

16.

WORKERS' COMPENSATION BOARD - REVIEW OF OPERATIONS

BACKGROUND

16.1 The Workers' Compensation Board (WCB) derives its mandate from new legislation (the Workers' Compensation Act) which came into effect February 1, 1996. The new Act has significantly changed the methodology used to determine the level of benefits awarded to injured workers. Long-term benefits are now primarily determined by the wages that a worker will forego due to his inability to work (whether at all, or at the same level as before the accident). The new Act also creates more incentive for the employer to practice better work-place safety by varying employer premiums based on its accident and claim experience. Employers can reduce their premiums by having a safety record that is better than the average for their industry class. These and other changes to the mandate of the WCB have necessitated significant changes to the Board's policies, procedures and organizational structure.

16.2 The WCB is accountable to the Minister of Labour. Its head office is located in Halifax, and a branch office is located in Sydney. The Board has recently undergone an organizational restructuring to prepare for its new mandate. As part of the restructuring, staff levels have increased and the number of divisions increased from four to seven. Under the Client Services Division, five Integrated Service Units (ISU) were established, each serving a specific geographical region. They combine a number of previously separated functions in order to provide quicker, more effective service by moving to a collaborative, client-centred approach. According to WCB statistical reports, over the last four years claims processing time has been improved by 22% and duration on short-term disability has been reduced by 32%.

16.3 The WCB had expenditures of \$162 million for the year ended December 31, 1995 (1994 - \$151 million). Included in this is a \$38 million (1994 - \$27 million) increase in the present value of the WCB's benefits liability. Benefit payments represent approximately 64% of total expenditures, while salaries represent another 6.8%. Revenues for 1995 and 1994, comprised primarily of employer premiums, were \$173 million and \$159 million respectively.

16.4 As of December 31, 1995, the WCB had an unfunded benefit liability of \$368 million (1994 - \$379 million). The Board has a long-term plan to address the liability. Through the new assessment premium structure, it is projected that current and future benefit costs will be fully covered, and \$.45 of the average premium (currently at \$2.54) will be available to apply against the unfunded liability. This strategy is designed to eliminate the unfunded liability over a 45 year period. As part of the new legislation, the Province is contributing approximately \$23 million over five years to assist in stabilizing assessment rates. Also, the Province has guaranteed a real rate of return of 4.75% on the Board's funded liability for existing claims and those arising during the next five years. After five years, at the turn of the century, assessment rates may increase \$.28.

RESULTS IN BRIEF

16.5 The following are the principal observations from this audit.

- We have recommended means by which the Board can reduce its risk of making overpayments with respect to compensation benefits and reimbursable medical expenses.
- The Board has a number of performance measures which have been developed to help monitor and control compliance of WCB operations with the Workers' Compensation Act. We recommended additional measures be used.
- Between January 1, 1991 and December 31, 1995 total salaries at the WCB rose 92%, while the complement of staff rose 62%. The Board has complied with the terms and provisions of wage restraint legislation. However, we cannot express an opinion on whether the Board followed the spirit of wage restraint due to a lack of documentation pertaining to position reclassifications made in the years 1991 to 1993.
- The Board is not following all of the requirements of the Provincial government's procurement policy. Government approval is not always sought for sole-sourcing and selection of other than the lowest cost bids.
- Contracts are not always used to control the hiring and performance of private-sector consultants.
- Extensive training was provided to staff on the provisions of the new Act. The Board has made considerable efforts to provide information about the Board, its policies and the new Act to employers, workers and the public. However, training for new staff needs improvement and the Board is preparing plans for a formalized training program.
- The WCB Board of Directors is in the initial stages of developing a process to self-evaluate its governance structures and practices. We have provided the Board with literature and sources of research to assist it in conducting its review.

