JURISDICTION:  **ALBERTA**

**ENVIRONMENT**

Population Size  2,747,000 (1995, Stats Canada)


Demographic and Economic Indicators

In terms of GDP, the major industries in Alberta are services, mining, oil and gas, finance and real estate, trade and manufacturing. Growth industries include services, finance, real estate, trade and forestry. Declining industries include public administration, health care, education, welfare and non-commercial services.

Alberta's economy is expected to grow between 3.2% and 3.5% in 1997; well above the growth forecast for Canada. Alberta's above average growth rate is expected to contribute to strong employment growth and unemployment rates well below the national average. Alberta's population grew at a rate of 1.37 between the years 1991 - 1995.

The average weekly wage rate for Alberta is $555.13 (1995, Stats Canada). The unemployment rate for Alberta in 1996 was 7.0% down from 7.8% in 1995. The unemployment rate for 1997 is estimated to be as low as 6.5%.
GOVERNANCE & ADMINISTRATION

Nature of System
An exclusive provincial fund.

Principles and Mandate
The Workers' Compensation Board-Alberta operates under the authority of the Workers' Compensation Act. The mission of the WCB is to minimize the impact of work related injuries on workers and employers by efficiently providing effective compensation and rehabilitation services, and together with our clients, promoting injury prevention.

Workers' compensation in Alberta is guided by the following fundamental principles:

- **No-Fault Guaranteed Insurance** - workers are eligible for benefits for work-related injuries, regardless of who is at fault.
- **Protection from Lawsuit** - workers and employers cannot be sued for work-related injuries.
- **Collective Liability** - all employers share responsibility for fully funding the cost of workers' compensation insurance.
- **Fair Compensation** - workers receive benefits based on the effect the work-related injury has on employment earnings, and the nature and degree of the injury.
- **Benefit of Doubt** - the WCB will decide in favour of the injured worker if all the evidence for and against is equally balanced.
- **First Payer** - the WCB's responsibility under the Act to pay compensation for work-related disability is not affected by the workers' eligibility for benefits from any other sources.
- **Exclusive Jurisdiction** - subject to the rule of natural justice, only the WCB has the legal authority to govern, manage and decide matters related to the Workers' Compensation Act. The Appeals Commission has the final and conclusive authority to decide on matters related to appeals.
- **Injury Prevention and Management** - the WCB has a responsibility to promote workplace injury prevention and management.
**Access to Litigation**

In Alberta, workers' compensation is an exclusive remedy.

Prior to 1918, injured workers or grieving dependents had to go to court and sue their employers or others for damages. When workers' compensation was legislated, workers gave up their right to sue employers or workers covered by the Act. If a worker wishes to pursue legal action against a third party NOT covered by the Act, the WCB is subrogated to that right.

**Scope of System**

**Who is Covered?**

In Alberta, workers' compensation applies to the majority of workers in the province. There are exceptions for certain industries including farm labour, domestics, outworkers, financial institutions, religious and charitable organizations, legal services, medical and dental services, athletes and employees of labour unions. (The attached Schedule outlines who is covered under the Alberta workers' compensation system and to what extent.)

Approximately 80% of the Alberta labour force is covered by workers' compensation with a total of 82,426 employers registered in November of 1997.

**What is Covered?**

The WCB covers work injuries including work related accidents or diseases that need medical treatment or time away from work. This includes traumatic injuries, repetitive strain injuries, occupational diseases and re-injury of old work related injuries.

Conditions or situations that are NOT covered include pre-existing or unrelated health problems or those that occur while traveling to and from work.

**Self Insurance**

Not permitted in Alberta.
Organizational Framework

The Workers’ Compensation Board - Alberta is an independent statutory body that manages the workers' compensation insurance business based on workers' compensation legislation.

