

Nature and extent of claim suppression in B.C.'s workers' compensation system

In October 2014, the Institute for Work & Health (IWH) published an *Issue Briefing* titled “Suppression of workplace injury and illness claims: Summary of evidence in Canada.” The 2014 *Issue Briefing* focused on the key findings of two studies by Prism Economics and Analysis—one for the Ontario Workplace Safety and Insurance Board (WSIB) and the other for the Workers Compensation Board of Manitoba. IWH recently collaborated with Prism Economics and Analysis to conduct another study on claim suppression, this time in British Columbia for WorkSafeBC. This *Issue Briefing* summarizes the findings of this recent study and compares them with the findings of the Manitoba and Ontario studies, as well as the findings of other research in Canada.

In his March 2018 report to the Board of Directors of the Workers' Compensation Board of B.C., Paul Petrie noted that “the issue of claim suppression is fraught with allegations that are difficult to document” (p. 34). Petrie recommended “that the Board of Directors consider initiating an independent review of this issue by a qualified organization with a scientific methodology to determine whether and to what extent claims suppression is a significant issue in the BC workers' compensation system” (Recommendation 21).

Subsequently, IWH collaborated with Prism Economics and Analysis on a study, funded by WorkSafeBC, to estimate the nature and extent of claim suppression in the workers' compensation system of British Columbia. The study was completed in December 2020 and is the basis of this briefing.

Terminology used in this briefing

It is important to distinguish among under-claiming, misrepresented claims and claim suppression.

Under-claiming: This occurs when workers who appear to be entitled to workers' compensation benefits choose not to submit a claim or, having submitted a claim, choose not to proceed with it. Under-claiming may be the result of improper pressure or inducement on the part of an employer. However, under-claiming may also result from other factors unrelated to improper pressure or inducement, such as not knowing how to submit a claim or preferring to use a sick leave plan.

Misrepresented claims: These are claims that are submitted and subsequently classified as no-time-loss (or medical benefits only) claims, notwithstanding that the injuries or diseases involved resulted in lost working time.

KEY MESSAGES

- The estimated rate of claim suppression of work-related injury or disease in B.C., based on a survey of workers, is in the range of 3.7 to 13.0 per cent, with estimates towards the lower end being more likely.
- The incidence of claim suppression appears to be higher where the employer administers a bonus plan that rewards employees if the workplace is accident-free.
- An estimated 4.1 to 12.1 per cent of claims filed in B.C. as no-time-loss incidents may involve lost working time.
- Approximately half of workers surveyed who experienced a self-reported, work-related injury or disease, and who also reported losing two or more days of work as a result, did not submit a claim for WorkSafeBC benefits.
- Claim suppression is not the leading reason for under-claiming. The most common reasons are lack of knowledge of entitlement or application procedures (40%), and not believing it is worth the time (36%).

Claim suppression: This is any overt or subtle action by an employer or its agent that has the purpose of discouraging a worker from reporting a work-related injury or disease or from claiming workers' compensation benefits to which he or she would likely be entitled. In the absence of inducement or pressure not to report an incident to a workers' compensation board or not to claim benefits, under-reporting and under-claiming alone do not constitute claim suppression.

Methods used in B.C. study

The B.C. study involved surveys of workers and employers, as well as analyses of randomly selected claim files.

The analyses of claim files used methods similar to those used in the Prism Economics and Analysis studies in Ontario and Manitoba. The survey methods closely paralleled those used in the Manitoba study (No surveys were conducted in the Ontario study.)

Worker survey: The worker survey was a web-based survey of 699 B.C. residents who experienced a self-reported, work-related injury or disease within the past three years. Participants were recruited from the large pool of persons randomly recruited by Ipsos to participate in web surveys. The survey was conducted in 2019 and early 2020 in three waves: 349 persons who were randomly selected; 251 who indicated that their educational attainment was trade qualification or less (as this category was under-represented in the first group); and a third wave conducted in Cantonese, Mandarin and Punjabi, with 99 respondents. The key purposes of the survey were to formulate estimates of the incidence of non-claiming or under-claiming and to identify the motivations for non-claiming or under-claiming, in particular to estimate the degree to which non-claiming or under-claiming reflected claim suppression.