AUDIT SCOPE

16.6 In October 1996 we commenced a broad scope audit of the Workers' Compensation Board in accordance with our mandate under the Auditor General Act. The objectives of this assignment were to:

- review and assess claims processing for accuracy, completeness and compliance with the Workers' Compensation Act;
- review and assess compliance with wage restraint legislation and current government procurement policies, and assess the acquisition of services for economy and efficiency;
- review and assess case management practices used to ensure injured workers receive only the benefits to which they are entitled; and

- examine the process being used by the WCB Board of Directors to review its governance activities.

16.7 The following general criteria were used in our audit of the Workers' Compensation Board.

- *Claims processing* - The WCB should have adequate systems to ensure claims are processed in accordance with the new Workers' Compensation Act. Internal policies and guidelines for the processing of claims should be consistent with the requirements of the Act. There should be adequate training of staff. There should be adequate performance measures in place to inform the Board of its compliance with the Act.
- *Wage restraint and procurement* - The WCB should be in compliance with the Public Sector Compensation Restraint Act and the Public Sector Compensation (1994-1997) Act. The WCB should comply with the Provincial procurement policy which became effective for crown corporations on June 1, 1996. Services should be purchased with due regard for economy and efficiency.
- *Case management* - Eligibility criteria for claims should be clearly defined and well communicated to WCB staff, employers and applicants. The WCB should be aware of all significant means by which errors in processing claims can occur and fraudulent application for benefits can be perpetrated. Adequate controls should exist to prevent processing errors and approval of fraudulent claims, and should include timely reassessment of recipient eligibility (where appropriate). Where appropriate, controls should exist to ensure that investigations of claims do not contravene the Freedom of Information and Protection of Privacy Act.
- *Corporate governance* - There should be a formal review process established and approved by the Board. There should be specific criteria to follow in reviewing the governance process. The Board should have knowledge of and access to current research and literature on governance. The Board should have a strategy for the evaluation and implementation of the results of the review.

16.8 Our audit objectives and criteria were reviewed with Board management at the beginning of the assignment. Our audit procedures included extensive interviews with management and staff, as well as examination of significant reports, files and other documents.

PRINCIPAL FINDINGS

Claims Processing

16.9 *Initial processing* - When an injured worker's claim is initiated, the WCB must be informed of how much the employee earned during the four weeks immediately prior to the accident. (Procedures are in place for workers who have worked less than four weeks.) Based upon this information, the benefit the worker is entitled to for the first 12 weeks of a claim period is calculated. After 12 weeks, a claim is considered long-term and a new benefit amount is calculated.

16.10 On occasion, an employer will report earnings for a period other than four weeks, and will also report an inaccurate amount of earnings for the period. This may result in an understatement or overstatement of initial benefits paid. The inaccurate benefit could continue up to a maximum of 12 weeks when a long-term rate is set using more accurate wage information. Overpayment of

initial benefits resulting from the reporting of inaccurate initial information is not recovered from the worker, unless the inaccuracy was the result of an intentional effort to mislead. WCB's internal auditor has recommended automated processes that could help prevent such errors, and we support the recommendation.

16.11 In another type of accident situation, a worker may become injured but continue to work for a number of days or weeks. Later, the injury becomes serious enough for the worker to stop working indefinitely and to file a claim for benefits. If during the four weeks prior to the filing of the claim the injured worker lost wages due to the injury, a wage adjustment is manually calculated to account for the lost wages. Not adjusting for days lost in such cases will result in lower benefits to the injured worker. Prior to the implementation of the new Act, this calculation was automated to reduce errors. However, the new computer processes implemented by the Board do not include this process. The nature of the changes made to the computer system made it inappropriate to have this automated process remain. Changes planned for the future will reestablish an automated process.

