

OHA Response to the Workplace Safety and Insurance Board's Updated Rate Framework Model

March 31, 2016

Contents

Introduction	3
Proposed classification structure.....	3
Multiple Business Activities	4
Graduated Per-Claim Limit.....	5
Surcharge Mechanism	5
Second Injury Enhancement Fund / Cost Relief.....	6
Experience Rating Window	6
Traumatic Fatal claims	7
Additional Feedback	7
Monitoring Mechanism	7
Safety Planning Toolkit	7
Conclusion.....	8
Summary of Recommendations.....	9

Introduction

The Ontario Hospital Association (OHA) appreciates the opportunity to provide further feedback on the Workplace Safety and Insurance Board's (WSIB) proposed rate framework. This discussion paper provides a response to the WSIB's amended proposal for a new rate framework model (RFM).

As previously stated by the OHA, the implementation of a new rate framework with clear and consistent guiding principles, one based on recognized insurance practices, is essential to the viability and sustainability of the WSIB. As both employers within the province and stewards of Ontario's health care system, Ontario's hospitals have a unique perspective on the fair allocation of costs and provision of workers' compensation benefits through the WSIB. Ontario's hospitals participate in the WSIB's collective liability insurance plan as well as provide health care services to millions of Ontarians.

For these reasons, the OHA strongly supports the WSIB's continued work on the development and implementation of a model that provides clarity, consistency and fair cost allocation. The OHA also supports the WSIB's efforts to work with employers in reducing the WSIB's Unfunded Liability.

Generally speaking, the OHA continues to support the WSIB's proposed RFM. The proposed RFM appears to provide a fair and transparent allocation of costs, while continuing to provide workers with appropriate levels of compensation for injuries and illnesses arising out of and in the course of employment.

However, there are still many unknown variables in the updated, proposed RFM design. Many stakeholder recommendations for ancillary components of the RFM made during the first round of consultations were accepted in principle by the WSIB with recognition that further research, development, and discussion would be needed for effective implementation. Examples include classification of employers under a primary business activity or under multiple business activities, and the application of cost relief within the new RFM.

For this reason, the OHA's primary recommendation is for the WSIB to continue engaging stakeholders in the further development of the RFM, including the final design of the model and ancillary components (e.g., the management of occupational diseases, cost relief for pre-existing conditions, etc.), the operational policies, and proposed legislative changes. It is only through continued engagement of stakeholders that the WSIB will understand the full implications of their decisions related to the new RFM.

The OHA is pleased to put forward additional recommendations on the following adjustments and outstanding areas of concern in response to the amendments to the RFM introduced by the WSIB on December 1, 2015. A summary of our recommendations is included at the end of this submission.

Proposed classification structure

The OHA supports the WSIB's amended model which increases the number of Employer Classes ("Classes") to 34 from the originally proposed 22. However, the OHA recommends that the WSIB develop a mechanism to monitor the risk disparity within each of the proposed Classes and to avoid limiting or locking the final number within the new rate framework. Given the fluid nature of Ontario's

employment landscape, changes may occur to the risk disparity between and within the proposed Classes. This may lead to a need for re-evaluation and reorganization of the current proposed 34 Classes, before system implementation and on an ongoing basis.

For example, in a recent white paper was released by the Ontario Ministry of Health and Long-Term Care entitled, [*Patients First: Proposal to Strengthen Patient-Centred Health Care in Ontario*](#), several changes to the healthcare landscape are proposed, including the potential for a reorganization of services. With this reorganization of services, responsibility for the provision of home care services could move to a different entity, such as a Local Health Integration Network (LHIN). With this change, the insurable earnings (IE) for a given Class could change dramatically, as would the risk profile for the employers within the Class. And, if the proposed model for employers with multiple business activities as discussed below is not further amended, significant risk disparity within one Class could be inadvertently introduced.