Employer survey: The purpose of the employer survey was to obtain insight into employer policies and practices related to reporting work-related injuries or diseases, as well as employers' perceptions of the policies and practices of other employers in their industry. The survey was conducted by Ipsos in two waves, by telephone, using publicly available contact information from sample providers who maintain these types of databases. The first wave (n=100) was stratified across all industries based approximately on their share of reported WorkSafeBC claims. The second wave (n=50) generated an additional sample of the construction industry and the transportation and warehousing industry. These industries were chosen because of their comparatively higher incidence of claims. The purpose of this over-sampling of high-incidence industries was to generate a sufficient number of observations to allow for analysis of potential correlating factors, such as employer size and whether the employer offered paid sick leave and/or an incentive program to remain accident free.

Analysis of accepted no-time-loss claim files: A random sample of 1,043 no-time-loss claims processed between 2016 and 2019 was administered by WorkSafeBC. A team comprising experienced WorkSafeBC staff reviewed these files, using a template developed by the research team, and noted characteristics of the files in an Access database. The review team's anonymized database was then provided to the research team for analysis.

The purpose of analyzing accepted no-time-loss claims was to identify files in which documentary evidence suggested that the incident may have entailed lost working time, notwithstanding that the claim had been submitted and accepted as a no-time-loss claim.

Analysis of time-loss claims that were rejected, suspended or abandoned: A random sample of rejected, suspended or abandoned time-loss claims was reviewed to determine whether evidence in a file raised doubts as to why the

worker did not proceed with the claim and whether any indicia in the file could suggest a risk that suppression was a factor in the worker's decision not to proceed. A total of 601 rejected claim files was sampled. As with the no-time-loss files, these files were also reviewed by members of the WorkSafeBC review team who, using a template, noted characteristics of the files in an Access database and provided an anonymized database to the research team for analysis.

Caution in interpreting results

It is not possible through either survey evidence or claim file evidence to form a definitive conclusion on the incidence of under-claiming, misrepresentation or claim suppression.

All survey evidence is subject to sampling error. Moreover, while the sampling techniques used in our surveys were designed to be broadly representative of the B.C. labour force and economy, we deliberately oversampled some categories of workers more likely to have experienced claim suppression, and we also oversampled employers in two industries where our claim file analyses suggested a greater risk of claim suppression. Survey evidence was also based on respondents' perceptions and recollections, either of which may be faulty. As well, injuries or diseases that respondents believed were covered by WorkSafeBC may not be covered. Some kinds of employment in B.C. are exempt from coverage or subject to optional coverage.

The analysis of claim files may have identified problematic files suggestive of suppression or misrepresentation, but it would be improper to draw a definitive conclusion that a particular no-time-loss claim should have been treated as a time-loss claim or that a time-loss claim that was rejected, suspended or abandoned should have proceeded. Relevant circumstances may not have been evident in the file analysis.

While our research does not allow for precise or definitive conclusions, comparing the results of the risk estimates from the file analysis with the results of the surveys enables us to offer general conclusions on the plausible range of the risk of under-claiming, misrepresentation and claim suppression in B.C. These conclusions can also be compared to the findings from other studies.

Key findings from worker survey

Under-claiming: The analysis of under-claiming focused on workers reporting that they lost two or more days of working time as a result of their work injury. These workers represented 57.8 per cent of the sample. A two-day threshold was chosen to exclude incidents that respondents might have regarded as insufficiently serious to warrant submitting a claim and also to avoid situations where respondents might include the day of the incident as a day of lost working time.

Among cases meeting the threshold of two or more lost days, just over half (53.7%) did not submit a claim to WorkSafeBC and a quarter (26.7%) reported that they received wage continuation from their employer or their workplace sick leave plan.

Under-claiming was more common among workers who immigrated to Canada, had lower educational attainment, were not union members, were employed by small employers and worked on a temporary basis (directly or through temp agencies). No material differences in under-claiming were found related to age or gender.

Table 1 summarizes the reasons given for not applying for WorkSafeBC wage-loss benefits by respondents who reported that they did not apply for those benefits and also reported that they lost two or more days of working time.

Claim suppression was not the leading reason for under-claiming. The most important reasons for under-claiming among those with two or more days of lost working time were lack of knowledge about entitlement or how to apply for WorkSafeBC benefits (40.1%) and believing that it wasn't worth the time to apply for benefits (35.9%). Perceived pressure not to claim (including from colleagues) was reported in 14.3 per cent of this subsample.

