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## **WORKPLACE HEALTH, SAFETY AND COMPENSATION REVIEW DIVISION**



**2011-2012  
Annual Activity Report**





## TABLE OF CONTENTS

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MESSAGE FROM THE CHIEF REVIEW COMMISSIONER .....	1
OVERVIEW .....	2
ORGANIZATIONAL CHART.....	5
HIGHLIGHTS AND ACCOMPLISHMENTS.....	6
2011-2014 MISSION .....	8
2011-2012 OBJECTIVE .....	9
OBJECTIVE OUTCOMES .....	10
2012-2013 OBJECTIVE .....	11
OPPORTUNITIES AND CHALLENGES AHEAD .....	12
NOTEWORTHY DECISIONS .....	13
2011-2012 CASELOAD ACTIVITY.....	16
2011-2012 STATISTICAL OVERVIEW.....	17
FINANCIAL STATEMENT .....	21
REVIEW COMMISSIONERS .....	22
CONTACT INFORMATION .....	24



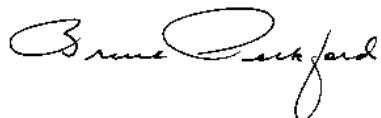
## MESSAGE FROM THE CHIEF REVIEW COMMISSIONER

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In accordance with the *Transparency and Accountability Act* and pursuant to the provisions of the *Workplace Health, Safety and Compensation Act* (the *Act*), I am pleased to present the Annual Activity Report representing the activities of the Workplace Health, Safety and Compensation Review Division (the WHSCRD) for the fiscal year ended March 31, 2012. The WHSCRD and its Chief Review Commissioner are responsible for the preparation of the Report and are accountable for the results contained within it.

To better inform its clients and stakeholders, a new section has been included in this Activity Report entitled *Noteworthy Decisions*. The section provides information on past decisions which are of noted importance, whether due to the unique issues reviewed or the impact the decisions may have on future workers' compensation processes.

I would like to acknowledge the dedication and professionalism of the WHSCRD's Review Commissioners, in particular outgoing Review Commissioner Alex Harrold, who resigned in January 2012 and wish him well in his future endeavours. I would also like to thank the staff of the WHSCRD for their contribution in maintaining a high standard of client service and look forward to another productive year as the WHSCRD pursues the objectives set out in its 2011-2014 Activity Plan.



**E. Bruce Peckford**  
Chief Review Commissioner

# OVERVIEW

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## INTRODUCTION

The WHSCRD is the final level of review within the workers' compensation system in Newfoundland and Labrador. The WHSCRD is responsible for the review of decisions of the Workplace Health, Safety and Compensation Commission (the Commission). The WHSCRD may review such issues as:

- ◆ Compensation benefits;
- ◆ Rehabilitation and return to work services and benefits;
- ◆ Employers' assessments;
- ◆ The assignment of an employer to a particular class or group;
- ◆ An employer's merit or demerit rating; and
- ◆ The obligations of an employer and a worker with respect to return to work and rehabilitation issues.

## REVIEW COMMISSIONERS

The WHSCRD has a Chief Review Commissioner and a Panel of Review Commissioners. Up to seven Review Commissioners, including the Chief Review Commissioner, may be appointed to the WHSCRD. Review Commissioners conduct hearings in St. John's, Gander, Grand Falls-Windsor, Corner Brook, Happy Valley-Goose Bay and Labrador City.

As of March 31, 2012, the WHSCRD's Panel of Review Commissioners consisted of E. Bruce Peckford as Chief Review Commissioner, with Keith Barry, Lloyd Piercey and Peter Budgell as Review Commissioners.

## WHSCRD STAFF

The WHSCRD currently employs twelve staff (92% female and 8% male) in its office located in the Dorset Building, at 6 Mount Carson Avenue in Mount Pearl, NL.

## OVERVIEW (CONTINUED)

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### MANDATE

The mandate of the WHSCRD is to review decisions of the Commission to ensure compliance with the *Act* and *Regulations*, as well as with the policies of the Commission. The WHSCRD is also mandated to direct appropriate remedies where necessary.

### VISION

The vision of the WHSCRD is an environment where workers and employers participate in an independent, timely and fair review process anchored in a culture of exceptional client service.

### VALUES

Values are the guiding principles which describe the culture of an organization. The culture of the WHSCRD is one which promotes exceptional client service in an environment where employees are supported in their professional and individual pursuits.

The following core values will guide our behavior and judgment in our interactions with clients on a daily basis:

<b><i>Independence</i></b>	Each person will provide services to clients in a manner that is fair, equitable, and free of bias.
<b><i>Respect</i></b>	Each person will treat clients and each other with courtesy and understanding while recognizing other views and opinions.
<b><i>Professionalism</i></b>	Each person will demonstrate the highest level of conduct by serving clients in a manner that is timely, competent and objective.
<b><i>Quality</i></b>	Each person will endeavour to consistently provide services to clients in an ethical and proficient manner.

## OVERVIEW (CONTINUED)

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### LEGISLATION

The *Workplace Health, Safety and Compensation Act*, RSNL1990 CHAPTER W-11, Part II – Appeals, Sections 21 to 37 provide the legislative provisions for the WHSCRD.

