FTR Now

WSIB Launches SIEF Pilot Project

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On September 21, 2009, the Workplace Safety and Insurance Board ("WSIB") launched a pilot project implementing important new changes to the way it administers its Second Injury and Enhancement Fund ("SIEF"). In this *FTR Now*, we discuss the new SIEF administrative process.

SIEF POLICY

SIEF was established to provide cost relief to employers where a prior disability has caused or contributed to a compensable accident or where that pre-existing condition has prolonged or enhanced the period resulting from an injury.

Where these factors exist, the WSIB may award cost relief of 25% to 100%, depending on the severity of the accident and the medical significance of the pre-existing condition.

Where a worker's benefit entitlement is awarded on an aggravation basis, the WSIB may award 50% SIEF cost relief. Where a worker's pre-existing condition is entirely responsible for the accident, 100% SIEF cost relief may be awarded.

THE CONSULTATION INITIATIVE

In February, 2009, the Chair of the WSIB initiated a consultation process with stakeholders, aimed at determining how to best achieve a sustainable future for the WSIB.

In an external consulting report provided to the WSIB by Morneau Sobeco entitled "Recommendations For Experience Rating" (the "Report"), and throughout the consultation process, concerns regarding SIEF were identified.

Specifically, the number of claims receiving SIEF cost relief have significantly increased in recent years, with about 30% of benefit costs being excluded from the calculation of experience rating factors.

The Report observed that SIEF is an area within the workplace safety and insurance system which is potentially unfair as it has shielded employers from a portion of their accident costs, resulting in higher experience rating rebates.

CHANGES TO THE ADMINISTRATION OF SIEF

On September 21, 2009, the WSIB launched a pilot project in its Hamilton office. The Project involves an Assistant Director who, with nine (9) staff members, will be responsible for determining eligibility for SIEF cost relief.

- The SIEF pilot project adopts the following process:
- the WSIB will continue to apply its SIEF policy;
- a request for SIEF cost relief should be submitted to the WSIB decision-maker responsible for a claim;
- the WSIB Case Manager will refer the request for SIEF to a SIEF Case Manager, a member of the new SIEF team;
- the SIEF Case Manager will review the request and provide the employer with a decision and reasons;
- an employer who is seeking a reconsideration, intending to object to a denial of SIEF cost relief or seeking a higher quantum of SIEF cost relief can apply directly to the SIEF Case Manager who rendered the decision;
- the name and contact information for the SIEF Case Manager assigned to a claim can be obtained from the WSIB by

telephoning the general inquiry number at 416-344-1000 or 1-800-387-0750;
- all other aspects of the worker's WSIB claim will be managed by the Case Manager (e.g. return to work); and
- an employer continues to have the right to appeal the SIEF decision to the WSIB's Appeals Branch and beyond to the Workplace Safety and Insurance Appeals Tribunal.

Should you require any further information about the SIEF pilot project and how it may affect your organization, contact your regular Hicks Morley Workplace Safety and Insurance lawyer.

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