation….I don't know, but I think maybe people will say, 'I don't need you anymore,' Comments such as, 'I've seen (my employers) get rid of people coming back from compensation before,' were echoed by several workers. According to one worker, the reason usually given for these layoffs was redundancy.'

Lessin (1997, p. 8) argues that, in the American context, "workers who complain about workplace safety/health hazards are frequently the targets of reprisals from employers,"

28 Brophy, (1995, p. 3)
and (Lessin, n.d., n.p.) writes that "[w]orkers who speak about health or safety concerns or refuse hazardous work have little or no protection against employer reprisal."

A variation on this theme arises in the context of US efforts to reward workers who have contributed to maintaining safe work environments. Proponents of this approach argue that it promotes safety by rewarding workers for good habits. Others have disputed this, however, arguing that the program actually has the effect of deterring workers from reporting work-related hazards and injuries. A study conducted by researchers at the University of Puget Sound and the University of Colorado investigated workplace safety in wood products mills. They concluded that there was substantial peer pressure on workers not to miss work due to accidents or injuries and that this led to serious under-reporting of the injury experience. ²⁹

_The role of physicians in the resolution of claims disputes_

When there is conflict over a claim, physicians sometimes play an important role in its resolution. The evidence that physicians supply, and their ability to provide it, might, in the opinion of some authors, lead to legitimate claims being denied.

For example, physicians are routinely called upon to act as witnesses for disease claims. This often places them in very uncomfortable positions, and requires time away from work without pay. According to Lax (1996, p. 81), these disincentives, both financial and non-financial, "…cause many physicians to make a work-related diagnosis only with great reluctance for fear of being pulled into the Workers' Compensation arena."

Ritzen and Rosenstock (1993, p. 31) identify another difficulty with using physicians to resolve conflicting claims about workplace injuries and diseases:

…physicians must understand the differences between legal and scientific probability. The legal test for probability is "more probable than not" or an over 50 percent likelihood that the outcome is work-related. This is also known as proof by a preponderance of evidence which is the standard of proof in the majority of civil cases. Physicians, whose standards of scientific certainty are often much higher, often do not appreciate that they may deem a disease occupational even when there remains much uncertainty (up to a 50 percent chance it is not occupational) about this judgement.

Lax (1996, p. 81) raises concern over inadequate medical training for physicians in the area of occupational diseases. Four hours was the average length of time spent on

²⁹ Lessin (1997, p. 12)
occupational diseases in American medical schools in 1980, and ten years later this average remained unchanged.\textsuperscript{30}

\textit{Standards of proof}

Terence Ison (1995) devotes considerable attention to the question of whether the existence of workers’ compensation has effects on the process by which workers recover from workplace injuries or diseases. He argues that for some workers, and especially for workers whose injuries involve occupational disease or which are less “objective” (for example, back injuries, chronic stress or repetitive strain), meeting standards of proof may slow down the process of healing.\textsuperscript{31}

One possibility is described as “compensation neurosis …the subconscious development, exaggeration or prolongation of disability symptoms because of some benefit or expectation.” In workers’ compensation cases, the “benefit or expectation” is monetary in nature, leading to a diagnosis of “monetary gain” as the reason for claims of injury that go beyond the discernable organic basis for the injury.

Ison believes that this aspect of the therapeutic impact of worker’ compensation is greatly exaggerated. He interprets the evidence that compensation recipients take longer than others to recover as evidence that: (a) excessive standards of proof can lead to extra stress which impedes the recovery process; or (b) that, holding the nature of the injury constant, those who incurred the injury on the job will be more cautious in declaring themselves “recovered” than those whose injury occurred off the job.

With reference to the first point, Ison believes that some physicians and some workers’ compensation authorities assume that the moral hazard discussed in the last section (of which “monetary gain” is a subconscious variant) is widespread and treat all claims as suspicious. That suspicion is understood by potential claimants whose injuries may be made more serious by the stress of having to prove that they are “really” disabled. In the context of bad back cases, Ison writes (p.73):

\begin{quote}
Conflict arises from the belief of the patient that the disability resulted from employment while a compensation board or its medical consultant attributes the disability to spondylosis or osteoarthritis. Because such an excruciating pain was never felt prior to an event in the course of
\end{quote}

\textsuperscript{30} Although he believes that improved medical training would assist in better diagnosing diseases, Lax maintains that there are many other economic, political and social factors that impose more significant constraints (Lax, 1996, p. 81).

\textsuperscript{31} We should note that Ison begins by writing about the \textit{positive} effect that compensation might have. He writes that “compensation and claims processing are not major influences on the course of a disability in most cases” (p. 61) and that “among workers’ compensation claimants whose disabilities are not disputable, the prompt commencement of compensation relieves the financial concerns that cause anxiety among others with similar disabilities” (p. 65).
employment, the patient now feels like the victim of injustice as well as a bad back. It should be no surprise if this creates or aggravates emotional problems.

The point here is that the standards of proof demanded by workers’ compensation systems — standards imposed to avoid fraudulent claims—may lead to higher medical costs than would exist if the standards were less strict. We cannot resolve the argument over whether the additional costs are the result of “compensation neurosis” on the part of some workers or whether the costs are the result of stress imposed by having to meet the standards. It is enough for our purposes here, however, to point to the possibility that standards of proof can impose costs beyond the workers’ compensation system itself.32

III.4 Errors and the Social Safety Net

The authors whose work is reviewed in the first and third parts of this section believe that significant numbers of occupational risks are not covered by the current workers’ compensation system and that the operation of the system leads to the denial of some legitimate claims. If so, other parts of the social safety net described in Section I might be called upon to provide support for injured workers.33

The potential existence of such erroneous denials or underinsurance leads to the following question. When injured workers cannot claim benefits from the workers’ compensation board, where do they go? A second question is how the existence of erroneous denials affects other programs.

Injured workers who cannot claim workers' compensation may be eligible for coverage by the Canada Pension Plan for Disabled Persons (CPPD). CPPD provides benefits to people who may have sustained their injuries outside of the workplace. In order to claim CPPD, workers must have worked for a minimum number of years, be between the ages of 18 and 65, and must have suffered injuries or disease that are severe and prolonged. “Severe” means that the condition prevents a worker from working regularly at a job and “prolonged” refers to a long-term condition.