### LINES OF BUSINESS

The WHSCRD offers the following services to its clients:

#### **Review of Commission Decisions**

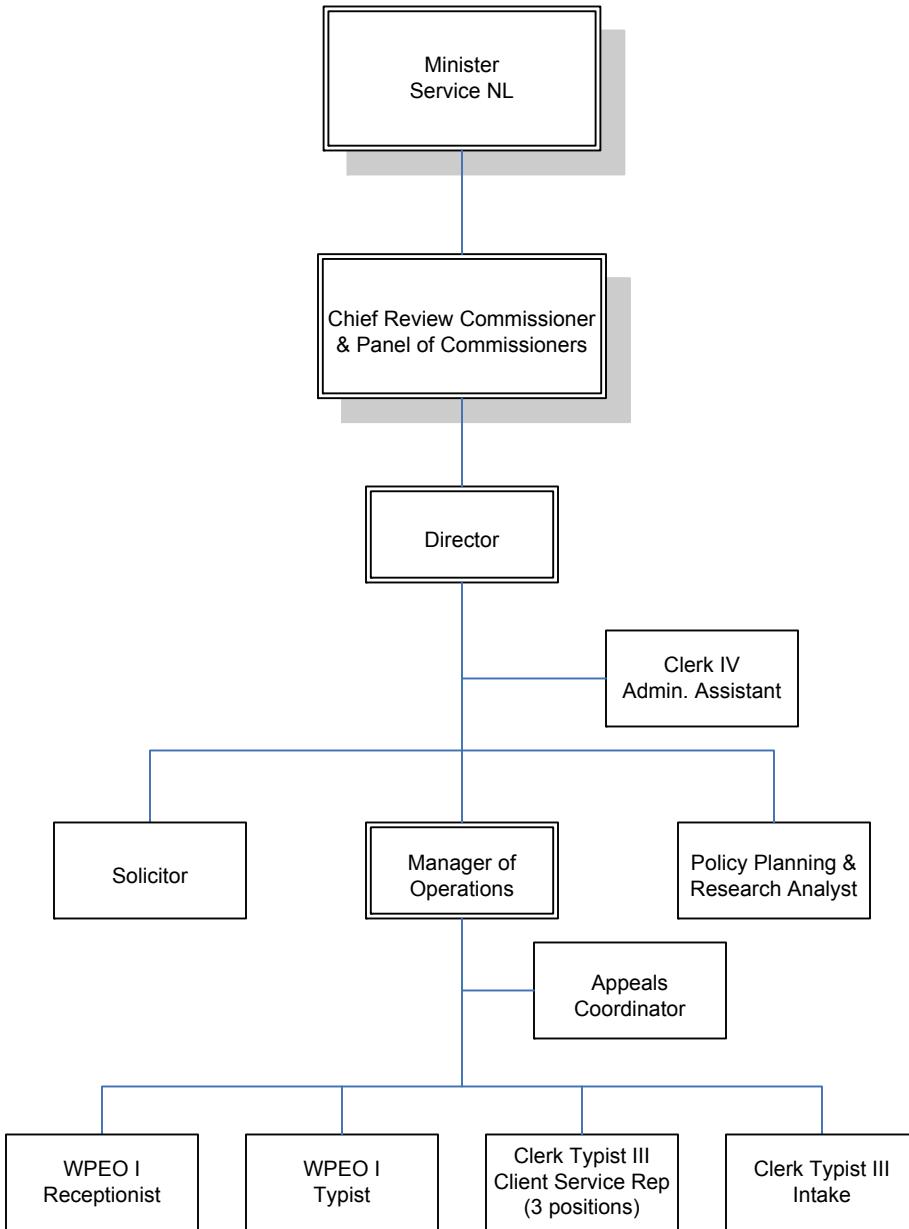
- The WHSCRD processes review applications submitted by injured workers, their dependents and employers in the province, as well as coordinates a review process that includes a hearing before a Review Commissioner concluding with a final written decision.

#### **Information Services**

- The WHSCRD provides information services to its clients through web-based distribution of its decisions; researching workers' compensation issues and collecting and maintaining statistical information relative to the review process.

# ORGANIZATIONAL CHART

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## HIGHLIGHTS AND ACCOMPLISHMENTS

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The WHSCRD is committed to a vision of delivering quality services where workers and employers participate in an independent, timely and fair review process anchored in a culture of exceptional client service. While adhering to its vision of exceptional client service, the WHSCRD has completed the following initiatives in 2011-2012:

### ***Commissioner Appointments***

- Three new Review Commissioners were appointed to the WHSCRD's Panel of Commissioners in June 2011. The Review Commissioners participated in extensive orientation and training respecting workers' compensation legislation and policies, administrative law, the WHSCRD's procedures and decision-writing.

### ***Organizational Structure***

- A review to identify areas for improvement in the WHSCRD's operations resulted in the creation of three key administrative positions to enhance its organizational structure in 2011-2012: Solicitor, Manager of Operations and Appeals Coordinator. These new positions provide enhanced support to Review Commissioners and also to the review process to further assist clients effectively participate in the process.

