

Language Barriers and Workers' Compensation Access in Ontario and Quebec

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Executive Summary

Workers' compensation (WC) was established to ensure that individuals who are injured while working receive wage replacement, medical care, and other benefits and services. Yet, injured workers sometimes have difficulties accessing compensation, especially when they experience language barriers. We report on a comparative study of two workers' compensation systems, those of Quebec and Ontario, that examined how policies and practices facilitate or hinder access for injured workers who experience language barriers.

We conducted in-depth qualitative interviews with 14 people who had a workplace injury or illness and 24 key informants in Ontario, and 13 injured or ill workers and 8 key informants in Quebec to better understand how policies, processes and practices may facilitate or hinder access to workers' compensation for workers who experience language barriers. The workers had different levels of written or spoken language barriers with respect to English in Ontario and French in Quebec, and all had experienced a work injury or illness. Key informants had specialized knowledge about aspects of the workers' compensation claim process and specifically about the challenges facing individuals who experience language barriers.

Our interviews revealed that workers who experience language barriers had limited employment opportunities, low prestige,¹ low-earning jobs and were at increased risk of injury or illness. Once injured or ill, they sometimes continued to work at their job because they lacked information about the workers' compensation system or were discouraged from and/or fearful of making a claim. In Ontario and Quebec, the lack of availability of claim forms in non-official languages added to the difficulties.

¹ We use the expression "low-prestige" rather than low-skilled since jobs may involve skills that are not immediately obvious.

Participants in both provinces explained that workers who experience language barriers often struggled to find doctors, particularly in Quebec where getting access to a regular doctor, according to some estimates, is more difficult than Ontario. However, when access was achieved doctors were revealed as an important source of support for workers and a conduit to the workers' compensation system, particularly in Ontario where doctors may initiate a claim. Doctors in hospitals and speciality clinics had access to professional language services to assist when language barriers prevented clear communication but independent health care providers described relying on informal interpreters to communicate with patients. Interviews further revealed that language barriers in the clinical setting sometimes negatively impacted diagnosis and treatment, particularly for sensitive, complex and/or chronic conditions. Workers also described how some providers became frustrated with language barriers and exhibited stigmatizing attitudes towards them.

Workers who filed a claim were confronted with various hurdles in the workers' compensation system. Gaps in interpretation and translation services were found in both provinces, though these seemed to be more pronounced in Quebec where workers and key informants reported that, in their experience, compensation staff seldom called upon professional interpreters and translators. Many workers in that province reported that they themselves paid for interpreters to assist them in meetings and conversations. In Ontario, interviews indicated that while language services were offered this was not done systematically or consistently, and in both provinces compensation staff were said to sometimes rely on informal interpreters, raising legal and ethical concerns. Some workers and key informants noted that communication barriers with compensation staff undermined the claims process. For example, they explained that inconsistencies in workers' stories made them appear less credible.

Gaps in language accommodations were compounded by structural issues which were amplified in a context of language barriers. In both provinces, workers and key informants noted that the adversarial nature of the claims system – more manifest in Quebec, where the employer contestation rate is higher –, the multiple and conflicting directives given to workers by many and sometimes inadequately coordinated staff, the lack of accessible avenues for workers to challenge decisions, the complexity of the system and the terminology used, the short and strict time limits to file paperwork, and an overall absence of face-to-face interactions combined to create particularly high barriers for workers with language needs.

According to participants in both provinces, language barriers were inadequately considered in the determination of modified work and accommodation, suitable work or training needs. Key informants in Quebec asserted that language needs were seldom formally assessed or considered in those decisions, while in Ontario key informants explained that language needs, while considered, were apt to be under-estimated. In both provinces, skills training was said to be rarely offered to workers who experienced language barriers as they tended to be in low-income jobs which are not typically considered for training allotments in workers' compensation policies and practices. Language training was also said to be seldom offered, and was revealed as particularly uncommon in Quebec. When offered, training was reported to be brief and not typically effective. In the absence of proper job search supports, workers who experienced language barriers often returned to unsuitable work with the pre-injury employer or struggled to find and maintain employment elsewhere.

Language barriers in both provinces were found to cause delays, discrepancies, and misunderstandings in the claims process which negatively impacted workers' health, recovery, claim and return to work. Workers reported finding themselves under or unemployed, with many

having to rely, reluctantly, on family members and/or social assistance. Throughout, workers reported that family members, primary care providers, worker advocates and union representatives played an important role in educating and supporting them. In Quebec, however, some key informants noted difficulties for workers in accessing support from independent legal counsel such as is available in Ontario through the Office of the Worker Adviser.

We conclude that improving the linguistic competence of workers' compensation systems is necessary. However, our findings indicate that this alone is not sufficient to address language needs, since attention must also be paid to general workers' compensation and healthcare system structural improvements, such as accessibility to affordable legal advice and provision of retraining opportunities for low-wage workers, which may alleviate difficulties in a context of language barriers. Many of these issues are not unique to workers who experience language barriers and addressing them will improve outcomes for workers overall. See [Recommendations](#) at the end of this report for ways that systems can be improved to facilitate communication in the workers' compensation process.

Sommaire exécutif

L’indemnisation des accidentés du travail a été créée afin de veiller à ce que tout employé qui se blesse au travail ait droit à un remplacement de son salaire, à des soins médicaux et à tout autre avantage ou service dont il ou elle a besoin. Or, il arrive que les employés accidentés éprouvent des difficultés à obtenir cette indemnisation, particulièrement en présence de barrières linguistiques. Le présent rapport résume les résultats d’une étude comparative effectuée entre deux systèmes d’indemnisation des accidentés du travail, soit ceux du Québec et de l’Ontario. Cette étude a cherché à examiner la façon dont les politiques et pratiques facilitent ou lèsent l’accès aux programmes des accidentés du travail qui doivent composer avec des barrières linguistiques.

Nous avons effectué des entrevues qualitatives exhaustives auprès de 14 personnes ayant subi une blessure ou souffert d’une maladie au travail et 24 informateurs clés en Ontario, et auprès de 13 employés blessés ou malades et 8 informateurs clés au Québec. L’objectif était de mieux cerner la façon dont les politiques, les processus et les pratiques favorisaient ou lésaient l’accès aux programmes d’indemnisation des travailleurs confrontés à des barrières linguistiques. Ces travailleurs présentaient différents niveaux d’obstacles linguistiques, aussi bien à l’oral qu’à l’écrit, par rapport à l’anglais en Ontario et au français au Québec, et tous avaient subi un accident de travail ou une maladie professionnelle. Quant aux informateurs clés, ceux-ci possédaient des connaissances spécialisées sur certains aspects du processus de demandes d’indemnisation des accidentés, et plus précisément, sur les défis que ces personnes doivent relever en présence de barrières linguistiques.

