

16.

WORKERS' COMPENSATION SYSTEM OF NOVA SCOTIA

BACKGROUND

16.1 In 1996 a new Workers' Compensation Act came into effect. The new Act represented the first major revision of workers' compensation legislation in Nova Scotia since it was originally conceived in 1915. The new legislation brought about very significant changes, including how claims are assessed, compensation is calculated, assessment rates are levied, and compensation decisions are appealed.

16.2 However, at the time of the introduction of the new Act, there was a sizable back-log of claimants waiting to appeal compensation awards. Also, changes to the appeal process brought about by the new Act served to compound the back-log while the new Appeals Tribunal established itself. This and other aspects of the workers' compensation system caused considerable frustration among some individuals and injured worker groups throughout the Province. As a consequence, the government received numerous requests for a review of the system.

16.3 A Select Committee on the Workers' Compensation Act was struck in the 1998 spring sitting of the House of Assembly to examine the issues and report back to the House. The nine-member, all-party Committee was established by Resolution 844 on June 22, 1998, and given the mandate of reviewing "*changes to the Workers' Compensation Act and, in particular, to review recommendations of the Auditor General with respect to his audit of the Workers' Compensation Board, Workers' Advisors Program and Workers' Compensation Appeals Tribunal.*" The Committee was empowered to hire staff, expend funds, and to table an interim or final report with the Clerk of the House if the Legislature was not sitting when the report was completed.

16.4 On June 30, 1998, Pursuant to Section 15 of the Auditor General Act, our Office was directed by the Executive Council to make a "*program-oriented broad scope examination and audit*" of the three organizations noted above. The order was in response to a recommendation by the Minister of Labour to Executive Council dated June 23, 1998.

THE AUDIT

16.5 Because of the technical nature of the subject matter, and due to most of our staff being committed to other audit assignments, we chose to hire a private sector auditor to conduct the assignment under our direction. Two senior auditors of our Office were provided to assist the private sector auditors, and to bring to the assignment our experience with previous audits of the workers' compensation system. In accordance with Section 15 of the Auditor General Act, the government provided for the Office to receive the additional funds necessary to cover the cost of the assignment.

16.6 Terms of reference were developed by our Office based on meetings and correspondence with the Select Committee, the three organizations subject to audit and management of the Department of Labour. We also considered the nature and types of concerns being expressed publicly by injured workers. Before being approved for use in the audit, the terms of reference were reviewed with the three organizations to be audited.

16.7 Our Office then conducted an open competition for the purpose of selecting the private sector auditor. Grant Thornton, Chartered Accountants and Management Consultants, was successful in the competition. The firm was contracted to perform the audit and asked to develop an audit plan based on the terms of reference.

16.8 The Auditor General formed a steering committee which included himself, members of his staff, as well as the Ombudsman of Nova Scotia. The steering committee actively monitored and directed the private sector auditor in all phases of the audit.

16.9 The final report on the audit was presented by the Auditor General to the Minister of Labour on November 19, 1998. The Minister tabled the report in the House of Assembly the following day. On November 26, 1998 the Select Committee tabled its report in the House of Assembly. A number of recommendations were made for changes to the Workers' Compensation Act.

16.10 The remainder of this Chapter is the report on the audit, minus two appendices of a technical nature. Included in the original report, and reproduced in this Chapter, are the official responses to the audit by management of the Workers' Compensation Board and Workers' Advisers Program. The Workers' Compensation Appeals Tribunal did not wish to provide a formal response to the audit.

Grant Thornton

Audit of the Nova Scotia Workers'
Compensation System

November 1998

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EXECUTIVE SUMMARY

At the request of the Executive Council of the Government of Nova Scotia, the Auditor General of Nova Scotia has undertaken to audit the Workers' Compensation System. Grant Thornton, under the direction of a Steering Committee established by the Auditor General, has performed this audit. A summary of our findings follows.

AUDIT OBJECTIVES

The objectives of the audit were established by the Auditor General in consultation with the Executive Council and each of the three components of the Workers' Compensation System of Nova Scotia, namely the Workers' Compensation Board (WCB), the Workers' Compensation Appeals Tribunal (WCAT), and the Workers' Advisors Program (WAP). These objectives are:

- I. Assess the efficiency, effectiveness, and accountability of the Workers' Compensation System with respect to benefit claims intake, processing, appeal and closure. Make recommendations for improvement.
- II. Determine the causes for and recommend solutions to the backlog in benefit decision appeals. Recommend efficient and economic means of preventing future backlogs in the appeals process.
- III. Assess the degree to which policy, procedures and practices relating to benefit claims intake, processing, assessment and appeal comply with the Workers' Compensation Act of Nova Scotia.
- IV. Assess the roles and responsibilities of medical professionals in the Workers' Compensation System, and make recommendations to address any observed uncertainty, inappropriateness or non-compliance with legislation.
- V. Assess the quality of the relationship of the various components of the system with its clients, and suggest means of improvement.
- VI. Assess the quality of the relationship and cooperation among various components of the system with each other, and between the system and external sources of disability insurance (notably, Canada Pension Plan and private insurance providers). Recommend ways various stakeholders could work together more efficiently and cooperatively.

MAJOR FINDINGS

We are pleased to report that, in general, the Workers' Compensation System has made and continues to make significant improvements in its intake processing, case appeal and closure mechanisms. Our report cited a number of specific systemic deficiencies which in many cases are currently being addressed by the respective components of the System.

We note especially the need to continue to develop performance standards and to measure actual results against the standards. A further concern is that the current use of technology lags behind that found in other systems across the country.

The appeals backlog at the Workers' Compensation Appeals Tribunal, currently numbering approximately 2500 cases, has arisen primarily from the time required to move the system from the Appeal Board under the "Old Act" to the Workers' Compensation Appeals Tribunal established under the "New Act". The old board effectively ceased accepting appeals on June 1, 1995. WCAT did not commence operation until January of 1996. Its first leave decision was not rendered until May of 1996. Proceeding cautiously, it rendered 411 final decisions by the end of 1997. During that time 1833 new and 1264 transitional appeals (relating to "Old Board" appeals) were filed, leaving a total backlog of 2686 at the end of 1997. During the first seven months of 1998, 508 cases were decided, while 356 additional appeals were filed. It appears that the system can handle the current appeal volume, but special initiatives are required to eliminate the backlog.

Each component of the Workers' Compensation System appears to generally be in compliance with the Workers' Compensation Act of Nova Scotia. Monitoring of this compliance forms part of the quality assurance process at the Workers' Compensation Board. The Workers' Adviser Program has a less formal monitoring process, while the Workers' Compensation Appeals Tribunal relies primarily on the courts to monitor its compliance.

Medical professionals within the Workers' Compensation Board itself appear to be aware of and in compliance with the Act and related policies and procedures. Medical professionals outside the direct control of the Workers' Compensation Board also play a vital role in the Workers' Compensation System. Although medical professionals inside the system are often seen to be the "bad guy", substantial improvements in services to the injured worker often result when external medical professionals work in cooperation with Workers' Compensation Board Case Managers. There is clearly a need to continue to educate both external medical professionals and other stakeholders on the vital role that these external medical practitioners can play in assuring that injured workers receive fair treatment from the system. We recommend that an independent medical review panel be created to help resolve cases where conflicting medical opinions have been rendered.

As evidenced by our review of submissions to the Select Committee on the Workers' Compensation System, the sit-in by a group of injured workers at the Premiers' office, media reports and informal discussions with other stakeholders, it is apparent that there exists a broad level of dissatisfaction by various stakeholders with "The Compensation System".

