

Chapter 3

WorksafeNB

Phase II – Management of Injured Workers’ Claims

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WorkSafeNB

Phase II – Management of Injured Workers' Claims

Introduction

3.1 This report represents phase II of our audit of WorkSafeNB. It presents findings from our audit of WorkSafeNB's claims management framework.

Why we chose this topic

3.2 We chose to examine the management of injured workers' claims at WorkSafeNB for the following reasons:

- Over \$400 million in annual claims cost, representing 89% of total WorkSafeNB expenses, is driven by claims management. Claims cost is the main driver of assessment rates.
- Impact on vulnerable workers is significant – ineffective and/or inefficient claims management processes may result in less equitable solutions for injured workers.
- An effective and efficient claims management framework is necessary to balance the needs of the injured workers and employers with the long term sustainability of the workers compensation system.

Why we are auditing WorkSafeNB

3.3 In February 2017, the Minister of Post-Secondary Education, Training and Labour (Department) requested the Auditor General of New Brunswick (AGNB) conduct a value for money audit in WorkSafeNB. This request was made under subsection 12(1) of the *Auditor General Act*. A copy of the section 12 request is included in Appendix I.

3.4 After reviewing WorkSafeNB operations and considering the concurrent work of others, including the Office of the Comptroller as well as a government

appointed Task Force, the Auditor General decided to focus the audit work in two key areas:

1. Governance of WorkSafeNB; and
2. WorkSafeNB claims management.

We previously reported the results of our governance audit in the Auditor General Report, Volume I (June 2018), Chapter 2.

Audit Period

3.5 The audit covered the period between January 1, 2015 and June 30, 2018. This is the period to which the audit conclusion applies. However, to gain a more complete understanding of the subject matter of the audit, we also examined certain matters that preceded the starting date of the audit.

Audit Objective

3.6 The objective of this audit was to determine if WorkSafeNB has an effective claims management framework.

Conclusion

3.7 We have concluded that:

- in general, the claims management framework adopted by WorkSafeNB is reasonable and many of its policies are consistent with industry best practice;
- however, numerous process deficiencies hinder WorkSafeNB’s ability to actively manage cases to achieve timely return to work.

Results in brief

3.8 Results in brief are presented in Exhibit 3.1.

Key findings and recommendations

3.9 Key findings are listed in Exhibit 3.2. A summary of our recommendations can be found in Exhibit 3.3. Our recommendations largely focus on operational processes. In our view, by implementing these recommendations, WorkSafeNB can make improvements regarding eliminating delays, promoting timely return to work, reducing claim duration, and ultimately assists in reducing claims costs and maintaining sustainability. Most importantly, these changes will mutually benefit both the injured workers as well as New Brunswick employers.

3.10 The criteria we used in completing our audit can be found in Appendix II.

3.11 AGNB engaged experts to assist with the review of the claims management framework. The experts also provided a jurisdictional comparison which we make reference to throughout this report. See Appendix III for the full comparison.

Exhibit 3.1 Results in Brief

WorkSafeNB Phase II – Management of Injured Workers’ Claims

Why Is This Important?

- WorkSafeNB has a direct social and financial impact on injured workers, the workforce and employers throughout New Brunswick.
- Claims costs have risen over \$300 million in five years
- An effective and efficient claims management framework is necessary to balance the needs of the injured workers and employers

What We Found

Overall Conclusions

- In general, the claims management framework adopted by WorkSafeNB is reasonable and many of its policies are consistent with industry best practice
- However, numerous process deficiencies hinder WorkSafeNB’s ability to actively manage cases to achieve timely return to work

“Return to work” goal not embedded in WorkSafeNB processes

- Establishing an expectation for when the injured workers would be ready to return to work is a critical part of the overall recovery process
- However, the concept of return to work was not introduced to claimants soon enough
- No formal case plan developed to facilitate return to work when a claim is accepted

Ineffective claims system lacks automation

- Software primarily functions only as a document repository and for payments
- System does not track and monitor recovery and return to work durations

Time sensitive treatments can be delayed

- Unnecessary delays found throughout the claim process
- No initial contact with injured worker to assess nature of injury and immediate steps needed
- No priority process for complex cases
- No advising of injured worker about treatment or care plans
- No tracking of medical/recovery progress of injured workers
- Referrals for specialized treatment often only used as last resort
- Case managers not specialized by types of injuries and lack training
- Case managers occupied with administrative tasks, not enough focus on injured worker
- Adjudicator staff position not competency based

Exhibit 3.2 Key Observations and Findings

Paragraph	Key Observations and Findings
	Workers Compensation Appeal Tribunal
3.22	<i>Tribunal's authority to change operational policy happens only in New Brunswick and Quebec</i>
3.24	<i>Paying benefits for non-compensable injuries in New Brunswick is inconsistent with rest of Canada</i>
3.25	<i>Policy changes, as a result of WCAT decisions, created uncertainty with case managers and had significant financial implications</i>
	Claim Intake
3.34	<i>No initial contact with the injured worker to assess the nature of injury and what immediate steps WorkSafeNB needs to take</i>
3.35	<i>There is no interface to transfer the electronic form submission into the claims management system</i>
3.38	<i>Unnecessary delays caused by employer and worker combined form</i>
	Return to Work
3.42	<i>Establishing an expectation for when the injured workers would be ready to return to work is a critical part of the overall recovery process</i>
3.44	<i>WorkSafeNB is missing early opportunity to communicate return to work options to injured workers during the initial adjudication process</i>
3.45	<i>No case plan after a claim is accepted</i>
	Initial Adjudication
3.50	<i>Delays in referring injured workers for specialized treatment and assessment</i>
3.51	<i>Adjudicators do not set expected disability duration and dates for recovery</i>
3.52	<i>Claims not monitored in accordance with Disability Duration Guidelines</i>
3.55	<i>Adjudication decision making process consistent with industry and legislative best practice</i>
3.56	<i>Decision rationale not sufficiently communicated to case managers</i>

Exhibit 3.2 Key Observations and Findings (continued)

Paragraph	Key Observations and Findings
3.61	<i>WorkSafeNB provides little explanation of benefits and entitlements to the injured worker</i>
3.64	<i>Staff appointments to Adjudicator position are not competency based</i>
	Case Management
3.67	<i>WorkSafeNB's injury protocol process is consistent with most Workers' Compensation Boards across Canada.</i>
3.73	<i>76% of injured workers treated by WRC in 2017 were able to return to work</i>
3.79	<i>Case managers are over relying on the opinions of the medical advisors</i>
3.80	<i>No guidance for medical advisors regarding what type of opinion they cannot provide</i>
3.80	<i>No guidance for case managers on what questions are appropriate for medical advisors</i>
3.83	<i>No tracking of medical progress of injured workers</i>
3.86	<i>WorkSafeNB case managers not specialized based on types of injuries</i>
3.89	<i>Regional inconsistency in benefit awards</i>
3.92	<i>Decentralized processing of medical claims creates inconsistency between regions</i>
3.93	<i>Inadequate training for case managers</i>
3.94	<i>No formal training for policy change</i>
3.103	<i>Review by Issues Resolution Office mandatory in other jurisdictions but not in New Brunswick</i>
	Quality Assurance
3.105	<i>WorkSafeNB needs to measure the extent to which it is providing support to injured workers</i>

Exhibit 3.2 Key Observations and Findings (continued)

Paragraph	Key Observations and Findings
3.106	<i>KPIs do not demonstrate how the efforts of WorkSafeNB have improved performance</i>
3.110	<i>Performance improvement initiatives not linked to KPIs</i>
	Claims Management System
3.113	<i>There is no convenient way to pull data for review and analysis</i>
3.114	<i>Administrative tasks consume much of the case managers' time</i>
3.116	<i>Claim management system does not support emphasis on return to work</i>
3.118	<i>There is no area of the system that a case manager can review as a snapshot or a synopsis of the claim</i>
	Contract Monitoring
3.121	<i>Contract management framework in progress</i>
3.125	<i>Tender significantly modified after issuance</i>
3.128	<i>Board decided not to sell facility</i>
3.130	<i>WorkSafeNB did not retender 10 year service contract after significant change to the original request for proposal</i>
3.132	<i>Contract term of 10 years much longer than other service provider contracts</i>
3.134	<i>Service contract did not address intellectual property rights</i>
3.139	<i>Progress reports received from physiotherapy clinics not used to actively monitor the progress of injured workers' recovery during treatment</i>

Exhibit 3.3 Summary of Recommendations

Recommendation	Auditee response	Target date for implementation
3.36 We recommend WorkSafeNB automate the claims management system to allow electronic submission and processing of claims documents, to reduce work and speed up intake and adjudication processes.	<i>WorkSafeNB agrees with the Auditor General's recommendation to automate the claims management system. Implementing a new claims management system is part of WorkSafeNB's three-year strategic plan.</i>	<i>Project start: 2019 Full implementation target date: December 2021</i>
3.40 We recommend claims be sent directly to an adjudicator after initial intake team gathers personal information and accident details.	<i>WorkSafeNB agrees with the Auditor General's recommendation and is implementing a process change to accelerate the adjudication process.</i>	<i>March 2019</i>
3.41 We recommend WorkSafeNB uses separate "Report of Accident" forms for the employer and employee.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>March 2019</i>
3.48 We recommend WorkSafeNB focus on return to work during adjudication by: <ul style="list-style-type: none"> • identifying risks to return to work; • prioritizing complex claims, and • initiating a plan to address barriers. 	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>December 2019</i>

Exhibit 3.3 Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p>3.49 We recommend WorkSafeNB communicate a detailed case plan with:</p> <ul style="list-style-type: none"> • return to work goals; • proposed treatments; and • forecast date for recovery. 	<p><i>WorkSafeNB agrees with the Auditor General's recommendation to automate the claims management system.</i></p>	<p><i>December 2019</i></p>
<p>3.53 We recommend WorkSafeNB develop a treatment plan right after a claim is accepted and enable the adjudicator to communicate it to the injured workers.</p>	<p><i>WorkSafeNB agrees with the Auditor General's recommendation.</i></p>	<p><i>September 2019</i></p>
<p>3.54 We recommend WorkSafeNB use disability duration guidelines to provide a forecast of return to work and include it in the initial decision letter sent to injured workers.</p>	<p><i>WorkSafeNB agrees with the Auditor General's recommendation.</i></p>	<p><i>June 2019</i></p>
<p>3.59 We recommend WorkSafeNB require case managers discuss with injured workers their abilities, functional limitations and restrictions in determining the modified return to work plan.</p>	<p><i>WorkSafeNB agrees with the Auditor General's recommendation.</i></p>	<p><i>April 2019</i></p>

Exhibit 3.3 Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
3.60 We recommend WorkSafeNB improve the adjudication decision making process by requiring adjudicators to document in the claim management system decision rationale with the key legislation and operational policy.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>June 2019</i>
3.63 We recommend WorkSafeNB include a clear explanation of potential eligible benefits with the initial decision letter to injured workers.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>March 2019</i>
3.66 We recommend WorkSafeNB develop specific competencies for the adjudication role and require all successful applicants to meet those competencies.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i> <i>The adjudication role at WorkSafeNB is covered by a collective agreement. WorkSafeNB will work with the bargaining agent to best address the recommendation to achieve the best outcome for injured workers.</i>	<i>June 2020</i>
3.75 We recommend WorkSafeNB update its guidance to promote early referrals to the workers rehabilitation centre, to maximize return to work outcomes.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>June 2020</i>

Exhibit 3.3 Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
3.81 We recommend WorkSafeNB formalize the authority and role of the medical advisor and ensure both medical advisors and case managers understand their respective roles regarding medical opinions.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>March 2019</i>
3.82 We recommend WorkSafeNB: <ul style="list-style-type: none"> • require medical advisor opinions to be formally documented and be restricted to the specifics of the medical condition; and • have templated, specific questions for case managers to ask medical advisors. 	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>June 2019</i>

Exhibit 3.3 Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p>3.84 We recommend WorkSafeNB have a plan to:</p> <ul style="list-style-type: none"> • follow up with the injured worker in relation to treatment progress; • closely monitor claims with modified return to work to ensure the modified work is suitable; and • communicate with health care providers involved in relation to worker’s progress. 	<p><i>WorkSafeNB agrees with the Auditor General’s recommendation. To best comply with this recommendation, the new claims management system must be implemented which is scheduled for 2021.</i></p>	<p><i>Plan Completion: December 2019</i></p> <p><i>Full implementation target date: December 2021</i></p>
<p>3.88 We recommend WorkSafeNB develop expertise for complex and sensitive conditions among case managers by allocating specific types of injuries to certain case managers and offering professional development opportunities.</p>	<p><i>WorkSafeNB agrees with the Auditor General’s recommendation.</i></p>	<p><i>June 2019</i></p>