32 Ison (1995) writes that the solution to these and other problems with workers’ compensation lies in moving to a comprehensive system of providing compensation to disabled people. In such a comprehensive system, the nature of the disability (rather than the cause of the disability) would be the most important factor. In a comprehensive system, the claimant would not have to prove that the disability resulted from a work-related injury, thus removing one level of proof. The nature and extent of the disability (as opposed to its cause) would presumably remain controversial.

33 Other work reviewed above suggests that workers’ compensation is supporting some workers who should be relying on other programs but we focus on erroneous denials here.
In a recent background paper on the CPP disability benefit, Human Resources Development Canada indicates (HRDC, 1996) that the formal research literature contains little discussion concerning the question of which programs should pay for which type of disability. It states (p. 50) that:

… a particularly interesting issue is the extent to which disability caused by work is paid for by specific industries or industrial sectors which are high risk through employer contributions to a Workers' Compensation Board, as opposed to paid for by the employers and employees generally through contributions to CPP.

The paper goes on to say that while no formal studies can be found on this topic, other research has indicated that "a substantial portion of disability caused by work is compensated by CPPD rather than by WCBs."

Another program that offers short term sickness benefits is Employment Insurance. Like CPPD, the provisions under this plan are not limited to sickness that has been incurred in the workplace. Benefits are available to persons who are sick, injured or in quarantine. They are paid for up to sixteen weeks if a person had logged 700 hours of insurable employment over the past 52 weeks or since the start of the last EI claim. An injured worker who cannot claim workers’ compensation benefits may be able to collect EI if these criteria are met. The amount and duration of the benefit are, however, less than what can be claimed through the workers’ compensation system. An injured worker who is claiming workers’ compensation can also receive some benefits from EI but, depending on the type of benefit received, some of this may be treated as earnings.

In summary, injured workers who are not able to collect workers’ compensation benefits may be able to receive benefits from other government programs. In general, however, these programs pay less and are more restrictive. Many workplace accidents are temporary disabilities, and in these instances these other programs would not be available.

Workers with permanent but partial disabilities who have been denied compensation claims may not be eligible for CPP and may soon exhaust EI benefits. As a result, they may suffer permanent and uncompensated income losses.

Injured workers, particularly those with temporary disabilities, often use private sickness benefit plans. Workers resort to these plans partly because it avoids the complications of dealing with the workers’ compensation system and partly because employers encourage them to do so. By using private sickness and benefit systems, injured workers generally collect fewer benefits than if they were on workers’ compensation. Moreover there are time limits on how long benefits can be collected and these plans do not typically cover

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health costs. What this means is that health costs are covered by the government-funded health insurance and ultimately the taxpayer, and not by the employer.

Injured workers who run out of benefits or who are not eligible for any of the programs can resort to social assistance. Again, this system is subsidized by the taxpayers, not the employer. In recent years, it has become more difficult for injured workers to collect benefits, even from the programs of "last resort." In Ontario, for example, recent changes to social assistance legislation have restricted the definition of "disability."

III.5 Summary

Ideally, a workers’ compensation system would insure workers against all health and safety risks arising from their paid employment. Like all insurance schemes, however, the creation of such a hypothetical “ideal” system of workers’ compensation would face a number of challenges.

The first is whether “all risks” can, in fact, be covered by an insurance scheme that is constructed in the same way as a private insurance plan. Moreover, since we know private insurance cannot profitably cover “all risks,” it is not clear that a private insurance scheme could insure against risks of the magnitude now under discussion.

The second problem is the moral hazard that is created by the incentives to file workers’ compensation claims for injuries that did not occur on the job or that did not occur at all. A related moral hazard is the incentive to extend receipt of workers’ compensation benefits beyond the medically necessary recovery period. Our review of the literature suggests that these incentives are at work in creating a relationship between the level of benefits provided by workers’ compensation and the number of injury claims and the duration of recovery periods.

Because of the changing nature of occupational injury and our greater knowledge of how paid employment affect the health of workers, the current workers’ compensation system does not insure workers against “all risks.” Since workers’ compensation systems now operate within a set of social programs, the failure of workers’ compensation to cover all risks imposes costs on the other social programs. They must provide medical care, rehabilitation services and income support to workers whose disabilities are wholly or partly the result of occupational conditions. On the other hand, in cases where workers are successful in claiming workers’ compensation benefits for injuries or diseases that are not the result of occupational conditions, the other social programs may benefit by not having to provide medical costs or income support.
IV. Workers’ Compensation and the Broader Economy

The previous section dealt with the interaction between the workers’ compensation system and other social programs. The workers’ compensation system may also interact with aspects of the economy beyond other social programs.

One potentially important effect of the workers’ compensation system on the broader economy may occur when a system runs up large “unfunded liabilities” (as Ontario has done in recent years). An unfunded liability exists whenever the current assets of the system are less than the present value of its expected future obligations. When current assets (plus expected future returns on those assets) are sufficient to meet expected future obligations, the system is said to be “fully funded.”

Historically, workers’ compensation systems in Canada have been operated, in principle, as if they were intended to be fully funded. Like private insurance plans, they were to have sufficient reserves to meet all future obligations. Nonetheless, most provincial workers’ compensation systems have experienced periods during which substantial unfunded liabilities existed. In Ontario, these unfunded liabilities are now quite large. According to Gunderson and Hyatt (1996, p.1):

…if the Ontario Workers’ Compensation Board had been required to discharge all of its liabilities at the end of 1995, $10.9 billion of funds from other sources than Board assets would have to be found.

In British Columbia, the unfunded liability at the end of 1996 was about $324 million.

“Full funding” is not, however, the only way to pay for workers’ compensation. If “full funding” is one pole of the spectrum of available financing options, the other pole is “current cost” or “pay-as-you-go” financing, in which the benefits to be paid out in any given time period are financed by revenues raised in that same time period.