Based on this limited analysis, it appears that generally most discontentment arises from either getting an adverse case ruling or getting no ruling at all. Adverse rulings are obviously a necessary product of this type of system. The ability to get a timely reconsideration of such decisions and the support and introduction of an internal

conciliation process offered by the Workers' Advisers Program, as recommended in this report, should help to alleviate some dissatisfaction. It will never be completely eliminated.

The current large backlog of appeals at Workers' Compensation Appeals Tribunal appears to be a major source of the apparent dissatisfaction with the system. WCAT has developed a plan aimed at eliminating this backlog by July 2000. Success of this plan is predicated on the prompt resolution of several substantive issues. This important initiative, combined with access and reporting improvements recommended in our report, should assist in enhancing the relationship of the system with its stakeholders.

The Workers' Compensation System does not appear to function as a cohesive system. Each component seems to view the others as an adversary. There is no common strategic planning, no common data bases, and appears to be limited direct contact except on some specific matters. There does exist a tri-partite committee with representation from the senior management group of each agency. However, this committee meets only as issues arise among the three groups. We recognize and support the need for each agency to maintain an arms length relationship at an operational level. Not all client data can or should be shared. This is true of other types of data as well. However, presumably the ultimate objective of each agency is the same – provision of all benefits to which an injured worker is entitled at the earliest possible date. Respect for the important role that each agency plays in delivering this vital service, and co-operation in establishing broad strategy objectives that would be common to each group, together with sharing of appropriate information in areas of common interest, should significantly improve the working relationships among the groups, and the delivery of improved service levels to users of the system.

CONCLUSIONS

Generally, with the exception of the appeals process, most critical elements of the system are functioning satisfactorily. However, improvement is required in certain key areas. Accountability and efficiency within the system can be significantly improved once the implementation of a system of performance measures and results comparison is in place. A concerted, special effort must be made to clear up the large appeals backlog at Workers Compensation Appeals Tribunal. Better use of technology, and most importantly a better working relationship among the components of the system will lead to further enhancements in service levels for the Workers' Compensation System in Nova Scotia.

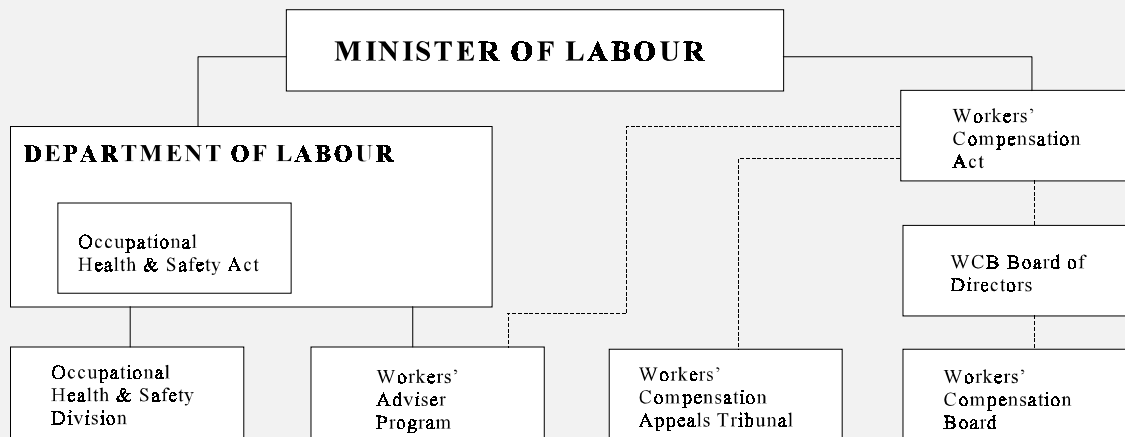
BACKGROUND

The Workers' Compensation System in Nova Scotia is currently undergoing a significant amount of scrutiny from injured workers, labour groups, employers, government and the general public. The system has a backlog of appeals of approximately 2,500 cases. A recent sit-in by injured workers at the Premier's office drew public awareness to the backlog. The government has formed an all-party committee to hear from Nova Scotians and to draft legislation aimed at improving the Act.

In addition, at the request of the Executive Council of the Government of Nova Scotia, the Auditor General of Nova Scotia has undertaken to audit the Workers' Compensation System. Grant Thornton was selected to perform the audit, under the direction of a Steering Committee established by the Auditor General.

WORKERS COMPENSATION SYSTEM

The Nova Scotia Workers Compensation System includes the Workers' Compensation Board, Workers' Compensation Appeals Tribunal, workers and their representatives (Workers' Advisers Program), employers, the medical community, service providers, government and others involved in injury and disease prevention.



The **Workers' Compensation Board** (WCB) was established by the Nova Scotia Legislature in 1917, under the Workers' Compensation Act (the Act). A new Workers' Compensation Act received Royal Assent on February 6, 1995. The WCB is responsible, in accordance with the provisions of the Act, for administering the payment of benefits to injured workers; levying and collecting assessment revenues from established classes of employers in amounts sufficient to cover the costs of claims and administration; and investing funds held for future payments which relate to claims arising from events which have already occurred.

The **Workers' Compensation Appeals Tribunal (WCAT)** was established as a legal entity in June 1995. Its authority, mandate and terms of reference are legislated under the Workers' Compensation Act of 1995, PART II. WCAT describes itself as an independent tribunal operating separately from the Workers' Compensation Board, but within the Workers' Compensation system itself. It is funded by the accident fund of the WCB, and must operate within the policies established by the WCB Board of Directors.

The **Workers' Advisers Program (WAP)** was established by the Workers' Compensation Act of 1995, PART III. It was set up to be an independent agency representing the interests of injured workers. The program's role is to advise, assist and represent injured workers who have been denied benefits by the WCB. This representation occurs both at the WCB, WCAT and at the Nova Scotia Court of Appeal.

NEW WORKERS' COMPENSATION ACT

On February 1, 1996, a new Workers' Compensation Act came into full effect. It represented the first fundamental overhaul of workers' compensation legislation in Nova Scotia since the inception of workers' compensation in 1917.

The major changes that took effect February 1, 1996 included:

- The transition from a clinical rating scale to a wage loss methodology for computing compensation benefits for workers with permanent physical impairments who have an earnings loss resulting from their injury.
- A transition from calculating compensation benefits based on a percentage of pre-accident gross earnings to a net loss of earnings (pre-accident earnings minus post-accident earnings).
- Introduction of the 2/5ths waiting period.
- Introduction of re-employment provisions.
- Establishment of the Workers' Compensation Appeals Tribunal and the Workers' Advisers Program.
- Introduction of firm-level experience rating for calculating assessment rates.

AUDIT SCOPE

The audit addressed the Workers' Compensation System, which for the purposes of the audit comprised the current administration and operations of the Workers' Compensation Board of Nova Scotia, the Workers' Compensation Appeals Tribunal, the Workers' Advisers Program, and any administrative support provided by the Nova Scotia Department of Labour.

AUDIT OBJECTIVES

The objectives established for the audit of the Nova Scotia Workers' Compensation System are as follows:

- I. Assess the efficiency, effectiveness, and accountability of the Workers' Compensation System with respect to benefit claims intake, processing, appeal and closure. Make recommendations for improvement.
- II. Determine the causes for and recommend solutions to the backlog in benefit decision appeals. Recommend efficient and economic means of preventing future backlogs in the appeals process.
- III. Assess the degree to which policy, procedures and practices relating to benefit claims intake, processing, assessment and appeal comply with the Workers' Compensation Act of Nova Scotia.
- IV. Assess the roles and responsibilities of medical professionals in the Workers' Compensation System, and make recommendations to address any observed uncertainty, inappropriateness or non-compliance with legislation.
- V. Assess the quality of the relationship of the various components of the system with its clients, and suggest means of improvement.
- VI. Assess the quality of the relationship and cooperation among various components of the system with each other, and between the system and external sources of disability insurance (notably, Canada Pension Plan and private insurance providers). Recommend ways various stakeholders could work together more efficiently and cooperatively.