In addition to several support functions, the WCB is organized into two main operating areas:

- **Claimant and Health Care Services (CHCS)** - CHCS is charged with providing fair, timely adjudication of worker's claims according to legislation and policy, and coordination of services such as health care and vocational rehabilitation which are designed to return injured workers to employability as quickly and safely as possible. Adjudication and case management staff focus on making consistent quality decisions, delivering appropriate benefits in a timely fashion and coordinating services to workers. They are supported by a comprehensive health care strategy that emphasizes early, active intervention to reduce pain and suffering.

- **Employer Services (ES)** - Employers pay all costs of workers' compensation through premiums based on their payroll and the degree of risk of injury in their industry. ES staff set and collect premiums using insurance principles and actuarial data to ensure fairness and consistency. ES delivers services and programs to help employers control their costs and make workplaces better for employees through injury prevention and effective claims management.

The WCB also works with Alberta Labour and employer safety associations to promote injury prevention.

Headed by a President and Chief Executive Officer appointed by the Board of Directors, the WCB has an executive team of four vice-presidents and a combined staff of approximately 1400 at its headquarters in Edmonton and at regional offices in Calgary, Red Deer, Medicine Hat, Lethbridge and Grande Prairie.
Governance Structure

The board of directors is appointed by the Lieutenant Governor in Council and reports to the Minister of Labour. Led by the chair, the membership of the board is equally representative of the interests of workers, employers and the general public (three each). As a governing body, the board of directors sets policy and approves programs and budgets.

In 1995, the Workers' Compensation Act was amended, giving the Board of Directors more responsibility to govern the corporation and allow the organization greater independence from government. In addition, the Act now requires the operation of the WCB to be fully funded.

Policy Development

The Workers' Compensation Act and General Regulations are the core of workers' compensation in Alberta. The legislation sets out the responsibilities of the WCB, employers and workers, and is the framework for all injured worker benefits and employer premium assessments. The WCB's board of directors sets policies to ensure consistent interpretation of the legislation and to provide guidance when the legislation allows discretionary decision making. All policies must be consistent with the legislation.

The board of directors considers revisions to current policies when it has a concern about an issue, when WCB senior management recommends modifications or improvements, or when external stakeholders have identified areas of concern. When policies are reviewed, the impact on both workers and employers is considered. Depending on the issue under review, the Board of Directors may undertake a formal stakeholder consultation process.

Accountability

There are no specific provisions in the legislation relating to the reporting relationship or accountability of the Alberta WCB to government. In fact, 1995 amendments provided greater independence of the board from government. There is an organizational reporting relationship with the Minister of Labour.
Performance Assessment

Annually, the Alberta WCB adopts corporate objectives, based on a strategic plan, which prioritize and guide the corporation's efforts. Measurable outcomes related to serving workers and employers, injury reduction, internal business improvements, financial performance and the improvement of organizational performance and learning are defined through the objectives.

The organization has also recently developed an integrated and balanced set of measures, a "corporate scorecard." This scorecard helps measure performance; focuses the organization on initiatives necessary to make the board an industry leader; and provides information for assessing and developing effective business strategies.

Claims Adjudication Process

When a claim is filed, the WCB checks to see whether the injured worker is covered by workers' compensation insurance. If the worker is covered, the WCB decides how serious the injury is and accepts it as either a No Lost Time claim or a Lost Time claim.

A No Lost Time claim occurs when the injured worker has not lost time from work and does not have a permanent disability. If this occurs, the WCB pays for treatments or supplies required as a result of the work related injury. Lost Time claims occur when the injured worker cannot do their job beyond the day of the injury. Lost time claims are given to an Adjudicator who determines whether the claim will be accepted. If accepted, the Adjudicator sets the compensation rate and the WCB issues benefits to the injured worker every two weeks until they return to work.

If the worker is expected to be off work for more than 28 days, the claim is transferred from an Adjudicator to a Case Manager. The focus is on the worker's safe return to productive employment, in a timely, cost-effective fashion. Case Managers determine and issue the benefits and services injured workers or their spouses and dependents are entitled to receive. When required, they develop a return-to-work plan in consultation with the claimant, employer and health care providers.