The current BC workers’ compensation system operates between these two poles, collecting substantial revenues in anticipation of future obligations but not requiring that the system be fully funded. The question at hand is whether the existence and size of such unfunded liabilities has any effects on other parts of the economy.

Equity Issues

In a fully-funded insurance plan, an industrial accident would trigger the creation of a reserve fund sufficient to fund the current and future payments due to the injured worker. If the system is set up so each employer pays the full cost of all accidents occurring among

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35 Indeed, Alberta now has a law that prohibits its workers’ compensation system from having unfunded liabilities.
its employees, each employer would immediately pay an amount sufficient to fund the future benefits. This situation is also called perfect experience-rating, since the rate paid by each employer is an exact function of the accident experience of their workers.

If the system is not fully-funded, however, then employers will not pay the full cost of all future benefits when the accident occurs. Since some employers will go out of business over time, it is possible that they will no longer exist when the time comes to raise the revenues that were not set aside at the time of the accident. The obligations of the now-vanished “responsible” employer will have to be taken up by some other party. One method for reducing unfunded liabilities is to impose further assessments on existing firms.\(^{36}\)

If, as many believe, the burden of assessments initially carried by employers is eventually shouldered by the firms’ employees, in the form of lower wages, then costs that should have been paid by the employees of one firm now must be paid by the employees of other firms.

As Gunderson and Hyatt write (p. 5):

\[
\text{…the liabilities of employers who have not had to pay the full cost of accidents as they occur, and who subsequently go out of business, effectively shift these costs to future employers who, in turn, pass at least part of the cost on to future workers in the form of lower wages.}
\]

This raises the issue of “generational equity” that has also arisen in pension policy debates. There the issue is whether future workers should be asked to pay for the old age pensions of current workers, given that current workers are not now setting aside enough to fund those pensions themselves. It seems inequitable for future workers to be forced to reduce their own standard of living in order to pay benefits to a previous generation that was unwilling to save enough to pay for itself. Analogously, why should a future generation of workers pay for accidents that happened “on the watch” of a previous generation?

The unfunded liabilities need not be met by increased assessment on firms (and thus, in part, on workers). Several other options are possible, including paying injured workers out of general tax revenues or reducing the benefits available to those working when the shortfall occurs.

**Efficiency Issues**

The efficiency issue seems to revolve around the fact, if a system is not fully funded, then current employers are not paying the full costs of the accidents that occur among their

\[^{36}\text{If new firms anticipate having to pay the obligations incurred by past firms, one fear is that new firms either will be deterred from beginning operations or be led to locate in other provinces.}\]
employees. If employers do not pay the full costs — that is, if experience-rating is not perfect — some believe that firms will not put enough resources into accident prevention. Gunderson and Hyatt (p.3) write:

If employers are not paying the full cost of injuries, then the incentive to reduce their incidence and severity is diminished.

The idea that the level of assessment is related to the efforts of employers to reduce occupational hazards is controversial. On theoretical grounds, the relationship is ambiguous, depending on whether or not workers receive higher pay in riskier occupations (that is, the extent to which compensating wage differentials exist) and whether or not experience-rating is perfect. Depending on those two factors, greater assessments could lead to higher or lower injury rates. Thus, the nature of the incentive to reduce the incidence of injuries and whether or not employers pay the full cost of injuries becomes an empirical issue rather than a theoretical one.

Empirical investigations are hampered by the difficulty of correctly measuring the injury rate (especially as the nature of occupational injury has shifted away from discrete measurable event and toward slowly developing occupational diseases and toxic exposures). In addition, the data measure claims for injury, not injuries themselves, and, as is evident in Section III, the difference between the two may be substantial. Perhaps as a result, the empirical literature is far less solid than we might like.

Who Pays Workers’ Compensation Premiums?

Changes in the level of workers’ compensation premiums can occur for several reasons. For example, the unfunded liabilities discussed above might be funded by increasing current premium levels (as has happened already in Ontario). Premiums might also rise because new occupational diseases or new toxic exposures are identified and deemed to fall within the scope of workers’ compensation. Premiums might fall because of a shift in the use of high-risk methods of production toward the use of lower-risk methods.

The Royal Commission has heard testimony from employers concerning the negative effects of workers’ compensation premiums on their economic competitiveness. Workers’ compensation premiums are paid, in the first instance, by employers. The amount to be paid is calculated as a percentage of each employer’s payroll. Thus the premiums are a form of payroll tax. Employers apparently believe that the premium payments represent a cost of production above and beyond what they would otherwise pay.

The employers’ claim — that the premiums, in their entirety, represent an additional cost of doing business that they alone bear — represents an extreme opinion on the question of

37 The percentage of payroll that each employer must pay varies by industry. The overall average was 2.28% in 1997.
who ultimately pays payroll taxes. The other extreme is the view of many economists that, in the long-run, payroll taxes are really paid entirely by workers in the form of lower real wages. In that case, the competitiveness of the employers is not affected by payroll taxes since their costs are not higher than they otherwise would be.

There is agreement, however, that: (a) employers pay the tax in the short-run; and (b) that when premium increases occur, the process of moving from the short-run situation to the long-run situation (whatever it may be) will involve short-run unemployment and output reduction.

The key to the economists’ argument is the possibility that the long-run supply curve of labour is perfectly inelastic so that reductions in the demand for labour must ultimately lead to lower real wages. Dungan (1997, p. 6) writes:

> In the macroeconometric models used in the present study, we have not found that labour force participation depends on the real wage at all (i.e. our labour supply measure is perfectly inelastic). We therefore know in advance that model results will show a zero long-run impact of a payroll tax change on employment; the incidence of the tax will be shifted fully to labour in the form of real wage reductions.

Despite his use of a model in which payroll taxes are entirely borne by workers, Dungan reviews recent evidence from several economic studies that that payroll taxes may in fact lead to reduced employment and reduced output in the long run. These studies fall between the two extremes because they suggest that some of the burden of the payroll tax may fall on employers, reducing employment and output.