AUDIT METHODOLOGY

The audit was performed under the guidance of a Steering Committee of the Nova Scotia Auditor General. The audit consisted of a three-phase process:

1. The design and preparation of an audit plan.
2. Execution of comprehensive audit procedures.
3. Preparation and delivery of a detailed report outlining audit findings and recommendations.

The audit plan established the audit scope, materiality level, budget resources and timelines, audit criteria, detailed audit procedures and audit techniques and evidence. Input from the Steering Committee was incorporated into the final plan.

Comprehensive audit procedures were designed for each criteria developed in the audit plan. The nature and extent of audit procedures was based on the potential impact to financial information from improvement to the process under assessment and other considerations. This judgement was developed based upon our experience with WCBs across the country. We obtained audit evidence through staff interviews, inspection and review of policy and procedure documentation and a sample of claims and appeals files. In addition, we reviewed transcripts of meetings of the Select Committee on the Workers' Compensation System.

Our audit findings and recommendations are presented in the following section.

AUDIT FINDINGS AND RECOMMENDATIONS

Individual findings and recommendations may apply to more than one objective. Recommendations are presented in **bold** and *italic* font.

OBJECTIVE I

Assess the efficiency, effectiveness, and accountability of the Workers' Compensation System with respect to benefit claims intake, processing, appeal and closure. Make recommendations for improvement.

PROCESS

1. At the first level of appeal, the Reconsideration stage, the original claim decision-maker reviews their own decision. The original decision-maker may be perceived as not being objective when reconsidering their own opinion. As a result, the Reconsideration stage may not be effective in reducing further appeals.
The WCB should reevaluate the benefits of the Reconsideration stage to ensure this is an effective tool in the internal appeal process. It may be better performed outside the formal appeal process.
2. At the WCB internal appeals level (Reconsideration and Hearing Officer), an injured worker who has requested representation by WAP often has to wait up to eight weeks until a Workers' Adviser can review the case. During this eight week period, Reconsideration and Hearing Officer appeals must be filed in order to meet pre-established deadlines. Consequently, Workers' Advisers may be forced to file these appeals without all the pertinent information, resulting in appeals that have no reasonable expectation of success.
This area could be addressed by the WCB and WAP working together to come to a mutually agreeable timeframe to register appeals. Alternatively, WAP may serve as a conciliator between the injured worker and the WCB prior to the commencement of deadlines for filing appeals. If the conciliation failed, the legal services branch of WAP would take over the client support during the formal appeal process, much as it does now. The informal conciliation phase should serve to reduce the number of formal appeals, saving time, money and frustration to all parties involved. In this model WAP would have two distinct branches and services – a conciliation group and a legal services group. Each would require different employee skill sets and training.
3. The hours for workers to contact the WCB, or consult with a representative regarding claims, is limited. According to letters being written to workers, the hours available for consultation are very limited; 8:30 am to 3:30 pm. Workers, who work 12-hour shifts and/or do not have access to a telephone,

may have trouble contacting the WCB. This was acknowledged in a November 1997 external consultant's report. Management has informed us the current process is under review in the Registration to First Payment Project.

The WCB should continue their examination of extending hours of operation.

4. WCAT has two levels of appeal, the Leave and Merit stages. Once an appeal is granted leave, considerable time can elapse before the merit stage. Consequently, all parties involved in the appeal must again review the details of the file, causing unnecessary inefficiencies.

WCAT should consider implementing a procedure that ensures the leave and the merit stages occur as close together as possible to make the most efficient use of the time of all parties involved.

5. WAP has documented criteria to determine which clients to represent, and the criteria are generally being followed. However, implementation of the conciliation model may impact the appropriateness of the criteria.

6. WCAT appeal cases are assigned in a random manner with an attempt to ensure a balanced number of cases per Appeal Commissioner. Assigning cases based on an Appeal Commissioner's experience with similar cases and/or issues should further assist in the efficiency and effectiveness of rendering decisions.

WCAT should consider the benefits of implementing a structured intake system whereby Appeal Commissioners are matched up with clients that have cases with similar traits. This would assist in establishing consistency and develop some level of "specialty" to ensure files are handled in an efficient manner. Specialties should be broad enough to ensure a reasonable caseload distribution.

7. WAP generally does not assign client files strategically. Files are assigned based on intake day assigned, and not necessarily assigned to the most appropriate staff. The Chief Workers Adviser attempts to assign files regionally, so as to minimize travel by Workers' Advisers.

WAP should consider the benefits of implementing a structured intake system whereby advisors are matched up with clients that have cases with similar traits. This would assist in establishing consistency and develop some level of "specialty" to ensure files are handled in an efficient manner. Specialties should be broad enough to ensure a reasonable caseload distribution.

PERFORMANCE EXPECTATIONS AND ACTUAL PERFORMANCE MEASUREMENT

8. The WCB has recently developed a number of performance expectations related to claims and appeals processing; as this process is in the early stages, most actual performance is below established benchmarks. Management has informed us that they intend to periodically review the appropriateness of these performance expectations.

The WCB should continue reviewing target performance expectations to ensure they are appropriate and attainable. Thereafter, the WCB should continue to strive to meet all performance expectations and should explore methods to encourage this.

9. The WCB does not have any specific caseload expectations by individual employee. As a result, the WCB does not know if the workload of staff is reasonable or distributed fairly. Management informs us that an internal workload measurement committee is currently examining this issue and during recent years, staff levels have been determined with respect to the organization as a whole compared to other Canadian WCBs.

The WCB should continue with the development and implementation of caseload expectations and the monitoring of actual performance against these expectations regularly.

10. The WCB has indicated that one of its major goals is to return injured workers to the workplace. The WCB, in cooperation with Revenue Canada, has generated historical return to work data that could serve as the basis for the establishment of performance expectations in this area. However, management has informed us that it will be some time before the WCB will be able to collect and report data that will allow for measurement of its success in returning injured workers to the workplace.

The WCB should continue, in conjunction with other appropriate bodies, to establish a data collection system that will allow reliable return to work data to be utilized for results measurement.

11. The WCB annual report is the primary vehicle used to communicate performance to stakeholders. A number of performance statistics are reported, including such critical statistics as average claims processing time, internal processing time, and duration of short-term disability claims. While these statistics are presented on a year by year basis, they are not compared to either industry standards or performance expectations. This would provide readers a contextual basis for performance assessment.

The WCB should establish and report performance expectations for each reported performance statistic.

12. WCAT generates and monitors monthly statistics with regard to appeal decisions rendered in various categories, as well as the number of appeal decisions per Appeal Commissioner. However, WCAT appears unable to generate statistics on appeals assigned to individual Appeal Commissioners. This limits WCAT's ability to monitor workload and the status of appeals in their system.
WCAT should determine if it has the ability to generate statistics on appeals assigned and monitor caseloads and the status of appeals on a regular monthly basis.
13. There is no maximum time limit specified for WCAT decision making on appeals that have not yet been assigned to an Appeal Commissioner. This limits the ability to hold WCAT accountable for delays in issuing decisions on cases. The principle of natural justice alone appears to indicate an appellant's right to a timely resolution. Management has informed us that this issue is currently being considered.
WCAT should develop and implement decision time limit expectations as appropriate, recognizing that flexibility should be a necessary component of such expectations.
14. The system of tracking time spent on each file by a Worker Adviser is not monitored on a regular basis. As a result, there is little control over the time spent on a file, and this may lead to excessive, or not enough time being spent on each file.
WAP should consider reviewing time spent per file in a more structured manner so that monitoring and management intervention can occur on a timely basis.