### ***2011-2014 Activity Plan***

- The WHSCRD tabled its 2011-2014 Activity Plan which focuses on improving client services within the review process and enhancing productivity through the implementation of service standards. The Plan also outlines the WHSCRD's objectives for the next three years towards providing professional development opportunities for the WHSCRD staff and Review Commissioners, as well as the development of a *Decision Standards Guide*. The 2011-2014 Activity Plan may be accessed on the WHSCRD's website at [www.gov.nl.ca/whscrd](http://www.gov.nl.ca/whscrd) or in hard copy upon request.

### ***Organizational Development and Training Strategy***

- Employee professional development is a fundamental component towards fulfilling the WHSCRD's objectives with respect to service standards. By initiating the process of developing an Organizational Development and Training Strategy, the WHSCRD was successful in achieving its 2011-2012 objective. The Strategy will provide a mechanism for the WHSCRD's employees to enhance their skill sets to support Review Commissioners and assist clients throughout the review process.

## HIGHLIGHTS AND ACCOMPLISHMENTS (CONTINUED)

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- Participation in the learning plan process is a requirement of the Organizational Development and Training Strategy and necessary for employees to achieve their professional development goals. As part of the Strategy, the WHSCRD's administrative support staff participated in a workshop facilitated by the Centre for Learning and Development (CLD) on Core Competencies for Administrative Professionals. The workshop focused on the benefits of the learning plan process and the requirements for developing individual learning plans.
- The WHSCRD's policy staff attended a three day Public Policy and Evaluation Forum. The forum included topics on demographic trends and economic factors that shape public policy, accountability within government, regulatory impact analysis and evaluation policy.

### ***Access to Information and Protection of Privacy***

- The WHSCRD utilizes information respecting workers' compensation claims for the purpose of processing Request for Review applications. Ensuring the integrity and protection of personal information surrounding an applicant's Request for Review is paramount to the review process. In this regard, the WHSCRD has developed a handbook for its employees establishing best practices for the security of personal information maintained for the purpose of the review process.

### ***Client Tracking System***

- The WHSCRD manages its caseload with the use of a computerized system called the Client Tracking System (CTS). Though originally designed to streamline the WHSCRD's internal processes, monitoring cases and statistical reporting has become a primary process of the CTS. In conjunction with the Office of the Chief Information Officer (OCIO), the WHSCRD began a series of maintenance and upgrades to the CTS to ensure its continued efficiency.

### ***WHSCRD Information Services***

- The WHSCRD's website at [www.gov.nl.ca/whscrd](http://www.gov.nl.ca/whscrd) continues to be a helpful resource for those who are seeking information regarding the review process. There were 3,648 visitors to the site in 2011-2012. Of these 67% were returning visitors and 33% were new visitors.
- To further increase public awareness of the review process and to better inform its clients, the WHSCRD has developed several new brochures on *Access to Information, Representation, Witnesses and Subpoenas* and the *Reconsideration Process*. These brochures are in addition to the previously published brochures regarding *General Information*, the *Review Process*, the *Hearing Process* and *Employer Participation*. All brochures are available on WHSCRD's website at [www.gov.nl.ca/whscrd](http://www.gov.nl.ca/whscrd) or in hard copy upon request.

## 2011 – 2014 MISSION

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The WHSCRD's Mission Statement, developed in the 2011-2014 Activity Planning process, identifies the priority areas of focus for the next two planning cycles (2011-2014 and 2014-2017). The Mission Statement supports Government's strategic direction of service excellence. It focuses on expanding the WHSCRD's client service framework through the implementation of service standards that provide the highest level of service possible to workers and employers of the Province, while maintaining a fair and impartial review process.

In its previous three-year Activity Plan, the WHSCRD implemented a client service framework to provide workers and employers with the supports and tools to effectively participate in the review process. In keeping with this theme, the WHSCRD will further expand its client service framework over the next two planning cycles to provide enhanced service standards responsive to clients' needs.

The following statement identifies the measures and indicators to assist the WHSCRD and others to monitor progress and evaluate success.

**Mission:** **By 2017, the WHSCRD will have expanded its client service framework through the creation and implementation of service standards.**

**Measure:** **Client service framework is expanded.**

**Indicators:**

- **Service standards needs are identified.**
- **Quality decision-making process initiated.**
- **Service standards are implemented.**

## 2011-2012 OBJECTIVE

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### ORGANIZATIONAL DEVELOPMENT & TRAINING

Recognizing that employees are key participants to the success of the organization, the WHSCRD identified, as its objective for 2011-2012, the need to assess the competencies and skill sets required to support the decision-making process. An Organizational Development and Training Strategy was developed to assist employees achieve their individual career goals and support the WHSCRD's Mission with respect to service standards. Through the implementation of an Organizational Development and Training Strategy, employees will become engaged in developing the necessary competencies to deliver exceptional client service while providing support to Review Commissioners.

In achieving its objective, the WHSCRD conducted an examination of the decision-making process to determine where professional development opportunities may be required to enhance the process and provide support to Review Commissioners. A needs assessment was performed to identify the core competencies required to deliver exceptional client service. The Centre for Learning and Development (CLD) also provided input and advice with regard to the learning plan process. The outcome was the initiation of an Organizational Development and Training Strategy that provides an outline for professional development opportunities that supports the delivery of services in an environment that maximizes the impact of processes and people.