The argument thus far has been about general payroll taxes (like Employment Insurance premiums) which are levied at a constant rate across all employers. Workers’ compensation premiums, however, are an example of what Vaillancourt and Marceau (p. 176) call “firm-specific” payroll taxes. These are payroll taxes that “are not levied at a uniform rate but vary between employers according to the behaviour … of the employer or of their industry.”

The effect of firm-specific payroll taxes may differ from that of general payroll taxes for at least two reasons. First, employers pay workers’ compensation premiums in order to fund a no-fault insurance plan that covers workplace accidents. If there were no premiums (and therefore no workers’ compensation insurance), employers would be liable for damages paid to workers who successfully demonstrated, in a court of law, that the employers’ negligence had led to a workplace accident. This means that workers’ compensation premiums are not an additional cost of doing business but simply a different method of paying for compensation that would have to be paid in any case. If higher premiums reflect higher employer liability, it is the greater liability, not the greater premium that is raising the cost of doing business.
Second, Vaillancourt and Marceau (1994) argue that while general payroll taxes will be passed through to workers, firm-specific taxes that reflect higher risk will lead workers to demand higher wages, reducing the supply of labour at any given wage rate. They give the example (p. 176) that:

\[ \ldots \text{an increase in the risk of accidents in an industry will lead to an increase in the payroll tax levied by the relevant workers’ compensation board that should result in a downward pressure on wages. It will also lead, however, to an upward pressure on wages due to the increase in the risk premium paid to employees. As a result, the impact on wages and, thus, the empirical incidence of the payroll tax, is indeterminate.} \]

In the case described by Vaillancourt and Marceau, employers may end up paying higher wages (and higher unemployment and lower output may result) but the reason is the increased risk borne by their workers (not the payroll tax).

Both of these differences between the effects of firm-specific and general payroll taxes apply to the situation in which premiums rise because the underlying risks of workplace accidents have changed (as would be true if new occupational diseases or new toxic exposures came to be covered by workers’ compensation). However, if the change in premium levels was the result only of an effort to fund the unfunded liabilities incurred by past accidents, with no change in the underlying risks, then workers’ compensation premiums would operate in much the same way as general payroll taxes.

To summarize this section, the strongest case in support of the employers’ belief that workers’ compensation premiums impair their competitiveness comes from: (a) recent studies that suggest that employers bear part of the cost of premium increases; and (b) the assumption that premium increases, when they occur, do not reflect increases in the underlying risk of working in the industry in question. The strongest case against the employers’ position comes from: (a) the traditional argument by economists that the long-run impact of payroll taxes falls on workers, implying that the costs to employers are unchanged; and (b) the assumption that increases in premiums reflect increases in the risk of workplace accidents, occupational diseases or toxic exposures.

Whatever one’s beliefs about the long-run impact of changes in payroll taxes, there is general agreement that there will be short-run costs generated by the transfer of the incidence from employers, who actually pay the tax in the first instance, to workers who ultimately pay the tax through having to accept lower wages. Dungan (1997) uses a simulation based on a macroeconometric model to estimate the extent of these short-run losses and the length of time needed before the tax is transferred onto workers. Using his model (in which all payroll taxes are eventually borne by workers and in which workers’ compensation premiums are assumed to act in the same way as general payroll taxes), Dungan finds:
The short run disruptions [from changes in payroll taxes] are indeed large, compared to changes in income taxes or benefit payments, and that the short-term is not particularly short, lasting for several years.

The extent to which workers are insured against workplace accidents is a political choice. For example, if a government decided to require insurance against a much wider range of hazards than are now covered (and assuming the structure of the compensation system were left unchanged), workers’ compensation premiums would have to be higher. The economy would bear the short-term costs of the premium increase. Moreover, if employers ended up paying more in wages and premiums than they previously did, their long-run competitiveness would be impaired. In deciding on premium levels, governments must therefore consider not only the benefits of wider coverage but also the costs of that wider coverage.

V. Options for Reform

In this section, we turn to options for reform. The literature reviewed in the previous sections has established (subject to the caveat that the existing research is neither voluminous nor entirely convincing) that there may be a need for such reform for any of a number of reasons including:

- workers may be inadequately insured against some types of workplace hazard that have become more common or better understood in recent decades;
- workers’ compensation now interacts quite closely with a network of other social programs so that the characteristics of those other programs must be taken into account in designing or operating workers’ compensation, and vice-versa
- the methods by which workers’ compensation is financed may affect macroeconomic aggregates such as output, employment and real wages

Among the many possible options for reform, we discuss three. The first, and most important, option is to bring the workers’ compensation system into an accountability framework that will expose its workings to greater public oversight. The second option is for the workers’ compensation system to pursue opportunities to become better integrated with other social programs in delivering services. We briefly discuss several different ways of achieving greater co-operation including: (1) consideration of proposals to create large areas in which workers’ compensation is co-ordinated with other disability programs; (2) service co-ordination in particular areas such as employability assistance; and (3) greater administrative co-ordination that does not change the basic nature of workers’ compensation in any dramatic way. The third option is more straightforward. As we have noted at several places in this report, the available research falls short of that necessary to understand the workings of the workers’ compensation system or its connections to other parts of the economy. More and better research is needed before any intelligent reform can be undertaken and one option is to undertake the needed research.
Accountability

The review presented in the previous sections of this report has implications for the way the BC workers’ compensation system should be held accountable to the citizens of British Columbia. In this subsection, we expand on conventional notions of accountability for the BC public sector by presenting a conceptual framework for defining and reporting on social policy performance. We use the idea of the policy sector as a level of governing for which to hold the state accountable. In particular, this section deals with government accountability in the provision of social support to those in need, and the manner in which the workers’ compensation system fits into this broader concept and method of accountability.