16.12 Payments made to or on behalf of a worker by the WCB are reported to the employer following the registration of a claim, as they can impact future premiums. The Board also sends, to those employers who elect to receive them, monthly advice notices summarizing program costs. The WCB places reliance on the employers' review of such reports as a means of identifying errors such as inaccurate salary information and duplicate claims. In our opinion, control could be strengthened if the monthly advice were sent to all employers of employees who have an active claim. Also, we found the format of the monthly advice to be a bit confusing, and suggested that there be efforts to ensure employers understand the reports and their relevance to future premiums, and how the employer can assist the WCB in controlling errors and fraud.

16.13 *Medical aid payments* - When an injury occurs, a worker may incur expenses which are eligible for reimbursement by the WCB (e.g., health care equipment, hospital fees, medical specialists). Invoices for such expenses are forwarded to the WCB, but are not being properly cancelled when processed by the registration section. This increases the risk of duplicate payments, and we have recommended that these invoices be properly cancelled upon payment.

16.14 *Internal audit* - The WCB has an internal auditor who has conducted audits of the various systems and controls designed to implement the new Act. We reviewed some of these audits and followed-up on recommendations made by the internal auditor. The Board has addressed most recommendations, but we observed that several have not been addressed, which, in our opinion, should be implemented. Of particular note, the internal auditor was concerned about the quality of internal reporting to WCB managers. Whereas the internal auditor noted the existence of regular reporting and matching to authorization of payments over \$5,000, the auditor suggested that improvements to internal reporting would help management ensure:

- longer-term payments are accurate and caseloads are properly balanced amongst staff; and
- employers are not misreporting the date of an accident so that they can register a previously unregistered company prior to the alleged date of the accident.

16.15 Following the introduction of the new claims payment system, it was made the subject of an internal audit. There were errors found by the internal auditor in the processing of claims. These were primarily attributed to the fact that staff were still being trained in the new processes and procedures. As a result, additional training was provided to staff. A follow-up internal audit noted that errors were still occurring, but at a lesser rate than before. We selected a sample of 40 claims to assess the accuracy of claim processing and our audit results were consistent with the results of

the follow-up internal audit. Another internal audit of claims processing is scheduled to follow-up on this issue.

16.16 Performance measurement - Performance measurement is an important part of the management and accountability process, and is needed to help both management and a Board of Directors ensure operations are efficient, effective and in compliance with all legal requirements. Performance measurement is a priority of the WCB and the Client Services Division has as part of its 1997 annual goals “to develop internal service delivery standards, measurement tools and evaluation methodology.” Based on our review, the WCB has a number of performance indicators and other statistics that aid in assessing Board compliance with the Workers’ Compensation Act. We found information on claims processing time, volume and cost, as well as the duration a claim remains open. As well, the Board has a number of financial indicators. Most performance indicators and statistics are summarized and reported to the WCB’s Board of Directors on a monthly basis.

16.17 However, management notes that performance measurement can be strengthened, and is committed to making improvements. In the following paragraphs we note a few additional areas where performance measurement would be of value.

16.18 Case files are subject to review at different intervals in the claims process by different levels of staff or management. To provide for the efficient processing of claims, we believe it would be helpful to have measures in place to inform management of the occurrence and timing of case reviews to ensure they are being conducted properly and on a timely basis.

16.19 Similarly, once a claim has been processed and regular payments commence, the Board establishes review dates, at which time case workers ensure that the status of a claim (e.g., claimant is still unemployed and unable to work) is still accurate. In our view, management should be aware of when key dates have passed and reviews have not been performed. This will not only assist it in ensuring compliance with the Act, but also will identify areas where problems (e.g., excessive caseloads) may exist.

16.20 Compensation appeal decisions are one indicator of how well staff are processing and making decisions on benefit applications. Presently, statistics generated on decisions made by the Internal Appeals Division combine decisions related to claims under the old and new Acts. Additionally, there are no statistics indicating the number of appeal decisions based upon new information becoming available. Decisions overturned due to new information are less likely to be due to errors on the part of claims processors. As well, the statistics which are generated are not formally communicated to senior management or broken down by areas under its authority. This hinders senior management in assessing compliance with the new Act and in obtaining information about potential problem areas. Verbal reporting on appeal decisions is provided during monthly meetings of senior management of the ISUs. We have been informed that this will be formalized in the future.