There is also an internal office of Workers' Advisers to help people understand and negotiate the claims process.
Comparative Review

Alberta

Dispute Resolution

Mediation / Conciliation

There is no formal mediation / conciliation process in Alberta.

Appeals Process

If a worker, worker's dependent, worker's representative or an employer does not understand or agree with a decision on a claim, they can review the decision with the adjudicator or case manager and ask for a full explanation. If there is further disagreement with the decision, it is brought to the attention of a WCB supervisor.

If the situation cannot be resolved with a supervisor, an appeal can be made in writing to the first level of appeal, the Claims Services Review Committee (CSRC). This internal review process is a statutory requirement in Alberta. If the CSRC decision is deemed unsatisfactory, it can be appealed in writing to the Appeals Commission, an independent review body. The Appeals Commission consists of one chief appeal commissioner, four hearing chairs (full time appointments for three year terms, subject to renewal for another term) and up to 18 commissioners (part-time, one year appointments with possibility of renewal).

If the Appeals Commission denies a request, the issues can be taken to the Clerk of the Court of Queen's Bench for a judicial review. On judicial review, the Court can either direct the commissioners to reconsider the issue or support the initial decision. The Court cannot change the Appeals Commission's decision.

The Ombudsman of Alberta is given the authority to investigate complaints from people who believe they have been treated unfairly by agencies operating under provincial legislation. The Ombudsman is independent of government and has broad powers to investigate actions, decisions, practices and procedures of government departments and agencies. If a WCB related complaint is submitted to the Ombudsman, it could prompt a review of the case in relation to the issues considered by the Appeals Commission. Depending on the outcome of the review, the Ombudsman may recommend that the Appeals Commission reconsider its decision. The Ombudsman cannot change the Appeals Commission's decision.
ASSESSMENTS / FINANCING

Assessment or Premium Setting Process

Alberta employers are classified by industry based on the nature of their overall operations in the province. To provide workers' compensation coverage at a fair rate, employers who have similar operations and share similar risks are grouped together for rate setting purposes. In 1998, there are 402 industries in Alberta that are consolidated into 117 rate groups which are further consolidated into nine sectors.

The premium rate is the cost of coverage per $100 of insurable earnings and is set annually based on the average losses in that industry over the first five of the previous six years. The employer premium is established by first modifying the industry rate through an experience rating plan, where applicable, and then multiplying the resulting employer premium rate by insurable earnings of workers.

Employers with $15,000 or more in industry rate premiums over three years must participate in the Experience Rating Plan. If an employer has lower than average claim costs experience, the employer can earn a discount up to 40 per cent from their industry premium rate. If an employer has higher than average claim costs experience, the employer will receive a surcharge of up to 40 per cent.

An additional poor performance surcharge of up to 40 per cent will affect employers with consistently poor accident records in comparison to their peers. This feature is designed to provide stronger motivation for employers to focus on immediate action in improving health and safety and claims management to reduce injuries and avoid further surcharges. The WCB refers these employers to resources to assist them in reducing injuries and managing claims.

A set of discounts and surcharges has also been designed specifically for small businesses that will reward or penalize employers 5% dependent on the number of claims experienced in a five year period.

Assessment/Premium Rates

The WCB Alberta is reducing premiums for the fourth consecutive year. The average premium rate for 1998 will drop
from $1.66 to $1.30 (per $100 of insurable earnings) and is projected to be the lowest premium rate in Canada. While the majority of employers will experience rate reductions, approximately 5,200 (6%) will experience premium rate increases as a result of poor industry experience. For 1998, maximum insurable earnings is $45,600.

**Second Injury Funds / Disaster Funds**

Alberta provides special coverage for "enhanced disabilities due to the aggravation of a pre-existing condition". This coverage is provided out of the general Accident Fund.