Exhibit 3.3 Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
3.97 We recommend WorkSafeNB: <ul style="list-style-type: none"> • expand the duration and level of detail in case manager training; and • enhance ongoing training for existing staff. 	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>June 2020</i>
3.98 We recommend WorkSafeNB monitor claims managed and provide feedback to staff on an ongoing basis to ensure adherence to policy and consistency among regions.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>April 2019</i>
3.101 We recommend WorkSafeNB annually review long term disability clients with a potential for return to work (for example, a change in functional abilities or a change in the labour market availability) to determine if the claim is still suitable for long term disability.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>June 2019</i>

Exhibit 3.3 Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
3.104 We recommend WorkSafeNB propose to amend the legislation so that appeals go to the Issues Resolution Office of WorkSafeNB as a mandatory first step before an appellant can file an appeal with the Workers Compensation Appeals Tribunal.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>December 2020</i>
3.107 We recommend WorkSafeNB develop Key Performance Indicators which are relevant to the performance of its internal processes.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>March 2019</i>
3.109 We recommend WorkSafeNB define targets for its Key Performance Indicators and clearly state these on performance reports.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>March 2019</i>
3.111 We recommend WorkSafeNB link: <ul style="list-style-type: none"> • key performance indicators to strategic goals; and • improvement initiatives to the Key Performance Indicators identified. 	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>March 2019</i>

Exhibit 3.3 Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
3.115 We recommend WorkSafeNB reallocate administrative tasks, such as loss of earnings benefit calculations, from case managers to administrative staff.	<i>WorkSafeNB agrees with the Auditor General's recommendation.</i>	<i>June 2019</i>
3.119 We recommend WorkSafeNB build tools into the claims management system to free up staff from routine and repetitive tasks so they can focus on progress and treatments of injuries. Such tools would include: <ul style="list-style-type: none"> • enhanced data mining capabilities; • system reminders to update client information; • auto-complete forms; and • automated medical claims processing. 	<i>WorkSafeNB agrees with the Auditor General's recommendation. To best comply with this recommendation, the new claims management system must be implemented which is scheduled for 2021.</i>	<i>December 2021</i>

Exhibit 3.3 Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p>3.131 When tendering the contract for medical services again in 2019, we recommend WorkSafeNB:</p> <ul style="list-style-type: none"> • ensure tender requirements are comprehensive to minimize the need for significant changes after the tender is issued; and • follow procurement regulations and best practices to ensure transparency, fairness, and competitiveness of the bidding process. 	<p><i>WorkSafeNB agrees with the Auditor General’s recommendation.</i></p> <p><i>In 2019, WorkSafeNB will be issuing a comprehensive Request for Proposals (RFP) for the design of a medical and rehabilitation services model. The outcome from this initial RFP is to provide WorkSafeNB with a medical and rehabilitation services model for all claims and includes all services such as WorkSafeNB’s Rehabilitation Centre and external service providers.</i></p> <p><i>In 2020, following the establishment of the medical and rehabilitation model, a second RFP will be issued to secure one or many service providers for all or parts of the agreed to medical and rehabilitation service model. We believe it is imperative to first identify the model and then secure the providers for the model.</i></p> <p><i>We believe this approach is in the best long-term interest of our clients.</i></p> <p><i>WorkSafeNB is committed to ensuring all tender requirements are comprehensive, follow procurement best practices to ensure transparency, fairness, and competitiveness of the bidding process.</i></p>	<p><i>December 2020</i></p>

Exhibit 3.3 Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p>3.133 We recommend WorkSafeNB use a shorter initial term with an option to renew, when the contract for medical services is tendered in 2019.</p>	<p><i>WorkSafeNB agrees with the Auditor General's recommendation to contract with service providers for shorter terms with the option to renew if the service provider has performed satisfactorily during the initial term.</i></p> <p><i>The term of the new medical contract services will follow this recommendation unless the shorter initial term would limit WorkSafeNB's ability to deliver on the preferred medical model.</i></p>	<p><i>December 2020</i></p>
<p>3.135 We recommend that WorkSafeNB include contract terms addressing intellectual property rights in future contracts for medical and rehabilitation services.</p>	<p><i>WorkSafeNB agrees with the Auditor General's recommendation.</i></p>	<p><i>December 2019</i></p>
<p>3.141 We recommend WorkSafeNB use progress reports received from physiotherapy clinics to monitor injured workers during treatment.</p>	<p><i>WorkSafeNB agrees with the Auditor General's recommendation.</i></p>	<p><i>December 2019</i></p>

Background

WorkSafeNB

3.12 WorkSafeNB¹ is a Part IV Crown corporation included in the *Public Service Labour Relations Act*. It is responsible for administering the workers’ compensation system in New Brunswick. In 2017, over 22,000 claims were created, with an average lost time per claim of 64.7 days.

3.13 It is also responsible for occupational health and safety programs and regulatory enforcement as required under the *Occupational Health and Safety Act*.

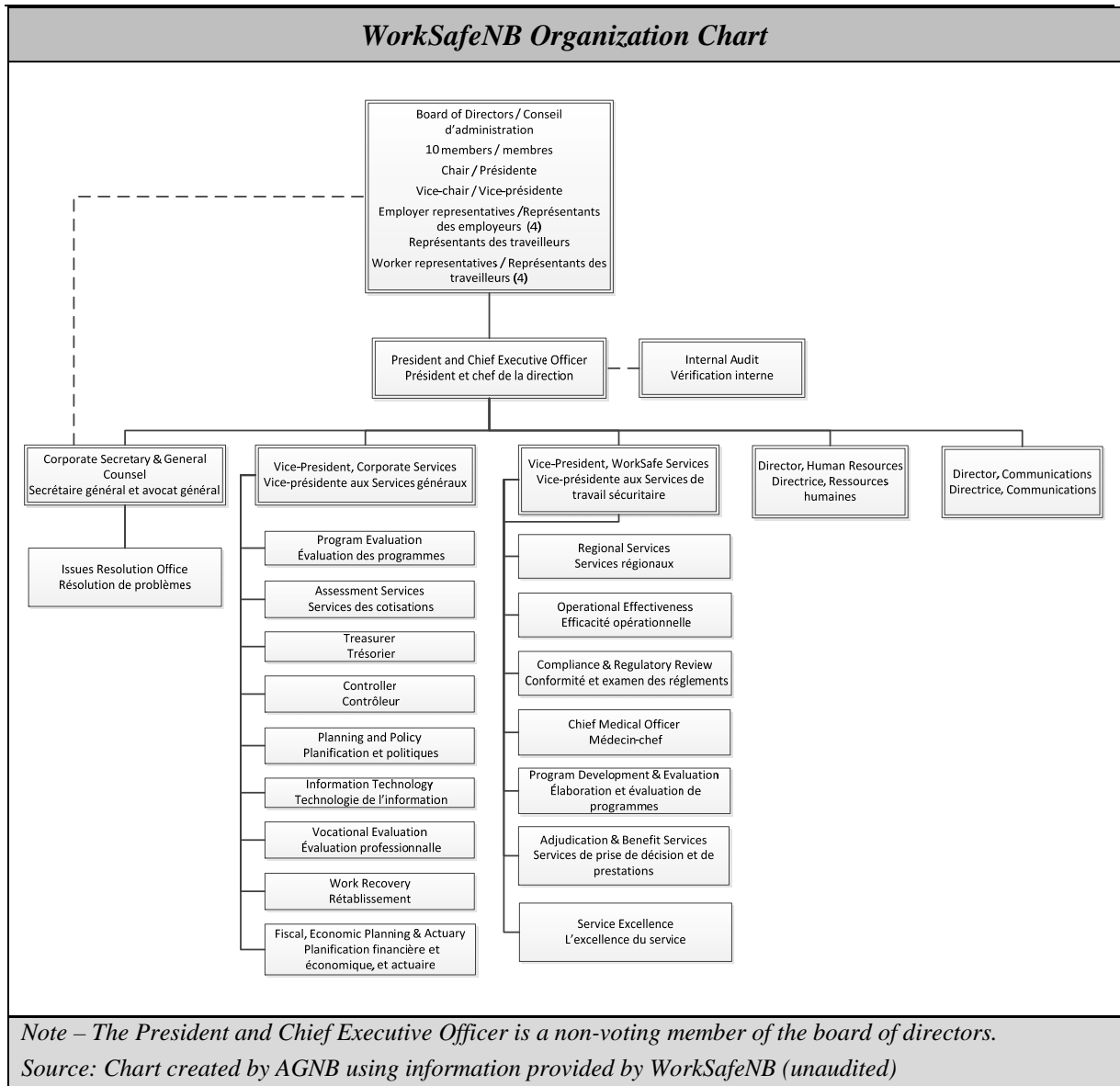
Organizational Structure

3.14 The organization chart presented in Exhibit 3.4 provides an overview of WorkSafeNB structure. WorkSafeNB employs over 450 personnel and provides regional services from four main locations:

- Saint John
- Dieppe
- Bathurst
- Grand Falls

¹ “WorkSafeNB” is a registered trademark of the Workplace Health, Safety and Compensation Commission.

Exhibit 3.4 WorkSafeNB Organization Chart as of 2017



Claims Management Process

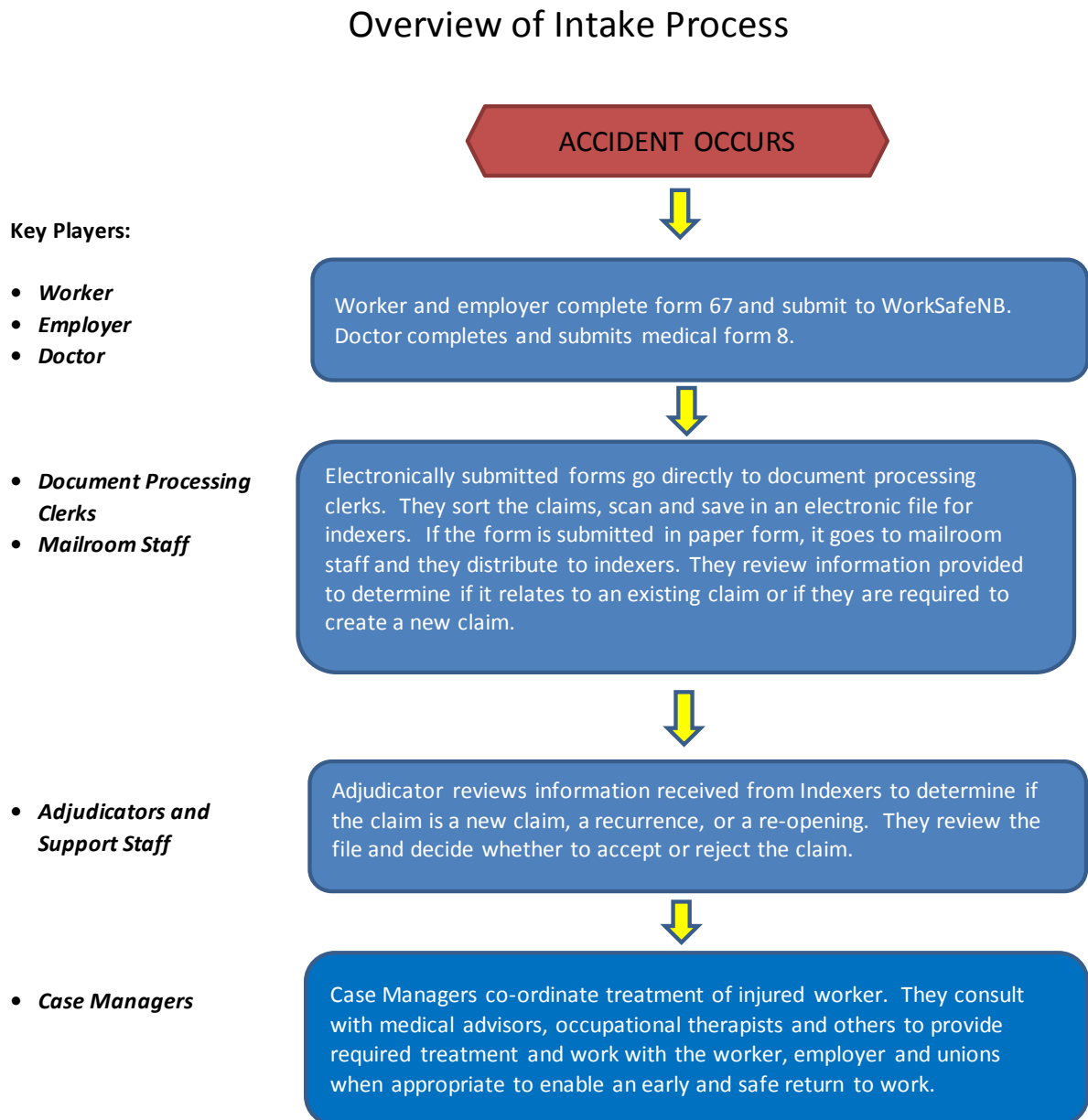
3.15 Managing claims at WorkSafeNB is a complex process.