Nos entrevues ont mis au jour que les travailleurs composant avec des barrières linguistiques disposaient d’un bassin limité d’occasions d’emploi, avaient des emplois peu

prestigieux² et à faible revenu, et courraient un risque plus grand de subir une blessure ou de souffrir d'une maladie. Une fois blessés ou malades, ils ont parfois continué à travailler dans leur emploi, car ils avaient peu de renseignements sur le système d'indemnisation des travailleurs, craignaient de faire une demande ou ont été découragés de poursuivre leurs démarches en ce sens. En Ontario et au Québec, les formulaires sont uniquement offerts dans la langue officielle de la province, ce qui complique davantage la situation.

Les participants dans les deux provinces ont expliqué que les travailleurs aux prises avec des obstacles linguistiques éprouvent souvent des difficultés à trouver un médecin, particulièrement au Québec où l'accès à un médecin de famille est, selon certaines données, plus ardu qu'en Ontario. Toutefois, une fois la relation établie avec un médecin, celui-ci ou celle-ci s'est révélé une source importante de soutien pour les travailleurs et une porte d'entrée au système d'indemnisation, particulièrement en Ontario où les médecins peuvent soumettre la demande. Les médecins dans les hôpitaux et les cliniques spécialisées ont eu recours à des services linguistiques professionnels lorsque les barrières linguistiques ont nui à une communication claire, tandis que les fournisseurs de soins de santé indépendants ont indiqué avoir utilisé des interprètes non officiels pour communiquer avec les patients. Par ailleurs, les entrevues ont également révélé que les barrières linguistiques en milieu clinique ont parfois eu des répercussions négatives sur le diagnostic et sur le traitement, notamment dans les cas délicats, complexes ou chroniques. Les travailleurs ont en outre relaté que certains fournisseurs ont éprouvé de la frustration avec les barrières linguistiques et ont exhibé des attitudes stigmatisantes envers eux.

² L'expression « peu prestigieux » est utilisée, plutôt que « à faible niveau de compétence » puisqu'un emploi peut exiger des compétences qui ne sont immédiatement évidentes.

Les travailleurs qui ont déposé une demande se sont heurtés à divers obstacles au sein du système d'indemnisation. Des écarts d'interprétation et de traduction ont été notés dans les deux provinces, mais de façon plus prononcée au Québec où les travailleurs et informateurs clés ont indiqué que, selon leur propre expérience, le personnel du programme d'indemnisation a rarement sollicité les services d'interprètes ou de traducteurs professionnels. Bon nombre des accidentés ont affirmé avoir payé de leurs poches pour les services d'un interprète lors des rencontres et conversations. En Ontario, les entrevues ont permis de mettre au jour que, malgré l'offre de services linguistiques, celle-ci n'était pas systématique ni uniforme. Dans les deux provinces, le personnel des programmes d'indemnisation s'est parfois fié à des interprètes non officiels, ce qui est problématique sur le plan juridique et éthique. Certains travailleurs et informateurs ont dénoncé les barrières linguistiques avec le personnel des programmes d'indemnisation comme étant nuisibles au processus de demande. Par exemple, ils ont précisé que les incohérences dans le compte-rendu des travailleurs avaient porté préjudice à leur crédibilité.

Les écarts dans les accommodements linguistiques se trouvaient aggravés par les problèmes structuraux, eux-mêmes amplifiés en présence de barrières linguistiques. Dans les deux provinces, les travailleurs et les informateurs clés ont noté la juxtaposition de nombreux éléments contribuant à créer des barrières particulièrement hautes pour les personnes ayant des besoins sur le plan linguistique, notamment : la nature antagoniste du système de demandes, par ailleurs plus évidente au Québec où le taux de contestation est plus élevé; les directives multiples et contradictoires données aux accidentés par certains représentants du personnel, affichant souvent une mauvaise coordination entre eux; l'absence de recours accessibles par les travailleurs pour contester les décisions; la complexité du système et la terminologie utilisée; les

échéances courtes et strictes pour remplir les documents; et de façon générale, l'absence d'interactions en personne.

Selon les participants dans les deux provinces, la présence de barrières linguistiques n'a pas été correctement prise en compte pour déterminer les besoins en matière de modification des tâches ou d'accommodements, de travail approprié ou de formation. Les informateurs clés au Québec ont affirmé que les besoins linguistiques faisaient rarement l'objet d'une évaluation officielle, voire d'une considération dans le cadre du processus de décision, tandis qu'en Ontario, les informateurs clés ont expliqué que les besoins linguistiques, bien que considérés, risquaient d'être sous-estimés. Dans les deux provinces, selon le contenu des entrevues, il était rare qu'une formation sur le plan des aptitudes ait été offerte aux travailleurs composant avec des barrières linguistiques puisqu'ils avaient tendance à avoir des emplois à faible revenu, lesquels ne font généralement pas l'objet d'une considération pour ce type de formation dans les pratiques et politiques d'indemnisation. Il était également rare qu'une formation linguistique ait été offerte, celle-ci étant d'autant plus peu commune au Québec. Lorsqu'une formation a été proposée, celle-ci s'est alors révélée de courte durée et typiquement inefficace. En l'absence d'un soutien adéquat pendant la recherche d'emploi, les travailleurs aux prises avec des barrières linguistiques doivent souvent reprendre leur travail non approprié auprès de l'employeur précédent ou ont du mal à trouver et à conserver un emploi ailleurs.

Les barrières linguistiques dans les deux provinces ont été à l'origine de retards, d'incohérences et de malentendus dans le processus de demande, ce qui a eu des répercussions négatives sur la santé, le rétablissement, la demande et le retour au travail. Les travailleurs ont indiqué être sous employés ou sans emploi, bon nombre devant compter, à contrecœur, sur les membres de leur famille ou sur l'aide sociale. Dans l'ensemble, les travailleurs ont signalé que

les membres de leur famille, les fournisseurs de soins de santé primaires, les représentants des travailleurs et les représentants syndicaux ont joué un rôle important de soutien et de formation. Cependant au Québec, certains informateurs clés ont constaté que les travailleurs ont éprouvé des difficultés à se prévaloir du soutien d'un conseiller juridique indépendant comme offert en Ontario par l'entremise du Bureau des conseillers des travailleurs.