The goal of providing a social safety net

For many decades now, governments at both federal and provincial levels, of all political persuasions, have expressed a commitment to providing a social safety net or system of social and economic security to the general population, a welfare state if you will. The term “welfare state” represents the institutionalization of a set of minimum social standards for the community. As a normative ideal, the concept of the welfare state projects a set of beliefs and expectations of what the social role of government ought to be, and what the quality of life might be in society. It implies the acceptance of a substantial degree of government responsibility for meeting a range of basic needs through income support, health care, social services, and education. The BC government spends seventy-five cents of every program dollar in the provincial budget on these functions. Beyond these major activities, social policy in BC also encompasses matters of aboriginal affairs, human rights, justice, corrections and policing, recreation, sports, tourism and leisure, the arts, multiculturalism, consumer protection, immigration, women’s equality, employment and the labour market, and housing.

Public expressions of governments' commitment to providing a social safety net is found in a number of sources. These include federal and provincial legislation and regulations, intergovernmental communiqués and memoranda of understanding, Throne speeches and budget speeches, ministerial statements and annual reports, and responses to Royal commission and task force reports.

In 1994, a Premier's Forum on New Opportunities for Working and Living was established by then Premier Mike Harcourt to provide the government with guidance on renewing BC's social policies. The exercise was supported by a small group of officials within a Social Program Renewal Secretariat. The forum was composed of thirty-three appointees who met from mid-1994 to early 1995. Their task was to consider how social programs could remain relevant, compassionate, and affordable. Their purview was wide and included pensions, health care, income assistance, child care, education and skills training.

The forum published a series of background papers and produced a report, *Opportunities for Renewal*, which was released in April 1995. This report noted that in contemplating the future of BC's social safety net, the provincial government had three basic choices: maintain the existing welfare system, make across-the-board cuts to programs and renew the safety net. The Harcourt government adopted the third approach of renewing the safety net. In the words of a government document:

British Columbians understand the need for a social safety net that's fair, provides basic financial support, and encourages people to get back into the work force.

The vast majority of British Columbians support income assistance programs that help people get back on their feet. They want a system that focusses on moving welfare recipients into jobs - one that cracks down hard on fraud and abuse, so assistance is provided only to those who really need it.

They don't expect government to create jobs - that's the role of the business sector. They do expect government to work in partnership with others to make sure people have the tools they need to improve their own lives. The existing welfare system simply isn't able to fulfil this task.

Renewing our safety net will help working families succeed. It will focus on young people and working-age British Columbians - giving them the chance to learn useful skills and put them to use in decent jobs. And it will support people in their efforts to achieve the greatest degree of independence they can.

A companion message from Premier Glen Clark states, "my government has chosen to renew our social safety net. This new approach - BC Benefits [introduced in July 1996] - puts jobs and self-reliance ahead of handouts and dependency." The Premier goes on to describe the BC Benefits programs as a way to help people move from welfare to work, to keep the social safety net affordable, and to modernize a system developed over 60 years ago for a very different economy and society. The Ministry of Human Resources describes the intention of BC Benefits being "to ensure that every British Columbian has the opportunity to move to economic security and live with dignity."

Over the 1991 to 1998 period of NDP governing, the recurring dominant policy priorities as evident in throne and budget speeches are, in order of importance, protecting and creating jobs; the maintenance of quality health care and education systems; responsible fiscal management; and, fair taxation and tax relief. These themes all are central to social policy. The regular and high profile official expressions of such commitments, symbolically and substantively, to core social programs are designed to offer reassurance to the general public as well as supporters of the government party. These value commitments and

39 See Prince (1996) for a listing of these reports.

related allocations of resources are also part of the "social contract" between a
government and citizens.

The nature of accountability

Accountability is the obligation to disclose, on a periodic basis, relevant and complete
information on the exercise of authorities, responsibilities and resources which have been
conferred.

"Historically," as the Auditor General of BC observes, “governments have reported on
financial accountability, including compliance with spending authorities. This information
continues to be important, particularly given concerns about the debt and deficit, but
government is responsible for much more. It has an obligation to make program choices
and deliver these programs and services in the best interests of its citizens. These decisions
go beyond financial considerations to include issues such as fairness and equity.”

What a government is therefore accountable for has been widening in recent decades, from
financial inputs and probity, to include efficiency and economy, to the current emphasis on
program results and effectiveness. To quote the Auditor General again: "the citizens who
support or use these programs want to know that government is actually achieving what it
intended to; that money is being spent wisely; that they are getting value for their tax
dollars; and that government is conducting its business in a fair, legal, and ethical way.”

In 1995, the Accountability for Performance Initiative (API) was launched in the BC
public service. The API focuses on program accountability and results-oriented
management within individual line ministries and some crown agencies. The link to the
legislature is limited to reports going to just one committee, the Select Standing
Committee on Public Accounts. A 1997 progress report on the AIP commented on the
lack of sustained political leadership on the reform, due in part no doubt to a provincial
election in 1996, changes in cabinet, and the fiscal pressures of budget deficits; the
relatively weak link to the legislative assembly; and, the modest progress on public
reporting of performance information. Furthermore, work needs to be done on
strengthening the accountability link between the government and the legislative assembly
and, in turn, the public.

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41 British Columbia, Auditor General of BC (1995, p. 32)

42 Ibid., p. 33.

The social policy sector as a level of governing and accountability framework

A policy sector is a designated area of activity, usually within a particular jurisdiction, within which a number of goals, policies, programs, employees and clients operate, and for which a government is responsible to the legislature and public. Like the sector of a circle in geometry, a policy sector in government goes from the centre of programs and services, to the outer edge of government priorities and societal goals and values. The social policy sector is a distinct segment of the circle of governing, and a cross-government approach to achieving and co-ordinating objectives.

In organizational terms, the social policy sector in the federal government and most provincial governments includes a Cabinet committee, a similar committee at the senior level within the public service bureaucracy, and one or more standing committees of the legislature. In the present Executive Council of the BC government, the following ministries could be regarded as comprising the social policy sector: Aboriginal Affairs and Labour; Education, Training and Technology, with responsibility for Intergovernmental Relations; Attorney General, with responsibility for Multiculturalism, Human Rights and Immigration; Children and Families; Education; Health, with responsibility for Seniors; Human Resources; and Women's Equality.