Wage Restraint and Procurement

16.21 Wage restraint - The Board’s budgeted number of full-time equivalent (FTE) staff has risen by 93 (62%) in the period January 1, 1991 to December 31, 1995 (actual FTEs were not tracked by the Board). Also, during this period salaries and staff benefits rose by approximately \$5.3 million (92%). Board management has indicated that these significant increases occurred because:

- the Board required additional staff to implement the new Act (which came into effect on February 1, 1996);

- there were significant payments for overtime and vacation leave not taken due to the work loads created by the implementation of the new Act; and
- reclassifications were made to higher-paying positions for 25 union positions (74% of total union positions) and for 11 management positions (34% of total management positions) to reflect increased levels of responsibility. (The Board was not able to locate any documented information about management position reclassifications in the calendar years 1991 and 1992, but based on memory, it does not believe there were any.)

16.22 Based on our review, the WCB has complied with the terms and provisions of the Public Sector Compensation Restraint Act, effective on May 14, 1991, and the Public Sector Compensation (1994-97) Act, effective on April 29, 1994. For example, the wage rollbacks, wage freezes and unpaid leave instituted in government departments were implemented at the WCB. However, the magnitude of the position reclassifications and total salary increase over the five years, and the fact that the salary increase was 30 percentage points larger than the increase in the number of staff during that period, led us to review the changes to see if they followed the spirit of wage restraint.

16.23 However, we could not form an opinion on the issue due to a lack of documentation at the WCB to fully describe the changes. The Board does not have a complete record of positions which were reclassified in the calendar years 1991, 1992 and 1993. Also, during that period there was inadequate record keeping to support management's evaluation of each candidate's suitability for the new position and higher responsibilities. As part of our audit, we asked for a list of all job positions at the WCB and the number of staff filling each of these. This information was unavailable for years before 1996. We are concerned that adequate records were not maintained to control and account for the reorganization.

16.24 *Procurement* - On June 1, 1996, the scope of the Provincial government's procurement policy was extended to apply to all crown agencies and corporations. One of the criteria listed in the Provincial Finance Act which defines a crown corporation states "*the Governor in Council is entitled to appoint and remove at least a majority of its directors.*" Under the Workers' Compensation Act, the Governor in Council is required to appoint all members of the Board of Directors. Accordingly, in our opinion, WCB purchases are now governed by this policy. The government has developed numerous procedures to support its policy objective of "*... ensuring that procurement is carried out in an open, fair, consistent, efficient, and competitive market.*" We conducted various tests to evaluate the Board's compliance in this area.

16.25 We selected a sample of 40 purchases made during 1996 to assess compliance with the procurement policy. We found nine instances where there was non-compliance. Management has informed us, as our audit testing revealed, that the Board did not regularly tender long-term services (e.g., legal, accounting, audit, actuarial) in the past. It is our opinion that such services should be tendered every three or four years. (The government policy is not specific on the frequency of tendering of long-term services.) Management indicated that it now has an internal policy that requires tendering at least every five years.

16.26 With regard to all of its procurement, the WCB does not obtain government approval for sole-sourcing and situations where the selected offer is not the lowest cost tendered. This is required by the current government procurement policy. Management indicated to us that it does not believe the WCB is legally subject to the government's procurement policy, but that it does support its objectives. However, it does not believe it is appropriate to report such procurement exceptions to government.

16.27 *Control over consulting assignments* - Over the five years ended December 31, 1995 professional fees have risen by approximately \$664,000 (281%). We reviewed payments to a sample of 19 consultants for the purpose of assessing the Board's control over professional assignments. We found:

- seven instances where there was no signed contract for legal, actuarial and computer-related services;
- one instance where the engagement letter describing audit services to be provided was signed by WCB in November 1996, but the audit was completed in March 1996; and
- one instance where an extension of a contract for project management services commenced in January 1996, but the amendment was not signed by both parties until April 1996.