DOCUMENTATION AND INFORMATION

15. The WCB has not been consistently preparing case plans, due to time commitments and other administrative duties. This has resulted in some case plans not being prepared in accordance with WCB procedures, and case management decisions not supported by adequate documentation.
All case management decisions should be supported by adequate documentation, consistent with stated case management procedures.
16. The WCB Form 67 (report of accident) is sometimes not being filled out completely by employers. Incomplete Form 67s must be followed up by the WCB staff, impacting the WCB's ability to efficiently process claims.
The WCB should consider returning incomplete form 67s to employers and imposing a penalty. The WCB should also consider communicating with

employers to illustrate added costs and processing delays resulting from incomplete information.

17. The decisions rendered from the NS Court of Appeal can have a significant impact on the operations of the WCS. The WCB Legal Department thoroughly reviews, analyzes and assesses the implications of Court of Appeal decisions. It appears this information is not shared with WAP or WCAT, and as a result, duplication of effort may be occurring, or all components of the WCS may be not benefiting from all available information. It should be recognized that, in some cases, the three organizations will have very different perspectives on what the implications of that information are and what the appropriate course of action might be.

There needs to be more sharing of information on NS Court of Appeal decisions within the WCS.

18. Our review of WCB claim files indicates that overall, claims are being processed efficiently and in accordance with the Act. However, for the population sampled, file documentation to support how the claim calculation was arrived at appears inadequate. Management has recognized the need for improvement in this area.

The WCB claim files should have adequate documentation to support the claim calculation.

19. Key data and internal controls required to process a claim appear to be adequate. However, a recent WCB internal Data Quality Audit indicated that some of the statistical data elements in the computer system are not as accurate as desired, and system documentation is inadequate. Internal controls over operational statistics and special reports are weak.

The WCB should have adequate systems documentation. Internal controls over operational statistics should be established, documented, implemented and tested.

20. In a 1997 survey of workers injured since 1996, workers gave a rating of 8.1 out of 10 on the clarity of letters received from the WCB. However, our review indicates certain letters communicating claim decisions appear confusing and difficult to understand. Clear, concise letters are essential to good communication, and will assist the WCB in explaining its position.

All letters communicating claim decisions should be clear, concise and understandable.

21. Only recently the WCB began planning to report employer satisfaction performance measures. These employer satisfaction performance measures

will be reported externally for the first time in October 1998, subject to approval by the Board. Presently, there is no written commentary provided to explain significant variances noted.

The WCB should continue with its plans to obtain and externally report employer satisfaction performance measures, including written commentary to explain any variances.

22. The communication of eligibility and right to appeal appears to be effective. The WCB uses various methods of communicating eligibility to employers and workers. These include brochures, quarterly newsletters, Form 67 - report of accident, public libraries and the WCB internet site. Initial decision letters provide information on the right to Reconsideration of a decision and how to contact WAP. Additionally, the right to appeal and the right to contact WCAT are also communicated. Applicable toll free phone numbers for WCB, WCAT, WAP are provided.
23. Our review of WCAT appeal files indicates that WCAT has adequate documentation in their files to process client appeals effectively.
24. WCAT Appeal Commissioners are required to prepare short, concise case summaries (Head Notes) for all decisions rendered. Head Notes assist in ensuring WCAT decision consistency. We understand some Commissioners did not prepare Head Notes for all decisions rendered.
Appeal Commissioners should prepare Head Notes for all decisions rendered.
25. WCAT has limited management information system internal controls. This could lead to incomplete or inaccurate information. WCAT may not be able to effectively monitor the status of appeals, limiting their ability to efficiently process appeals.
Controls should be put in place to ensure that reliable statistics are compiled by WCAT and are used as input for management decision making.
26. Our review of WCAT external communication indicates that WCAT adequately communicates with external people/bodies. However, the volume and level of detail of information provided to injured workers may be confusing.
WCAT should consider reducing the volume of materials sent to injured workers and concentrate on providing clear, concise communication.

27. Our review of WAP external communication indicates that WAP adequately communicates with external people/bodies. WAP issues clear, concise and understandable communication.

OTHER

28. The WCS does not have a strategic plan. Although the individual components may have different strategic goals and performance measures, the WCS should have a common objective and mission. The elements must function together as one system to ensure that the expectations of all stakeholders are achieved to the maximum extent possible. Currently, the WCB and WAP have prepared individual strategic plans; WCAT has not. Without coordination, objectives and goals for each component may be inconsistent.

The WCS should work together in developing and implementing a single, coordinated strategic plan that establishes broad objectives for the entire system. This plan should be approved by each component and ultimately the Minister responsible for the WCS.

29. The WCB does not have a formal job specific orientation program for newly hired staff. New staff are assigned to work with Adjudication Advisers or senior case managers. Consequently, staff may not receive adequate initial training in case management techniques and practices, the Act and Regulations. Management has informed us that a proposal has been developed to create this program.

The WCB should continue, on a timely basis, to develop a job specific orientation program for new staff.

30. WCAT has a formal orientation and training program for new staff.

31. WAP does not provide any formal training program for its Workers' Advisers regarding the Act and policies of the WCB. It does however, have an informal mentoring system. Training is essential to the efficient and effective operation of WAP.

WAP should implement a formal training program for Workers' Advisers.

32. The WCB uses informal communication methods with other WCBs in Canada to share efficiencies. Major projects such as Registration to First Payment and Disability Case Management, involve communication with other WCBs on their procedures and practices. The WCB is knowledgeable of other practices in Canada and considers these practices in major projects underway at the WCB.

33. The Clients Service Division of the WCB is critical to the efficient and effective processing of claims. Some of the division's staff do not have access to computers and the related software. Major documents, such as case plans, must be hand written or dictated. Case plans cannot be updated on a timely basis.

Clients Service Division staff should have access to the appropriate technology, and acquire adequate training to prepare case plans electronically. Current WCB initiatives in this area should continue on a priority basis.

34. Use of technology in the WCS may not be adequate to achieve an optimal level of efficiency in its operations. Our experience with other WCSs in Canada indicates that Nova Scotia trails in the use of technology.

The WCS should evaluate the benefits of utilizing a higher degree of technology in its operations.

OBJECTIVE II

Determine the causes for and recommend solutions to the backlog in benefit decision appeals. Recommend efficient and economic means of preventing future backlogs in the appeals process.

35. The following table summarizes appeals filed and final decisions of WCAT. Final decisions do not include leave granted, as these appeals would still remain in the backlog until the merit decision is rendered.

Year	Transitional appeals filed	New appeals filed	Final Decisions	Backlog contribution
1995 (from June)	208	188 (incl. 80 from Appeal Board)		396
1996	862	672	(38)	1496
1997	194	973	(373)	794
1998 (to July)	4	352	(508)	(152)
	1268	2185	(919)	2534

36. Backlog history:

- In June 1/95, WCAT was established as a legal entity and all WCB appeals filed after that date were to be filed with WCAT. Prior to this, the old Appeal Board was the legal entity, under the old Act, where WCB appeals were filed. Appeals could be filed at the Appeal Board before being heard by a WCB Hearing Officer.