Alberta also provides for two other special funds. The Rate and Benefits Stabilization Fund, a disaster fund, provides a contingency for extraordinary events. The Occupational Disease Reserve, sets aside funds to cover the costs that may arise from latent occupational diseases where a causal link to the workplace has not yet been established but may be established in the future.
Comparative Review
Alberta

COMPENSATION
BENEFITS

Claim Rate
In 1996, a total of 98,303 claims were reported of which 31,506 claims resulted in time loss (in 1995, 91,349 claims were reported, 31,176 of which resulted in time loss). In 1996, 91 occupational fatalities were accepted; down slightly from the 93 accepted fatalities in 1995.

Medical Aid

Nature of Aid
Medical coverage is comprehensive. If an adjudicator or case manager has approved the costs, the WCB will pay for hospital costs, medically related treatment and tests, rehabilitation programs, physiotherapy, chiropractic treatments and psychology services. Some examples of hospital-related costs would be prescriptions, splints, crutches, braces, bandages, etc. The WCB may also pay for travel expenses, escort fees, meals and accommodations related to a claim.

The WCB has its own medical department\(^1\) which provides medical direction to the staff of the WCB and external health care providers. In addition, Medical Advisors support case managers by providing medical opinion on a claim in three major areas:
1. work relatedness/causation;
2. diagnosis and medical management;
3. disability evaluation.

Medical Advisors do not make benefit decisions, but do ensure that injured workers get the most expedient and appropriate care for their injury, as well as obtaining the full benefits to which they entitled.

Choice of Provider
In most cases, unless the board directs otherwise, the injured worker can choose his or her own physician.

Medical Cost Containment
None identified.

\(^{1}\) In 1996, the medical department employed 12 full-time and contract physicians as medical advisors and contracted with an additional 25 as independent consultants.
Comparative Review

Alberta

Initiatives

Rehabilitation

**Physical/ Occupational/ Vocational**

Vocational rehabilitation is offered to injured workers who qualify based upon their injury and subsequent entitlement. Services include modified return to work, on-the-job training, job search allowance and some academic assistance and grants. The WCB-Alberta operates an occupational rehabilitation program for injured workers out of the WCB Millard Rehabilitation Centre. In 1997, approximately 2500 injured workers were assessed at the Centre with approximately 1300 receiving further treatment. Eligibility for the rehabilitation program may be based on temporary work restrictions caused by a work injury.

Alberta WCB is not responsible for finding injured workers a job. The WCB is responsible for giving injured workers fair compensation and services to help them become fit to return to some type of employment. When an injured worker is deemed medically fit to return to work, and makes the choice not to return to work, the WCB can reduce or stop paying benefits.

**Social**

The Alberta legislation makes specific reference to social rehabilitation. The Alberta WCB may cover the cost of psychological services for an injured worker undergoing rehabilitation. The Board may also provide vocational training or rehabilitation to a dependent spouse of an injured worker.

**Rehabilitation Incentives**

The WCB offers a range of programs and incentives to encourage employers to re-hire injured workers. These include work trials, work-place modification and on-the-job retraining.

**Trends in Treatment of Subjective Complaints**

The WCB contracts with Occupational Rehabilitation Programs to provide for the treatment of chronic pain cases. As well, it has developed a model for the treatment of rehabilitation services for claimants with chronic conditions, including pain and soft tissue injury.

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2 The only other Canadian legislation that makes specific reference to social rehabilitation is the Quebec Act.
Disability Benefits

Short-Term Benefits - Temporary Disability
Weekly "loss of earnings or wage loss" compensation:
Rate: Disabled workers qualify for a wage loss benefit equal to 90% of weighted net earnings (after deductions for U.I., C.P.P., and Income Tax), subject to a minimum and maximum weekly benefit level (maximum $553.88 in 1997).
Indexed: Automatic adjustments based on the Alberta CPI are made January 1 of each year.
Duration: Term of disability.
Taxable: No.
Employer's Excess / Waiting Periods: The employer is required to pay the injured worker for the day of the accident.

