



RESOLUTION 2021-08

Changes to the WSIB System – Modernizing while Maintaining Worker Protections

WHEREAS police employees, especially those under the OMERS regime, can earn more money receiving WSIB benefits than fully returning to work due to the current Loss of Earning Benefit regime and, consequently, there are situations where there is now little to no incentive for an employee to return to work, and

WHEREAS given the limitations imposed by Section 47 of the *Police Services Act* (PSA), employees that have reached Maximum Medical Recovery (MMR) and who are unable to return to work and/or do the essential duties of their position are often left in an uncertain state with respect to their roles as police employees, and

WHEREAS despite statutory authority for a Chief of Police to suspend an officer without pay under Part V of the PSA (currently, when found guilty of a criminal offence and sentenced to a term of imprisonment), WSIB is paying full loss of earning benefits to such suspended officers who qualify, and

WHEREAS with respect to claims of Presumptive Posttraumatic Stress Disorder (PTSD) for First Responders and despite the wording of subsection 14(7) of the *Workplace Safety and Insurance Act* (WSIA) regarding excluding entitlement when PTSD is caused by decision or actions of employer (in particular when discipline or termination for misconduct is imminent), the process for the early determination of such and/or the overturning of initial decision on presumptive entitlement is complicated, costly, and slow, and

WHEREAS the cost of maintaining the WSIB system by employers is becoming cost prohibitive and a burden on the taxpayer given escalating costs, delays in the adjudication and appeals system, and is also resulting in employees being subjected to increased and unnecessary stress and delayed return to work.

THEREFORE BE IT RESOLVED that the Ontario Association of Chiefs of Police calls on the representatives of the Government of Ontario to meet with the OACP Board of Directors and its relevant committees (e.g., Human Resources, Legal Advisors) and other stakeholders (including police associations) to discuss the following:

- (1) Making legislative amendments to the *Workplace Safety and Insurance Act* and/or WSIB policy documents/processes to:

- a. establish that a person receiving WSIB Loss of Earnings (LOE) (income replacement) benefits cannot receive more net income than the set income replacement. This should include (but perhaps outside of WSIB purview) when the worker is getting more money when on sick leave due to the OMERS waiver,
 - b. establish that a worker who reaches eligibility for a full, unreduced pension, will no longer be entitled to LOE benefits,
 - c. establish that a worker who has reached MMR, but is unable to be reasonably accommodated by the employer due to limitations and restrictions, is deemed to have the employment severed, subject to the terms of the *Employment Standards Act, 2000* and any collective agreement provisions,
 - d. establish a formal process that allows the employer and/or the employee to bring an objection forward at the onset of the claim for PTSD and for a summary hearing process by which employers and employees may make submissions regarding the presumptive entitlement to benefits for such claims as set out in s. 14(7) of the *WSIA*, and
 - e. establish that workers who are subject to discipline – including suspension without pay or termination for just cause – will not be eligible to receive LOE benefits during the time the unpaid suspension is in force or from the time that the termination is effective by amending WSIB processes/guidelines (or the *WSIA*) so that it is clear if and for the period of any suspension without pay or other discipline where the worker is not entitled to pay, that the WSIB LOE benefit is zero dollars.
- (2) More broadly and universally, an examination of the possibility of having the income replacement benefit reduced to a percentage of full pay – similar to short- and long-term disability plans – so that there is an incentive to return to work and provide relief to employers and taxpayers from the skyrocketing costs of WSIB (both for Schedule 1 and 2 employers), without unduly disadvantaging those individuals who will require LOE benefits for an extended period of time. For example, the percentages could be structured so that 95 percent of the benefit is paid for the first three months, 85 percent for the next 21 months, and 75 percent thereafter.