Nous concluons donc qu'une amélioration des compétences linguistiques au sein des systèmes d'indemnisation des accidentés du travail est nécessaire. Toutefois, nos résultats indiquent que cette mesure en soi ne suffirait pas à combler les besoins sur le plan linguistique : des améliorations structurelles générales doivent également être apportées au système de soins de santé et d'indemnisation, comme l'accessibilité à des conseils juridiques abordables et la fourniture d'occasions de recyclage pour les travailleurs à faible revenu, puisque ces mesures sont à même de faire tomber certaines barrières. Sachant que bon nombre des problèmes rencontrés ne sont pas exclusifs aux accidentés composant avec des barrières linguistiques, leur résolution s'avérerait avantageuse pour l'ensemble des travailleurs. Veuillez consulter les recommandations qui se trouvent à la fin de ce rapport et qui proposent des moyens d'améliorer les systèmes dans le but de favoriser la communication tout au long du processus d'indemnisation des accidentés du travail.

Introduction

Workers' compensation can play a critical role in lessening the social and economic hardship caused by work-related injuries or illnesses and fostering sustainable return to work. However, while injured workers sometimes have difficulties accessing compensation, those who experience language barriers have added difficulties compared to other workers.¹⁻³ According to some estimates, 34% of men and 48% of women who immigrate to Canada have limited proficiency in either of Canada's official languages,⁴ with women, older and non-white individuals less likely to make language gains over time.⁵ Language barriers direct workers to employment in hazardous jobs^{2,6} and contribute to increased exposure to harmful conditions within jobs.^{7,8} As a result of these disproportionate exposures, workers who experience language barriers have elevated rates of occupational injuries, illnesses and deaths compared to other workers.⁹ Once injured, these workers often lack knowledge about their rights, experience barriers to reporting, and face difficulties with their employers and with care and compensation systems.^{3,10-17} In terms of outcomes, they are more likely to experience delays in first payment,¹⁸ claim denials,^{2,9} and difficulties returning to work.^{19,20} Yet, with rare exceptions,²¹ little information exists on the role of workers' compensation policies and practices in shaping those experiences and outcomes.

A comparative analysis of two workers' compensation systems, those of Quebec and Ontario, offers a unique opportunity to examine how policies and practices may facilitate or hinder access for workers who experience language barriers. In Quebec, the CNESST (Commission des Normes, de l'Équité, de la Santé et de la Sécurité du travail), in line with the Charte de la Langue Française, provides that documents addressed to workers may be translated, or that workers may be served, in a language other than French on an as-needed basis (communication with employers, however, must be in French).²² In Ontario, the WSIB

(Workplace Safety and Insurance Board), in line with the French Language Services Act, guarantees access to governmental services in French, though no such legislative requirement exists for non-official languages.²³ Despite differences in legislative frameworks, both the CNESST and WSIB report offering interpretation and translation services, official language training, and having developed specialized strategies, staff or tools to address language barriers (Table 1). However, worker advocates have indicated that, in their experience, those services are lacking. For example, a survey of 57 immigrant workers by the Montreal-based Union des Travailleurs et Travailleuses Accidentés ou Malades (UTTAM) found that none of the respondents, who all had claims assisted by UTTAM,³ was offered French or English language training as part of return to work plans.²⁰ Evidence from Ontario further suggests that language barriers are inadequately taken into account in the implementation of policies and practices, such as in the determination of suitable work.²¹

Our objective was therefore to examine similarities and differences in how Quebec and Ontario workers' compensation policies and practices take into account language barriers, and to document the implications for injured workers. Our study also sought to propose avenues to promote equity in access to workers' compensation.

³ The workers assisted by UTTAM represent more complex cases, so it is not possible to generalize to all cases.

Table 1. Language Accommodations in Provincial and Territorial Workers' Compensation Systems

	PEI	QUE	AB	MB	SK	BC	NT/NU	ONT	NS	NL
Formal interpretation	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Informal interpretation	Y	Y		Y	Y	Y	Y	Y	Y	Y
Document translation	N	Y	Y	Y	Y	Y	Y	Y	N	
Formal language assessment*	N		Y	N	Y	Y	N	Y	N	Y
Language training*	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Specialized strategies, staff or tools^	Y	Y	Y	Y	Y	Y	N	Y	N	

Source: Provincial and territorial workers' compensation boards by way of the Association of Workers' Compensation Boards of Canada.

No data for New Brunswick and Yukon. Blank cells indicate no data was provided by the board.

*Assessments and training offered as part of return to work plans.

^ Includes translated pamphlets, best practice guides, specialized staff, etc.

Methods

Our study is based on qualitative interviews with injured workers and key informants in Ontario and Quebec conducted over 2016-2017. Most of the interviews were conducted in the Greater Toronto Area and Montreal Metropolitan Area. In Ontario we interviewed 14 workers and 24 key informants, and in Quebec 13 workers and 8 key informants. We recruited workers who self-identified as having difficulties with English in Ontario or French in Quebec (verbally or in writing) and who experienced an injury or illness as a result of their work. In order to ensure that our analysis of policies and practices was as current and comprehensive as possible, for workers who had filed claims we limited our scope to those whose claims were closed less than three years prior to the interview, or who had ongoing claims in the advanced stages.

Workers were recruited through social media, online ads, clinics, unions and community organizations. In Toronto we also posted flyers advertising our study throughout various neighbourhoods and leafleted flyers in subway stations during peak hours. We originally limited recruitment to a few main language groups, however this strategy led to recruitment challenges as the population from which we recruited was excessively narrow. It also led to equity concerns because members of larger language groups may have access to resources that others may not, and so their experiences may be different in some respect. We therefore decided to interview workers from any language group as long as they experienced language barriers. We translated our recruitment material into a few languages suggested by community organizations or spoken by individuals in our networks. In Ontario, English flyers were translated into Mandarin, Farsi, Amharic, Bengali, Spanish, Hindi, Portuguese and Sinhalese, while in Quebec French flyers were translated in English, Amharic, Bengali, Spanish, Hindi, Portuguese and Sinhalese.