16.28 We are concerned that some services were and are being purchased without formal signed contracts to control them. Contracts are necessary to provide for management control over areas such as project deliverables, fees, milestones and termination.

Case Management

16.29 *Training and communication* - The new Workers' Compensation Act came into effect on February 1, 1996. This represented a major change to the way in which benefits were to be calculated. It is crucial that staff be well trained to implement the provisions of the Act to prevent delays in benefits being paid to eligible recipients. It is also important that workers and employers fully understand the changes necessitated by the new Act.

16.30 Extensive training for employees was provided on the new Act and the operational changes that were to result because of it. Policy and procedure manuals were developed to assist staff in interpreting the new legislation. Staff are also provided with ongoing training to maintain and update their knowledge of the Act.

16.31 In addition, employers, workers and the general public are being informed of the new requirements, processes and benefit structures. This is being accomplished through various means, including:

- newsletters;
- meetings with worker and employer groups;
- placement of policy and procedure manuals in public libraries;
- a Home Page available through the Internet; and
- a toll free number to access staff trained to handle enquiries.

16.32 In our view, the Board has done a thorough job of training its staff, and in communicating its policies and the changes brought about by the new Act.

16.33 However, training for new staff needs improving. New staff are not provided comprehensive training, but are assigned to work with a more experienced staff member. The Board has recognized this as a problem and is preparing plans for a formalized training program.

16.34 *Quality control* - Due to demands connected with implementing the new legislation, case files are not being reviewed as frequently as they should be, and quality assurance standards and measures are yet to be developed. Case file reviews serve to ensure that Board policies are being followed and errors are identified and corrected in a timely manner. As well, they can help identify areas where additional training in the processing of claims may be required and assist in evaluation of staff performance. We are concerned that these key control functions have not been fully carried out. It is even more important to have such control at this time as the changes made to the systems and processes of the WCB increase the risk of errors occurring.

16.35 We also reviewed risk management at the WCB. We were provided a copy of a detailed report resulting from a study conducted by the Board's external auditors. It described a number of risk factors and control weaknesses that should be addressed, and management has indicated it is committed to monitoring the situation. Also, the Board has formalized an agreement with Human Resource Development Canada to share information maintained for the Employment Insurance program. This will help the Board investigate and reduce fraudulent application for and receipt of compensation benefits. The Board is pursuing the sharing of Canada Pension Plan information maintained by Human Resource Development Canada, as well as some information maintained by Revenue Canada and the Nova Scotia Registry of Motor Vehicles.

16.36 *Eligibility review* - The Board has an Investigations Unit which conducts investigations into compensation claims and employer assessments where allegations of misconduct have been made. Investigations may be started as a result of referrals from the ISUs or phone calls from members of the public. According to WCB financial reports, for the two year period ended December 31, 1996, the Investigations Unit's budgeted costs are \$25,000 (8%) in excess of savings or recoveries to the Board. However, management has informed us that one of the main roles of the Unit is to act as a deterrent to misconduct and that savings related to this have not been factored into the recoveries stated in the financial reports.

16.37 The Freedom of Information and Protection of Privacy Act is an important control over the scope of investigations of employers and workers carried out by WCB. It is critical that the terms and provisions of the Act be adhered to and Board employees be knowledgeable about them. WCB has provided training to all staff on the Act and adheres to its terms and conditions. Outside firms hired by WCB to conduct investigations are required to comply with all Provincial and Federal laws.