Claim suppression: Different indicators were used to estimate the approximate incidence of claim suppression. The estimates ranged from 3.7 to 13.0 per cent of the sample, with estimates towards the lower end being more likely. The low end of this range was derived from evidence that 26 respondents (3.7% of the

sample) lost two or more days of working time and also reported that they did not apply for WorkSafeBC benefits because they thought they would 'get into trouble' or their employer 'pressured' them not to apply. If we also included cases where fellow employees encouraged the worker not to apply because 'they feared they would lose a bonus', the number rose to 31 (4.4% of the sample).

Among all cases (regardless of whether or not the worker filed a claim), 13.0 per cent of the sample reported that their employer asked them not to report time loss and/or threatened them with repercussions if they did so. Claim suppression behaviour does not always deter a worker from submitting a claim. Moreover, in some cases, the claim suppression behaviour may not have been sanctioned by senior management. Approximately a third of the respondents who reported claim suppression behaviour also reported that their employer assisted them in filing the report to WorkSafeBC.

Bonus plans that reward a group of workers for being accident-free may incent those workers to discourage fellow employees from reporting incidents or submitting WorkSafeBC claims. Among employers who were described by survey respondents as engaging in claim suppression behaviour, 40.7 per cent operated incentive schemes. In comparison, among employers who were described by survey respondents as not engaging in this behaviour, 6.4 per cent operated incentive schemes.

Table 1: Reasons for not applying for WorkSafeBC wage-loss benefits despite lost working time of two days or more

Reason for not applying for WorkSafeBC wage-loss benefits		Percentage of subset (n=217)
Lack of knowledge		
A	I did not know I was entitled to WorkSafeBC wage-loss benefits	28.6%
B	I did not know how to apply for WorkSafeBC wage-loss benefits	16.6%
	Either A or B	40.1%
C	My employer told me I was not eligible for WorkSafeBC wage-loss benefits	6.9%
Not worth time		
D	It was not worth the trouble to apply for WorkSafeBC wage-loss benefits	20.3%
E	My injury was minor/not serious	0.5%
F	My employer or my sick leave plan paid my wages while I was off work	17.5%
	Any of D, E or F	35.9%
Real or perceived inducements or pressure not to claim		
G	I thought I would get into trouble if I reported my injury to WorkSafeBC	7.8%
H	My employer pressured me not to apply for WorkSafeBC benefits	4.1%
	Either G or H	11.9%
J	My fellow employees encouraged me not to apply for WorkSafeBC benefits because they feared they would lose a bonus	3.2%
	Any of G, H or J	14.3%
Other reasons		21.6%

Key findings from employer survey

Almost three-quarters of respondent employers (72.0%) provided either or both of a sick leave/disability plan and medical benefits plan. Roughly a fifth of these employers (21.3%, representing 15.3% of the total sample) allowed their employees to access benefits through one of these plans instead of claiming WorkSafeBC benefits. About one in 10 employers (10.7%) reported that they provided a bonus or incentive to their employees to maintain an accident-free workplace.

Approximately 6.0 per cent of employers reported their belief that, in their industry, time-loss injuries were ‘rarely or never’ reported to WorkSafeBC. (Although the wording of the question is different, it is noteworthy that this figure falls within the range of estimates from the worker survey of the incidence of claim suppression.) In addition, 26.7 per cent of employers reported their belief that, in their industry, time-loss injuries were reported to WorkSafeBC as no-time-loss injuries ‘all the time or almost all the time’, and 25.3 per cent expressed their belief that no-time-loss injuries were ‘rarely or never’ reported to WorkSafeBC.

It is important to stress that the responses pertained to perceptions of claim suppression and claim misrepresentation in the industry and not necessarily to actual knowledge of incidents.

Key findings from claim files

Analysis of accepted no-time-loss claim files: The analysis of this sample of claim files focused on anomalies that were strongly suggestive of claim misclassification (i.e. the claim should have been a time-loss claim), but cannot be interpreted as definitively finding that misclassification occurred. Moreover, any misclassification could have an explanation that is unrelated to any deliberate claim misrepresentation by employers. The findings should be interpreted as estimates or indicators of the risk of under-claiming and misclassification. Deliberate claim misrepresentation or claim suppression would be a subset of these risk files.

A number of indicators (risk flags) were used to identify a file where the documentary evidence suggested a risk of misclassification. The risk flags were drawn from data in the worker’s report (Form 6), the employer’s report (Form 7), the physician’s report (Form 8), reports from other health-care professionals (physiotherapists chiropractors, etc.) and from evidence that the worker pursued or received lost-earning benefits from another benefit plan.