Interviews with injured workers were conducted in-person in private study rooms in public libraries or at the offices of community organizations, and in a few cases over the phone when travel would have precluded conducting the interview. We offered all workers the assistance of a professional interpreter, however most declined as they felt able to communicate with researchers without one (19/27). It should be noted that while these workers managed to communicate, to various degrees, their stories to researchers, they struggled with regards to the infinitely more complex and consequential workers' compensation system. All were provided with an English or French consent form that was also verbally explained by the interviewer prior to the interview. When an interpreter was present, he or she orally translated the consent form for participants using a script that repeatedly checked for understanding. In the interview, workers were asked about their pre- and post-injury trajectories, specifically their experiences with employers, healthcare practitioners, compensation staff, worker representatives, and skills and language training providers. They were asked about elements they found helpful and problematic and what they would recommend to address problems. They were also asked about the impact of their injury and claim on their health and employment.

The key informants we recruited had specialized knowledge about aspects of the workers' compensation claim process in Ontario or Quebec and specifically about the challenges facing individuals who experience language barriers. We recruited key informants through our networks, snowball sampling and cold calling/emailing. Interviews with key informants were conducted either in-person or over the phone. All signed a consent form that was sent to them prior to the interview. Key informants were asked about how they perceived, evaluated and/or addressed language barriers within their particular contexts. They were also asked about trends

that are systemic and not immediately visible to workers, and about strategies that could help alleviate difficulties.

The interviews were semi-structured and lasted approximately one and a half to two hours depending on the worker or key informant's willingness and availability. Interviews were recorded and transcribed, and recordings and transcripts were stored in password-protected computers accessible to team members only and with all identifying information removed. Data was managed with *NVivo* software. Interview segments were coded and the codes were grouped into themes through an analysis process that spanned and informed data collection. Ethics approval for this study was obtained from the McMaster University Research Ethics Board (certificate # 2016 154). All names used in this report are pseudonyms and details have been changed as appropriate to protect the anonymity of participants.

Characteristics of Participants

Workers

Some of the characteristics of the injured workers interviewed are presented in Table 2. Our sample was gender-balanced with women representing 13/27 of participants. A large majority of participants was over the age of 40 (20/27) and had been living in Canada for over ten years at the time of the interview (19/27). In Ontario and Quebec, the plurality of participants was from Asia (8/14) and Latin America (6/13), respectively, and Mandarin and Spanish were the first languages for the majority of participants in each of those provinces. The workers experienced varying levels of spoken and/or written official language proficiency.

A vast majority had attained a level of education at the college level or higher (20/27), though only three participants had pursued training or obtained degrees in Canada. Participants

were educated in a wide range of fields that included engineering, literature, business, chemistry and economics. However, at the time of injury, most participants were employed in factories (10/27), the low-wage service sector (6/27), construction (4/27) or in other manual jobs such as in warehouses and recycling plants (5/27). While most were employed in full-time, steady jobs with regular hours at the time of injury, these jobs were largely low paid, lacked safety, and typically involved a high workload. A few participants reported working on subcontracts for temporary agencies or in seasonal work, or having irregular hours (5/27). Only two participants were unionized at the time of injury. Participants' experiences in regard to the labour market fell short of their expectations as they experienced professional deskilling in nearly all cases. For example, male researchers and engineers worked and got injured as recycling plant sorters and temporary factory workers. Female librarians and instructors worked and got injured as fast food workers and cleaners.

All participants had experienced a workplace injury or illness, with the injury or illnesses occurring between 1 month and 12 years prior to the interview (median of 5 years). Of the 27 participants, 22 had filed a workers' compensation claim. Of those who filed a claim, 14 had their claim accepted and received some benefits or services as a result (e.g. wage replacement, rehabilitation, etc.). Other participants had their claim denied (8/22), three of whom had appealed and were waiting for a decision at the time of interview.

Table 2 Characteristics of Worker Participants

Variables		Ontario N=14	Quebec N=13
First Language	Mandarin	7	
	Arabic	2	1
	Caribbean Patois	1	
	Korean	1	
	Portuguese	1	1
	Spanish	1	5
	Turkish	1	2
	English		1
	Russian		1
	Cambodian		1
	Persian		1
Sex	Male	8	6
	Female	6	7
Age (in years)	40 or less	2	5
	41-50	4	2
	51-60	6	4
	60+	2	2
Region of Home Country	Asia	8	1
	Middle East and North Africa	2	4
	Caribbean	2	
	Europe	2	1
	Latin America		6
	Canada		1
# of years spent in Canada	5 years or less	1	1
	6-10	1	5
	11-15	5	2
	16-20	3	1
	21-25	3	
	More than 25	1	4
Education/Training	High school or less	3	4
	College or professional training	3	4
	Bachelor	5	4
	Masters	2	1
	Unknown	1	
Occupation	Service sector	2	4
	Factory	4	6
	Construction	3	1
	Other manual (maintenance, warehouse)	3	2
	Technical	2	

Key informants

Characteristics of the thirty-two key informants are presented in Table 3. They included health care providers (5/32), union representatives (4/32) and worker advisers (including community legal workers, legal aid lawyers and, in Ontario, staff from the Office of the Worker Adviser (OWA)) (14/32). In Ontario, we additionally conducted interviews with WSIB staff and with a representative of the Office of the Employer Adviser (OEA). In Quebec, we were not able to interview CNESST staff and there exists no equivalent of the OEA and OWA, independent agencies of the Ministry of Labour which offer advice, education and representation in matters of workers' compensation.

Table 3 Characteristics of Key Informants

Affiliation	Ontario N=24	Quebec N=8
Worker advisers	9	5
Health care providers	4	1
Employer advisers	1	
Workers' compensation staff	8	
Union representatives	2	2

Findings

Work, Injuries and Illnesses

Our interviews with workers and key informants revealed that even those who had been in Canada for many years and had tried to learn the language sometimes had difficulties attaining strong official language skills because of factors that included older age, lower levels of education, lack of opportunities to speak the language, and difficulties juggling work and language classes. Most workers indicated they had taken courses or made other concerted efforts to acquire one of the official languages. Key informants, particularly in Quebec, described the need for more resources to support the integration of new immigrants:

J'ai très peu rencontré de gens qui n'apprenaient pas la langue sans disons, avoir la volonté de le faire. Je n'ai pas rencontré souvent des gens qui étaient de mauvaise foi cela, par contre des exemples de gens qui n'ont pas eu accès à des services, qui n'ont pas eu accès à des efforts réels de sensibilisation lors des activités d'intégration à leur arrivée au pays, ça j'en ai connu plein...même si je pense qu'en réalité ils devraient parler la langue du pays, j'ai plus tendance à penser que lorsqu'ils ne le font pas, ce n'est pas de leur faute, c'est parce que personne ne leur a montré.