In order to ensure the appropriateness of the initial and continued classification of employers within the new rate framework, the OHA recommends active and continuous monitoring of risk disparity within the current proposed Classes. If the risk disparity is found to be significant, the Classes within the rate framework could be adapted within a reasonable timeframe. A requirement and schedule for the frequency review should be included in the final proposed RFM. The OHA proposes that this review occur every five years, in line with the North American Industrial Classification System (NAICS) review schedule.

Recommendation: The OHA recommends consultation with stakeholders on the appropriate means, frequency, and scope of monitoring conducted by the WSIB to ensure appropriate classification of employers on a continual basis.

Multiple Business Activities

The OHA supports the direction taken by the WSIB to consider allowing employers with multiple business activities to have multiple rates under separate classifications, where the business activities are independent of each other. In order to facilitate appropriate application of this position, the OHA proposes that the definition of “dependent” and “independent” be clarified. This would recognize that while many business activities of one employer may be similar in nature, they may still be independent of each other.

For example, within the healthcare sector, one employer may provide services that fall under proposed Classes P, Q1, Q21 and Q22. As such, one organization could provide both long-term care services and acute care hospital services. While these operations are both within the healthcare sector, they could be operated as independent facilities. Similarly, a large hospital may have a research facility that operates independently of their acute care facility.

Recommendation: The OHA recommends further consultation with stakeholders on the definitions of “dependent” and “independent” as they relate to determination of multiple business activities.

Graduated Per-Claim Limit

In line with recommendations made within the OHA's initial submission on the proposed rate framework, we believe additional consideration needs to be given to ensure all employers are held duly accountable for claims incurred. Most notably, the OHA has not seen sufficient evidence and modeling to confirm small employers will experience positive or negative rate changes due to their individual performance, given that the proposed Per Claim Limit (PCL) may be as low as 0.25 times the maximum insurable earnings (MaxIE) and their rates will be primarily dependent on the rates of the entire class.

Thus, if a small employer incurs several claims, or a few high-cost claims, they are contributing significant risk to the system. But, limitations on rate changes resulting from low PCLs and limitations on risk band movement, combined with low actuarial predictability, will keep their rates consistently close to the rate group average. This means the cost of their claims will be borne by the class as a whole, instead of the employer that contributes a significant risk to the entire group. While the OHA supports the application of collective liability, care must be taken to ensure that employers posing little or low risk to the system are not disproportionately subsidizing the high risks produced by others. This aligns with the WSIB's Rate Framework Modernization Key Goal of Fairly Allocated Premiums.

Recommendation: The OHA recommends that the WSIB engage stakeholders in further analysis and modelling of the new RFM at the individual employer level, to ensure appropriate sensitivity within the model.

This analysis should consider:

- (1) The movement of individual employers from the current rate framework to the new RFM.
- (2) The impact of a range of payrolls (i.e., employer size) and experience (i.e., claims history) ratings on placement within the RFM. (e.g., high payroll, few claims; low payroll, many claims; etc.).
- (3) The number of employers at every level within the proposed Credibility/Predictability scale and their collective impact on the overall Classes and average rates.

It is only with this transparent sharing of information, work with stakeholders, and modeling of the proposal that the OHA can support this aspect of the proposed RFM.

Surcharge Mechanism

As proposed, the WSIB has indicated that a surcharging mechanism will be considered in cases where employers show "sustained poor claims performance." The OHA agrees that in these instances, where employers have shown sustained poor claims performance, a surcharging mechanism may provide an additional opportunity for managing situations where limitations placed on the highest risk band and movement through the risk bands inhibits appropriate premium increases. With this in mind, the OHA recommends that further consultation be conducted on what is defined as "sustained poor claims performance" and any mechanisms by which employers meeting this requirement will be identified. Most importantly, the WSIB should consider the application of a surcharge for employers with sustained poor claims performance regardless of their current risk band. In other words, an employer need not be in the highest risk band within the Class in order for the surcharge mechanism to apply.