Long-Term Benefits - Permanent Partial and Total Disability
Economic "loss of earnings or wage loss" awards or pensions:
Rate: If a work-related injury results in permanent work restrictions which cause permanent impairment of earning capacity, the WCB provides a monthly Economic Loss Payment (ELP) to compensate for loss of earnings. When the worker reaches both a medical and vocational plateau, the ELP is paid based on 90% of the difference between: the worker's pre-accident net earnings, and the greater of the worker's post-accident actual net earnings or estimated post-accident net earning capacity (to a maximum of $2406.75 per month in 1997). This payment is subject to periodic review, normally 36 months.
Indexed: Maximum payment will be increased on the same date and by the same percentage of cost of living adjustments.
Duration: Normally paid until age 65 (or retirement age), at which time it is adjusted to reflect the impact on retirement income. Those with 100% permanent impairment will not be adjusted at age 65.
Taxable: No.
Offset Against Other Social Security Benefits: No, not after June 1, 1996.

3 ELP is effective January 1, 1995. Prior to this date, long term disability pensions were awarded on an earnings loss system based on the degree of disability.

4 After age 65 ELP is adjusted according to the following formula: Average Annual Compensation* X (Number of Years of Compensable Earnings Loss (to a maximum of 35 years) X 2%) [* where Average Annual Compensation is based on the ELP for the five year period ending with the month in which the worker reaches retirement age.
Award for permanent physical impairment:
Periodic (pension or annuity): Prior to January 1, 1995, pensions were issued as a lump-sum or monthly payments.
Lump-sum: Alberta is a dual award system. For permanent clinical impairment, (measurable loss of function in a part of the body), a lump-sum "non economic loss payment" (NELP) is payable to a maximum of $62,375 (1997) to a minimum of 2% of that amount ($1,247.50). The minimum qualifying clinical impairment is 0.4%.
Covers Disfigurement: Yes.


Supplemental Awards:
The Board provides a clothing allowance for wear of up to $200 per year for upper body and $300 per year for lower body to injured workers who use a wheelchair or have a prosthetic. An allowance for attendant care is also provided to the degree of personal care required subject to the actual and reasonable costs or competitive rates.

Hearing Loss
No special provisions; covered as an occupational disease.

Death Benefits
Funeral Expense Benefits
Funeral Costs: Up to $8,150 is provided to cover funeral costs (1997 rates). An additional $550 maximum is available to transport the body within Alberta and up to $1,000 is available to transport the body outside Alberta.
Emergency Lump-sum: A dependent spouse, with or without children, receives an immediate lump-sum of $1,300.
## Survivor Benefits

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<tr>
<th>Survivor Category</th>
<th>Lump-sum</th>
<th>Pension</th>
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<tbody>
<tr>
<td>Dependent spouse without children</td>
<td>None</td>
<td>90% of the weighted net income of the deceased equal to the periodic payment the worker would have received had they lived and been permanently disabled, available for 5 years on a reducing pension.</td>
</tr>
<tr>
<td>Dependent spouse, with children</td>
<td>None</td>
<td>90% of the weighted net income of the deceased equal to the periodic payment the worker would have received had they lived and been permanently disabled, available until children reach 18 years after which the spouse receives a 5 year reducing pension.</td>
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5 A lump-sum, payable upon remarriage, is available for pre-1982 cases only.

6 If appropriate vocational services may be offered to a dependent spouse with or without children. There are also exceptions to the five year reducing pension, whether or not there are children, if the spouse is not capable of gainful employment.
HEALTH & SAFETY & PREVENTION

Organizational Structure

**Agencies Responsible**
The Workplace Health, Safety and Strategic Services division of Alberta Labour is responsible for the administration of occupational health and safety legislation in Alberta. Alberta Labour is responsible for promoting health and safety program development, promoting the use of health and safety audits, consultation with employers, inspection, and enforcement and compliance with the legislation. Private sector industry associations, funded through the workers' compensation fund, deliver workplace based occupational health and safety training.

**Source of Funding**
Funding for the Workplace Health, Safety and Strategic Services division of Alberta Labour is provided from both general government funds (consolidated revenue fund) and the workers' compensation fund (employers' assessments). In 1996, about two-thirds of the division's expenditures were funded from the workers' compensation fund. Private sector safety associations are 100 percent funded by the workers' compensation fund. The division also raises revenue through the sale of products and services (e.g. training).