Exhibit 3.5 shows key players involved with a description of the role they play. Every claim application is evaluated through the adjudication process for eligibility and then managed through the regional offices and the Workers Rehabilitation Center with a key overall goal of return to work. Claim management process encompasses activities such as:

- claim intake – the process of receiving the claim and gathering associated documentation;
- the initial adjudication decision to accept or deny a claim;

- the case management process – which includes activities such as medical assessments, rehabilitation, surgery and potential placement on long term disability if the injured worker cannot return to work.
- appeals – injured workers unhappy with decisions made by WorkSafeNB can appeal them to the Issues Resolution Office (“IRO”) or the independent Workers’ Compensation Appeals Tribunal (“WCAT”).

Exhibit 3.5 Overview of the Claims Management Process



Source: created by AGNB based on information provided by WorkSafeNB

Injured Workers are Key Stakeholders

3.16 Injured workers and their families are key stakeholders of WorkSafeNB. WorkSafeNB provides compensation in various forms to a worker and their dependents, as the case may be, when “*personal injury or death is caused to a worker by accident arising out of and in the course of his employment*”.²

3.17 Workers injured in workplace accidents and their families are vulnerable and can suffer significant hardship if adequate compensation benefits are not provided. These benefits take many forms from income replacement to health care services and annuities.

Claims quantity, cost and duration are key determinants in overall compensation system cost

3.18 Increases and decreases in the overall cost of providing compensation benefits to injured workers drives assessment rate changes. Key determinants such as the number of injured worker claims, the cost per claim, and the duration of claims will impact this rate.

3.19 WorkSafeNB needs to have an efficiently functioning claims management framework in order to maintain a sustainable workers' compensation system. However, claim costs have been rising rapidly in recent years. This trend has contributed to the increases in rates charged to employers.

Claims costs have always been a significant portion of all costs

3.20 Exhibit 3.6 shows the expense trend from 2013 through 2017. It compares the amount spent on claims to total expenses of WorkSafeNB. This comparison highlights:

- claim costs have almost tripled from 2013 to 2017; and
- claim costs are the primary cost driver in operating the workers' compensation system. Claims costs have risen from 79% of total costs in 2013 to 89% in 2017.

² Province of New Brunswick. Workers' Compensation Act, Chapter W-13., S7(1).

Exhibit 3.6 Trend of WorkSafeNB Claims Cost to Total Costs from 2013 to 2017

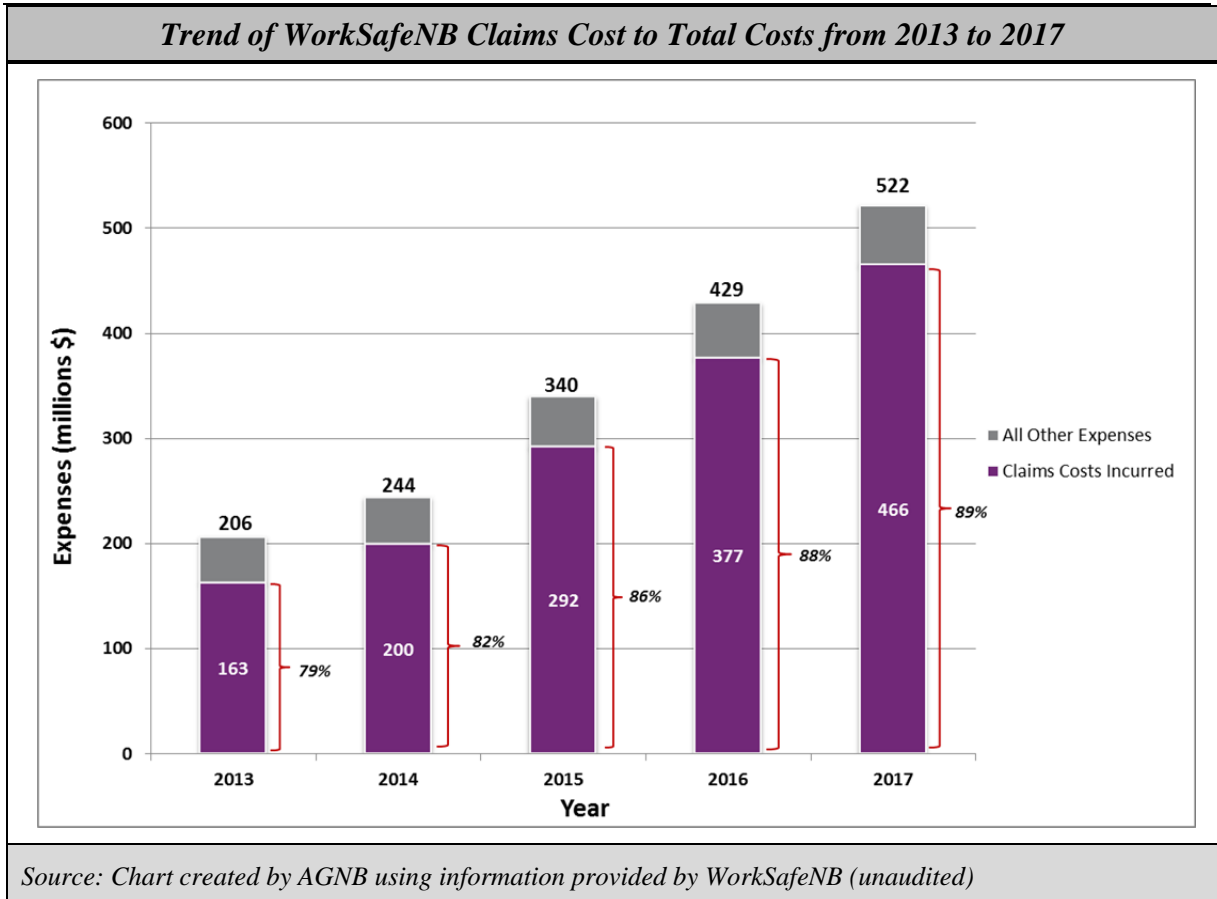
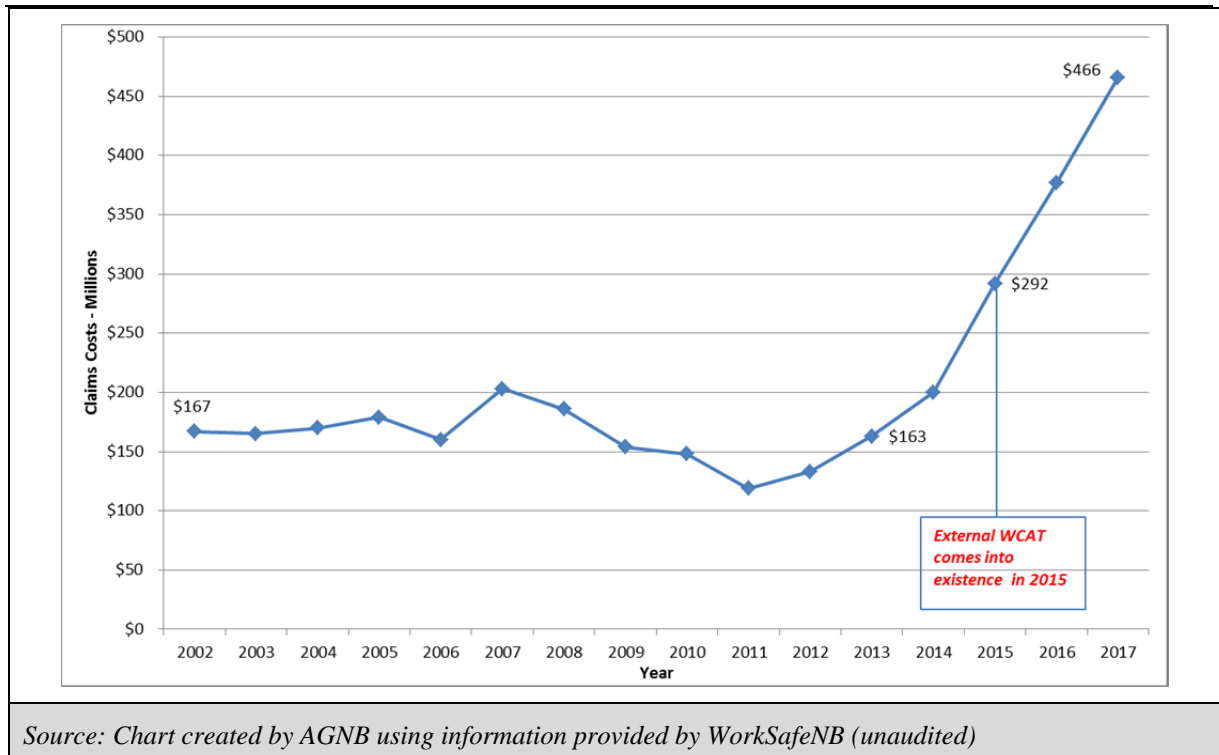


Exhibit 3.7 WorkSafeNB Injured Worker Claims Trends (\$ millions)



3.21 Exhibit 3.7 highlights the trend toward increasing WorkSafeNB claim costs over the past 15 years. Claim costs have risen from \$163 million in 2013 to \$466 million in 2017. WorkSafeNB's costs related to claims amounted to \$466 million out of a total \$522 million in expenses, or 89%. One of the major contributing factors to this increase is the impact of Workers Compensation Appeals Tribunal (WCAT) decisions.

Tribunal's authority to change operational policy happens only in New Brunswick and Quebec

3.22 Recommendations contained in a legislative review led to the establishment of the current WCAT on April 1, 2015. The authority of the new WCAT was significantly broader than that of the previous appeals tribunal. In addition, WCAT's decisions can change WorkSafeNB's operational policy. In contrast, tribunal decisions in all other provinces, except Quebec, do not change operational policy. Other provinces usually propose policy changes to consultation.

3.23 Due to the decisions of the WCAT, WorkSafeNB changed its policies in a number of areas. For example, we found

WorkSafeNB continues to pay benefits if the worker is off for non-compensable³ reasons rather than pause or hold benefits while the non-compensable injury or ailment is occurring.

Paying benefits for non-compensable injuries in New Brunswick is inconsistent with rest of Canada

3.24 Prior to the WCAT decision, non-compensable injuries were not covered by WorkSafeNB. Paying benefits for non-compensable reasons:

- is inconsistent with any of the other Workers’ Compensation Boards in Canada; and
- expands the definition of “*arising out of and in the course of employment*”.
- increases cost for WorkSafeNB.

Policy changes, as a result of WCAT decisions, created uncertainty with case managers and had significant financial implications

3.25 Other areas affected by the WCAT include supplement to compensation, repayments and overpayment, and care allowances. These decisions along with others made by the WCAT have had significant financial implications. WorkSafeNB estimates that a small number of these decisions have added an additional \$101.9 million liability as of 2016 to WorkSafeNB’s accident fund. Policy changes also created uncertainty with case managers. This uncertainty resulted in reluctance to make decisions or move forward with claim decisions.

3.26 A Ministerial Task Force⁴ was appointed by the Minister of Post-Secondary Education, Training and Labour to review New Brunswick’s workers’ compensation system. In its report published in July 2018, the Task Force discussed WCAT operations in significant detail. It concluded the broad legislative jurisdiction of WCAT is negatively affecting the sustainability and financial integrity of WorkSafeNB. The Task Force has recommended significant legislative changes to limit WCAT’s authorities to affect WorkSafeNB’s policies. More information on WCAT decisions can be found in Appendix IV.

³ WorkSafeNB defines a personal non-compensable intervening condition as “a medical condition that arises after the occurrence of a workplace injury, and is not medically linked to, or caused by, the workplace accident” – WorkSafeNB Policy # 25-010 Personal Non-compensable Intervening Conditions During Rehabilitation

⁴ Report of the Task Force on WorkSafeNB, July 2018, Post-Secondary Education, Training and Labour Government of New Brunswick
https://www2.gnb.ca/content/dam/gnb/Departments/eco-bce/Promo/taskforce_review_worksafenb/WorkSafeNBTaskForceReportE.pdf

Previous Report on Governance

3.27 Our earlier report on Governance, in the Auditor General Report, Volume I (June 2018), contained more background information on WorkSafeNB's structure and operations. Readers may wish to refer to that report for additional information on these topics.