Recommendation: The OHA recommends that further consultation be conducted on the proposed surcharge mechanism, to determine the appropriate definition of “sustained poor claims performance” and the method by which employers will be identified as such.

Recommendation: The OHA also recommends that the proposed surcharge mechanism apply to employers in all risk bands who show sustained poor claims performance, not just those in the highest risk band.

Second Injury Enhancement Fund / Cost Relief

The OHA agrees with the WSIB’s updated, proposed approach that includes maintaining the second injury enhancement fund (SIEF) on an interim basis, pending further review of program details and policy parameters, along with considering potential cost relief program alternatives that will be part of any new rate framework.

The OHA also agrees with the WSIB’s proposal for a review of cost allocation, to determine the appropriate levels within the system at which costs removed from individual employers (as a result of cost relief) are allocated to the collective liability pool with consideration for pooling these costs at the Schedule 1 level. We encourage the WSIB to continue consulting with stakeholders as part of the review of the current SIEF program and the development of a new model for cost relief as part of a new rate framework.

In addition, as noted in our previous submission, the OHA believes the factors set out in the WSIB’s Pre-Existing Conditions benefits policy should be considered when determining whether the ongoing costs related to impairment should be applied to the accident employer’s claims experience.

Recommendation: The OHA recommends that application of the Pre-Existing Conditions benefits policy to a claim should trigger a review of claims cost allocation for that claim including consideration for applying for cost-relief.

Recommendation: The OHA also recommends continued consultation with stakeholders on the development and application of cost relief measures within the new RFM.

Experience Rating Window

The OHA agrees with the WSIB’s proposed approach detailed in the new RFM with respect to the six-year experience rating window being time-weighted, such that the most recent three-year period accounts for two-thirds of experience rating, and the prior three-year period accounts for one-third. This weighting scheme will increase the responsiveness of the RFM and provide an opportunity for employers to more deliberately influence their premiums. With this in mind, the OHA requests continued consultation on the development and operationalization of experience rating within the new RFM. More specifically, OHA members have identified a need for clarity on the specific methodology to be used in the application of experience rating to claims, including claims that may be deemed as recurrences.

Recommendation: The OHA recommends continued consultation on the development and operationalization of specific details related to experience rating, including the application of experience rating to claims that are deemed recurrences.

Traumatic Fatal claims

As noted above, the OHA believes that all employers should be held duly accountable when significant claims incurred pose additional risks to the entire Insurance system. Similar to concerns noted with respect to low PCL for small employers, the OHA believes further consultation must be conducted with respect to the costing of traumatic fatal claims.

Data provided by the WSIB indicate that over the past six years, 409 traumatic fatalities were covered by the WSIB. Of these claims, 316 were attributable to employers that would fall into the 2.5% to 20% per claim limit range. This means that 77% of fatal claims would be subject to a PCL that reduces the cost allocated to the injury employer to an amount below MaxIE, for the year the fatality occurred. All additional costs would be allocated to the Class. For example, WSIB data indicates that 17% of the 409 traumatic fatalities were attributable to employers who would fall below the 2.5% level of the predictability scale. If the proposed RFM were in place today, these traumatic fatal claims would be subject to a PCL that allocates only 0.25 times MaxIE (\$21,025 based on 2016 data) to the injury employer, with all other costs allocated to the Class.

While it is understood that a high-cost claim may have significant impact on the ability of a small employer to continue operating, the data does not necessarily support such a low allocation of cost to the injury employer, given most of the fatalities are attributable to employers within the 2.5% to 20% levels of the predictability scale based on data from the last six years.

Recommendation: The OHA recommends further consultation on the proposed traumatic fatal claims policy, to ensure fair and appropriate allocation of costs to employers of all sizes.

Additional Feedback

Monitoring Mechanism

In the presentation made to stakeholders on December 1, 2015, additional feedback provided during the initial consultation process to the WSIB was discussed. Two key areas discussed included the need for a monitoring mechanism, which would allow stakeholders to participate in maintaining the currency and validity of the RFM, and a recommendation for the WSIB to develop an employer tool for reviewing an individual organization's performance data.