The following measure and related indicators outlines the WHSCRD's endeavours for 2011-2012:

**Objective:** **By March 31, 2012, the WHSCRD will have initiated an organizational development and training strategy, ensuring the necessary skill sets and competencies exist to effectively support the decision-making process.**

**Measure:** Organizational Development and Training Strategy initiated.

**Indicators:**

- ✓ Areas are identified where the decision-making process may be enhanced through professional development opportunities for employees.
- ✓ Employees' skill sets are properly matched with operational requirements.
- ✓ Centre for Learning and Development is consulted.
- ✓ Employees are engaged by developing individual learning plans.
- ✓ Organizational development and training strategy is developed.

## OBJECTIVE OUTCOMES

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In consideration of the strategic directions of government and the mandate and financial resources of the WHSCRD, the following table further outlines the WHSCRD's objective for 2011-2012 and the associated indicators to assist both the WHSCRD and the public in monitoring and evaluating its progress and accomplishments:

INDICATORS	PROGRESS AND ACCOMPLISHMENTS
<b>Areas are identified where the decision-making process may be enhanced through professional development opportunities for employees.</b>	<ul style="list-style-type: none"><li>• A review of the decision-making process was conducted which identified opportunities for professional development in the areas of critical thinking and communication techniques to enhance the process.</li></ul>
<b>Employees' skill sets are properly matched with operational requirements.</b>	<ul style="list-style-type: none"><li>• A needs assessment was completed comparing employees' core competencies with current and future operational requirements. The assessment identified areas where professional development opportunities may strengthen their capacity to effectively contribute to the organization and assist in delivering quality client services.</li></ul>
<b>Centre for Learning and Development (CLD) is consulted.</b>	<ul style="list-style-type: none"><li>• The CLD was contacted to obtain input with respect to development and training options. Based on training requirements and cost effectiveness, it was determined courses offered through the CLD, in conjunction with additional training from outside sources, was the most suitable option for employee training and development opportunities.</li></ul>
<b>Employees are engaged by developing individual learning plans.</b>	<ul style="list-style-type: none"><li>• An official of the CLD presented an overview of the learning plan process and professional development options available to WHSCRD employees in March 2012. The presentation focused on the importance of creating a personal learning plan related to current work and future career requirements. Seven employees participated in the presentation. One employee has since developed their learning plan, with additional plans anticipated to be submitted in the coming months.</li></ul>
<b>Organizational development and training strategy is developed.</b>	<ul style="list-style-type: none"><li>• A review of operational requirements, analysis of core competencies and the input received from the CLD, resulted in the development of an Organizational Development and Training Strategy. The strategy focuses on aligning professional development opportunities for employees with the future needs of the organization.</li></ul>

## 2012-2013 OBJECTIVE

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### REVIEW COMMISSIONER PROFESSIONAL DEVELOPMENT

The WHSCRD processes workers' compensation cases often involving complex issues with voluminous evidence under review. These cases require in-depth analysis on the part of Review Commissioners to produce written decisions that are well-reasoned, succinct and persuasive. Reasons for decisions are required to be clearly presented and must demonstrate the application of an appropriate analysis and rationale for the decision-making. In addition, newly appointed Review Commissioners require a program of formal orientation and training in workers' compensation legislation, administrative law and decision-writing, to prepare for their role as Review Commissioners.

More importantly, it is essential that WHSCRD's clients receive a decision which clearly explains the consideration and outcome of their review. Ongoing support and professional development for Review Commissioners is, therefore, necessary in the areas of decision-making and decision-writing to ensure quality decisions are provided for WHSCRD's clients.

**Objective:** By March 31, 2013, the WHSCRD will have developed a professional development program for Review Commissioners to enhance its decision-making process.

**Measure:** Professional development program for Review Commissioners is developed.

**Indicators:**

- Professional development opportunities for Review Commissioners are identified.
- A training model for Review Commissioners is designed.
- A formal orientation program is developed for newly appointed Review Commissioners.

## OPPORTUNITIES AND CHALLENGES AHEAD

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Fiscal year 2012-2013 will see a continued emphasis on providing quality service while building upon the objectives achieved in 2011-2012. The following will be the areas of focus for the WHSCRD in the upcoming year:

- A major component to the delivery of quality client service is the knowledge and skill sets of employees. The WHSCRD was successful in meeting its first objective in its 2011-2014 Activity Plan to develop an Organizational Development and Training Strategy. Further support will be provided towards the implementation of employees' learning plans and for their future participation in ongoing professional development and other appropriate training sessions.
- Continued focus on improved decision-writing has contributed to a reduction in Reconsideration Requests this year. Improving the quality of written reasons will always be an area of focus. The objective for the next fiscal year will be on professional development initiatives for Review Commissioners in the areas of decision-making and decision-writing to expand upon their skill set to continuously improve the clarity and quality of decisions for clients.
- The WHSCRD is extremely aware of the sensitive nature of the information used during the review process. Through the implementation of established best practices and privacy training for employees, the WHSCRD will ensure that the protection of personal information distributed to review participants remains a priority.
- The WHSCRD's ability to schedule hearings in a timely manner is impacted by the perceived complexities of the appeal system by potential clients and the availability of hearing participants. With the addition of positions of Solicitor, Manager of Operations and Appeals Coordinator, the WHSCRD will work with all parties to provide clarity surrounding the review process to avoid unnecessary scheduling delays for clients.
- While many clients were represented throughout the review process in 2011-2012, there remains a need to provide support for workers, employers and representatives appearing before Review Commissioners. The WHSCRD will continue to inform and assist clients to ensure a fair process for all review participants.
- A new section has been included in this Activity Report on noteworthy decisions. These decisions have been selected as they may provide significant observations or interpretation respecting workers' compensation legislation and Commission policies. The WHSCRD will provide additional updates on noteworthy decisions on an ongoing basis to better inform its clients and stakeholders through its website at: [www.gov.nl.ca/whscrd](http://www.gov.nl.ca/whscrd) and through the annual reporting process.