Conceptually, the policy sector is a distinct level of accountability in Canadian parliamentary government. It lies between the macro levels of societal and government-wide accountability above, and the micro levels of corporate management in individual organizations and program accountability below. Thus, sectoral accountability should reflect broad societal goals and a government's strategic plan, and be represented in corporate objectives of ministries and, at the operational level, in the delivery of programs and services.

Why have this sectoral level of accountability for a government? We suggest five reasons. First, most contemporary public issues and policy goals cross cabinet portfolios, requiring the mobilization and co-ordination of various programs. As noted above, social policy in the current BC Cabinet involves at least eight of the 19 ministers. Second, since the BC government has made a commitment to providing a renewed and modernized social safety net, then the government must be held accountable for that promise. If the Workers’ Compensation Board, for example, is a weak strand in the safety net, or if it is structured so that individuals and families can fall through the network of programs, then government must be held accountable for those weaknesses. Any responsible government wants to ensure that benefits are paid for bona fide claims so that injured workers are not denied benefits to which they are rightfully entitled. In addition, responsible governments want to be assured that erroneous approvals of program benefits are prevented. Third, sectoral accountability relates to, and reinforces the collective responsibility of cabinet ministers for government-wide priorities and policies. It would enhance the accounting of the performance of social policy writ large to the legislative assembly. Certainly it is in a government's interest to see whether and how costs and benefits are transferred or imposed from one program to others. Fourth, the public does not experience the effects of
government one policy or agency at a time but rather - in their simultaneous roles as citizens, workers or employers, taxpayers and clients - in clusters or sectors. Finally, sectoral reporting can be a useful and popular way to inform the public and the media of the issues and trends, and the governmental goals and results, in a policy field. In this case, these would include the changing nature of occupational injuries, stresses and diseases, labour force trends and related economic indicators.

In a sectoral accountability framework for BC social policy, a designated group of cabinet ministers comprising a social policy committee would be accountable to the Premier and whole Executive Council, which would be accountable to the legislative assembly. The leadership and support for this kind of accountability initiative needs to come from senior politicians. There could also be a standing committee of the legislature established for receiving and reviewing social policy sectoral reports, and for enabling the public, professional associations and interest groups to be consulted and heard.

The government would be accountable for reporting in a systematic and public way on its social goals and priorities, resource allocation and program design choices, and actual results whether intended or not. In short, the accountability is for reporting on the extent to which, and nature of the social safety net working. The government's accountability is for ensuring that social programs are designed such that people do not "fall between the cracks" and that incentives are not created to use resources to shift the costs and administrative burden of claims between programs.

On the kinds of information on sectoral performance to be reported, the government should say whether the social policy sector is relevant, coherent, congruent, compatible and sustainable. Relevancy refers to the extent to which the sector is dealing with the needs and concerns of most interest and concern to the public. Coherency deals with the internal logic of the policy sector and the unity of its many parts. Congruency is concerned with the fit between the sector and the overall strategic goals and priorities of the government. Compatibility refers to the accordance between the social policy sector and other key sectors such as for economic policy. Sustainability addresses the maintenance of the sector and the issues of cost control, demands and prevention. These kinds of information on the social policy sector's performance might be produced annually and presented to the legislature, a standing committee on social policy and to a range of stakeholders in the community.
The current state of the accountability of the BC Workers’ Compensation Board to the government and legislature is undergoing change, but remains inadequate in a number of ways. In this, the BC board is similar to most other boards across Canada. There is a case for placing the Workers’ Compensation Board within a general sectoral accountability system for social policy in the province.

In 1995, the BC government asserted greater control vis-a-vis the Workers’ Compensation Board. The Board of Governors of the Workers’ Compensation Board was replaced by a Panel of Administrators (note the significance of the change in nomenclature from governors to administrators). The Panel was appointed by the provincial cabinet. The cabinet also determined the length of terms for the administrators and designated the chair of the panel. In 1996, a strategic plan was endorsed, setting out four objectives for the workers’ compensation system, with progress to be tracked in annual reports. A Policy and Regulation Development Bureau has been created to assist the Panel of Administrators develop policies and rules consistent with their legislative mandate and the public interest.

The legislation for the Workers’ Compensation Board in BC still lacks provisions setting out accountability and reporting relationships of the board to the responsible minister, the cabinet or the legislature. While some administrative inventories have been done of certain board programs, there is no formal performance evaluation system. Nor is there a systematic and mandated review process of the occupational health and safety regulations and statutory provisions.

To be sure, the workers’ compensation system in BC is “in a crowded arena of overlapping programs.” As an organization, and as a social program, however, the Workers’ Compensation Board gets lost in the crowd, in the sense that the board asserts its independence from the rest of government and policy, and in the sense, too, that governments have been content to keep some public distance from the board so as to avoid the controversies inherent in the field of workers’ compensation.

Nonetheless, governments do intervene in the operations of the Workers’ Compensation Board through political appointments or by ensuring that assessment rates for employers are not increased even if it might be financially prudent for the board to do so. At the same time, there are judgement calls about the occupational risks for which the system should be compensating as the nature of work and the workplace evolves. These are at root

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45 In the same year, the Alberta government amended their legislation granting greater independence of their WCB from the province. In Ontario, however, like BC, legislation in effect as of 1998 asserts greater government control over their system.
political choices but at present are decided by administrative officials rather than by elected officials. In short, the Workers’ Compensation Board currently exists within an accountability framework that enables provincial governments to sidestep the "hot" issues of compensation policy.

The Royal Commission, in its first report to cabinet in November 1997, called for a separate Occupational Health and Safety law under which the promulgation of regulations would shift from the Workers’ Compensation Board to the provincial government. The Commissioners also recommended that an ongoing regulatory review process be established that would operate on a three year cycle and would involve a wider range of stakeholders. The responsibility for the review process would be placed with the Minister of Labour rather than the Workers’ Compensation Board. "As the elected representatives of the people, government, not the Workers’ Compensation Board, should define the social policy objectives associated with prevention and occupational health and safety issues," stated Commission Chair Judge Gurmail Singh Gill. "In addition the legislation should provide directives and guidance to the Workers’ Compensation Board on how to achieve those objectives. As it stands now, the Workers’ Compensation Board not only sets the agenda and objectives, it also develops and implements the regulations."46

Beyond these fundamentally important democratic arguments, there are other economic and policy reasons for placing the Workers’ Compensation Board within a sectoral accountability framework of social policy. As the preceding sections make clear, the workers’ compensation system interacts with the BC economy and its labour force. The board is involved in the rehabilitation and return-to-work of injured workers; the promotion of safe and secure workplaces; and will finance the modification of workplaces and support the graduated return to work of workers.