Luc (Union representative, Qc)

Language barriers, combined with other factors like employers' requirements for Canadian experience, were found to limit workers' employment opportunities in both provinces (in the Montreal region these barriers were accentuated by the common requirement for French-English bilingualism for service sector jobs). In both provinces, workers who experience language barriers often found work in low prestige manual or service sector occupations where they typically worked at the minimum wage, struggling to meet their family's basic needs. In some cases, they were streamed into low-wage factory work by government-funded programs such as Petites Mains in Quebec which trains immigrant women for sewing work. They worked with members of their language communities, or acquired the basic French or English skills needed to perform their tasks. Due to their limited opportunities in the labour market, many stayed in these

jobs for long periods, while others hopped from job to job in the temporary employment sector. Their working conditions were characterized by repetitive, strenuous, high-pressure and monotonous tasks, often in unsafe environments. In a few cases, workers described being assigned the worst tasks or a disproportionate workload because of their language barriers:

Because my language is not good, I am afraid they will fire me so that's why I try so hard to catch up with the amount they give to me... So the other workers work there like five or six more years than me, they even do the things lighter than me...

Jing, speaking through an interpreter (Injured factory worker, Ont)

Many also reported being asked to do things they were not used to or trained to do, which sometimes caused them to get hurt. Due to the precarity of their work situation, however, workers who experienced language barriers rarely complained about their working conditions, and when they did their complaints were largely ignored:

Je l'avais demandé plusieurs fois de la faire réparer. Il a dit : « Ça va me coûter trop cher, avec toi, je paye dans ton salaire et toi tu es capable de le faire. ». Mais je disais : « Mais j'ai peur, ça peut me tuer. » « Mais si ça va te tuer, ça va être une fois. ». Il le prenait tout le temps drôle.

Roberto (Injured maintenance worker, Qc)

In both provinces, our interviews revealed that workers were seldom provided with training in relation to their duties or with regard to health and safety, and when training was provided workers often failed to understand it, or were unable to implement it:

... You don't have that structured health and safety training that's taught by health and safety specialists or an ergonomics person... I'm just thinking of a fast food place that hires a lot of immigrant labour... They have those training certificates and manuals on top but they are all in English and there is no time to go in and check on all of that and see if you are actually practicing any of them... They are made to fend for themselves sometimes and the work pace is so fast that sometimes even if you have that training, there is a clash between working that fast and the demands you have that are put on you.

Rita (Community legal worker, Ont)

Many workers who were previously employed as white-collar professionals in their home countries found themselves performing more physical labour upon arriving to Canada which, according to them, also contributed to the risk of injury. As a result of these conditions, workers had injuries or developed health problems which in some cases impaired them permanently. Frequently, these injuries and illnesses became worse over time as workers initially worked until the problem became so severe that they were unable to continue.

Reporting Barriers

There are many reasons workers do not report their injuries or illnesses, initially or at all, to their employer or to workers' compensation. First, interviews revealed that some were unaware of the workers' compensation system or of their rights to benefits and services, which may in part be due to language barriers.

Moi je ne connais même pas pourquoi je veux aller à la CSST. C'est quoi, parce que moi je suis blessée dans le travail ? J'ai dit : « Pourquoi aller à la CSST ? », il [médecin] m'a dit : « Madame, c'est comme ça le système, il faut aller à la CSST. »

Amina, speaking through an interpreter (Injured factory worker, Qc)

Like Amina, workers in both provinces often first heard about workers' compensation from their doctors. Not only do doctors inform patients about workers compensation, in Ontario, doctors also often initiated a claim on the worker's behalf (in Quebec, only the worker may initiate a claim).²⁴ Access to care providers was particularly noted in the Quebec interviews, reflecting lower rates of access to a regular doctor in that province compared to Ontario (74.8% versus 92.5%).²⁵ Accessing primary and additional/allied health care was described by key informants as particularly difficult for workers who experience language barriers, especially those who are

new immigrants, non-status or temporary foreign workersⁱ, and who may lack health care coverage, access to transportation, and/or knowledge of the system.

... The worker may not understand our health care system, so they know they have a health card and they can go see the doctor but if the doctor prescribes physiotherapy for example, trying to navigate that and where do I go, especially if they're non-English speaking you know we take for granted that we can pick up a phone and call a physio clinic and say 'hey, do you accept WSIB clients?'

Kelly (WSIB staff member, Ont)

As found in other studies,²⁶ even when injured workers were able to access health care, finding doctors who were willing to engage with the workers' compensation system could be a challenge, since involvement was seen by doctors as burdensome and not properly remunerated, and since their opinions were thought to be frequently challenged or overlooked.²⁷ Finding a doctor who shares the worker's language could also be difficult:

They [non-English speaking workers] have problems finding doctors who can speak [their language], the reason being is that, and I suppose it applies to all language communities in the sense... The more there are younger doctors coming out from the communities, who don't speak their native language that well.... The new physicians who come out from, say [the younger] generation, they may be educated in medicine but they're not that great in language.

Richard (Family physician, Ont)

In our study, many Ontario workers were able to locate a primary care provider from their language community, especially when their language was common, but struggled to find specialists who spoke their language.

Another important barrier to reporting involves claim suppression by employers because of the impact on premiums. Key informants reported that some employers try to avoid or delay filing claims. In some cases, employers were reported to purposely mislead or otherwise deceive

workers. They advised workers against making a claim, recommending instead that they take time off or claim employment insurance; or, they took advantage of the workers' language barriers, some completing forms on behalf of the worker in a way that was detrimental to the claim:

On voit régulièrement des employeurs qui vont rédiger la réclamation pour le travailleur ou la travailleuse et de la façon que c'est écrit, moi c'est clair que je lis ça et je me dis qu'il y a toutes les conditions là-dedans pour refuser une réclamation. C'est sûr que l'employeur a bien phrasé ça, qui vient dire que finalement, je n'ai jamais eu d'accident mais je réclame.

Jacques (Community worker, Qc)

Participants explained that employers sometimes harassed workers or used threats of job loss, blacklisting or deportation (for migrants). Many participants reported concealing their injuries or illnesses from their employer. One participant reported recovering from one workplace injury, returning to work and suffering another injury. When asked about reporting the new injury, he explained:

I was scared, they don't like me... I was scared they would fire me. During this time... Everybody had their two days off... So I think Friday, Saturday, Sunday, I could recover. I didn't tell the supervisor I got injured again, I told him I didn't want to work tomorrow... He asked why and I said my back hurts...