## 2011-2012 NOTEWORTHY DECISIONS

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**Decision 10130(R) – *Return to Work Hierarchy – Accommodation – Suitable Employment***; A reemployment obligation existed with respect to an injured worker. The worker was provided with an Extended Earnings Loss (EEL) decision deeming the worker capable of earning in National Occupational Classification (NOC) Group 667, and the worker's benefits were reduced accordingly. The worker disputed the Commission's acceptance of the employer's position that the worker could not be accommodated in pre-injury or alternative employment with the pre-injury employer. The worker never received a formal decision on the specific Return to Work and Accommodation finding, and had no previous opportunity to appeal the point. The worker objected to the Accommodation finding throughout, despite the fact that the Commission's decision was expressed as concerning only the EEL calculation and the issue of suitable employment arising from the Labour Market Re-entry (LMR) Process.

**Held:** The WHSCRD overturned the Commission's decision and remitted the case to the Commission for redetermination. Where 1) a re-employment obligation existed, 2) the worker was given no previous opportunity to appeal the Return to Work finding, and 3) continually placed the Return to Work finding in issue during the chain of reviews, the WHSCRD accepted that the Return to Work finding was inferentially under review as a necessary component of the ultimate EEL decision. The referral to LMR procedures is dependent upon the prior determination of the Return to Work obligations of the parties in accordance with the *Act*, regulations, and policies. It would offend procedural fairness if the worker was deprived of the right to contest the Return to Work finding because of the structure of the Commission's decision. The decision under review was the first decision delivered following the Return to Work/LMR determination, and the worker was entitled to raise it at her first opportunity, regardless of how the decision was structured.

The WHSCRD found that the Commission had not required an undue hardship rationale from the employer, contrary to the *Act*. The Review Commissioner was not satisfied from a review of the file that the employer's response met the undue hardship criteria under the *Act*. There were insufficient reasons, and the accommodation inquiry was apparently limited to one of the employer's several sites or 'branches' in the immediate area, contrary to Policies RE-05 and RE-07. The Commission, therefore, had no basis to accept the employer's position on Accommodation, and it was improper to engage LMR procedures without having first made a proper determination on the Return to Work issue. The Commission was directed to complete the Return to Work inquiry in accordance with the *Act*, regulations, and policies before the WHSCRD could consider the correctness of any suitable employment outcome under Policy RE-15.

*Decision 10130(R)*  
December 9, 2011 (Peckford)

## 2011-2012 NOTEWORTHY DECISIONS (CONTINUED)

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**Decision 12015 – Suitable Employment and Earnings – Labour Market Re-entry (LMR) Assessment – Requirement of Three LMR Options – “Factors Other than the Compensable Injury” Preventing Participation in LMR Plan;** A worker was found to have the functional capacity to work and earn in National Occupational Classification (NOC) Group 667 at minimum wage. The results of the LMR Assessment identified two suitable options for the worker. The Commission relied upon Policy RE-15, stating that ‘where less than three options have been identified’, Policy RE-15 required an examination of whether ‘factors other than the compensable injury’ prevent the worker from ‘participating in a reasonable and feasible LMR Plan.’ The Commission referenced the findings in the Assessment which revealed that the worker was an unsuitable candidate for ‘academic upgrading’ or ‘formal training’ and determined that the worker’s aptitude was a ‘factor other than the compensable injury’ which prevented participation in an reasonable and feasible LMR Plan. The Commission therefore invoked Policy RE-15 to attribute minimum wage earning capacity to the worker, regardless of the fact that three options were not identified.

**Held:** The worker’s review was denied. The Commission did not commit an error in estimating earnings based on the worker’s assessed capacity and transferrable skills. Resort to the ‘factors other’ provision of RE-15 was unnecessary because the worker was capable of working and earning in two identified options, and the failure to identify three options was not fatal to the ability of the Commission to determine suitable employment and earnings.

Policy RE-14 states that the purpose of an LMR Assessment is to determine whether the worker has transferrable skills, or whether the worker requires an LMR Plan in order to acquire the skills. Section 89.2 states that LMR Plans are at the discretion of the Commission, and are designed to enable the worker to re-enter the workforce while minimizing or eliminating a loss of earnings due to the compensable injury. If the worker already has transferrable skills, there is no entitlement to an LMR Plan, and nothing in Section 74 restricts the Commission’s ability to estimate earnings where functional capacity and transferrable skills exist.