The lower boundary estimate of the risk of misclassification was 4.1 per cent. This is based on cases where the Form 6 explicitly indicated time loss beyond the day of the incident or the Form 6 provided a date for return to work more than two days after the date of the incident. The upper boundary estimate of the risk of misclassification was 12.1 per cent. This is based on the presence

of any risk flag. The WorkSafeBC claim review team members were asked whether, based on the description of the injury in Forms 6 and 7 and the related medical reports, they believed that the injury was consistent with no time loss. The reviewers had reservations about 5.2 per cent of the files—within the range of our risk estimates, but closer to the lower end of that range.

Analysis of time-loss claims that were rejected, suspended or abandoned:

A sample of time-loss claims that were rejected, suspended or abandoned was analyzed to identify anomalies that suggested claims may have been valid. There is no suggestion that WorkSafeBC acted improperly in not proceeding with the claims under review. Suspended claims included cases where necessary information was lacking, the worker could not be contacted, or the worker did not respond to a request for further information. Some claims were voluntarily withdrawn. Rejected claims included those that were not compensable because, for example, the worker was not covered under the province’s workers’ compensation legislation or was an independent operator who chose not to register for the optional coverage.

Between 11.8 and 18.6 per cent of the claims in the sample were found to be problematic because documentary evidence in the file suggested a compensable work-related injury or disease. The lower bound figure is derived from cases where the Form 6 stated that the worker missed work beyond the day of the incident, the worker sought medical attention and there was a witness to the incident. The upper bound drops the latter condition. The fact that a file was problematic does not necessarily imply that the worker’s decision not to proceed with the claim was the result of undue pressure from the employer. The WorkSafeBC review team found that 21.8 per cent of rejected, suspended or abandoned claims likely pertained to compensable time-loss injuries.

In a subset of the problematic files, the documentary record suggested there may have been employer pressure, meaning that claim suppression may have occurred. A risk of claim suppression was found for 2.3 to 8.3 per cent of the full sample. The lower bound figure is derived from cases where the physician report (Form 8) recommended seven or more days off work and the claim was subject to an employer objection. (This does not definitively imply pressure, but does raise the risk of employer claim suppression.) The upper bound is derived from cases where the Form 6 stated that the worker missed work beyond the day of the incident and sought medical attention, but no Form 7 from the employer was filed.

Comparison with other studies

There is a growing empirical literature analyzing reporting rates for work-related injuries in Canadian jurisdictions. Four of these studies explored issues similar to those examined in this report:

- Manitoba's Workers Compensation Board commissioned a study undertaken by Prism Economics and Analysis in 2013 using a similar file analysis procedure and a similar worker survey design.
- Ontario's Workplace Safety and Insurance Board commissioned a study also undertaken by Prism Economics and Analysis in 2013 using a similar file analysis procedure.
- Shannon and Lowe (2002) reported the results of a national survey that included a question on claiming workers' compensation benefits.
- Nadalin and Smith (2020) reported the results of a survey undertaken in B.C., Alberta and Ontario that included a question on claiming workers' compensation benefits.

Differences in file analysis procedures, survey design and sample structures make precise comparisons impossible. However, the studies concur on the importance and approximate magnitude of under-claiming, the risk of misrepresenting lost working-time incidents as incidents that entailed no lost working time, and the existence of claim suppression conduct on the part of employers. Table 2 compares the key findings of these studies.

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This research was supported with funds from the WorkSafeBC research program. The views, findings, opinions and conclusions expressed herein do not represent the views of WorkSafeBC.

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Table 2: Comparison of key results with other Canadian studies

Under-claiming rate for lost working-time benefits	
WorkSafeBC study	53.7% (2 or more days of lost working time)
Manitoba study	40.2% (2 or more days of lost working time)
Shannon & Lowe	40.0% (all presumptively eligible claims)
Nadalin & Smith	64.5% (all presumptively eligible claims)
Risk that a time-loss injury was reported as a no-time-loss injury	
WorkSafeBC study	4.1% to 12.1%
Manitoba study	14.3% to 35.1%
Ontario study	5.0% to 10.0%
Estimated incidence of claim suppression conduct	
WorkSafeBC study	3.7% to 13.0% (depending on question)
Manitoba study	11.5%



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The Institute for Work & Health operates with the support of the Province of Ontario. The views expressed in this publication are those of the Institute and do not necessarily reflect those of the Province of Ontario.

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