Meng (Injured factory worker, Ont)

Workers were sometimes discouraged from filing a claim by the negative comments and experiences of their colleagues and by a process which they viewed as long and complicated. According to key informants, some smaller businesses that pay workers 'under the table', or employ migrant or temporary agency workers, lack formal processes to help workers report their

injuries. Workers employed in these settings were said to have less access to knowledge about their rights, less ability to exercise them, and fewer supports such as in the presence of a union.

Lastly, reporting in both provinces was complicated by the claim filing process. Information on the process for workers who experience language barriers was found to be lacking in Quebec, where the CNESST website is only partially translated into English, as well as in Ontario where the WSIB provides a French-language version of its website in addition to instructions on how to translate web pages into other languages (noting that the instructions may be difficult to navigate). Both compensation systems have previously produced pamphlets on workers' compensation in non-official languages, though the documents are currently not available online. Furthermore, in both provinces, claim forms are only available in English or French. Participants described being unsure how to fill out forms, even when they had a relatively good command of English or French, and many reported requiring the help of friends or family members. In Ontario, workers may complete the form in their language or over the phone with the WSIB with the assistance of an interpreter, though workers in our study were not aware of these options. Difficulties filling out forms resulted in claim complexities. Key informants noted that incomplete forms were sometimes sent back, sometimes leading workers to drop their claims, or the incomplete forms sometimes made workers appear less credible later in the claims process.

As a result of these barriers, many injured workers refrained from reporting to their employer or submitting a claim to workers' compensation until their injury was severe enough that it impacted their ability to function day-to-day. Initial injuries or illnesses could therefore be exacerbated to the point of permanent impairment as reporting and treatment were delayed. Workers' eligibility and entitlements could also

be impacted due to lack of witnesses, loss of key evidence and the passing of time limits for a claim:

Par exemple, la personne qui a eu trois ou quatre entorses dans le dos, qui a enduré son mal, qui s'est frotté, qui a fait tous les moyens, qui a enduré et il arrive à un moment donné l'événement final, la goutte finale qui fait qu'il en peut plus. Bien là quand on le pogne, on le pogne pour une entorse lombaire, mais on le pogne avec un dos qui ressemble plus à quelqu'un qui a des problèmes majeurs. Et là, ça devient difficile souvent de faire le lien entre ce qui s'est passé avant, de faire le lien avec le fait qu'il n'était pas au courant. Ce n'est pas vraiment une défense de ne pas être au courant, même si tu es une personne immigrante qui n'est pas capable de lire même les lois. Ça reste que c'est très peu une défense devant des juges. Donc c'est souvent des dossiers lourds.

Luc (Union representative, Qc)

Health Care

Difficulties accessing, getting the support of and communicating with care providers impacted reporting, but issues also arose with regard to diagnosis and treatment. Effective patient-provider communication was said by many key informants to be crucial for workers' health and recovery as well as for the success of their claim and eventual return to work. However, workers in both provinces described difficulties communicating with and understanding information from providers who did not speak their language, difficulties which were especially salient when it came to conditions that were sensitive, complex and/or chronic.

Quand il parle avec moi j'ai dit : « Mon pied », il dit : « Comment il parle de pied, ici il a écrit de genou ». Le médecin a écrit de genou. Donc la vérité quand je montrais au médecin, mais je ne parle rien de la langue, je montrais avec mon doigt « c'est ici ». Donc voilà, j'ai mal de parler il faut juste comprendre qu'est-ce que j'ai dit. Il m'a dit : « Non madame, tu as dit le pied, mais ici c'est le genou ». J'ai dit : « C'est ma faute parce que moi, avant je ne savais pas que ça s'appelait le genou. Vraiment. Il m'a dit : « Madame, je suis désolé, je ne peux rien faire pour toi. Ça c'est le pied ». Après je vais apprendre juste [à dire] les orteils, le pied, le genou. Mais c'est trop tard. Mais c'est trop tard.

Amina, speaking through an interpreter (Injured factory worker, Qc)

In addition, workers described how language barriers sometimes created frustrations that hindered their relationship with providers:

... The doctor said I have English barrier and hard to dealing with me... maybe my nature. I have a lot of questions. You know I always... because I get injured, I have a lot of form to fill out. This is the doctor, my family doctor don't like it... sometimes they lose patience and hand specialist also don't like my English as well... He's not happy and he write everything on the report he said that she has English barrier. Give me so hard time.

Yang (Injured technician, Ont)

As found in other studies,²⁸ health providers also sometimes interpreted workers' behaviours in stereotypical cultural terms:

Je reviens encore avec les [nom du groupe ethnique], avec les [nom du groupe ethnique] il y a beaucoup de catastrophisme, catastrophisation, puis ces gens-là ils se promènent avec une canne... Malgré que leur condition ça va bien, leurs limitations qui sont juste dans le fond de l'hygiène postural ou de bons principes de travail...

Veronique (Ergotherapist, Qc)

In Ontario and Quebec, while hospitals and speciality clinics typically have access to a centrally coordinated language services system, health professionals who are practicing independently in the community reported not having access to such a system. As a result, unless the provider shared the patient's language, he or she typically relied on informal interpretation.⁴ Many workers in both provinces reported bringing colleagues, friends, or family members (including children) with them to doctors' appointments. Even in hospitals and speciality clinics, providers were reported by key informants to sometimes rely on informal interpreters. Informal

⁴ In Ontario, the WSIB may provide interpreters for claimants visiting their own doctors, though our interviews indicated that this was not done systematically.

interpretation, despite its widespread use, is discouraged in the health care literature because of concerns related to privacy, confidentiality, consent and accuracy.²⁹ Those same concerns were raised by key informants in our study. The presence of a professional interpreter, on the other hand, was found not to guarantee effective communication, particularly when, as was often the case, the medical and administrative details were complex:

How do you explain that to a Spanish-speaking person... about the pre-existing conditions? Because the first thing they say is, 'I have never had any symptoms, I never had any problems with my body...' And I say, 'the x-ray shows that you have the degenerative disease of level four or five.' And you have to translate all of that! And they don't understand even when I explain it...

Raoul (Community legal worker, Ont)

Key informants remarked that in some cases the presence of *any* interpreter may in fact prevent proper diagnosis and treatment:

When it comes to the language part of it, especially when it comes to the mental health aspect of psychologists, psychiatrists, therapists, that is probably one of our number one struggles in our area... Not everyone's comfortable with a translator going to their psychologist appointment with them. It's different when, you know, it's the hand clinic versus a psychologist for obviously you know the sensitivity of the appointment. And they're also not comfortable with their family members going.