The purpose of the three options requirement is to enable the worker to participate meaningfully in the LMR Plan and select the option most suitable for the worker, based on interest, aptitude, skills, capacity, and the other factors listed in the policies. The options identified in the LMR Assessment inform the content of the LMR Plan. Section 89.2(4) contemplates consultation with the worker only in the formulation of the Plan, and not on the ultimate determination of suitable employment and earnings itself. The LMR Assessment should strive to identify at least three options, but the failure to identify three is not necessarily fatal to the Commission’s overall ability to determine the employment which is suitable for the worker.

*Decision 12015*  
January 18, 2012 (Piercey)

## 2011-2012 NOTEWORTHY DECISIONS (CONTINUED)

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**Decision 12020 – Suitable Employment and Earnings – Actual Earnings;** A worker was placed on full Extended Earnings Loss (EEL) benefits. The worker owned a parcel of land and subdivided it. The Commission accepted the worker's explanation of an earlier sale of two lots as a 'one-off' transaction and declined to adjust worker's earnings benefits. The worker subsequently hired contractors to develop additional lots, sold the lots and upon the advice of his accountant, recorded income from the sales as 'business income.' The Commission revisited the question of the worker's earnings loss benefits and concluded, based on his 'actual earnings' from the sale of the lots that he possessed a capacity to work and earn as a general contractor. The worker argued that, despite the classification of the income on his tax return, the income was essentially property income and that he lacked the attributes necessary to earn a living as a general contractor.

**Held:** The review was referred back to the Commission. In adjusting the worker's earnings loss benefits, the Commission essentially worked backwards from income to make a finding of suitable employment and earnings. The nature of the income in this case was primarily derived from the sale of property. The worker also expended efforts in enhancing the value of the property for resale. The worker's income tax information showed marginal, if not negative, income in some years, but the Commission selected the one year in which he showed the highest income and reduced his benefits. The result was that the income in that one year was greater than his earnings loss benefits, and the worker became disentitled to EEL. Policy RE-15 gives the Commission the ability to select an earnings base which it believes to be most equitable, but the selection of the one year in which the worker obtained the greatest income was inequitable.

The preliminary question in the determination of suitable employment and earnings is the identification of suitable employment. That determination is based on a combination of functional capacity, transferrable skills, and a number of other factors. Once suitable employment is identified, the measure of the earnings from the employment may be estimated, or it may be calculated by way of reference to actual earnings if the worker has returned to the workforce in a form of suitable employment. The worker had actual earnings, but there was no independent finding that the occupation of general contractor was a suitable employment option. The purpose of the Section 74 of the *Act* and the related policies was not to capture income from property transactions, and without an independent assessment that the worker could perform the occupation of general contractor, it was premature to impute a capacity based on the sale proceeds alone. The matter was remitted to the Commission for determination in accordance with the *Act*, regulations, and policies on the suitable employment issue.

*Decision 12020*  
February 28, 2002 (Barry)

## 2011-2012 CASELOAD ACTIVITY

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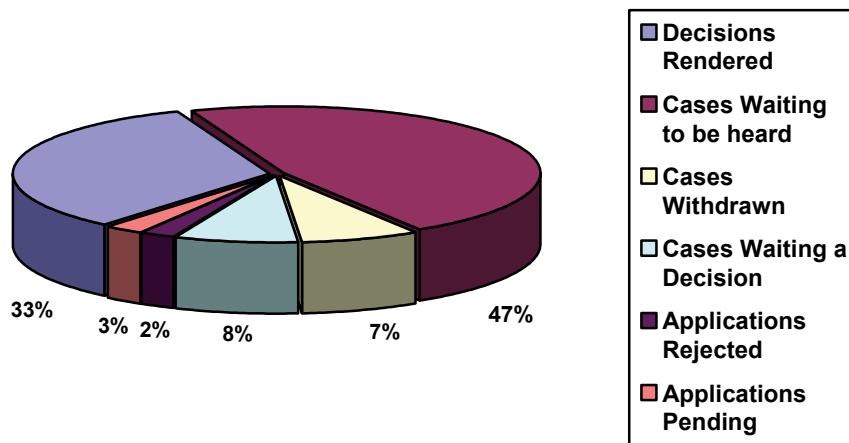
- ◆ The WHSCRD's caseload remains consistent with previous years. There were 335 Request for Review Applications filed in 2011-2012, representing a slight increase from the preceding year by four cases.
- ◆ Workers and their dependents filed 302 Request for Review Applications which represents 90% of the applications filed. Employers filed 33 (10%) Request for Review Applications.
- ◆ Request for Review applications may involve more than one issue and it may be necessary for the WHSCRD to provide a decision on each issue. There were 179 decisions rendered involving 228 issues under review.
- ◆ The top three issues under review for workers were: Extended Earnings Loss 15%, Health Care Services 14%, and Labour Market Re-entry 11%.
- ◆ Review Commissioners found that approximately 30% of the Commission's decisions, which were subject to review, were either not consistent with the *Act*, the *Regulations* and policies of the Commission, or required additional review by the Commission. In these cases, Review Commissioners allowed the appeals or referred the cases back to the Commission for further review or investigation.
- ◆ Approximately 88% of workers and 78% of employers were represented throughout the review process, based on 179 cases finalized in 2011-2012.
- ◆ There were 207 hearings conducted this fiscal year. Staff of the WHSCRD coordinated work for an additional 83 hearings which were either postponed, rescheduled or subsequently withdrawn by the parties.
- ◆ There were 24 reconsideration requests filed in 2011-2012 which represents a significant decrease in requests from the previous year by 35%.