Recommendation: The OHA agrees with the WSIB's stated proposal for a monitoring system to be implemented, and recommends further consultations on the WSIB's proposed monitoring mechanism for the new RFM to include employers, stakeholders, and external actuarial experts.

Safety Planning Toolkit

The OHA believes a broad scope of work still needs to be completed for the RFM to become operational, including the development of amended legislation, regulations, operational policies and procedures. For

this reason, we believe attention should be focused primarily on operationalizing the RFM and that the development of an additional tool for employers should be initiated at a later date.

Additionally on this issue, the OHA also believes the current statistical data available from the WSIB's enterprise information warehouse will not provide sufficient information for an individual employer to effectively improve safety and implement safety initiatives within their organization, as it only includes classification of Lost Time Injuries (LTI). Instead, the development of prevention initiatives should ideally be based on a broad spectrum of information, including all workplace incidents (LTI, no lost time injuries, healthcare-only claims, first-aid only claims, near misses, and hazard reports) and other organizational and sector-specific factors.

Recommendation: The OHA recommends the WSIB postpone development of a tool similar to WorkSafe BC's safety planning toolkit until after the Accounts and Claims Enterprise System (ACES) is fully implemented and the RFM project is closer to completion.

This would allow for continued focus on the most important aspects of the RFM project to continue without efforts being diverted to a supplementary initiative. It would also allow for WSIB to work with their ACES before developing a tool that will utilize its data output. In addition, employers and all stakeholders would be provided with a more thorough understanding of the data available for analysis before providing feedback to consultation on what a tool may look like.

Recommendation: The OHA recommends that the development of any tools or resources include consultation with external stakeholders, such as employers, associations, safety professionals, and return-to-work specialists.

Conclusion

The OHA would like to thank the WSIB for their consideration of these recommendations, and would welcome opportunities for further discussion and engagement.

For further discussion on or clarification of any recommendations made in this submission, please contact Rachel Bredin, OHA Consultant, Health and Safety at rbredin@oha.com or 416-205-1576.

Summary of Recommendations

- (1) Active and continuous monitoring of risk disparity within the current proposed Classes. If the risk disparity is found to be significant, the Classes within the rate framework are adapted within a reasonable timeframe.
- (2) Consultation with stakeholders on the appropriate means, frequency, and scope of monitoring conducted by the WSIB to ensure appropriate classification of employers on a continual basis.
- (3) Consultation with stakeholders on the definitions of “dependant” and “independent” as they relate to determination of multiple business activities.
- (4) Engage stakeholders in further analysis and modelling of the new RFM at the individual employer level, to ensure appropriate sensitivity within the model.
- (5) Further consultation be conducted on the proposed surcharge mechanism, to determine the appropriate definition of “sustained poor claims performance” and the method by which employers will be identified as such.
- (6) Application of the proposed surcharge mechanism to employers in all risk bands who show sustained poor claims performance, not just those in the highest risk band.
- (7) Application of the Pre-Existing Conditions benefits policy to a claim should trigger a review of claims cost allocation for that claim including consideration for applying for cost-relief.
- (8) Continued consultation with stakeholders on the development and application of cost relief measures within the new RFM.
- (9) Continued consultation on the development and operationalization of specific details related to experience rating, including the application of experience rating to claims that are deemed recurrences.
- (10) Further consultation on the proposed fatal claims policy, to ensure appropriate allocation of costs to employers of all sizes.
- (11) Further consultations on the WSIB’s proposed monitoring mechanism for the new RFM include employers, stakeholders, and external actuarial experts.
- (12) The WSIB postpone development of a tool similar to WorkSafe BC’s safety planning toolkit until after the Accounts and Claims Enterprise System (ACES) is fully implemented and the RFM project is closer to completion.
- (13) The development of any tools or resources include consultation with external stakeholders, such as employers, associations, safety professionals, and return-to-work specialists.