Lea (WSIB staff member, Ont)

Accordingly, in both provinces, language barriers in the clinical setting negatively impacted workers' access to benefits and services (which are predicated on complete and detailed medical records) as well as their rehabilitation and return to work.

Compensation

Workers who filed a claim were confronted with various system-level hurdles that were amplified in a context of language barriers. These hurdles pertained to a) gaps in interpretation and translation services; b) the workers' compensation process in general; and c) the return to work process in particular. We describe similarities and differences between Ontario and Quebec along these dimensions, and the implications for injured workers who experience language barriers.

a) Gaps in Interpretation and Translation

In both provinces, workers' compensation systems report that their staff have access to external language services providers for interpretation (verbal) and translation (written) (See Table 1). In Ontario, WSIB staff reported commonly using these services, while members of a team of WSIB return to work specialists who specialize in cases involving language barriers (established in 2017) reported working with interpreters and translators systematically. However, language needs were not always identified early on in the claim. The claim forms for workers, employers and doctors provide a space to identify the need for an interpreter, though the doctor form (Form 8) lacks a space to write the worker's preferred language. In any case, language needs were not always indicated on claim forms. Language needs were typically assessed informally over the phone by WSIB staff, a method which was imperfect as workers at times signaled their approval even when they did not fully understand, and as language needs were not always immediately obvious. While some workers were able to get by speaking some English, they did not understand important documents that required action on their part; or, they became lost as interactions became increasingly frequent, complex and unmanageable over time. The involvement of interpreters and translators was typically initiated by WSIB staff, while workers reported not being aware that they were able to request such services.

According to participants, language services in Ontario are not always offered when needed. For example, Yuyen required an interpreter to communicate with us but reported receiving English-language letters from the WSIB:

Whenever they send the letters as a non-English speaker they should provide the letters in the language we are able to understand. Say, for example, all the letters were provided in English where I'm a non-English speaker I did not spend time reading the letters thoroughly. I just put them aside... so we are expecting that they would help us with the language barrier, this is #1...

Yuyen, speaking through an interpreter (Injured factory worker, Ont)

Our interviews indicate that language services were also inconsistently offered. For example, informants told us that interpreters were not consistently present in medical appointments, assessments, meetings and conversations. Or, they were reportedly always called upon by specialized return to work staff but not necessarily by case managers, for communication with the same worker. In addition, when interpreters were provided, there were sometimes quality issues as some were reported to lack professionalism, or familiarity with the worker's dialect or compensation terminology. In some cases, interpreters were said to lack the required language skills:

Sometimes the translator I feel is good and sometimes I think my English level is same as theirs.

Harry, speaking through an interpreter (Injured technician, Ont)

Our interviews indicate that there is currently no systematic process in place for assessing workers' understanding or evaluating the effectiveness of the interpretation. According to WSIB staff, working with informal interpreters is generally discouraged at the WSIB because of reasons related to accuracy and objectivity, though they were still sometimes called upon

because of their convenience.⁵ Many workers reported communicating in English with the WSIB to the best of their ability, or relying on family members or friends to assist.

In Quebec, the CNESST similarly has access to external language services providers, but many key informants asserted that these services are infrequently used by compensation staff because, from their perspective 1) the need is not systematically identified (there is no option to indicate language needs on the claim form, for example); 2) bureaucratic issues associated with the use of language services may result in delays and complexities; and 3) staff may hold beliefs and display attitudes that workers should learn and speak French. Participants indicated that staff seldom involved professional interpreters or translated communications, relying instead on informal interpretation, though in some cases CNESST staff proficient in other languages were said to communicate with workers in their language.⁶ Typically, injured workers in Quebec did their best to communicate with workers' compensation staff in French, or provided their own interpreters when they were unable to. In fact, a number of participants in our study reported paying for interpreters to be present during phone calls and meetings with the CNESST, which was difficult for them given their financial precarity. English speakers similarly reported difficulties interacting with the CNESST in their language:

I know that I kept having to request for English speaking people and also my forms to be sent to me in English because they kept sending it in French.

Alicia (Injured warehouse worker, Qc)

⁵ Instant phone interpretation is currently being piloted and may help reduce the barriers to language services.

⁶ In Ontario, previously, language matching of staff and claimant was common practice (staff who spoke other languages were paid a language bonus). However, this approach was found to result in a disproportionate workload for these individuals as the cases typically require additional time and resources. This practice has now been discontinued.

According to the Charter of the French language and other policies regarding the use of the French language, communications between the CNESST and employers must be in French. Some key informants noted that difficulties with the claim may be compounded in cases where the worker and employer both experience language barriers. Comparatively, in Ontario, interpreters and translators were used to communicate with both workers and employers.

b) The Workers' Compensation Process

Aspects of the workers' compensation system which may be problematic for many injured workers were amplified in a context of language barriers. For example, in both provinces, though especially in Quebec where the claim contestation rate is the highest in the country³⁰, participants described a culture of contestation by employers. In this context, workers' language barriers, which led to a lack of information and empowerment, hindered the self-advocacy required to advance and win their claim. For example, compensation boards require employers to submit workers' job descriptions. Though some workers reported that employers submitted descriptions that downplayed the physical or stressful job tasks, they found it difficult to challenge them. As Evelyn noted, when describing discrepancies between the description of job duties submitted by her employer to the WSIB and the reality of the job, it is "just their word and my word". In this adversarial context, many participants described feeling overwhelmed by the amount of information they were required to collect and submit in order to prove their case (i.e. medical records spanning years, compensation forms, testimony of coworkers, etc.). Having to do this in a language they had not mastered was particularly tasking.

These dynamics were complicated by the fact that workers had to manage multiple and often conflicting opinions and directives. In Quebec, key informants noted that the compensation process allows employers to send workers to their chosen doctor and challenge medical opinions

of the workers' doctors. They reported situations where the Bureau d'Évaluation Médicale, or BEM, a medical assessment office within the Ministry of Labour handling cases with conflicting opinions, viewed immigrant workers with suspicion. The BEM was also reported as frequently setting aside the opinion of the workers' doctors. In Ontario, while there is no equivalent for the BEM, medical opinions by the workers' care providers were reported to be commonly overlooked, creating confusion for workers who did not understand or know how to handle the conflicting directives (e.g. being told to stay off work by their doctor and to return to work by their case manager). Since challenging those decisions involved filing appeals which are difficult, lengthy and may not be successful, workers who experience language barriers often gave up unless they were assisted by a union or organization.