Audit Scope

3.28 The scope of this chapter focuses on the claims management framework at WorkSafeNB. Our audit approach included documentation review, analysis, and interviews. Observations, findings (summarized in Exhibit 3.2) and conclusions were formed based on:

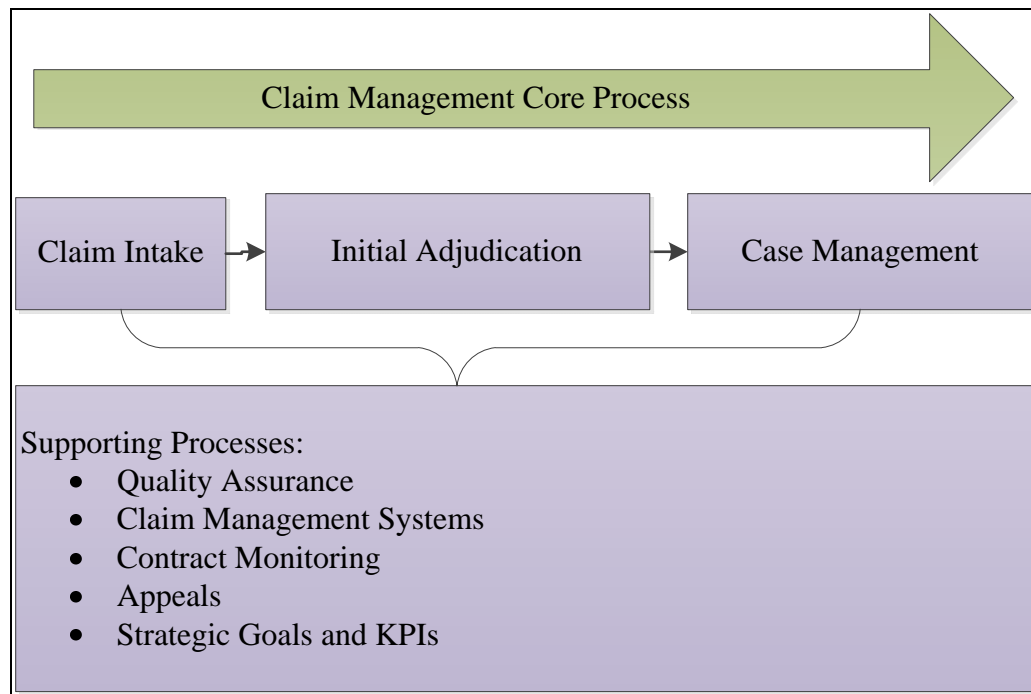
- examination of legislation, policy, reports and other documentation relevant to our work;
- interviews with current and former board members, senior executives and personnel at WorkSafeNB;
- interviews with relevant individuals and organizations external to WorkSafeNB;
- analysis and sample testing of claim files as applicable to our work; and
- findings of our expert's review of WorkSafeNB's claims management framework.

3.29 Our audit was performed in accordance with Canadian Standard for Assurance Engagements (CSAE) 3001 established by the Chartered Professional Accountants of Canada, and accordingly, we carried out such tests and other procedures as we considered necessary in the circumstances. Other information about the audit can be found in Appendix V.

Report Structure

3.30 We structured our report in the way a claim flows through WorkSafeNB. Our findings and recommendations are grouped by these major processes in the claims management cycle, as shown in Exhibit 3.8.

Exhibit 3.8 Claims management flow diagram



Source: created by AGNB based on information provided by WorkSafeNB

3.31 We found, in general the claims management framework adopted by WorkSafeNB is reasonable and many of its policies are consistent with industry best practice. It has good policy on accident reporting and application for benefits. Adjudicators and case managers have the opportunities to consult with internal medical professionals and seek additional medical assistance when needed. Continuum of care programs are consistent with industry best practice. A decision map is included for medical management of injuries. There is a selection guide for new physiotherapy clinics and ways to monitor and evaluate performance. An Issues Resolution Office has been set up to address injured workers’ concerns. However, there are many deficiencies we identified in WorkSafeNB’s claims management process.

Claim Intake

3.32 Claim intake is the first step in the claims management process. As per WorkSafeNB’s 2017 annual report, the average number of work days from the day the injury is reported to the first payment is 28 days. We found there are unnecessary delays in this process. In this step, the injured worker sends requested documents to the intake team. This team inspects documents to ensure all requirements are met before passing them to the claims processing team. For example, both the injured worker and the employer’s signature must be present on application forms. No

contact is made with the injured worker by the intake team beyond a “*please submit the specific document*” letter.

3.33 The intake team sends claim documents to the claims processing team which handles the indexing and coding of the documents for an adjudicator to review in more detail.

No initial contact with the injured worker to assess the nature of injury and what immediate steps WorkSafeNB needs to take

3.34 Following this initial submission of documents, there is no initial contact with the injured worker by an adjudicator to assess the nature of injury and what immediate steps WorkSafeNB needs to take.

There is no interface to transfer the electronic form submission into the claims management system

3.35 We found electronic forms are available for submission via an online portal. However, the submission process is inefficient in the following ways:

- The system allows the electronic form to be submitted while incomplete. This causes extra work for the adjudicators who have to gather the missing data in order to adjudicate the claim.
- There is no interface to transfer the electronic form submission into the claims management system. Forms are printed and subsequently scanned into the system adding more work.

Recommendation

3.36 We recommend WorkSafeNB automate the claims management system to allow electronic submission and processing of claims documents, to reduce work and speed up intake and adjudication processes.

3.37 In the current process, typically employers submit claim documents. A support clerk of WorkSafeNB reaches out to the injured worker for their signature, if it is missing from the forms. Once the signature is received, the claim is sent to an eligibility adjudicator for adjudication.

Unnecessary delays caused by employer and worker combined form

3.38 The intake team raised a concern to us on the delay caused by waiting for the authorization signature on the Report of Accident or Occupational Disease (Form 67). WorkSafeNB has a combined form that needs to be completed by both the employer, and the injured worker. An eligibility adjudicator is not able to see the claims immediately unless both the employer’s and worker’s signature are present. This sometimes creates unnecessary delays.

3.39 In most other provinces, the Employer’s and Worker’s Reports of Injury are separate documents and either one can

initiate a claim, e.g. Employer’s Report or a Worker’s Report.

Recommendations

3.40 We recommend claims be sent immediately to an adjudicator after initial intake team gathers personal information and accident details.

3.41 We recommend WorkSafeNB uses separate “Report of Accident” forms for the employer and employee.

Return to Work

Establishing an expectation for when the injured workers would be ready to return to work is a critical part of the overall recovery process

3.42 Early and safe return to work is a key industry best practice. Establishing an expectation for when the injured workers would be ready to return to work is a critical part of the overall recovery process. We believe worker motivation, or self-efficacy, is one of the most important aspects in prompt return to work. In order to accomplish this, workers compensation boards need to communicate the concept of return to work and a realistic plan to employers and the injured workers as early as possible. We also noticed the Task Force⁵ is recommending WorkSafeNB adopt a proactive role in promoting return to work.

3.43 Although return to work is one of the primary goals of WorkSafeNB as stated in its strategic plan, it is not currently embedded into the claims management process.

WorkSafeNB is missing the early opportunity to communicate return to work options to injured workers during the initial adjudication process

3.44 During the initial adjudication process, WorkSafeNB gives priority to administrative tasks related to paying injured workers who are missing time from work. Not as much attention is focused on the modified return to work claims, e.g. those working with a strain or sprain. We found WorkSafeNB is missing the early opportunity to communicate return to work options to injured workers.

No case plan after a claim is accepted

3.45 We also found WorkSafeNB did not create a comprehensive case plan after a claim is accepted. Such a plan would include return to work goals, proposed treatments and a forecast date for recovery. Without such a plan, it would be difficult for WorkSafeNB to promote the concept of return to work and motivate injured workers to return to work.

3.46 We found a return to work plan was created very late into the process and only for situations where the injured worker is off work for an extended period of time. The case manager

⁵ Report of the Task Force on WorkSafeNB, July 2018.

communicates with the occupational therapist to develop a return to work plan. The WorkSafeNB case manager then speaks with the injured worker and employer to determine available work to create a suitable return to work plan.

3.47 Creating a return to work plan this late may not achieve desired outcomes. The injury may have worsened or the worker's confidence diminished. As a result, WorkSafeNB would have missed the best opportunity to intervene.

Recommendation

3.48 We recommend WorkSafeNB focus on return to work during adjudication by:

- identifying risks to return to work;
- prioritizing complex claims, and
- initiating a plan to address barriers.

3.49 We recommend WorkSafeNB communicate a detailed case plan with:

- return to work goals;
- proposed treatments; and
- forecast date for recovery.

Initial Adjudication

Delays in referring injured workers for specialized treatment and assessment

3.50 The eligibility adjudicator determines the first level of treatment at the beginning of adjudication. The injured worker is sent for treatment in pre-approved local clinics first. However, when treatment is not progressing, there is a delay in referring the worker into a WorkSafeNB specialized "Program of Care" for further treatment and assessments.

Adjudicators do not set expected disability duration and dates for recovery

3.51 Disability Duration Guidelines⁶ (DDGs) give an estimate of the approximate time required for workers to return to work after various work-related injuries and treatments. We believe forecasting the disability duration is critical for creating a return to work plan and establishing expectation for recovery. However, we found adjudicators do not:

⁶Disability Duration: "refers to the interval of time from accident to when 75% of persons are able to return to pre-accident work. The disability duration of an injury is often shorter than the healing time."(Source: WorkSafeNB Disability Duration Guidelines, July 2009)

- discuss treatment plans with injured worker right from the intake of the claim;
- compare diagnoses to WorkSafeNB Disability Duration Guidelines; and
- set expected disability duration and dates for recovery.

Claims not monitored in accordance with Disability Duration Guidelines

3.52 Further, we found WorkSafeNB's claims management lacks timelines associated with follow-ups and recovery monitoring. Although WorkSafeNB has access to DDGs, there are no triggers in the system to alert the adjudicator or case manager when a claim has gone past the DDGs. This means there are no triggers to monitor recovery status. Even though the DDGs are accessible, they are not mandatory.

Recommendations

3.53 We recommend WorkSafeNB develop a treatment plan right after a claim is accepted and enable the adjudicator to communicate it to the injured workers.

3.54 We recommend WorkSafeNB use disability duration guidelines to provide a forecast of return to work and include it in the initial decision letter sent to injured workers.

Adjudication decision making process consistent with industry and legislative best practice

3.55 An adjudicator within WorkSafeNB's Adjudication and Benefit Services (ABS) unit receives the claim from the claims intake team and then makes the decision based on the case facts and the policies in force regarding whether to accept or reject a claim. This is a legal requirement within the *Workers' Compensation Act*, supported by operational policy and procedures. The adjudicator may consult a WorkSafeNB medical advisor for an opinion on medical compatibility. We considered this process consistent with industry and legislative best practice.

Decision rationale not sufficiently communicated to case managers

3.56 The adjudication decision is communicated by phone and in the decision letter. A rationale for a claim decision is found in the decision letter. In many cases, the rationale in the decision letter is not detailed enough with the key legislation and operational policy noted for the case manager to understand the whole picture. A decision checklist may assist with the initial adjudication decision and documenting the details regarding how the decision is made. This can strengthen the flow of information between adjudicators and case managers.

3.57 This gap in communication and documentation was a concern to case managers. They indicated to us that if there is ever a disagreement in decision making between the eligibility

adjudicator and the case manager, it would be difficult for them to follow the adjudicator's decision making process to reconsider or reverse any prior decision.

3.58 Case managers also noted the eligibility adjudicator does not discuss an injured worker's abilities, functional limitations and restrictions because this is not currently included as a consideration for adjudication. Such considerations can affect the accuracy of modified return to work plans.

Recommendations

3.59 We recommend WorkSafeNB require case managers discuss with injured workers their abilities, functional limitations and restrictions in determining the modified return to work plan.

3.60 We recommend WorkSafeNB improve the adjudication decision making process by requiring adjudicators to document in the claim management system decision rationale with the key legislation and operational policy.

WorkSafeNB provides little explanation of benefits and entitlements to the injured worker

3.61 WorkSafeNB provides little explanation of benefits and entitlements to the injured worker. There is an information kit describing all the potential benefits. It is not always included in the package sent to the injured worker and not fully explained to them. The adjudicator only verbally explains the adjudication decision and the awarded benefits to the injured workers.

3.62 We found adjudicators and case managers are not advising injured workers about treatment or care plans. They are often not aware of the amount of treatment benefits allowed, e.g. physiotherapy. As a result, injured workers may not be able to obtain all the benefits to which they are entitled. For example, an injured worker got injured further while doing yard maintenance at home, and nearly lost the benefits as a result. Review of the file showed the worker had not been offered a care allowance, which would have allowed this individual to hire someone to do this kind of activity. WorkSafeNB attempted to cut off the employees benefits, claiming this injury was not work related. This illustrates how injured workers need to have the benefits available to them fully explained. The additional injury may have been prevented and subsequent dispute avoided, if the worker had been able to hire someone to do the task for them.

Recommendation

3.63 We recommend WorkSafeNB include a clear explanation of potential eligible benefits with the initial decision letter to injured workers.

