INTERVIEW QUESTIONS - WORKERS' COMPENSATION
COMPENSATION SERVICES ISSUES

JURISDICTION: ALBERTA

I. COMPENSATION SERVICES ISSUES

1. Is there a requirement, statutory or otherwise, requiring the regular review and potential readjustment of the rate of temporary wage loss benefit paid to an injured worker?

   If yes, what is the basis for adjusting the temporary wage loss benefit (i.e., a different basis for calculating the rate; a change in circumstances or level of disability)? And, are there any statistics or data regarding how often the rate is adjusted down or up?

   The wage loss benefit rate (90% of weighted net earnings, after deductions for UI, CPP and Income Tax) received by a majority of injured workers is not subject to a regular or periodic review. However, there is a statutory requirement that in cases where a worker is receiving compensation for temporary total disability 24 months after the date of the accident, the compensation rate will be adjusted by the same percentage that would have been applied to permanent total disability compensation. Where an adjustment is applicable, it utilizes the same cost of living calculations that are completed in January of each year and applied to the maximum insurable earnings schedule.

2. Are permanent disability awards, both partial and total, subject to review and readjustment? For example, is there a requirement, statutory or otherwise, requiring the regular review and potential readjustment of the rate of permanent disability award?

   If yes, what is the basis for adjusting the award (i.e., a different basis for calculating the rate; a change in circumstances or level of disability)? And, are there any statistics or data regarding how often the rate is adjusted down or up?

   Alberta currently has both a earnings loss pension system and a dual award system for paying permanent disability compensation. There is a policy requirement that both types of benefits undergo a periodic review.

   Under the pension system, which applies to claims with an accident date prior to January 1, 1995, the review and adjustment is intended to address changes to the cost of living. Under the new dual award system there is a requirement to review the benefit level during the initial 36 month period of payment. The review takes into account changes in the level of disability or earnings impairment. Also there is an annual review of benefits with respect to cost of living changes.
3. Is there any prohibition in the workers' compensation legislation in your jurisdiction against "topping up" (i.e. purchasing private disability insurance which provides income in addition to workers' compensation payment?)

   No.

4. What factors, if any, other than earnings, are used to determine workers' compensation benefits (for example what impact does age, marital status, number of dependents, retirement, education and training have on the calculation of benefits)?

   Loss of earning benefits are calculated solely on the basis of net earnings. Death benefits entitlements vary, however, depending on the number of dependent children.

5. Is deeming used in either

   1) setting the duration of temporary benefits or
   2) as the basis for calculating permanent disability awards

   (where "deeming" means deeming a worker ready to return to work, and/or as capable of earning income at a particular income level, though the worker may not have actually returned to work or may be earning income at a lower level)?

   And if yes, what are the prerequisites for applying deeming? And, are there any statistics or data regarding the frequency with which deeming is used?

   Deeming was introduced January 1, 1995, with the move to a dual award system: wage loss benefits for earnings and permanent functional impairment award. Deeming is used to calculate the wage loss component of the award. Deeming is applied where the worker has reached both a medical and vocational plateau. At this point there is no data on the use of deeming; it is estimated that deeming may have been applied to about 250 workers since its introduction in January 1995.

6. Does the jurisdiction have an electronic claim files system in place? When was it introduced? What are the perceived advantages and disadvantages of electronic claims files?

   Since 1992 Alberta has had a systems based approach to the management of claim files. The system is part electronic data and part image-based.

   Some advantages:
   • Most effective for short term claims;
   • Allows easier and multiple access to claim file.
Some disadvantages:

- Now a bit dated; costly to stay at the leading edge of technology
- Cumbersome and less effective for long term claims; harder to identify a particular document.

7. Have any research or studies been undertaken on the adequacy of benefits provided by the jurisdiction? Any research or studies on the issue of equity of benefits? Are these studies available to the Royal Commission?

The Alberta WCB has launched a far-reaching initiative to review all policies of the board. A discussion paper on "benefit levels", including the issue of the adequacy and equity of benefits is expected some time in 1990.

8. Claims Statistics:

In 1997 there were 36,800 claims resulting in time loss; of those about 40% go beyond 28 days and are transferred into the case management stream (however this includes both short and longer term cases).

- How many claims are for occupational diseases? - Not available.
- Is there any data available on the distribution of pensions - e.g., average size, range, etc.? Not currently available.

II. ADJUDICATION

1. How would you describe the basic approach to adjudication in your jurisdiction (for example, inquiry based approach or adversarial)?

   An inquiry based approach to adjudication is used in Alberta.

2. In your jurisdiction is the function of adjudicators, at the first stage, similar to an insurance adjuster?

   The majority of cases are straightforward and dealt with in a fairly standard way and within a set process.

3. If new evidence is presented on a particular claim, is the claim sent back to the adjudicator for reconsideration?

   If a case has been transferred from an adjudicator to a case manager (after 28 days of benefits), the case manager will generally handle any new evidence presented. In
rare cases, the file may be transferred back to the adjudicator for reconsideration, say where there is an issue or question around entitlement.

4. **Are board policies binding on adjudicators? To what extent are adjudicators entitled to exercise discretion? Is discretion applied by an initial claims adjudicator reviewable?**

   Yes, board policies are binding on adjudicators. However, because many board policies are broad or in the nature of providing direction or guidance, there is room for the exercise of discretion on the part of adjudicators and this discretion is subject to review.

5. **What, if any, mechanisms are in place to promote consistency in decision making?**

   Judgement and discretion exercised by an adjudicator is specifically considered in the performance appraisal process for adjudicators. The Quality Assurance program\(^1\) does spot audits and is responsible for monthly reporting on operations across the claims department.

5. **Do workers and employers have access to their information in board files? If yes, is this because of a provision in the workers' compensation legislation or a result of the Freedom of Information and Protection of Privacy Act? Is further information found in sub-files which do not form part of the claim file? And if so, are the sub-files disclosed?**

   Under both the workers' compensation statute and the freedom of information statute\(^2\) clients of the board are provided with fairly liberal access to their own information (subject to some limitations on release of third party information which must be severed). A worker or an employer has complete access to their own file and their own information. An employer does not have access to the file of their

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1. The Quality Assurance program has been developed over the last several years and is widely supported in the board. There are plans to expand the program in the future.

2. At present, the board is working with the Privacy Commissioner to review the board's disclosure policies and practices to ensure that they are fair, reasonable and consistent with current law on the release of information and protection of privacy.
worker unless there are involved in an issue under dispute. An employer involved in a dispute related to a worker will have access to all relevant information.

6. Is there any "informal" review process for workers and employers regarding claims adjudication or assessment decisions (i.e. review by supervisor or manager prior to the formal internal reconsideration or review process and external appeal process, if any)?

   There are two informal processes for reviewing decisions prior to review by an appeal body.

   There is an internal appeals advisory service which attempts to resolve disputes by facilitating further discussion between the client and the case manager.

   However, the preferred process is to involve the supervisor in any disagreements that may develop. Clients are encouraged to contact a supervisor if they disagree with a decision or require clarification.

   If yes, are there any statistics available on the total number of issues reviewed and the allow/disallow rate for this informal review process (are there any statistics kept on the number of issues reviewed, and the allow/disallow rate broken down by type of issue - for example, assessment decisions, compensability, level of benefits)?

   No.

7. Is there a formal "complaints" review process in your jurisdiction, distinct from any internal review or external appeals process, to deal with complaints from clients of the board regarding the conduct of board officers and staff or service issues? If yes, is this process independent of the board?

   No. The provincial Ombuds does however address issues related to the board.