- At June 1/95 there was a backlog of appeals at the old Appeal Board. We have been unable to determine the exact number of appeals in backlog at that time. However, these appeals in backlog can be broadly classified as:
 - Appeals of final decisions of a Hearing Officer
 - Appeals not yet heard by a Hearing Officer
- The new Act states that all appeals filed at WCAT must be final decisions of the WCB, which means the Hearing Officer must have reviewed and decided on the appeal.
- At June 1/95, there were 2,153 appeals at the appeal board that did not have a Hearing Officer's decision. These were immediately (on June 1/95) sent back to the WCB Hearing Officers for a decision.
- Of the 2,153 appeals that were sent back to the Hearing Officers at June 1/95, the Hearing Officers had rendered decisions on essentially all by February 1997. WCAT refers to these as "transitional appeals".
- Of these 2,153 transitional appeals, 1,268 (59%) were eventually filed with WCAT.
- All appeals that were at the appeal board at June 1/95 that had a Hearing Officer's decision, stayed at the old Appeal Board. The old Appeal Board continued to hear cases until January 31/96. At January 31/96, approximately 80 appeals were not heard by the old Appeal Board and were transferred to WCAT.
- Between June 1/95 and December 31/95, 396 additional appeals were filed with WCAT (208 transitional, 188 new appeals).
- In January 1996, WCAT commenced operations by formally opening offices and hiring 3 full time Appeal Commissioners. In April 1996, 2 more full time Appeal Commissioners were hired.
- In May 1996, WCAT made its first leave decision. Initially WCAT was purposely taking its time in writing decisions to ensure quality, making 881 decisions from January 1997 to July 1998. However, during this same period 1,523 additional appeals were filed.

37. The WCS does not have a system in place to identify and determine why there is a backlog, and no component of the WCS has taken ownership of the backlog. Consequently, it is unlikely backlogs can be avoided in the future.

The WCS should establish parameters to identify what constitutes a backlog of appeals. Once a certain number of appeals are reached, the Tri-partite Committee of the WCS should meet to establish a formal plan to resolve the backlog.

38. As of December 31/96, WCAT had made 81 decisions, including 43 Leave decisions granting entitlement to the appeal process (i.e. remained in the backlog). Therefore, during the period June 1/95 to December 31/96, a period of 19 months, while 1,930 appeals were filed at WCAT, only 81 decisions were made, which only eliminated 38 cases from the backlog. When WCAT was established, there appears to have been no plan in place to deal with:
- (1) the backlog of appeals existing at the old Appeal Board; and,
 - (2) additional appeals filed during WCAT start up phase.

WCAT appears to be very legalistic in nature and design. Decisions are highly detailed and appear to focus primarily on issues of law. This type of approach may not be appropriate for a mass appeals system, where disputes frequently arise over questions of judgement rather than over specific legal points.

Consideration should be given to streamlining appeals into two categories; appeals that relate to a complex issue of law and interpretation, and those that are of a more routine nature. More resources should be directed to those appeals that relate to a complex issue of law and interpretation.

39. In their submission to the Select Committee, WCAT presented their plan of action to deal with the appeal backlog by July 2000. It is difficult to determine whether this deadline is reasonable because it depends upon the hiring of ten additional Appeal Commissioners, approval of amendments to the WCB Act and the use of the Alternative Dispute Resolution (ADR) process. Based on the results illustrated in the above table, no documented analysis appears to have been undertaken to determine the cost of this plan, nor is it clear how the plan will achieve a July 2000 elimination date.
- WCAT should complete a documented assessment of the cost of the backlog reduction plan, and clearly state how the July 2000 elimination date will be met. Performance expectations should form an integral part of this assessment.***

40. The ADR process was an effective means to hear a large volume of appeals in a short period of time. This process helped to reduce the volume of the backlog.
- WCAT should continue to use ADR as a means to clear the backlog. In doing so, the WCS must be cognisant of which types of appeals work best***

with ADR. Strict guidelines should be implemented and agreed upon to ensure only the most appropriate appeals are processed using ADR.

OBJECTIVE III

Assess the degree to which policy, procedures and practices relating to benefit claims intake, processing, assessment and appeal comply with the Workers' Compensation Act of Nova Scotia.

41. Our review of the WCB, WCAT and WAP documented policies and procedures indicates that they are in compliance with the Act.
42. Our tests of benefit claims and appeals indicate that practices of the WCS are in accordance with the Act.
43. The WCB monitors its compliance with the Act through documented quality assurance procedures, its internal auditor function and Board of Director reporting.
44. Although they are in compliance with the Act, WCAT does not have any specific procedures to ensure compliance. Compliance with the Act is essential to effective operation of the WCS.
WCAT should develop and establish procedures to monitor its compliance with the Act.
45. WAP has policies in place to ensure compliance with the Act. This compliance is monitored; however this monitoring is informal and unstructured.
WAP's current practice of spot checking files at WAP by the Chief Worker Advisor should be expanded so that files are selected randomly, on a periodic basis, and reviewed.
46. The WCB, WCAT and WAP reporting of compliance with the Act is limited. Current reporting does not allow stakeholders to determine if the WCB, WCAT and WAP are complying with the Act.
The WCB, WCAT and WAP should report to appropriate stakeholders the results of their monitoring of their compliance with the Act.

OBJECTIVE IV

Assess the roles and responsibilities of medical professionals in the Workers' Compensation System, and make recommendations to address any observed uncertainty, inappropriateness or non-compliance with legislation.

47. The WCB Medical Advisors have clearly defined roles; however there appears to be a significant discrepancy in the interpretation of their roles by stakeholders. The WCB medical advisors do not make benefit claim decisions. They provide assistance and commentary on external doctor reports and assessments. Depending on the nature of the benefit claim, Case Managers or Adjudication Advisors review and weigh the evidence available, and render a decision.

The roles and responsibilities of WCB Medical Advisors should be clearly communicated to all stakeholders.

48. The roles and responsibilities of medical professionals outside the WCS are not clearly defined, and their significance in the WCS is not effectively communicated. *A plan should be established to meet with and inform the medical community regarding their significance to the WCS.*

49. There is no consistent application of the Permanent Medical Impairment (PMI) guidelines between external medical professionals and WCB internal medical professionals. This causes differences of opinion between medical professionals, ultimately leading to appeals. Management informs us that a plan is currently in place to review the current PMI guidelines.

A comprehensive communication program should be carried out to ensure all external medical professionals are aware of the PMI guidelines and any changes to these guidelines that may occur as a result of the current management review.

49. As previously stated, differing medical opinions are resolved by the weighing of evidence. This involves significant judgement on part of the decision-maker. We were unable to determine the level of training and medical knowledge of decision-makers.

All decisions based on medical evidence should be made by individuals possessing some level of training in medical terminology and practices.

50. The Act contains provisions for operation of a Medical Review Commission. In the Manitoba WCS, a Medical Review Panel (MRP) mechanism, comprised of three medical practitioners, has been established to assist with

resolving differing medical opinions. The MRP is involved primarily at the appeal stage, but is available to provide guidance to the WCB Board upon request, and acts as an independent, objective body that reviews opposing medical opinions, and provides recommendations to the Manitoba WCS. The Chairman of the MRP is a permanent employee of the senior appellate body and is a medical practitioner. The MRP is established, and its authority is derived, directly from legislation. For each case, the injured worker and the employer are each required to appoint the remaining two MRP members from a medical practitioner list provided by the medical society. The MRP has access to all medical history and can test and examine the injured worker as is necessary. Recommendations of the MRP are non-binding but carry considerable influence with the decision-making body requesting its assistance.

The WCS should further investigate the Manitoba MRP, and adopt those components that are appropriate to the Nova Scotia system.

OBJECTIVE V

Assess the quality of the relationship of the various components of the system with its clients, and suggest means of improvement.