Staff appointments to Adjudicator position are not competency based

3.64 The adjudication position is covered by a collective bargaining agreement. Individuals can apply for the position internally, and may be assigned due to seniority. It appears this is often more of a deciding factor than competency, education and qualifications. WorkSafeNB has not developed competency requirements for the adjudication role.

3.65 This also means some individuals come into the adjudication role without the requisite knowledge or experience. Inadequately qualified adjudicators may not be able to consistently make the right decisions. This could impact the recovery time of injured workers and add unnecessary costs to WorkSafeNB. It is also time-consuming for the trainers and coaches working with these individuals.

Recommendation

3.66 We recommend WorkSafeNB develop specific competencies for the adjudication role and require all successful applicants to meet those competencies.

Case Management**WorkSafeNB’s injury protocol process is consistent with most Workers’ Compensation Boards across Canada**

3.67 We found WorkSafeNB has developed treatment protocols for the most frequent types of injuries. These include, at a minimum; back injury, shoulder, and mental health Post Traumatic Stress Disorder (PTSD). These protocols include a multi-disciplinary approach to treatment, and ultimately, recovery. This injury protocol development process is consistent with most Workers’ Compensation Boards across Canada.

3.68 WorkSafeNB has documented a flowchart, which outlines the key milestones in the continuum of care. It includes a classification of injuries as follows:

- Acute (0 to 6 weeks)
- Sub-acute (4 to 12 weeks)
- Early Chronic (12+ weeks); and
- Late Chronic

3.69 The “Continuum of Care” concept is applied to case management. We found WorkSafeNB’s “continuum of care” was based on validated research principles that are widely accepted within the workers compensation industry.

Workers' Rehabilitation Centre

3.70 WorkSafeNB has a designated Workers' Rehabilitation Centre (WRC) that specializes in the intense treatment of occupational injuries. The centre has a wide range of programs to assist with return to work. There is a multidisciplinary approach in use with nurses, physicians, occupational therapists, physiotherapists, psychologists, social workers, and dieticians. The ultimate goal is to promote recovery and focus on return to work.

3.71 Operational Policy provides direction and guidance for the referral to the centre. The Centre helps injured workers to restore pre-accident functional capacity or medical recovery to enable a return to safe, productive employment.

3.72 However, this facility is often used as the last resort for injured workers. The referral decision is not currently being made and managed at the date of the onset of the claim. The injured worker has the option of exhausting community based treatment first. This means WRC often gets the worst cases after all other treatments failed. WRC may not be able to see a worker until an average of 592 days after their injury. By delaying the referral of injured workers to the centre, WorkSafeNB may miss the opportunity to facilitate workers' recovery and make positive impacts to the return to work process. Earlier referrals to WRC could reduce claim duration and improve outcomes.

76% of injured workers treated by WRC in 2017 were ready to return to work

3.73 WRC is owned by WorkSafeNB. This is a rare ownership model of a workers' rehabilitation facility in Canada. The only other similar one, which is owned by worker's compensation board, is located in Alberta. In general, having many health care professionals within the WRC with a focus on rehabilitating injured workers could have a positive impact on injured workers. The centre receives approximately 900 to 1,000 cases per year. According to WorkSafeNB, 76% of injured workers treated by WRC in 2017 were ready to return to work, based on assessment after treatments. The ready to return to work rate from 2013 to 2016 was 84%, 80%, 78% and 71%, respectively. According to WorkSafeNB, the centre has supported more than 24,000 New Brunswick workers in returning to work in the last 40 years.

3.74 While we did not perform a thorough assessment of the effectiveness of WRC’s operations, our testing included files for injured workers who attended WRC. We also toured the facility at the beginning of our work.

Recommendation

3.75 We recommend WorkSafeNB update its guidance to promote early referrals to the workers rehabilitation centre, to maximize return to work outcomes.

Use of Medical Advisors

3.76 Medical advisors have access to the claims management system. Case managers submit the questions and requests to medical advisors via the claims management system. This includes specific medical documentation for review. A medical advisor reviews these documents and issues an opinion to the case manager.

3.77 The role of a medical advisor is to review medical information and provide medically relevant opinions and advice. We found, however, case managers are occasionally asking medical advisors to comment on policy related issues of entitlement for benefits.

3.78 For example, if there is an issue of whether there is noise-induced hearing loss (NIHL) at the workplace, the case manager request should be limited to confirming if the injured worker has NIHL. At times the question is whether there was a hazardous level of noise at the workplace that caused NIHL. Such questions to medical advisors are inappropriate and overstep the authority of the medical advisor’s role.

Case managers are over relying on the opinions of the medical advisors

3.79 We also found during our case review a medical advisor commented whether the injured worker should be entitled to certain benefits. It is the role of the case manager to make decisions on entitlement of benefits based their interpretation of WorkSafeNB’s policies and on all relevant evidence, including medical advisor’s opinions and advice. We found case managers are over relying on the opinions of the medical advisors. The medical advisor’s input should be one piece of evidence contributing to the case manager’s decision. Over reliance on the medical advisor’s input, without consideration of all other evidence equally, can lead to the decisions of WorkSafeNB being challenged and ultimately overturned by the WCAT.

No guidance for medical advisors regarding what type of opinion they cannot provide

No guidance for case managers on what questions are appropriate for medical advisors

Recommendations

No tracking of medical progress of injured workers

3.80 We believe this is a two-folded issue. The line between medical advisor and case manager are blurred. Case managers sometimes asked non-medical questions to WorkSafeNB's medical advisors. Medical advisors did not restrict themselves to only providing a medical opinion. Case managers may not be confident enough due to lack of training and experience to make a decision. There is no clear guidance for medical advisors regarding what opinion they can and cannot provide, nor is there guidance for case managers regarding what types of questions are appropriate for medical advisors.

3.81 We recommend WorkSafeNB formalize the authority and role of the medical advisor and ensure both medical advisors and case managers understand their respective roles regarding medical opinions.

3.82 We recommend WorkSafeNB:

- **require medical advisor opinions to be formally documented and be restricted to the specifics of the medical condition; and**
- **have templated, specific questions for case managers to ask medical advisors.**

3.83 We expect WorkSafeNB to send the worker for an immediate assessment by an appropriate specialist, if the recovery looks prolonged or if barriers are present. Currently this is not the case. The claims management system does not track the worker's progress in terms of how well the injured worker is recovering from the injury. There is no forecasted duration of recovery to track against. This could cause delays in getting the injured worker to the appropriate treatments at the right time and reduce the possibility of early and safe return to work. In one case we examined, an injured worker was sent to a local physiotherapy clinic for treatment due to shoulder injury. At the end of the initial treatment period, a decision was made to extend the physiotherapy treatment further beyond the initial timeframe. However, the extended treatment did not result in any further improvement. The injured worker was then sent for an MRI, which had originally been suggested by the family doctor. This revealed that the nature of the injury could not be resolved by physiotherapy. Surgery would be required to correct the injury and allow the injured worker to recover and return to work.

Recommendation**3.84 We recommend WorkSafeNB have a plan to:**

- **follow up with the injured worker in relation to treatment progress;**
- **closely monitor claims with modified return to work to ensure the modified work is suitable; and**
- **communicate with health care providers involved in relation to worker’s progress.**

3.85 Case managers are allocated claims based on the region the injured worker resides. They manage all claims that emerge in that specific region.

WorkSafeNB case managers not specialized based on types of injuries

3.86 WorkSafeNB, unlike many workers compensation boards in the country, does not have specific teams to manage claims based on types of injuries, illnesses or long latency diseases such as Noise-Induced Hearing Loss, Traumatic Brain Injuries, Psychological Conditions, etc. Other boards also have teams based on industry to ensure the case manager is familiar with the worker’s work environment. Others have specialized teams as well as regional offices.

3.87 Currently, some case managers at WorkSafeNB may have developed subject matter expertise through their experience. However, we found that WorkSafeNB did not formally identify subject matter experts for further developing their professional abilities and for use as a resource by other, less experienced case managers. Utilizing this expertise in an organized manner could enhance the efficacy of the decision making and reduce the time required to process complex claims.

Recommendation

3.88 We recommend WorkSafeNB develop expertise for complex and sensitive conditions among case managers by allocating specific types of injuries to certain case managers and offering professional development opportunities.

Regional inconsistency in benefit awards

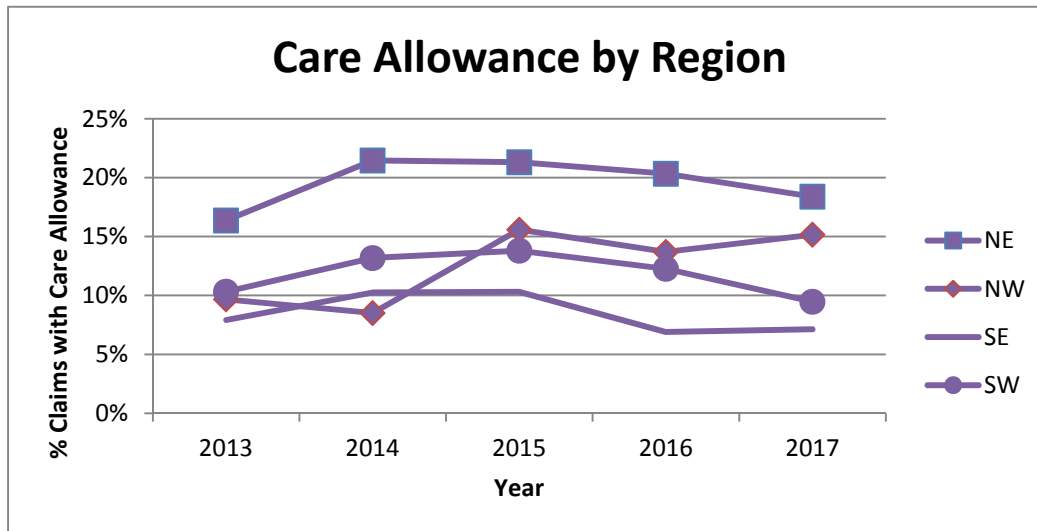
3.89 During our testing, we observed inconsistency in the awarding of benefits among the regions. We found examples where:

- necessary care needs assessments were not always performed in some regions; and
- care allowance was recommended by the occupational therapist but denied by WorkSafeNB in some regions but not in others.

3.90 In particular, care allowance awards post-surgery were not granted to eligible claimants in all cases. Per WorkSafeNB's care allowance fee schedule, Injured Workers are eligible for a care allowance: "When an informal caregiver such as a family member or a friend provides home care, WorkSafeNB pays a monthly allowance to help offset some of the costs of the informal care... The allowance is provided based on the level of care required, which is a combination of specific care needs and the number of hours required to provide this care."⁷

3.91 Exhibit 3.9 shows care allowance awards as a percentage of total case-managed claims by region for the years 2013 through 2017. In 2017, 18% of claims in the North East region had care allowances compared to only 7% in the South East region. It is difficult to rationalize the differences between regions because we cannot easily compare the relative severity of injuries between regions. However, we did note that each region has a similar composition of parts of the body affected by workplace accidents. The parts of the body with the highest injury frequency were "shoulder", "lumbar region", "multiple body parts", "knees" and "unspecified lower back". The data supports our observation that there is regional inconsistency in the awarding of care allowance.

Exhibit 3.9 - Care Allowance by Region



Source: chart created by AGNB based on data from WorkSafeNB (unaudited)

⁷ Worksafe NB Fee Schedule policy # 29-550

Decentralized processing of medical claims creates inconsistency between regions

3.92 We also found inconsistency in the administration and processing of medical claims in the regions because of decentralized processing. Regional offices currently process claims for medication and there is a risk that medications authorized in one region would be rejected in others.

Inadequate training for case managers

3.93 We believe many of the issues we have previously identified are linked to inadequate training. The new case manager training is a brief, intensive training period. Case managers felt the training was not adequate to learn all the requirements of the role. Following the training period, case managers are assigned cases with increasing complexity as they gain experience. We found there is a lack of ongoing training for case managers. Case managers rely on more senior co-workers within their region to provide guidance; however, this is informal.

No formal training for policy change

3.94 WorkSafeNB does not provide regularly scheduled formal training regarding implementation and interpretation of policy changes. It is possible that the regions could have different interpretations of policy and this may contribute to the regional inconsistency we observed. A more structured training and mentoring program would be beneficial and should be standardized to improve consistency between regions. Further, we noted that WorkSafeNB does not centrally and regularly monitor cases that are managed by case managers. As a result, WorkSafeNB cannot provide timely performance feedback to the case managers or tailor ongoing training to ensure adherence to policy and consistency among the regions.

3.95 In addition, WorksafeNB has not expanded professional development opportunities to keep case managers abreast of information relevant to their position such as:

- new research in disability management,
- quality assurance reviews,
- key performance indicators (KPIs); and
- trend analysis.