**Accident Reporting**
Under the Workers' Compensation Act all occupational injuries must be reported to the WCB within 72 hours. There is a fine of $100 per day to a maximum of $500 for failure to report.

**OHS Representatives & Committees**
There is no legislative provision for workplace health and safety representatives. Workplace OHS committees are only required on order of the Minister. Though OHS committees are not mandated, the Workplace Health, Safety and Strategic Services division of Alberta Labour supports their creation and will assist workplaces to establish committees.
Comparative Review
Alberta

Offenses & Penalties

Contraventions of the Legislation

Types of Offenses and Maximum Fine:
Any person found guilty of contravening specified provisions of the legislation (section 32 OHS Act) is liable on the first offense for a fine of up to $150,000 and $10,000 for each day the offense continues and/or up to six months imprisonment. For a second or subsequent offense, and for the contravention of a stop work order at a dangerous worksite, maximum fine is $300,000 and $20,000 for each day the offense continues and/or up to 12 months imprisonment.

Convictions:
1995 - three convictions; total amount of fine unavailable.
1996 - one conviction; total amount of fines - $7,500.

Administrative Penalties

There is no provision for administrative penalties in Alberta.

OHS Legislative Review

There is no periodic, or statutorily required review of OHS legislation in Alberta. A comprehensive review of the Act and regulations is currently underway lead by a tripartite review process with working groups composed on Alberta Labour staff, worker representatives and employer representatives.

Health and Safety and Loss Prevention Initiatives

The Partners in Injury Reduction (PIR) program is a combined effort of the WCB, Alberta Labour, and safety and industry associations that helps employers prevent workplace injuries. All employers can participate on a voluntary basis as an individual or as part of a group. Employers are required to achieve standards in developing health and safety programs as designated by Alberta Labour and associations. The Voluntary Incentive Plan (VIP) is an initiative that rewards employers for taking a proactive approach in implementing health and safety and claims management programs to reduce workplace injuries and decrease claim costs. Employers may participate individually if they have $75,000 or more in expected claim costs. Eligible participants in VIP earn discounts when they reduce current claim costs over the measurement year. Surcharges are applied if the actual costs are greater than expected.
A Special Investigations Unit consisting of seven special investigators and three support staff helps prevent and investigate fraud against the WCB.

Investigators have Special Constable status under the Police Act which enables them to conduct criminal investigations, lay charges, serve a summons and execute search warrants. They assist the Crown Prosecutor's office by gathering evidence, locating witnesses and preparing court briefs.

Between 1995 and 1997 the Special Investigations Unit conducted 1600 investigations, resulting in a savings of approximately $11.5 million.
Schedule
Scope of Coverage - Alberta's Workers' Compensation System

Workers - workers, employed in industries to which WCB insurance applies, have protection from loss of earnings due to a work-related injury or disease.

Contractors/Subcontractors - individuals hired on a contract or subcontract basis are workers of the principal, unless these individuals have a WCB account or are operating as a limited company.

Corporations - directors must have personal coverage to have workers' compensation protection. The WCB considers shareholders to be workers of their corporation, when working for the corporation.

Proprietors - for workers' compensation coverage, proprietors may apply for regular personal coverage. Proprietors who do not have personal coverage for themselves are protected as workers of the principal and are covered on the principal's account.

Individuals Who Own Mobile Industrial Equipment - individuals, without workers, who own and operate mobile industrial equipment may apply for personal coverage as proprietors.

Partnerships - where a partnership with no workers does work for any other person (the principal) in an industry to which workers' compensation applies, and neither partner has personal coverage, the individual partners are protected as workers of the principal. In a partnership where at least one partner has personal coverage, the partner(s) without personal coverage will not receive compensation benefits if injured.

Workers Engaged in Volunteer Activity - a person or organization who has volunteers assisting in its operations or on a project, may apply to have the volunteers covered by workers' compensation insurance.