



April 3, 2020

SENT VIA E-MAIL

Hon. Doug Ford, Premier of Ontario
Hon. Monte McNaughton, Minister of Labour, Training and Skills Development
Hon. Christine Elliott, Minister of Health

Dear Premier Ford, Minister McNaughton, and Minister Elliott:

A call for decisive action by Ontario's workers' compensation system to support workers affected by the COVID-19 pandemic

As the representatives of working people from a broad range of sectors, representing more than a million Ontario workers, and advocating on behalf of all workers in the province, we write to outline the needed actions and responses of Ontario's workers' compensation system, as related to the ongoing COVID-19 crisis.

As you know, COVID-19 has confronted our province with unprecedented challenges. Our members have risen to these challenges and are providing, essential services in healthcare, transportation, retail, critical infrastructure construction and other sectors vital to the health of Ontarians and the functioning of economy. We have come together to call on you to ensure that just as we are there for our province, you are there for us. This letter focuses on the need for Ontario's workers' compensation system to step up and contribute fully to the COVID-19 response.

We need you to understand the vital role that workers' compensation plays for our members as well as for thousands of vulnerable non-unionized workers performing essential services. These workers are risking their health and for some, their lives, by carrying out their work responsibilities. To do this, they must be confident that if they become sick from COVID-19 or must be isolated due to occupational exposure to this virus, they will have the full protection of the workers' compensation system. We have developed a comprehensive proposal for the role that workers' compensation must play in these critical times (attached). This letter focuses on our most vital proposals. And, we are offering to step up to work with you on whatever is necessary to make these changes effective on the ground.

We are proposing as follows:

- **Expanding coverage to all workers and volunteers who put themselves in harm's way.** Unfortunately, many workers who may put themselves at risk by contact with the public do not have workers' compensation protection, either because they work in a non-covered sector of the economy or have been treated as "independent operators". We are proposing that the Ontario government amend Schedules 1 and 2 of the *Workplace Safety and Insurance Act* ("the *Act*") to include, for purposes of the COVID-19 outbreak, any sectors not currently covered but which have been deemed essential. This could be done by Cabinet in short order. As well, to ensure that all workers who come in contact with the public are protected, WSIB should use the broad language of the s. 2(1) definition of "worker", paragraph 9, to deem all persons who come into contact with the public while performing their work duties during the COVID-19 outbreak to be "workers" for purposes of the WSIA. This would cover Uber drivers and others in the gig economy. Finally, we need to protect community volunteers who step up to help others and become ill or need to be isolated. We propose that WSIB cover volunteers using its powers during provincial emergencies (found in the s. 2(1) definition of "worker").
- **Extending protection of the *Act* to workers who must be isolated or quarantined because of work exposures** – Currently, WSIB will only extend workers' compensation to workers with actual COVID-19 health conditions, but not to workers required to be isolated/quarantined due to work exposures to the virus. We are proposing that WSIB cover these situations as well, using the preventive removal language in s. 2(1) of the *Act*.
- **Extending protection to workers with health conditions which are likely COVID-19 but not verified by testing** – Some workers are developing COVID-19 symptoms but are never tested due to limited testing capacity. Under these circumstances, WSIB should presume that these workers have COVID-19.
- **Streamlining the adjudication of COVID-19 workers' compensation claims and protecting appeal rights** – WSIB is currently proposing to adjudicate COVID-19 claims case by case, without using the presumptions available for occupational diseases under the *Act*. Anthrax and tuberculosis are already in Schedule 3 of the *Act* and in our view the case to include COVID-19 in the Schedules is even stronger given the urgency of this situation. It is vital that workers who are putting themselves on the line for the rest of us should be confident that they will receive swift compensation.

So, we are proposing to add to Schedule 4 of the *Act*, an irrebuttable presumption of work-relatedness for health conditions related to Coronavirus/COVID-19, for all workers who come into contact with the public. This category should be broadly interpreted to include not just health care workers and first responders but all other workers who come into contact with the public, such as childcare workers, transit, retail and delivery workers and frontline public sector workers. We are also proposing a rebuttable presumption of work-relatedness in Schedule 3 for workers in sectors deemed essential but who do not come into contact with the public (e.g., cleaners, essential construction workers). Cabinet could make these changes in a few days if it wished to do so.

- **Taking into account the impact of COVID-19 on existing injured workers and occupational disease victims, including their access to healthcare and vocational rehabilitation.** WSIB should continue loss of earnings benefits to injured workers whose health care or vocational rehabilitation programs have been delayed, until the COVID-19 outbreak has receded, and these programs can start up again.
- **Ensuring that injured workers can maintain physical distance and receive necessary support** – many injured workers and occupational disease victims are already in a physically vulnerable state due to their disabilities. They may need additional supports to get through these difficult times. WSIB should take a broad and generous approach to supporting any special needs that injured workers and occupational disease victims might have as a result of COVID-19. This includes proactive outreach to severely injured workers and occupational cancer victims to help them get any additional supports that they might need.
- **Communication and engagement, especially to protect the most vulnerable workers** – We are proposing that WSIB and Ministry of Labour, Training and Skills Development engage with the worker community and other partners to broadly communicate the supports available to workers affected by COVID-19 exposure at work and to ensure that they can access benefits and services.

There is much talk about the fact that “we are all in this together”. And we, in the labour movement, strongly support this. WSIB needs to continue to make every effort to put benefits in the hands of workers in the province who need them. We offer our full collaboration in making these changes happen.

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We look forward to your response.

Sincerely,



PATTY COATES

President

Ontario Federation of Labour

Signed on behalf of the following individuals and organizations that endorse this letter, and the proposals included herein.

John Di Nino	ATU Canada
Karl Crevar	Canadian Injured Workers Alliance
James St. John	Central Ontario Building Trades
Fred Hahn	CUPE Ontario
Sam Hammond	ETFO
Andrew Bome	Hamilton Community Legal Clinic
Heather Kelley	IAMAW
Jeff Irons	IBEW Local 353
John McKinnon	Injured Workers Community Legal Clinic
Eric DePoe	Licensed Paralegal
Olga Crimi	Licensed Paralegal, OCC Claims Management Professional Corporation
Lois Cromarty	Northumberland Community Legal Centre
Liz Stuart	OECTA
Vicki McKenna	ONA
Janet Paterson	Ontario Network of Injured Workers Groups
Smokey Thomas	OPSEU
Harvey Bischof	OSSTF
Patrick J. Dillon	Provincial Building and Construction Trades Council of Ontario
Sharleen Stewart	SEIU Healthcare
Jeff Robinson	SEIU Local 2
John Nock	UFCW Canada Local 12r24
Shawn Haggerty	UFCW Canada Locals 175 & 633
Wayne Hanley	UFCW Canada Local 1006A
Naureen Rizvi	Unifor
Marty Warren	USW District 6
Barry Fowlie	Workers United Canadian Council

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Attachment