3.96 We also noted in our work some case managers lacked the confidence to make decisions. We believe that enhanced initial and ongoing training will increase the confidence and capability of case managers.

Recommendation

3.97 We recommend WorkSafeNB:

- **expand the duration and level of detail in case manager training; and**
- **enhance ongoing training for existing staff.**

3.98 We recommend WorkSafeNB monitor claims managed and provide feedback to staff on an ongoing basis to ensure adherence to policy and consistency among regions.

Permanent claims / long term disability (LTD)

3.99 WorkSafeNB has five long term disability coordinators with a 950 claim caseload. Their role includes ongoing appeals for maintenance treatments, mobility support, and quality of life of claimants. There are three types of LTD files:

- Full LTD;
- Deceased / Alternate Occupation; and
- Work Wage Loss of 20% or more.

3.100 A team of LTD coordinators has access to the claims management system to look into actual earnings of the injured worker, however, they are not authorized to enter information. This team has only paper files and updates to the files are manual. We found the LTD process is oriented toward administration of the files. WorkSafeNB is not regularly reviewing LTD files with a focus on possible return to work. An injured worker on LTD does not necessarily mean the individual cannot work anymore. As the conditions of an injured worker change and the job market evolves, there may be opportunities for the injured worker to return to work in a different capacity.

Recommendation

3.101 We recommend WorkSafeNB annually review long term disability clients with a potential for return to work (for example, a change in functional abilities or a change in the labour market availability) to determine if the claim is still suitable for long term disability.

Issues Resolution Office

3.102 The Issues Resolution Office (IRO) of WorkSafeNB was created to deal with employer and injured worker service complaints and to try and resolve appeals before they go to the WCAT. The IRO is a separate group from the case managers who are involved in case management. It would be cost effective and more time efficient to solve the issues internally first. The injured worker could still escalate the appeal to WCAT if they are not satisfied with the IRO decision.

Review by Issues Resolution Office mandatory in other jurisdictions but not in New Brunswick

3.103 In other jurisdictions, it is mandatory to have IRO review the file before it goes to the Appeals Tribunal. In WorkSafeNB’s case, the current legislation allows appellants to file their appeals directly with the WCAT without going through IRO.

Recommendation

3.104 We recommend WorkSafeNB propose to amend the legislation so that appeals go to the Issues Resolution Office of WorkSafeNB as a mandatory first step before an appellant can file an appeal with the Workers Compensation Appeals Tribunal.

Quality Assurance

WorkSafeNB needs to measure the extent to which it is providing support to injured workers

3.105 WorkSafeNB has a performance management process to measure its performance against the goals outlined in its multi-year strategy. The goal closely related to claims management is the “Support Goal”. it states: “We will support our clients in recovering from the impacts of workplace injuries.” The goal statement does not provide an objective definition for “Support” with a linkage to Key Performance Indicators (KPIs) to demonstrate that this goal is being met. Without this, it would be difficult for WorkSafeNB to measure the extent to which it is providing support.

KPIs do not demonstrate how the efforts of WorkSafeNB have improved performance

3.106 We found it would be difficult to attribute an improvement in KPIs to the initiatives and efforts of WorkSafeNB due to a lack of specificity of KPIs. For example, WorkSafeNB presented average paid days lost as a KPI; however, the significant driver of average claims duration overall is the type and severity of injuries. WorkSafeNB would have little influence on this. In this case, a better representation of WorkSafeNB’s performance would be measures of internal process cycle times for claims intake and initial adjudication.

Recommendation

3.107 We recommend WorkSafeNB develop Key Performance Indicators which are relevant to the performance of its internal processes.

3.108 WorkSafeNB provided a dashboard type report with measures for claim duration, return to work, 90-day sustainability and satisfaction (demonstrated in Appendix VI). We expected the report to clearly indicate what would constitute good performance in each of the measured areas by stating performance targets. We found, however, it is not clear what would constitute a good result in these areas since targets were not defined.

Recommendation

3.109 We recommend WorkSafeNB define targets for its Key Performance Indicators and clearly state these on performance reports.

Performance improvement initiatives not linked to KPIs

3.110 WorkSafeNB included progress update summaries for a number of initiatives related to the “Support Goal”. For example, there was an initiative entitled: “To develop northern rehabilitation strategy”. We observed that these initiatives did not identify which KPIs they were meant to improve under this goal. It would be difficult to correlate successful completion of these initiatives with an improvement to the KPI measures listed under the “Support Goal”.

Recommendation

3.111 We recommend WorkSafeNB link:

- **key performance indicators to strategic goals; and**
- **improvement initiatives to the key performance indicators identified.**

Claims Management System

3.112 We expected WorkSafeNB to use claims management software to automate much of their processes. We found the software currently in use functions primarily as a document repository and for processing of payments. It lacks functionality found in other, more robust claims management systems such claim lifecycle management, reports and dashboards.

There is no convenient way to pull data for review and analysis

3.113 WorkSafeNB’s system only provides the ability to review claims one by one. There are no dashboard reports to provide a summarized view of performance metrics. Also, we noted WorkSafeNB has no built in tool or a convenient way for users to extract data from the claims management system for further analysis. Having a data extraction tool that can be used to pull information for review purposes would save time and help ensure

accurate and efficient claim analysis.

Administrative tasks consume much of the case managers’ time

3.114 We believe the case managers’ focus should be on the rehabilitation and return to work goals of their claim files. However, we found administrative tasks consume much of the case managers’ time. Information on payments of benefits is entered and benefits are calculated by the case managers rather than a separate payments department. We also observed there are no system reminders to ensure payments of benefits to injured workers are updated on a regular basis. It is then incumbent on the case managers to ensure this information is up to date.

Recommendation

3.115 We recommend WorkSafeNB reallocate administrative tasks, such as loss of earnings benefit calculations, from case managers to administrative staff.

Claim management system does not support emphasis on return to work

3.116 The system was designed with a focus on workers who are off work and need to be paid. There is no module for return to work, recovery and other case management initiatives. We expected the system to link the type and area of injury to medical guidelines for recovery. Other jurisdictions link the injury and Disability Duration Guidelines to provide an automatic estimation of the length of time an injured worker would need to recover. This saves time and makes return to work planning more efficient.

3.117 WorkSafeNB has correspondence templates for various types of communications. There are specific and general letters. The letters, however, do not pull information from the system. We expected correspondence to automatically populate with details from within the system, to minimize the time required for re-entering and checking of information.

There is no area of the system that a case manager can review as a snapshot or a synopsis of the claim

3.118 We found there is no area of the system that a case manager can review as a snapshot or a synopsis of the claim for quick reference. The case manager can sort through the event logs and various screens to familiarize themselves with the claim. This is a tedious and time-consuming process.

Recommendation

3.119 We recommend WorkSafeNB build tools into the claims management system to free up staff from routine and repetitive tasks so they can focus on progress and treatments of injuries. Such tools would include:

- **enhanced data extraction capabilities;**
- **system reminders to update client information;**
- **auto-complete forms; and**
- **automated medical claims processing.**

Contract Monitoring

3.120 As part of our audit, we examined how WorkSafeNB monitors contracts entered into with service providers involved in assessing and treating injured workers. Our examination of WorkSafeNB's contract monitoring activities focused primarily on contracts for medical and rehabilitation services provided across the province and at the Workers' Rehabilitation Centre (WRC).

Contract management framework in progress

3.121 We determined a contract management framework was not in place during the period audited. WorkSafeNB staff had identified this issue, and informed us they were in the process of developing a framework.

3.122 A contract management framework is important for creating uniformity and discipline in the planning, execution and performance monitoring of commercial contracts. It allows the organization to acquire goods and services in a consistent manner in compliance with procurement rules and regulations, and ensures contract risks and supplier relationships are effectively and efficiently managed throughout the contract lifecycle.

Contract for medical services

3.123 In 2009, the board authorized WorkSafeNB to enter into a ten year contract with one medical service provider for a range of services, including:

- research, practice guidelines, treatment programs consultation;
- multi-disciplinary complex claim file review and analysis;
- multi-disciplinary complex claim clinical evaluation and analysis;
- psychological assessment and treatments, electromyography (EMG), nerve conduction, neurology and electro-diagnostic services;
- permanent physical impairment assessments; and
- surgical assessments.

The services are provided at the Workers’ Rehabilitation Centre in Grand Bay as well as other locations. The contract is set to expire in 2019.

3.124 Under the current contract, this service provider has been paid \$7.6 million in total from 2013 to 2017.

Tender significantly modified after issuance

3.125 When we examined the awarding of this contract in 2009, we noted a significant change was made to the tender after it was issued. The initial documents required the bidder to provide medical services and purchase the Grand Bay rehabilitation facility. The latter requirement was later removed when the board decided not to sell the facility.

3.126 A request for qualifications (RFQ) was issued in April 2008 to identify qualified bidders willing to buy the Grand Bay rehabilitation facility and provide the above mentioned services. Three organizations were qualified by this process.

3.127 When the request for proposals (RFP) was issued in January 2009, only one of the three organizations submitted a proposal.

Board decided not to sell facility

3.128 However, before the contract was awarded, the board decided not to sell the rehabilitation center. Although the reason for this decision is not documented in the board minutes, other documents we reviewed indicated the board made this decision after the government expressed concerns over the sale of the building. Government did not believe there was a genuine

business case for selling the facility.

3.129 We expected WorkSafeNB to retender, or at a minimum, solicit new bids from the other two qualified organizations, who may have been discouraged by the requirement to buy the building. Doing so would have demonstrated the transparency and competitiveness of the process, since the original RFP was significantly amended.

WorkSafeNB did not retender 10 year service contract after significant change to the original request for proposal

3.130 We found WorkSafeNB did not notify the other qualified firms and proceeded to negotiate and sign a ten year contract with the firm that responded to the RFP. By doing so, WorkSafeNB may have foregone a potential opportunity to obtain more competitive terms.

Recommendation

3.131 When tendering the contract for medical services again in 2019, we recommend WorkSafeNB:

- **ensure tender requirements are comprehensive to minimize the need for significant changes after the tender is issued; and**
- **follow procurement regulations and best practices to ensure transparency, fairness, and competitiveness of the bidding process.**

Contract term of 10 years much longer than other service provider contracts

3.132 The term of this service provider contract was 10 years. It is much longer than the other contracts we examined at WorkSafeNB which ranged from one to five years in length. We expected contracts to be for a shorter duration, with the option to renew if the service provider has performed satisfactorily during the initial term. This would allow WorkSafeNB the option of changing service providers sooner if they were not meeting expectations.

Recommendation

3.133 We recommend WorkSafeNB use a shorter initial term with an option to renew, when the contract for medical services is tendered in 2019.

Service contract did not address intellectual property rights

3.134 We noted the WorkSafeNB contracts for medical and rehabilitation services did not include specific provisions addressing intellectual property rights to programs developed by the service providers. Without specific contract sections dealing with intellectual property rights, there is a risk that a dispute may arise if a contract is terminated or not renewed. This could lead to disruption of operations while replacement programs are being

acquired or developed.

Recommendation

Monitoring of private physiotherapy clinics

Monitoring process for clinics

3.135 We recommend that WorkSafeNB include contract terms addressing intellectual property rights in future contracts for medical and rehabilitation services.

3.136 Contracts exist with clinics across the province to provide treatment services towards the rehabilitation of injured workers. The services provided by the clinics include:

- administration of treatment programs specifically developed by WorkSafeNB, such as their back and shoulder programs;
- heat and cold treatments;
- diet counselling;
- exercise programs; and
- massage services.

3.137 WorkSafeNB has a monitoring process in place for physiotherapy clinics. The Program Development and Evaluation department evaluates the clinics and their staff prior to awarding the contract. They also monitor the performance of the clinics and physiotherapists on a regular schedule.

3.138 WorkSafeNB monitors clinics’ performance using processes such as:

- surveys completed by injured workers;
- review of clinics and physiotherapists against standards established by WorkSafeNB on a two year rolling cycle; and
- treatment program reviews.

Progress reports received from physiotherapy clinics not used to actively monitor the progress of injured workers' recovery during treatment

3.139 WorkSafeNB requires clinics to submit reports detailing the progress of the injured worker. We noted case managers were not using these reports to monitor the progress of the injured worker during treatment. They only do so at the end of treatment.

3.140 While we found the required reports in the system, there is no documentation to indicate the case manager has reviewed and incorporated the report in the injured worker's treatment plan.

Recommendation

3.141 We recommend WorkSafeNB use progress reports received from physiotherapy clinics to monitor injured workers during treatment.

Appendix I – Section 12 Request Letter



RECEIVED
FEB 27 2017
AUDITOR GENERAL
FREDERICTON, N.B.