52. The WCB has no central complaints register. Integrated Service Unit (ISU) managers investigate complaints and write letters to complainants.

The WCB should establish a more formal system to record, monitor and resolve complaints.

53. Our review of submissions to the Select Committee on the Workers' Compensation System indicates there is a perception the appeal system is bureaucratic and legalistic. Consequently, injured workers experience frustrations with the current system and many injured workers feel confused about the operation and the people and groups involved in the current appeals system.

As previously recommended the implementation of a conciliation phase system and redefining the WAP role will address these concerns.

54. Through surveys of its clients, the WCB has been able to determine client needs. Other less formal methods include case manager interaction with clients and ISU manager speaking engagements. Performance expectations have been developed to measure the extent to which the WCB is meeting the needs of clients.

The WCB should continue to gather data to enable them to measure the extent to which these expectations are being met.

OBJECTIVE VI

Assess the quality of the relationship and cooperation among various components of the system with each other, and between the system and external sources of disability insurance (notably, Canada Pension Plan and private insurance providers). Recommend ways various stakeholders could work together more efficiently and cooperatively.

55. A tri-partite committee, consisting of senior management of the WCB, WCAT and WAP is in place to coordinate issue identification and resolution between WCB, WCAT and WAP. However, the committee does not meet on a regular basis and this informality may impede its effectiveness.

The tri-partite committee should establish a formal meeting schedule to proactively raise and resolve issues facing the WCS.

56. There is regular administrative correspondence among the various components of the system. Administrative correspondence dealing with complaints appears to be dealt with on a timely basis with an aim to resolving the conflict by providing further explanation or by offering a meeting to deal with the conflict. Dispute resolution between the various components appears to be functioning adequately.

57. There appears to be differences in interpretation of the roles and responsibilities of each component of the WCS, both externally and within the WCS. For example, WAP has informed us that injured workers sometimes question their objectivity. As a further example, none of the components have a consistent interpretation of how and where new medical evidence should be handled. These differences in interpretation, especially at the appeal level, limit the ability of the WCS to meet the needs of its stakeholders.

The roles and responsibilities of each component of the WCS need to be clearly defined and communicated, both within the WCS and externally. The treatment of new medical evidence in the process should be specifically addressed.

58. Communication between external sources of disability insurance is regular but informal. The WCB has recently signed an information sharing agreement with the Canada Pension Plan, and an internal focus group has been established to implement the agreement. Management information systems are not yet in place to share information electronically.

The WCB should continue to investigate the advantages of sharing information with external sources of disability insurance and should improve this area on a timely basis.

RESPONSE FROM WORKERS' COMPENSATION BOARD OF NOVA SCOTIA

The need for fundamental changes and improvements to the WCB was recognized by the new stakeholder based WCB Board of Directors. Through management, they initiated activities which resulted in the development of WCB's new earnings loss service delivery, quality assurance, internal audit and planning processes. Those activities have fundamentally changed the WCB, and are the basis for 18 of the 20 recommendations contained in the Auditor General's report that deal solely with the WCB.

The WCB agrees with most of the findings and recommendations contained in the report as they pertain to the Workers' Compensation Board. There are four recommendations relating to the WCB and the broader system which we believe warrant comment and further consideration, as we as a society attempt to further improve the system.

It is important to note that the auditors "...review of WCB claim files indicates that overall, claims are being processed efficiently, and in accordance with the Act." (page 14) It is important in light of the past concerns that stakeholders know that these independent auditors made this determination as well as finding that "The WCB monitors its compliance with the Act through documented quality assurance procedures, its internal auditor function and Board of Director reporting." (page 20)

This by no means suggests that there is not room for further improvement. In fact, all but two of the recommendations which deal solely with the WCB processes have been identified as a result of our internal quality assurance and internal audit program. There are, as noted in the report, projects underway to address these items.

The Board is of the view that the new Act is generally working with the exception of the appeals process. This seems to be supported by the fact that during the Select Committee hearings held across the province, of the 170 presenters, only eight people had been injured since the new Act came into effect in 1996.

Additionally, of the approximately 80,000 individuals who had a workplace accident since February 1, 1996, about 300 workers - less than half of one percent - have filed an appeal at the external appeal body, the Workers' Compensation Appeals Tribunal. Overall, 98% of all the cases handled by the WCB are resolved, and less than 2% require the involvement of the Workers' Advisers or WCAT. This is another clear indication the new Act is working.

There are several recommendations in the report on which we would like to provide specific comment:

2. ...the WCB and WAP (should) work together to come to a mutually agreeable time frame to register appeals. Alternatively, WAP may serve as a conciliator between the injured worker and the WCB prior to the commencement of deadlines for filing appeals. If the conciliation failed, the legal services branch of WAP would take over the client support during the formal appeal process...

Response:

The WCB Board of Directors has set very clear performance expectations for the hearing of internal appeals. Ninety five percent of all hearing officer decisions are to be issued within 90 days or less of the filing of an appeal. In addition, decisions are to be issued within 30 days of a hearing.

These standards are based on the expectations of injured workers, and the philosophy that it is critical that the worker gets the service he or she needs at an early stage in the process. This is crucial in light of the concept of early intervention, particularly for those workers who may develop chronic pain.

With a current wait of up to eight weeks to see a Worker Adviser, there is a serious concern that any lengthening in the appeal process would simply add further delays between the time of the original injury and delivery of services. For a recovering injured worker, time delays are a significant barrier that should be shortened, not lengthened.

Recommendations in the report regarding the establishment of an intake system at the Workers' Advisers Program may help to alleviate their current backlog of cases and ensure in the future that files are handled and prioritized within resources.

16. *The WCB should consider returning incomplete form 67's to employers and imposing a penalty...*

Response:

The WCB recognizes that this process is not working as well as it should, but instead of imposing further penalties, and potentially introducing further delays in getting payments to workers, the Board is developing a more efficient process of reporting.

This will be achieved through a shift from the current system of paper dependent reporting (Form 67) to telephone reporting and on-screen authorization of payments. By the end of 1999, the WCB will have a telephone reporting service, which should address this concern, rather than just using punitive measures. By the year 2002, this new process is intended to result in 90% of claims being paid within 15 days.

The WCB now fines those who do not file the report on time. This helps to get the key information in so the claim can be opened. Once the claim is open, the WCB works with the employer and the employee to get any data that is missing in the original report. It should be noted that since January 1, 1997, employers have paid \$465,649 for 1,546 late reports.

28. *...The WCS should work together in developing a single, co-ordinated strategic plan that establishes broad objectives for the entire system. This plan should be approved by each component and ultimately the Minister responsible for the WCS.*

Response:

Conceptually, the WCB agrees that it would be useful for all agencies in the system to share a strategic plan, but there needs to be recognition that there are three distinct roles necessary to protect the rights of individuals in conflict in a quasi-judicial system. These roles present difficulties in attempting to coordinate a strategic plan.

The report does not recognize the administrative law principles underlying the arms length nature of the three agencies in a system such as this. The Workers' Advisor Program is somewhat independent, but clearly reports to the Deputy Minister of Labour. WAP must, however, provide true legal counsel, which implies resolute advocacy of its clients' interests in accordance with the ethical obligations of all lawyers. There are often inherent conflicts between what is good for the system and what is good for an individual client. These are the conflicts that the Department of Labour deals with through the Workers' Advisers program.

WCAT is a self-administering body subject only to financial and hiring oversight by the Government. It must not only be truly impartial and separate from WCB and WAP, it must be seen to be impartial. The WCB, WCAT and WAP must independently play their proper roles in applying the legislation.