## 2011-2012 STATISTICAL OVERVIEW

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Caseload Breakdown	2011-2012	2010-2011
Appeals Carried Forward	205	164
New Applications	335	331
<b>Total Caseload</b>	<b>540</b>	<b>495</b>
Decisions Rendered	179	239
Cases Waiting to be Heard	253	176
Cases Withdrawn	40	36
Cases Awaiting a Decision	42	20
Applications Rejected	12	15
Applications Pending	14	9

**Caseload Breakdown (Percentage)**



Due to rounding the total percentages may not equal 100%.

## 2011-2012 STATISTICAL OVERVIEW (CONTINUED)

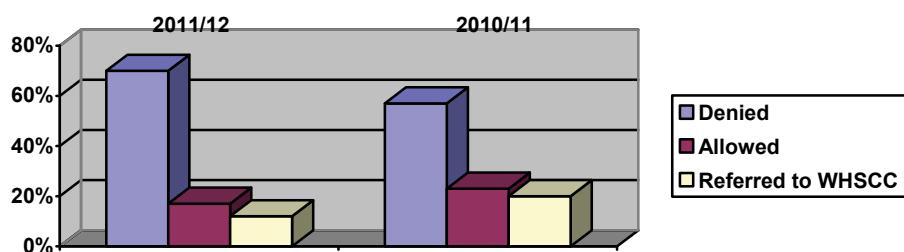
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Monthly Hearings & Decisions	2011-2012		2010-2011	
	Hearings	Decisions	Hearings	Decisions
April	24	16	23	15
May	9	20	26	17
June	14	16	20	34
July	10	5	25	9
August	16	11	20	29
September	17	27	22	26
October	28	14	20	22
November	20	9	22	13
December	16	17	17	24
January	8	18	15	21
February	22	11	14	10
March	23	15	22	19
<b>Total</b>	<b>207</b>	<b>179</b>	<b>246</b>	<b>239</b>

Decisions by Type	2011-2012		2010-2011	
	Decisions	Percentage	Decisions	Percentage
Denied	126	71%	135	57%
Allowed	31	17%	56	23%
Referred to WHSCC	22	12%	48	20%
<b>Total</b>	<b>179</b>	<b>100%</b>	<b>239</b>	<b>100%</b>

Due to rounding the total percentages may not equal 100%.

### Decision Breakdown (Percentage)



## 2011-2012 STATISTICAL OVERVIEW (CONTINUED)

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Hearings by Region	2011-2012	2010-2011
St. John's	130	148
Gander	16	30
Grand Falls-Windsor	21	36
Corner Brook	40	30
Labrador	0	2
<b>Total Hearings</b>	<b>207</b>	<b>246</b>

Representative Profile by Type	2011-2012	2010-2011
Worker Self	21	28
Worker Consultant	8	9
Employer Self	23	29
Employer Consultant	15	38
Legal Counsel	14	14
Union	28	51
Members of the House of Assembly	85	113
WHSCC	66	51
Other (Relative, Friend, etc.)	12	12
<b>Total Representatives</b>	<b>272</b>	<b>345</b>

**Note:** More than one representative may be involved the review process, therefore, the number of representatives may not correlate with the number of hearings held or decisions rendered.

Reconsideration Requests by Client	2011-2012			2010-2011		
	Requests	Allowed	Denied	Requests	Allowed	Denied
Employer	0	0	0	8	3	5
Worker	12	0	12	12	1	11
WHSCC	12	6	6	17	9	8
<b>Total</b>	<b>24</b>	<b>6</b>	<b>18</b>	<b>37</b>	<b>13</b>	<b>24</b>

## 2011-2012 STATISTICAL OVERVIEW (CONTINUED)

Issues Reviewed by Decision		Outcome		
Worker/Dependent Appeals	Objections	Allowed	Denied	Referred to WHSCC
Canada Pension Plan	1	0	1	0
Claim Denied	19	4	14	1
Compensation Denied	12	4	7	1
Compensation Rate	3	1	2	0
Dependency Benefits	2	1	1	0
Early & Safe Return to Work	2	1	1	0
Extended Earnings Loss Benefits	33	4	25	4
Health Care Services	30	7	21	2
Industrial Hearing Loss	14	1	9	4
Industrial Disease	1	0	1	0
Labour Market Re-entry	24	1	17	6
Overpayment	3	1	1	1
Permanent Functional Impairment	15	1	13	1
Permanent Partial Disability	2	0	0	2
Proportionment	13	4	9	0
Re-employment Obligations	1	0	1	0
Recurrence	8	3	5	0
Reinstatement of Benefits	13	2	9	2
Reopening	10	0	10	0
Wage Loss Benefits	12	2	8	2
<b>Total</b>	<b>218</b>	<b>37(17%)</b>	<b>155(71%)</b>	<b>26(12%)</b>
Employer Appeals		Objections	Allowed	Denied
				Referred to WHSCC
Cost Relief	3	1	2	0
Employer's Entitlement to Coverage	1	0	1	0
Objection to a Worker's Claim	5	0	5	0
Prime	1	0	1	0
<b>Total</b>	<b>10</b>	<b>1(10%)</b>	<b>9(90%)</b>	<b>0(0%)</b>
<b>OVERALL TOTALS</b>	<b>228</b>	<b>38(17%)</b>	<b>164(72%)</b>	<b>26(11%)</b>

**Note:** Review Applications may raise more than one issue for review, therefore, the above numbers may not correlate with the number of Review Applications filed or Decisions rendered. Due to rounding the total percentages may not equal 100%.