February 22, 2017

Ms. Kim MacPherson
Auditor General of New Brunswick
520 King Street, 6th floor, Suite 650
P.O. Box 758
Fredericton, NB E3B 5B4

Ms. MacPherson:

I understand that you had a recent meeting with Ms. Dorine Pirie, Chairperson of WorkSafeNB and Mr. Tim Petersen, Acting President and CEO, regarding a value-for-money audit.

In 2007-2008, the Independent Review Panel recommended that the "Government of New Brunswick direct the Auditor General to conduct a value-for-money audit of the WHSCC every five years to ensure public accountability of the Commission rather than mandatory periodic reviews by an independent commission". The Board at the time fully supported this recommendation.

Considering the recent significant increases in workers' compensation assessment rates and the concern of further increases due to claiming patterns and duration of claims, as well as the impact to employers and to the provision of efficient and effective services to injured workers, looking at all facets of the organization is crucial.

As such, I would request that the Auditor General move forward as quickly as possible with a comprehensive value-for-money audit of WorkSafeNB, including the Workers' Rehabilitation Center in Grand Bay.

Thank you for considering this request.

Sincerely,

Donald Arseneault
Minister

c.c. Dorine Pirie, Chairperson, WorkSafeNB
Tim Petersen, Acting President and CEO, WorkSafeNB

DN/10662

Minister/Ministre
Post-Secondary Education, Training and Labour/Éducation postsecondaire, Formation et Travail
P.O. Box/C.P. 6000 Fredericton New Brunswick/Nouveau-Brunswick E3B 5H1 Canada

www.gnb.ca



Appendix II – Audit Objective and Criteria

The objective and criteria for our audit of WorkSafeNB claims management are presented below. The WorkSafeNB board chair and senior management reviewed and agreed with the objective and associated criteria.

Objective	To determine if WorkSafeNB has an effective claims management framework.
Criterion 1	WorkSafeNB should have goals and objectives for claims management aligned with their legislated mandate.
Criterion 2	Claims management practices should comply with WorkSafeNB policies, standards and procedures.
Criterion 3	WorkSafeNB should monitor claims management performance against goals and objectives and take action to address weaknesses identified.

Source of criteria: Developed by AGNB based on review of legislation and policies, claims management best practices and reports by other jurisdictions' Auditors General

Appendix III – Comparisons to other Canadian Jurisdictions

Claim intake	
WSIB Ontario, WCB Alberta, WorkSafeBC all offer Auto-Adjudication capabilities	Almost all other provinces have separate forms for Employer and Employee to complete.
Initial adjudication	
WCB Alberta- Claim assigned to an Adjudicator or Case Manager. Decisions based on Operational Policy.	WSIB Ontario- Eligibility Adjudicator reviews claim for medical diagnosis. Requests Medical Updates every 2 weeks. Workers obligated to cooperate with Return to Work and providing medical
WorkSafeBC - Board makes decisions. Claim is suspended if employee leaves the province without notifying the board or getting consent.	WCB Manitoba - Employer / Employee make their own arrangements for Return to Work. The Board intervenes only if needed.
Decision Making Process	
WCB Alberta- Worker receives step by step instructions on the claims process. If the employer is signed up for electronic services, they receive an email of claim submission and a reminder of the return to work.	WSIB Ontario- Auto adjudication and generated letter sent to the worker. If the employer is signed up for electronic submissions, they receive an email of claim submission. Eliminates all the internal work for simple claims.
WorkSafeBC - Decision letter includes the matter being adjudicated and evidence considered.	WCB Saskatchewan - Medical aid – includes surgical aid of hospital or nursing staff. Health care professionals.
WorkSafe Nova Scotia - WCB provides any medical aid.	
Explaining Benefits to a Worker	
WSIB Ontario- Detailed and standard decision letters advise the injured worker of all approved benefits. Information on starting treatment at a WSIB approved facility. When needed, the benefits are also described to the injured worker by phone.	

Appendix III – Comparisons to other Canadian Jurisdictions (continued)

The Initial Adjudication Role	
WCB Alberta - Adjudicator makes the initial entitlement decision and contacts all parties. The Adjudicator then corresponds with all parties on the decision and the treatment plan. A claim process diagram is included in the claims letter.	
Referrals	
WCB Alberta - Identifies barriers and, before extension in the community, a referral is made to Millard Health for a medical status exam. Identifies any health concerns before they proceed with additional consultation, assessment or treatment.	WSIB Ontario - Programs of Care that are recovery focused. Approved providers that participate in Programs of Care: evidence-based healthcare delivery plans.
WorkSafeBC - Occupational Rehabilitation (OR) programs to assist with recovery and work conditioning. Uses a network of pre-approved providers.	
Continuum of Care Maps	
WCB Alberta - The Alberta Occupational Injury Service (OIS) gives injured workers access to a doctor with experience in work-related injuries. Using an OIS clinic for treatment is voluntary. Workers can go to their own doctor if they prefer.	WSIB Ontario - Dedicates money annually to research in the field. IWH receives funding and has established itself as a leader in the research area of health, safety and workers' compensation disability management.
Workers' Rehabilitation Centre	
WCB Alberta - Alberta is the only other province in Canada that has a designated rehabilitation centre for work-related injuries: The Millard Centre.	
Use of Medical Advisors	
Many Boards have specific forms to refer to a medical consultant. Medical Advisor opinions are formally added to the file. They note specifics on the condition and symptomology only.	
Weight of the opinion of medical advisor, approved medical costs vs treating doctor	
WCB Alberta - WCB pays for offers of medical aid treatment to an injured worker to promote safe and early return to work.	CNESST - A capacity decision needs to have been issued by the CNESST. (Commission des normes, de l'équité, de la santé et de la sécurité du travail)

**Appendix III – Comparisons to other Canadian Jurisdictions
(continued)**

<p>WorkSafeBC - If a Medical Advisor and Nurse Advisor had a different opinion than the employee’s treating physician, the two WorkSafeBC Advisors contact the treating physician to obtain a better understanding of the worker’s capabilities and restrictions.</p>	<p>WorkSafe Nova Scotia - Benefits are only paid while there is a work-related impairment.</p>
<p>Monitoring / Follow Up</p>	
<p>WorkPlaceNL- Notifies workers immediately whenever a decision affecting their compensation entitlement is made.</p>	<p>WorkSafe Nova Scotia - Determines treatment and rehabilitation protocols and establishes expected duration guidelines, relates function to disability duration, establishes RTW goals and identifies flags where recovery is not progressing as expected.</p>
<p>Accountability</p>	
<p>WCB Alberta- Alberta conducts brainstorming sessions to discuss complex claims. These include claims of high duration.</p>	<p>WSIB Ontario- Ontario has a complex case unit. Individuals with credentials in specific areas of injury are used to assist in the adjudication and case management of files.</p>
<p>Presumption</p>	
<p>WCB Alberta- If claim is accepted, letter includes a roadmap for the claim, showing the progression the injured worker can expect during the claim period.</p>	<p>WSIB Ontario- Clearly laid out five points for allowable claims.</p>
<p>Case Managers are based on Region</p>	
<p>Specific teams to manage specific types of injuries or teams based on industry.</p>	
<p>Permanent claims / long term disability</p>	
<p>WCB Alberta- To determine the level of the injured worker’s Permanent Clinical Impairment (PCI), a physician will complete a medical examination or review the medical reporting on the injured worker’s file.</p>	<p>WSIB Ontario - The WSIB determines the degree of permanent disability when treatment is concluded, the condition is stable, and MMR has been reached.</p>

Appendix III – Comparisons to other Canadian Jurisdictions (continued)

<p>WorkPlaceNL - Impairment is determined by the Workplace Health, Safety & Compensation Commission's approved Permanent Functional Impairment (PFI) Rating Schedule.</p>	<p>WorkSafe Nova Scotia - The existence and degree of a permanent impairment is assessed by the Board. The appropriate time for the permanent impairment assessment is determined by the Case Manager in consultation with a Board Medical Adviser.</p>
<p>Return to work</p>	
<p><i>Sub-Category: Continuum of Care</i></p>	
<p>WCB Alberta- WCB has very strong return-to-work results of 93.7% returned to their accident place of employment. If the employer is unable to accommodate lighter duties then the employee is awarded benefits until he/she is capable of return to pre-injury duties.</p>	<p>WSIB Ontario - The WSIB requests a medical update in the form of a Health Professional's Progress Report (Form 26). This determines the injured worker's capabilities, progress, and level of impairment. Referring to medical duration guidelines, they provide the duration of specific injuries, and give a goal date for fitness and return to work</p>
<p>WorkPlaceNL - Both employers and workers are obligated to cooperate in the worker's timely and safe return to work.</p>	<p>WorkSafe Nova Scotia - Employer is obligated to offer re-employment to a worker who can perform suitable work.</p>
<p>WCB Saskatchewan - The Individualized Vocational Plan (IVP) outlines suitable short term and long term objectives for reemployment and the selection of programs required to meet these objectives</p>	
<p><i>Sub-Category: Non-compensable injuries</i></p>	
<p>WCB Manitoba - Health services department supports the case management process to clarify or obtain medical information, confirm and establish the health status of an employee, and provide educational case management.</p>	<p>WSIB Ontario - The WSIB makes a determination on non-compensable injury and compares it to compensable to determine work-relatedness.</p>

Appendix III – Comparisons to other Canadian Jurisdictions (continued)

<i>Sub-Category: Early Referral</i>	
WCB Alberta- The Adjudicator in Alberta makes a decision on initial entitlement and advises the injured worker right away of the treatment plan.	
Quality assurance	
<i>Sub-Category: Internal Quality Assurance Auditing</i>	
WCB Alberta- The Board has a dedicated audit department that reviews key performance metrics and case activity notes.	
<i>Sub-Category: Internal Data and Statistics</i>	
WCB Alberta- WCB Alberta has a reporting system that pulls information on duration and all other types of claims, e.g. Lost time, no lost time, on modified duties claim closure.	
<i>Quality Assurance Audit of External Providers</i>	
Many of the jurisdictions have an automated computer system that will approve a medication based on the formulary and the DIN. Most Workers’ Compensation Boards across Canada have the medication approval process automated and centralized.	
<i>Sub-Category: New Case Manager Training</i>	
WCB Alberta - Provides an in house training program for 6 weeks. When the Case Manager works on live claims they have a mentor while getting up to speed.	WSIB Ontario - Conducts a three month training program of all new claim adjudicators and case managers.
<i>Sub-Category: Appeal Process – Issues Resolution Office (IRO)</i>	
The first level of appeal is mandatory in other Workers’ Compensation Boards. There is an ability to conduct either written or oral hearings with submissions at first level of appeal.	

Appendix III – Comparisons to other Canadian Jurisdictions (continued)

Systems efficacy
<i>Sub-Category: Payments</i>
Payments are made by a different department and not the case manager. They are revisited at various touch points. There are flags for the Case Manager / Payments Department to request earnings information. Payments of loss of earnings (LOE) benefits are based on return to work status.
<i>Sub-Category: Follow-ups</i>
Most Boards use a comprehensive system that includes task management.
<i>Sub-Category: Return to Work</i>
WCB Alberta, WSIB Ontario - Both Boards have specific tracking on return to work within their systems. These include conversation starters, standard limitations, and availability of suitable work. Their systems also generate tasks that provide letter templates for certain activities.
<i>Sub-Category: Manual Auditing and Aggregate Data Pulling</i>
WCB Alberta - Internal auditing department to ensure accuracy in letter writing.
<i>Sub-Category: Lack of Case Plan with Goals</i>
Other boards have specific follow up points embedded into their systems. There are specific details requested and these are mandatory for case management goals.
<i>Sub-Category: Durations</i>
Workers' Compensation Boards link the injury and Disability Duration Guidelines to provide an automatic estimation of the length of time an injured worker would need to recover
<i>Sub-Category: Templated Correspondence</i>
WCB Alberta - WCB Alberta has templates to assist with the quality of the letter writing. When the claim is assigned, the system generates the letter.
<i>Sub-Category: Claims management system Layout</i>
Other boards also have specific event types noting the action taken on the claim and an overview / summary slide where the claim can be referenced from a broad perspective.