In fact, we believe that, in a sense, strategic planning was the intent of Section 183 of the new Act. This section explicitly gives the WCB Board of Directors power to make policies governing the exercise of discretion where it is left open under the legislation. Section 183 makes those policies binding on the WCAT and therefore by process on the WAP.

Evidently, the WCB Board was assigned this broad policy oversight role because it is the only agency in the system structured and mandated to work with the system as a whole, rather than on a case by case basis. It is the only agency in the system governed by those the system is designed to serve - employers and workers.

As a result, responsibility for handling *all* claims lies with the WCB Board of Directors who, as representatives of the employers and workers the system is designed to serve, have developed a strategic plan and set performance expectations for service delivery. Since February 1, 1996, less than half of one percent of these cases have proceeded to the external level of appeal.

37. *The WCS should establish parameters to identify what constitutes a backlog of appeals...*

Response:

We understand this recommendation is focussed on the WCAT component of the appeal system, as there are systems in place to address the identification and management of any backlogs at the WCB. Ninety-eight percent of all the cases handled by the WCB are resolved internally. Only about 2% require the involvement of the Workers' Advisers or WCAT. There are backlog and case management information systems for 100% of the cases handled by the WCB, and performance is reported to the stakeholder Board of Directors on a monthly basis. There is no backlog of appeals at the WCB. All cases are monitored and decisions must be issued within 30 days of a hearing in 95% of cases. As noted earlier, the WCB operates its appeal process with a series of time limits. We agree that performance measures should be established and monitored.

There is a 2500 appeal case backlog at the WCAT and an eight-week wait at the Workers' Advisor Program prior to a file being reviewed to determine if they will represent the client. As the senior appellate body in a quasi-judicial system, WCAT must be largely independent from the executive branch of government, but it reports to the Legislature through the Minister of Labour, who is responsible for the Act. The Workers' Advisor Program formally reports through the Deputy Minister of Labour.

The WCB can provide data from its backlog and case management information systems to the WAP and the WCAT to assist them in dealing with the claims they come in contact with. The WCB has a common data base with the WCAT and currently shares certain data with them. We are willing to provide similar services to the WAP, enabling WAP to input data into the comprehensive file. This would assist with the development of a comprehensive picture of the file flows.

The WCB has worked with both parties to identify and implement Alternative Dispute Resolution (ADR), as one example of a process solution identified to resolve the appeals backlog. We are willing to do so while respecting the rights of those in the appeal system.

The WCB actively monitors and reports on policy and legislation related issues arising from the WCAT. Because it is the senior appellate body, the WCAT's decisions are used as precedent. If a WCAT decision is thought to be contrary to the law, it is challenged in the Court of Appeal, and of course, what the Court of Appeal says is given effect. It must be understood that the WCB, WAP and WCAT each assess and deal with the rulings of the Court of Appeal and the WCAT according to their respective roles in the system.

There is a backlog of a large number of cases that arose before the new Act was in place. The backlogging of these cases creates hardship for those affected, as they need to know the final outcome of their cases. The WCB Board of Directors has recognized that legislative clarity is a key factor in the resolution of this backlog. To that end, the Board has made recommendations for legislative change.

From a system point of view, the backlog has meant that the WCAT has not heard new cases expeditiously. The WCB Board of Directors has called for a double streaming of the Workers' Advisor and WCAT process for new claims. This is intended to allow cases that have arisen since the introduction of the new Act to be dealt with on a timely basis.

The WCB has not addressed the issue of how the WAP and WCAT allocate their resources, which primarily is how they prioritize cases. This is not something the WCB can do while maintaining the arms length relationship contemplated in the Act, and as required by the general principles of administrative law. This was discussed in connection with the recommendation about strategic planning for the system.

It is worthwhile noting, however, that from the resource allocation perspective, there is already a significant amount of resources allocated at the appeals level compared to the claims processing level. In 1998, of the total system costs budgeted for claims processing (including appeals), 74.4% (\$10,643,119) are allocated directly to claims processing at the WCB, 4.4% (\$625,917) are allocated to the WCB's Internal Appeals, 8.7% (\$1,249,298) are allocated to the WCAT and 12.5% (\$1,793,000) are allocated to the Workers' Advisers Program.

The WCB Board of Directors, as the representatives of the stakeholders who have the responsibility for policy and administrative practices for all workers' compensation cases, has established time frames for the rendering of decisions by the WCB. This cannot govern the WCAT, nor can it take account of the fact that an appeal decision may be based on information additional to that in the file upon which the decision under appeal was based.

If new information can be introduced at the final level appeal, as is currently the case, there will continue to be delays built into the system. Each case is decided anew at each level, with no useful precedents established to guide the WCB front line decision makers, the WCB hearing officers or WAP.

The focus should be on getting the decision right the first time. To achieve this, the model of the courts should be adhered to, even though in the short run it may appear inefficient to send a matter back to the front line decision maker to consider new evidence. If the evidence is truly new, it may well lead to a new decision that can quickly be made by someone already familiar with the case. This is the way to efficiently address the appellant's problem. If this process does not solve the concern, the appellant could keep his or her place in the appeal queue, to avoid being lost in the process.

General Comments

As noted above, the WCB Board of Directors has directed a significant reform and restructuring of the organization since the introduction of the new governance model.

The new system appears to be working. Of the more than 80,000 individuals injured since the new Act was passed, less than 300 have filed an appeal at the external Appeal body, WCAT.

The overall responsibility for handling *all* claims lies with the WCB Board of Directors as representatives of the stakeholders the system is intended to serve. Claims processing standards are being enforced and reported on for all cases handled by the WCB. Since February 1, 1996, less than 0.5% of these cases have proceeded to the external level of appeal. This is another clear indication the new Act is working.

The new *Act*, through sections 183, 245 and 246, intended to establish the stakeholder appointed Board of Directors as the overseer of all policy matters under the Act. Unfortunately, this aspect of the *Act* has not been given an opportunity to mature and is now being challenged. Recently there has been a series of WAP challenges, and now a WCAT decision that appear to be directed at the efforts of the Legislature to bring some focus to the system which previously did not even have a common set of policies.

It is important to take into consideration the context of how the Workers' Compensation Board has evolved, and to place the findings of this report into that context. The situation at the WCB today is very different from the one that existed in the past. This is due we suggest, to having those ultimately receiving the services of the system, governing it.

A system in transition

Some of the initiatives and accomplishments since the new stakeholder governance system was introduced include:

- ▶ Shifting the payment of benefits from the old Clinical Rating Scale to a system of compensation for earnings loss. This has resulted in the average allowance for time loss benefits increasing from \$6,802 in 1993 to \$10,136 in 1997.
- ▶ Setting a new focus of providing early assistance with the objective of a timely return to work as part of the medical and vocational rehabilitation process. Between 1993 and 1997, reduced the length of time to process a claim by 18%, and the duration of short term claims by 27%, while reducing the number of cases going to appeal and virtually eliminating any delay in the internal appeals process.