For enhancing the accountability of the provincial government to the public for the state of
the social safety net, we are sympathetic to a number of the recommendations of the BC
Select Standing Committee on Public Accounts, issued in 1996. That Committee
recommended that the BC government:

- pursue ways of providing information on a sectoral basis;
- consider how it could best provide information to users of government programs and
  services with respect to the standards of services it intends to deliver;
- realign the system of Select Standing Committees to provide for new sectoral
  Committees of the Legislative Assembly to consider government ministry and Crown
  corporation programs by sector;
- establish these Select Committees for the duration of a Parliament with the ability to
  meet between sessions; and,
- publicly provide on a timely basis to the House and to the appropriate Select
  Committees the short and long term plans of ministries and Crown corporations,
  including their respective programs and past performance.

These proposals address many of the bigger questions of responsible government and a
more effective legislature.

At present, the BC Legislative Assembly has 14 Select Standing Committees plus three
Special Committees. One of these, the Standing Committee on Health and Social Services,
perhaps reconstituted, could serve as the basis of a sectoral approach to accountability of
the BC social policy network including the Workers’ Compensation Board. Currently this
committee meets infrequently and has a limited mandate.

In making further improvements to the accountability of the Ontario Workers’
Compensation Board, the new Workplace Safety and Insurance Act in Ontario offers a
relatively comprehensive list of reform options. These options include:

- the Board and Minister responsible must enter into a Memorandum of Understanding
  every five years;
- every year the Board must prepare and submit to the Minister a strategic plan, a
  statement of administrative priorities and a statement of investment policies and goals;
- the Minister can also issue policy directions on any matters dealing with the Board’s
  mandate;
- the accounts of the Board are to be audited by the Provincial Auditor or an auditor
  appointed by the government;
- each year the Board must undertake an evaluation of at least one program, which the
  Minister may choose, performed under the direction of the Provincial Auditor; and,
- the Board must submit an annual report on its activities to the Minister which is also
  tabled in the Legislative Assembly.

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47 These are summarized in a report by the Office of the Auditor General of BC. See
In Manitoba, both the annual reports and the five year plan are tabled in the Legislative Assembly and referred to a standing committee. This option could be tied to the ideas raised above with respect to the Standing Committee on Health and Social Services.

Another possible reform would be to follow the practice in Québec and Newfoundland, where two Assistant Deputy Ministers sit on the Workers’ Compensation Board as non-voting members. This provides a direct link between the Board and key social policy departments in those provincial governments. This would dispel the myth that the government is at a distance from the operations and strategic decisions of the board.

A less visible and "softer" option would be to have the chair of the Workers’ Compensation Board report to the provincial cabinet, when requested, on matters relating to administration, financial status and other activities.

A short-term reform option would be to have the BC Workers’ Compensation Board provide performance information to legislators, business and labour stakeholders, and the general public. This information could be extracted from the board's business plan and might include: a brief description of its mission; a summary of its major goals for the year; a selection of the board's major performance measures showing actual performance for the previous year, estimated performance for the current year and performance targets for the next year; and, an explanation of any significant difference between actual performance and targets. It would be helpful and necessary to go beyond statistical measures and report outcomes.

**The integration of workers’ compensation with other social programs**

A number of authors have advocated the integration of workers’ compensation into a broader, better organized, disability system. Such a system would help people with disabilities deal with the *consequences* of their disabilities without distinguishing among them according to the *causes* of their disabilities. Of plans to create more integrated systems, Lampman and Hutchens (1988, p. 183) write:

> The main argument for such plans is that they would eliminate the distinction between occupational and nonoccupational disability. Proponents claim that the distinction is untenable because the problems disability causes as regards economic security are the same regardless of whether that disability arises on or off the job. Moreover, they claim that because the distinction is fraught with ambiguity, it leads to needless litigation and costly administration.

The plans for greater integration have disadvantages as well. Workers’ compensation, in general, provides more generous benefits than other disability programs. Moreover, permanent partial disabilities are compensated by workers’ compensation in some jurisdiction while the other programs do not generally provide income support for such
disabilities. Harmonizing the level of benefits across programs would either be extremely costly, extremely controversial or both.

Perhaps more importantly, workers’ compensation has a particular strong constituency in the form of employer and worker groups. The strength of the employer-worker constituency may be the result of the protracted debate (and eventual compromise) from which workers’ compensation insurance emerged and the long-term, on-going relationship that the operation of the system has required. In any case, other parts of the social safety net lack such powerful patrons. By combining workers’ compensation with the other programs, the support for one group of people with disabilities might be lost.

Doing justice to the case for and against the integration of workers’ compensation into a comprehensive system of support for people with disabilities lies well beyond the scope of this report. Regardless of the potential advantages and disadvantages of large-scale integration, the research that we have reviewed does not provide enough evidence to support any dramatic policy changes.

Co-operation with other social programs in service delivery

A more modest kind of integration could be accomplished if the workers’ compensation system worked with other social programs to deliver services that were required by people with disabilities, regardless of the social program in which they were participating. Such cross-program initiatives require the active and enthusiastic participation of the programs themselves and one option would be for the workers’ compensation system to participate in that way.

One area in which such common, or at least co-ordinated, service delivery would be especially relevant is in the area of employability assistance. Almost all social programs in Canada have tried, in recent years, to move from the passive provision of income support to “active labour market policies” which encourage program participants who are able to work to find paid work.