Appendix III – Comparisons to other Canadian Jurisdictions (continued)

WCAT	
<i>Sub-Category: WCAT Decisions Change Policy and Specific Policies</i>	
In the majority of all other provinces, excluding Quebec, tribunal decisions do not change operational policy. Other provinces will take policy changes to consultation.	
<i>Sub-Category: Personal Non-Compensable Conditions During Rehabilitation</i>	
WCB Saskatchewan - Benefits may be suspended if the employee does not attend health care appointments, or participate in treatment plans.	WCB Manitoba - Benefits may be reduced, suspended, or stopped, and the employee must be notified in advance of the change in benefits.
In other jurisdictions, if a worker is unable to participate in treatment or return to work due to an unrelated non-compensable condition, the benefits would be suspended until the worker has the ability to participate in their recovery process.	
<i>Sub-Category: Allocation of Claim Costs</i>	
The WCB in Alberta based the amount of cost relief on the duration of the prolonged recovery period; WorkSafeBC has specific criteria, a grid to rule on the percentage of relief and will not award cost relief if the worker has not been absent from work for at least 10 weeks; The Workplace Safety and Insurance Board in Ontario (WSIB) WorkplaceNL, and the Quebec Board (CNESST) has specific criteria basing the cost relief on a percentage.	
<i>Sub-Category: Representation of WorkSafeNB at WCAT</i>	
CNESST - Quebec will review and analyze most claims going to the Tribunal (TAT) to determine the financial impact if a claim is overturned. Dependent on their findings, the CNESST will decide if a representative is warranted or not.	

Appendix IV – Workers Compensation Appeals Tribunal

Appeals

If an injured worker, their dependants, or an employer are not satisfied with a decision made by WorkSafeNB, they can appeal that decision internally to the Issues Resolution Office (IRO) or externally to the Workers Compensation Appeals Tribunal, also known as the “WCAT”.

The WCAT is a quasi-judicial administrative tribunal independent of WorkSafeNB. It is staffed by a full time chairperson and up to 10 part-time vice-chairpersons.

WCAT became independent in 2015

Before 2015, the appeals tribunal was an internal function within WorkSafeNB. A subsequent legislative review recommended the appeals tribunal to be independent of WorkSafeNB.

WCAT decisions had significant financial consequences

This led to establishing the current WCAT on April 1, 2015. This move to an external appeals tribunal led to a number of consequences for WorkSafeNB. Several decisions made by the independent WCAT have had significant financial implications. WorkSafeNB estimates that the decisions laid out in the table below, have added an additional \$101.9 million in benefit liability.

Appendix IV – Workers Compensation Appeals Tribunal (continued)

Significant WCAT decisions affecting WorkSafeNB operations		
Policy	Description	Liability Increase (in millions)
21-100 C4E 21-113	General Principles and Weighing Information (Standard of evidence)	\$46.070
21-215 R3	Supplements to compensation (ECE step 2)	20.817
21-206 R5	Funding annuity benefits (Negative interest) (This decision later reversed by legislation change)	30.655
21-206 R5	Funding annuity benefits (Amount set aside re CPPD)	5.491
25-010 R3	Personal Non Compensable Intervening Conditions during rehabilitation (Suspension of benefits)	2.105
21-230 R7	Deduction of CPP disability benefits (Apportionment of CPPD)	27.454
	Subtotal	132.590
	Removal of Negative Interest	(30.655)
	Total Liability Increase (in millions)	\$101.935

Source: WorkSafeNB - unaudited

WCAT decision on negative interest later reversed by provincial legislation

The WCAT's decision that an annuity cannot have a negative interest quarter was effectively eliminated by subsequent legislation passed by the Provincial government. Bill 15 received royal assent on December 16, 2016 and modified the Workers Compensation Act to allow annuities to have quarters with negative rates of return.

WorkSafeNB did not attend early hearings

WorkSafeNB did not attend hearings when the independent appeals tribunal first began operations. Interviews with WorkSafeNB staff revealed that they decided not to attend because they felt the file should stand on its own, and they were concerned that they could be seen as trying to influence the decision.

WorkSafeNB attendance at hearings has improved results

However, subsequently WorkSafeNB staff began attending the hearings. According to WorkSafeNB, this has had a positive impact, reducing the number of adjudicated decisions that are being overturned. Staff members were able to present WorkSafeNB's rationale for

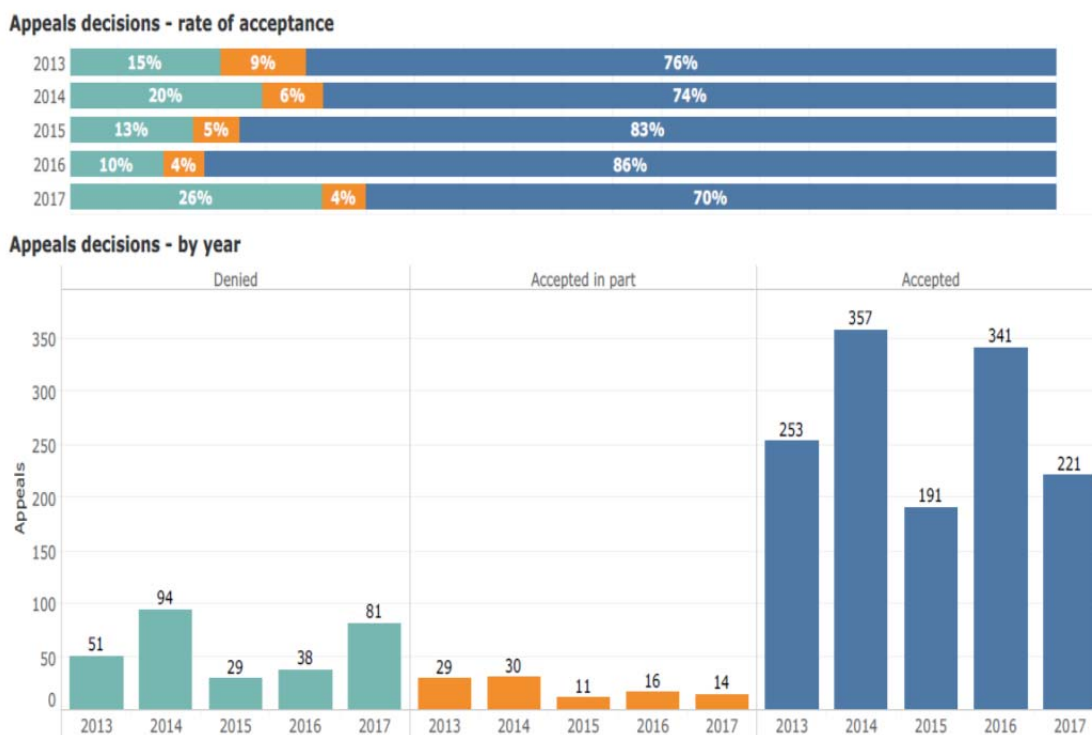
Appendix IV – Workers Compensation Appeals Tribunal (continued)

denying the claim, and provide the WCAT with more information to make their decision.

WCAT overturn rate initially high

When the WCAT initially began hearing cases in 2015, the overturn rate was in excess of 80%, approaching 90% of appealed cases. The table below shows the overturn rate has declined in 2017.

WCAT Appeal results 2013-2017



Source: WorkSafeNB - unaudited

Other Indirect Impacts of WCAT

WorkSafeNB have also identified several other impacts of the WCAT decisions since the Appeals Tribunal was made independent. They include:

- Claims are increasing in both volume and duration;
- The Board of Directors has effectively lost the ability to control policy; and
- WorkSafeNB is forced to pay for non-compensable intervening conditions.

Appendix IV – Workers Compensation Appeals Tribunal (continued)

Board feels it has lost ability to control policy

WorkSafe Staff and board members have indicated they feel the board has been stripped of its power – it has lost the ability to control the policy making process as a result of the WCAT decisions.

No ability to refer decision back to board

WorksafeNB noted that there is no mechanism for the WCAT to refer a decision back to the board for further consideration. This is not consistent with several other jurisdictions that have the power to do so.

Only WorkSafeNB pays for non-compensable intervening conditions

Only WorkSafeNB pays for non-compensable intervening conditions. Some decisions of the WCAT have resulted in workers receiving benefits when a non-compensable intervening condition exists.

WorkSafeNB defines a personal non-compensable intervening condition as “a medical condition that arises after the occurrence of a workplace injury, and is not medically linked to, or caused by, the workplace accident”. After the workplace injury occurs, the worker may develop an illness or get injured in an unrelated event, such as a car accident. Rehabilitation of the workplace injury cannot continue until they recover from this event.

Other jurisdictions cease compensation benefits at this point and normally the worker claims sick leave or disability, or other insurance benefits that may be available depending on the coverage available to them. WorkSafeNB is the only jurisdiction that continues to pay benefits when a non-compensable intervening condition exists.

Appendix V – About the Audit

This independent assurance report was prepared by the Office of the Auditor General of New Brunswick on WorkSafeNB Claims Management Practices. Our responsibility was to provide objective information, advice, and assurance to assist the Legislative Assembly in its scrutiny of WorkSafeNB claims management practices.

All work in this audit was performed to a reasonable level of assurance in accordance with the Canadian Standard on Assurance Engagements (CSAE) 3001 – Direct Engagements set out by the Chartered Professional Accountants of Canada (CPA Canada) in the CPA Canada Handbook – Assurance.

AGNB applies Canadian Standard on Quality Control 1 and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

In conducting the audit work, we have complied with the independence and other ethical requirements of the Rules of Professional Conduct of Chartered Professional Accountants of New Brunswick and the Code Professional Conduct of the Office of the Auditor General of New Brunswick. Both the Rules of Professional Conduct and the Code are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.

In accordance with our regular audit process, we obtained the following from management:

- confirmation of management's responsibility for the subject under audit;
- acknowledgement of the suitability of the criteria used in the audit;
- confirmation that all known information that has been requested, or that could affect the findings or audit conclusion, has been provided; and
- confirmation that the findings in this report are factually based.

Period covered by the audit:

The audit covered the period between January 1, 2015 and June 30, 2018. This is the period to which the audit conclusion applies. However, to gain a more complete understanding of the subject matter of the audit, we also examined certain matters that preceded the starting date of the audit.

Date of the report:

We obtained sufficient and appropriate audit evidence on which to base our conclusion on December 12, 2018, in Fredericton, New Brunswick.

Subsequent Event:

On December 12, 2018, WorkSafeNB announced that a new legislation impacting New Brunswick's workers compensation system has been proclaimed. It included amendments to the Firefighters' Compensation Act, the Workers Compensation Act and the Workplace Health, Safety and Compensation Commission and Workers' Compensation Appeal Tribunal Act. The new legislation restricts ability of the Workers Compensation Appeal Tribunal (WCAT) to override existing WorkSafeNB policies.

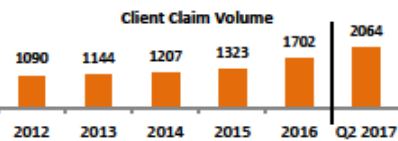
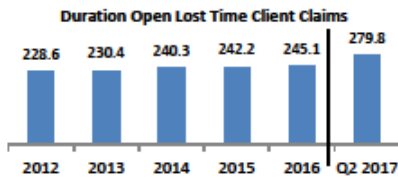
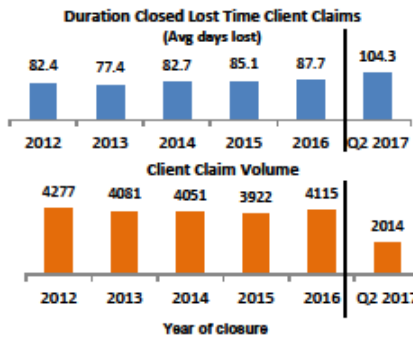
Findings related to WCAT in this report are accurate as of prior to the proclamation of this new legislation.

Appendix VI – Excerpt from WorkSafeNB's Dashboard Report

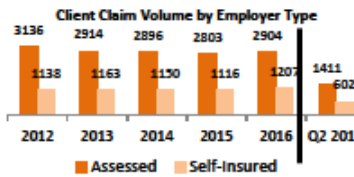
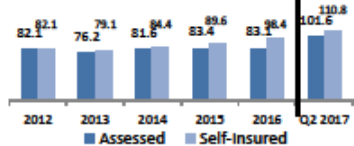


System Key Performance Indicators (KPI's)

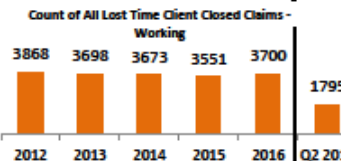
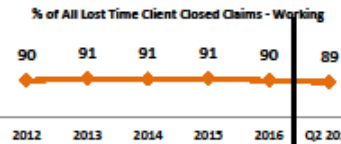
DURATION



Duration Closed Lost Time Client Claims By Employer Type (Avg days lost)



WORKING



90-DAY SUSTAINABILITY

% of all lost time clients continued working at 90 days +

Result at Q2 2017 for client claim closures in Q1 2017

Year	2012	2013	2014	2015	2016
Sustainability	100.0%	99.9%	99.9%	98.3%	97.6%

SATISFACTION

Worker

Staff coordinated the right treatment you need to get better - 8.1/10

Employer

Staff coordinated and supported the return to work process - 8.9/10

ALL ELIGIBLE BENEFITS RECEIVED

To be included in System Requirement Analysis - 2020

Source: WorkSafeNB (unaudited)