- ▶ Introducing Integrated Service Units (ISUs) to provide more successful management of workplace injury claims including: utilizing a case management team, including case manager, a vocational rehabilitation counsellor and a physician. The focus is timely and appropriate assistance while recognizing that returning to work is part of the recovery process.
- ▶ Investing in staff training to better meet client's needs. Since 1992, staff have invested extensively in training - 36,000 hours in the last three years - including training on the new *Act*. In 1997 a comprehensive training program on customer service and effective case management was established. Less than 300 claims filed in 1996 and 1997 have proceeded to the external appeal body.
- ▶ Introducing quality assurance measures, including the Case Review Committee, which provides a peer review mechanism for complex decisions. Less than 2.50% of claims filed in 1996 and 1997 have proceeded to the first level of appeal (Reconsideration) and 0.50% of claims filed in 1996 and 1997 have proceeded to the Hearing Officer level of appeal. Less than 0.50% of claims filed in 1996 and 1997 have proceeded to WCAT.
- ▶ Introducing a funding strategy that would allow for the provision of earnings loss benefits while at the same time providing financial stability by gradually and systematically eliminating the unfunded liability by the end of the year 2039. From 1995 to 1998 the WCB's financial position improved beyond that expected in the original Funding Strategy, due in large part to the improving provincial economy. At the end of 1997, the WCB was 50% funded. Although this is an improvement over what was anticipated, Nova Scotia remains the worst funded Board in Canada and has the third highest average assessment rate in the country.
- ▶ Restructuring the rate setting model to ensure the WCB collects sufficient revenues to meet its obligations to injured workers, while maintaining equity among employers. Under the new model those rate groups (groupings of industries) that are responsible for a given percentage of claims costs are responsible as a group for paying that percentage of assessments. The average assessment rate has been stable at \$2.54 since 1994.
- ▶ Further improving the assessment model by the introduction of an experience rating system ensuring a firm's individual premium will be affected by its accident record. Sixty-eight percent of all participating firms received a rate reduction in 1997 because of the experience rating system.
- ▶ Entering into a partnership with the Department of Business and Consumer Services and Revenue Canada in planning the delivery of the Nova Scotia Business Registry (NSBR). Services such as registration, licensing, and other approvals, as well as making payments for those transactions, would all be made available to businesses through multiple access channels, including telephone, fax, Internet, and Access Nova Scotia offices.
- ▶ Introducing the Functional Restoration Program (FRP) for chronic pain cases, based on the principle that early intervention and pain management are critical in assisting workers with chronic pain.

Continuous Improvement

In 1997, the WCB prepared a strategic process to design and implement a client-centred service delivery model. The model, known as the Long-term Business Plan (1998-2002), reflects a three-pronged strategy that includes: (1) the implementation of process/structural improvements, (2) the application of technology to address service and administration issues, and (3) a focus on the establishment of partnerships to make sure the disability benefits and taxation systems are providing optimal service.

To improve the quality and cost of WCB service and administration a series of process and structural improvements are planned:

- redesigning the WCB's front-end registration and initial entitlement processes to pay and assess claims for disability benefits and provide appropriate case management services more quickly. This will be achieved through a shift from the current system of paper dependent reporting (Form 67) to telephone reporting and on-screen authorization of payments. By the year 2002, this new process is intended to result in 90% of claims being paid within 15 days;
- introducing a 'risk management' service to assist employers with high volume/severity-of-accident experience in understanding the nature of business or management issues that may be driving their workers' compensation costs.
- implementing a periodic payment system to provide employers with additional payment options. The periodic payment initiative should improve cash flow for employers and deal with the major issues associated with payment in advance and estimating payroll. Implementation is scheduled for 1999.
- in October 1998, the WCB, Revenue Canada and the Province of Nova Scotia signed a partnership agreement that will enable the WCB to utilize Revenue Canada's Business Number as a single identifier for a registered business. This will set the stage for future opportunities for information and resource sharing, reducing duplication of effort for Nova Scotia businesses.

These initiatives will contribute to the improvement of the WCB's internal service levels and the effectiveness and efficiency of the administrative process.

Corporate Performance Measures

As part of the Board of Directors determination to have an efficient, open and accountable system, a number of corporate performance measures have been created to track the WCB's progress on service improvements and establish clear and attainable goals. The initial rating for these performance measures was based on actual performance, established through current statistical data or customer satisfaction surveys.

The corporate performance measures have only recently been established, and a review of the performance expectations is planned to ensure they are appropriate and attainable as actual performance is compared to the target. It was determined that setting targets at current actual performance levels would not be motivating for the organization.

These targets clearly set goals for the staff and management to strive to attain. Staff development programs and system improvements have been put in place to help achieve the targets.

The corporate performance measures provide a balanced measure of the WCB's performance, including:

- ▶ Service measures, which provide objective measures of the timeliness of the WCB's initial payments to workers and its internal appeal process.
 - Timeliness of Accident Reporting
 - Internal Processing Time
 - Timeliness of First Payment
 - Timeliness of WCB Internal Appeals Decisions
- ▶ Stakeholder Satisfaction measures, which are based on annual surveys of injured workers and registered employers who are asked to rate the WCB's service.
 - Promptness of Benefits Delivery (injured workers)
 - Frequency of Contact (injured workers)
 - Ability of WCB Staff to Answer Questions (injured workers and employers)
 - Clarity of Letters Sent by the WCB (injured workers)
 - Politeness of WCB Staff (injured workers and employers)
 - Clarity of Forms (employers)
 - Promptness of Service (employers)
 - Accessibility of WCB Staff (employers)
- ▶ Financial Measures which are objective measures of the WCB's financial performance and situation.
 - Percentage Funded (assets to liabilities ratio)
 - Real Rate of Return on investment portfolio
 - Average Actual Assessment Rate
 - Administration Costs per \$100 of assessable payroll

Corporate performance measures are tracked and updated regularly as new data become available and are provided quarterly and annually to the Board of Directors, WCB staff, and external stakeholders (via the WCB web site - www.wcb.ns.ca, the annual report and the newsletter, Inside Workers' Compensation.) The WCB's web site includes information on these corporate performance measures, the annual report and the WCB's submission to the Select Committee.

These measures cover key areas of responsibility for the Board of Directors of the Workers' Compensation Board within the workers' compensation system and were established, as highlighted in the Audit report, on the belief that *"Accountability and efficiency within the system can be significantly improved once the implementation of a system of performance measures and results comparison is in place."*

Conclusion

Overall, we agree with many of the report's findings and recommendations and believe it addresses the key issues raised by the stakeholders of the workers' compensation system, highlights the significant improvements the system has undertaken to improve service, and identifies projects currently underway to improve service in the future.

RESPONSE FROM THE WORKERS' ADVISERS PROGRAM

The Workers' Advisers Program was given an opportunity to participate and be informed of all phases of the audit being conducted by the Auditor General. We believe that agencies being audited in such a manner should be given an opportunity to participate fully in the audit process. Throughout this process, we have been given every opportunity to provide meaningful input and to participate fully in the audit process.

We found that the objectives of the audit may have been restrictive for a variety of reasons and therefore, issues important to the Workers' Advisers Program, such as the Program's perceived independence and potential conflicts arising due to the reporting structure under the *Workers' Compensation Act*, were not able to be addressed.

We also feel that there was insufficient time for field work to be conducted to address operation details of the Workers' Advisers Program, such as the appropriateness of performance standards and the appropriateness and adequacy of the intake process and its impact on injured workers. While we certainly understand that audits must be structured, objective and clearly defined to secure the credibility and effectiveness of an audit, it is our belief that restricted time and narrow objectives left certain questions unanswered and resulted in some vague and incomplete recommendations.

We believe that a system such as the Workers' Compensation System in Nova Scotia is designed to protect and preserve the rights of workers and employers and cannot be judged or assessed only by quantitative values. To determine whether or not a system such as this one is effective and adequately serving the people it was designed to serve, an audit must include a very broad look at the impact such a system has on the lives and well-being of its clients. When an audit is severely restricted in time and in objectives, it could lead to decisions being made on the basis of purely quantitative measures, and those of us who are advocates for injured workers would caution the decision makers to not only look to quantitative measures, but also look to the protection of the individual.

Once again, I would like to thank the members of Grant Thornton for their professional work. We appreciate the fact that you kept us involved and would like to thank you for this most enlightening process.