16.38 *Overpayments* - Overpayments arise when workers, employers (who pay the worker and are reimbursed by the WCB) or medical service providers have been paid benefits to which they are not entitled. Under most circumstances, if an overpayment of benefits is made, and it was not due to an intentional effort to mislead or a worker could not have reasonably known of the overpayment, the overpayment is not required to be repaid to the Board. However, future benefits will be adjusted upon the discovery of an overpayment situation. If similar circumstances lead to an underpayment of benefits, the Board will make a payment to correct any past shortfalls.

16.39 As at November 30, 1996 recorded outstanding overpayments totalled approximately \$680,000. However, no record is maintained for (and thus this figure does not include) overpayments which, according to policy, are not recovered (as described above). We believe it would be useful to management to know the total of all overpayments made during a year, regardless of their nature. Such information may be a good measure of improvement or deterioration in the quality of control over claims processing.

16.40 An internal review of the overpayments system was conducted in the fall of 1995. It concluded that *“the overpayment system as it exists contains no accountability and there are no controls in place to ensure all overpayments are recorded and all recoveries are deposited and recorded on the system.”* A report was presented in December 1995, but its recommendations have not yet been implemented due to heavy work loads associated with implementing the new legislation. We have been informed by senior management that the necessary changes will be implemented by May 1997. We recommended that the Board proceed as quickly as possible with its plans to implement the necessary corrections to the overpayment system.

16.41 Under the Workers' Compensation Act, recipients or their survivors can receive pensions for life. Often payments are made by direct deposit to banks or to trustees (e.g., nursing homes). In these situations it is difficult to confirm that the pensioner or survivors are still living. A recent internal audit identified this as an area where overpayments can occur and recommended that more procedures be used to confirm on a regular basis that such individuals are still alive. We concur with this and support the recommendation.

16.42 *Information technology* - The WCB is in the preliminary stages of developing a Business Information Technology Strategy (BITS). This project will significantly change the way cases are managed. The objectives of the project are to examine:

- current manual processes to determine if there are ways to streamline them; and
- opportunities to automate other aspects of the WCB's business.

16.43 The Board has identified 25 significant issues related to case management which need to be improved. Some examples of improvements the BITS project is expected to deliver include:

- the development of caseload standards in areas where they do not presently exist;
- the implementation of automatic prompts as to when specific action on a case is required; and
- the establishment of electronic case files to provide more timely access to file information and a more efficient process for putting information into a file.

16.44 In our view, case management is crucial to assisting injured workers in returning to work earlier, and accordingly, controlling benefit costs. We concluded that the BITS project should improve case management at the WCB.

Corporate Governance

16.45 Governance is the authoritative direction or control over an entity, and is the principal function of an entity's board of directors. It is an increasingly important function in the operation of public and non-profit entities, due in part to the continual pressure for reducing costs of providing services while trying to meet the increasing expectations of the public.

16.46 It was our intention to review the process the WCB Board of Directors planned to use to examine its own governance structure and practices. However, at the time of our audit the Board of Directors was only in the very initial stages of developing a process to conduct the review. Thus, it was too soon for us to meaningfully assess it.

16.47 However, we commend the Board for initiating this process and encourage it to complete its review in a timely manner. We have provided WCB management with literature and sources of information to assist in this endeavour, and will follow up on the Board's progress at a later time.

WORKERS' COMPENSATION BOARD'S RESPONSE

The Workers' Compensation Board of Nova Scotia would like to thank the Auditor General's office for their contribution to the process of checking the introduction of the new Workers' Compensation Act which was passed February of 1995. Throughout 1995 and 1996 staff at the Workers' Compensation Board worked to develop the new policies, procedures and computer systems that were required to implement the Act.

The WCB's internal auditor and external auditor (Deloitte & Touche) engaged in a series of reviews to ensure that the new Act, policies, procedures and systems were in fact being employed in an appropriate and timely fashion. The audit that was conducted in the fall of 1996 by the provincial auditor was another and very thorough check on the system.

We recognize that there are areas where improvements are still needed and the Board and staff are committed to making the necessary changes.