Recently, the Ministers Responsible for Social Services, working as part of the on-going Social Union discussions, proposed a framework for providing (and funding) employability assistance for people with disabilities. The objective of their framework is “to respond to the needs of people with disabilities to overcome barriers to employment” by providing funding “to enhance the economic participation of working age adults with disabilities in the labour market by helping them to prepare for, attain and retain employment.”

The group in need of employability assistance is the “one million adults with disabilities in Canada [who] are currently unemployed or remain out of the labour force.” These one

48 See http://socialunion.gc.ca/pwd/multi_e.html.
million Canadians may be served by any number of the existing federal and provincial programs but their need for employability assistance cuts across those programs. An explicit goal of the Social Union discussions is to better co-ordinate the provision of services such as employability assistance. Since workers’ compensation has been quite active in seeking vocational rehabilitation for its beneficiaries (and especially for those with permanent partial disabilities) this is an area where its active and enthusiastic participation might be especially valuable.

Another area in which fruitful co-operation might be achieved is in the medical services provided by BC workers’ compensation and by the BC Medical Services Plan. Potential kinds of integration between the MSP and WCB include claims processing, utilization review programs, data bases and data handling. Perhaps the ultimate form of integration would be the consolidation of health care for all injuries and illnesses under the Ministry of Health.

**Administrative Harmonization**

Even more modest efforts at integration could be undertaken. Acknowledging that clients can, and do, move among the various social programs, the workers’ compensation system could participate in a harmonization of administrative procedures, thus lowering the probability that individuals fall through the gaps in the social safety net.

**More and Better Research**

Perhaps one of the most striking challenges in preparing this report has been the absence of solid research. There very little written on the topic of workers' compensation in relation to the welfare state. Even had we been asked to undertake primary research, it seems that there is very little available and relevant data. For example, we do not know how many people have had to resort to social assistance or CPPD after having been denied workers’ compensation, even though that information should, in principle, be available. In order to understand how workers’ compensation fits in with the other social security programs, these data must be made available and analyzed.

Moreover, as we wrote this report, we heard a number of anecdotes concerning various aspects of workers’ compensation and its relationship to other programs. We have tried, in this report, to limit ourselves to published research and thus have not included any such anecdotes. We do not doubt, however, that some of these anecdotes might prove to reflect more systematic relationships if they were further investigated. This suggests an even stronger need for more primary research into this topic.

A comprehensive, empirical study of the entire social security system and how it interrelates, we believe, is warranted. Such a study would move beyond the interaction of workers’ compensation with other social programs. It would require a detailed investigation of each program, its funding structure, administrative structures as well as an
analysis of the beneficiaries of each program. This information is particularly urgent during this period of widespread restructuring and review of social programs. A study of this nature would be in the interests of municipal, provincial, territorial and federal governments since all of those levels of government are currently involved with social policy.
Conclusion

In this report, we have tried to lay out the following argument:

- **The nature of workplace hazards has changed.** Where most work-related disabilities once resulted from discrete and observable accidents, now many disabilities evolve slowly over time and have causes that are hard to pinpoint. Moreover, our increasing knowledge of the long-term effects of occupational hazards has expanded the definition of “occupational injury” far beyond the vision that underlies workers’ compensation legislation.

- **Workers’ compensation is now part of a social safety net that insures Canadians against a variety of risks, including unemployment, health problems that are not job-related and the consequences of old age and poverty.** Over time these different programs have become closely interrelated.

- **Because of imperfect information, all categorical social insurance programs, including the workers’ compensation system, make mistakes in determining program eligibility, even for traditional occupational injuries.** It also seems that pressure from employers and fellow workers leads some injuries not to be reported.

- **Because workers’ compensation is one among a number of social programs, errors in determining eligibility or the failure to insure all occupational risks can lead to costs and benefits being imposed on the other systems and on the workers’ compensation itself.**

- **The methods by which the workers’ compensation system is financed can have important short-run, and possibly long-run, effects on macroeconomic aggregates such as employment, output and real wages.**

Several options for reform follow from this argument:

- **The workers’ compensation system might be brought within an accountability framework than is wider than that which currently exists.** This would allow for more informed political decisions about critical questions such as the range of occupational risks for which workers will be insured and the extent to which workers’ compensation is integrated with other social programs.

- **Even without such a wider accountability framework, there are a number of steps that the system can take to integrate itself better with other social programs.** It is beyond the scope of this report to determine the extent to which workers’ compensation system should be harmonized with other programs for people with disabilities. We are sympathetic, however, to initiatives such as the federal-provincial efforts to provide an integrated employability assistance program to all people with disabilities. One option for reform would be for the workers’ compensation system to participate actively and enthusiastically in the creation of such a program.

- **Our report is based largely on a review of existing published research.** Its argument can only be as good as the research on which it draws. There is a great need for more and better research concerning the effects of workers’ compensation. Perhaps more importantly, in this time of rapid change in the nature of the Canadian social safety net, there is a need for more and better research on the inter-relationships of all social programs.
Bibliography


Brophy, James (Fall, 1995) "Compensation and Occupational Disease,: New Solutions, Pp. 3-11.

Brophy, James, (February, 1995) "Submission to the Royal Commission n Workers' Compensation," Windsor,


Canada, Human Resources Development (1994), Basic Facts on Social Security Programs, Ottawa: Supply and Services Canada.
Canada, Human Resources Development (March 1996), CPP, Phase II
Disability Benefits, Background Paper: Literature Review on Public Disability Insurance Programs, Ottawa: HRDC.

Canada, Human Resources Development (1997), Federal-provincial territorial working group on benefits and services for persons with disabilities, Programs and Measures: A Coverage Analysis (Part 1; Inventory of Federal and Provincial Programs and Measures (Part 3); Ottawa: Human Resources Development Canada.


Canada, Veterans Affairs (March 1996), Veteran Services and Benefits, Ottawa: Minister of Public Works and Government Services Canada.


Lessin, Nancy, (July 10, 1997) "Occupational Safety and Health Act and the Occupational Safety and Health Administration," Testimony before the Subcommittee on Public Health and Safety, Senate Committee on Labour and Human Resources, Washington, D.C.

Lessin, Nancy “Workers need real rights to counter push for production” n.d. n.p.