## FINANCIAL STATEMENT

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There is no regulatory requirement for the WHSCRD to submit a separate, audited financial statement.

### **Summary of Expenditures and Related Revenue for fiscal year ending March 31, 2012 (UNAUDITED)**

	2011/2012	2011/2012	
		Actual	Amended
		\$	\$
<b>8.1.01. Workplace Health, Safety and Compensation Review</b>			
01. Salaries	451,928	715,700	715,700
02. Employee Benefits	3,635	3,900	2,500
03. Transportation and Communications	32,896	33,400	20,000
04. Supplies	17,887	19,800	22,500
05. Professional Services	143,254	143,300	200,000
06. Purchased Services	165,625	168,500	120,500
07. Property, Furnishings and Equipment	3,964	4,600	8,000
	<hr/> 819,189	<hr/> 1,089,200	<hr/> 1,089,200
02. Revenue - Provincial	<hr/> (1,255,968)	<hr/> (1,089,200)	<hr/> (1,089,200)
<b>Total: Workplace Health, Safety and Compensation Review</b>	<hr/> (436,779)	<hr/> -	<hr/> -

*Source: Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for the Year Ended 31 March 2012*

## REVIEW COMMISSIONERS

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### **E. Bruce Peckford, Chief Review Commissioner**

Mr. Peckford is a resident of St. John's. He is a retired provincial public servant who has held several senior positions with the public service, concluding with Deputy Minister of Social Services. He also held the position of Executive Director of Finance and Administration with the Workplace Health, Safety and Compensation Commission. In 2005, Mr. Peckford served as Chair of the *Statutory Review Committee on the Workplace Health, Safety and Compensation Act*. Mr. Peckford is the past Chair of the Eastern School District and the past Chair of the Historic Sites Association of Newfoundland and Labrador and a former Board member of the Canadian Cancer Society, Newfoundland and Labrador Division.

### **Alex Harrold, Review Commissioner**

Mr. Harrold is a resident of Westport. He has a Bachelor of Science degree from Southwest Missouri University and a Bachelor of Laws degree from Dalhousie University. Mr. Harrold is a former teacher who taught at Baie Verte High School and also worked with the Department of Justice. Mr. Harrold has been a member of the Baie Verte Peninsula Health Care Board and is a former provincial Vice-President of the Multiple Sclerosis Society of Canada. Mr. Harrold served as a Review Commissioner with the WHSCRD from 2005 to 2011.

### **Keith Barry, Review Commissioner**

Mr. Barry is a resident of St. John's. He is a retired provincial public servant, having served in various government departments over a 44-year career. Most recently, Mr. Barry served as Vice-Chair of the Public Service Commission. Prior to that he was the Director of Financial Administration for the Royal Newfoundland Constabulary and occupied various senior financial positions with the Fisheries Loan Board, Executive Council, etc. Mr. Barry was honoured with a fellowship with the Society of Management Accountants of Canada in 2004, and in 2006 was named Gonzaga Alumnus of the year.

### **Lloyd Piercey, Review Commissioner**

Mr. Lloyd Piercey is a resident of Fortune, NL. He has a Bachelor of Arts/Bachelor of Education with Memorial University of NL. Most recently he served as Special Assistant the former Member of Parliament for Random-Burin-St. George's. Mr. Piercey is a Past Academic Department Chairperson for Eastern College, Burin Campus and facilitated the exploration of training and work options for displaced fishery workers following the cod moratorium. He has also worked as an Adult Basic Education Instructor, Continuing Education Coordinator, at Eastern College and as Coordinator for Job Corp. Program. Mr. Piercey has served on various Committees with Eastern College and has served in various executive positions for groups and committees within the community.

## **REVIEW COMMISSIONERS (CONTINUED)**

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### **Peter Budgell, Review Commissioner**

Mr. Peter Budgell is a resident of Bishop's Falls, NL. He has served as Manager of the Exploits Community Employment Corporation since 2000 as an advocate for providing employment opportunities for persons with developmental or cognitive delays. Mr. Budgell was employed with the Exploits Valley Integrated School Board working with youth regarding career exploration opportunities. Mr. Budgell is the former Provincial Director of NL Crohn's & Colitis Foundation of Canada. He also has a history of extensive community involvement through groups such as the Minor Hockey Association, Kinsman Club, Knights of Columbus, Exploits Youth Justice Committee and as a former Trustee with the Nova Central School Board.

## **CONTACT INFORMATION**

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