Another issue with the workers' compensation process was its complexity and the terminology used. Participants reported that the language was ever-changing and rife with acronyms, and the workers we spoke to found it extremely difficult to understand the rules:

Because my English is not good they can fail [deny] it. They are very experienced on that. When you make claim you have to like do according their rules and the policies but our new immigrants we never experience those things.

Harry, speaking through an interpreter (Injured technician, Ont)

In addition, in both provinces, short and strict time limits for workers to take action created particular difficulties. As decisions and deadlines to contest were typically communicated in writing, workers were not always aware of how to respond, and faced penalties up to and including losing all benefits:

For example, time limits are a huge thing where each letter has a time limit at the end so you have to respond within a couple months or else

something will happen, if you disagree with that letter. And most of the time that does not get understood so they miss their time limit and that is a whole process on its own... the bureaucratic communications method, which is so complicated and will be complicated to a non-English speaking person, gets even more complicated to linguistic minorities.

Rita (Community Legal Worker, Ont)

A final source of difficulty with the compensation system related to interactions with compensation staff, which in both provinces were reported to be typically short in time and over the phone, though in person meetings did happen in some circumstances.⁷ Workers reported difficulty understanding everything what was said over the phone. These interactions were also described as one-sided by workers - the staff called them, did not provide phone numbers, and workers were unsure who to contact with questions or struggled to reach any staff. Interactions were also viewed as frequently antagonistic, with workers feeling that they were treated with disrespect, aggression, suspicion, or that they were pressured to go back to work before they were able to. As their cases progressed and lengthened, workers had to contend with an increasing number of stakeholders (e.g. employments specialists, assessors, training providers, etc.) as well as with turnover among compensation staff, which increased opportunities for misunderstandings. These stakeholders were not always coordinated with respect to whether and how they addressed the worker's language needs and were sometimes also inadequately versed on the worker's file (requiring workers to explain their claims progress to each person and act as "messengers" among them).

c) The Return to Work Process

⁷ In Ontario, staff from the specialized team of return to work specialists meet regularly with claimants in person.

Return to work in the pre-injury job was often the first course of action by compensation staff and workers, except in some cases where, for instance, the relationship between the worker and the employer had become strained or the injury was traumatic. Options for modified duties or accommodations within workplaces were sometimes found to be limited, however, as many alternatives offered (e.g. reception work) required a relatively high degree of official language comprehension. In both provinces, workers described feeling unable to communicate their opinions and needs during the process of determining modified duties and accommodations and they also did not fully understand their modified duties/accommodations. In Ontario, this was at times reported even when interpreters were present for these discussions, indicating that insufficient attention may have been placed on ensuring that workers properly communicate and understand information related to return to work decisions. WSIB staff reported using the worker's signature and/or "yes" answers as evidence that the worker understood and agreed to the prescribed duties or accommodations.

In practice, when the workers returned to work in the pre-injury workplace, they often found themselves performing work that was unsuitable - either menial or similar to the job they were doing previously, which in some cases exacerbated their injury. Workers and key informants in both provinces talked about employers using such assignments as a tactic, along with other tactics like harassment, to lead workers to quit. In this context, language barriers and power differentials made it difficult for injured workers to explain their limitations to their employer and negotiate accommodations:

Ok so, I talked to the supervisor, I only speak a few simple words, but what the supervisor said I don't understand, it was a lot. When I asked my kids to ask the supervisor about my light duty and send the doctor's note to the supervisor, but now the supervisor didn't agree... He said he didn't receive anything... The third day it's back to normal - my

hands are all swollen - I asked him “so, did you give me a light duty? If you don’t give me light duty I have to go home.” And then they said “ok you can go home.”

Jing, speaking through an interpreter (Injured factory worker, Ont)

Workers who communicated their concerns to workers' compensation staff reported that their concerns were not followed-up on. Our interviews found that both provinces lacked rigorous methods to ensure employers follow the prescriptions for modified duties or accommodations.

When return to work in the pre-injury workplace was not possible, the file was transferred to a return to work / rehabilitation specialist whose objective is to support the worker in finding new employment. At the WSIB, a team was put in place in 2017 in one of the main locations, to handle return to work cases involving language needs. Members of this team reported meeting weekly to brainstorm, strategize and discuss cases, their activities supported by a best practice guide developed by staff for the purpose of improving service delivery for clients with language needs.⁸ Our interviews revealed some challenges with the implementation of best practice as the new approach required extra time, yet the caseload of the members of the specialized team remained the same as that of other return to work specialists.

In both provinces, an assessment was first done to evaluate the worker's health, skills, and other factors (behavioural/psychological) to make a determination of suitable employment. In Quebec, assessments were typically done informally by a CNESST rehabilitation counsellor (conseiller en réadaptation) in a meeting with the worker. In Ontario, this could be a formal assessment through a regional evaluation centre, though some compensation staff noted that formal, standardized assessments may not be useful for claimants with language needs, even

⁸ There are plans to expand this model to return to work specialists in other regions as well as to other staff (case managers).

when interpreters are present. Formal language assessments were reported by participants to be commonly conducted at this stage in Ontario (and systematically by the specialized team of return to work specialists), but uncommon in Quebec. Additionally, in Ontario, language skills were typically considered in the determination of suitable work but, according to some participants, at times the workers' proficiency was over estimated and/or the language requirements of the job under estimated. According to key informants in Quebec, language barriers were not usually considered in the decision about suitable work.

Comme là préposé au service à la clientèle pour un de mes clients, puis il n'est même pas capable d'écrire une phrase en français. Fait qu'il y a un problème. Ou une travailleuse qu'on voulait lui donner, je pense, une autre affaire en préposée au service à la clientèle, mais elle a de la misère à s'exprimer en français à l'oral. Alors là, un autre... mais ça on avait réussi à faire casser l'emploi convenable au tribunal pour cette raison-là notamment.

Kim (Lawyer, Qc)

In both provinces, meetings were usually held with workers to communicate the results of the functional or skills assessment(s) and the determination of suitable work but workers reported that these meetings were confusing.

En 2015, la CSST m'a donné un travail convenable. Alors elle m'a parlé de tout ça et elle m'a dit : « Est-ce que tu m'as compris ? » « Oui ». Puis à la fin quand on s'est parlé, elle était contente, heureuse et moi je ne savais pas pourquoi. Parce qu'elle a dit : « Normalement ici les gens qui viennent, ils font un grand problème. Des fois il faut appeler la sécurité, tout ça »...Après ça elle est allée dans le corridor pour s'en aller dans son bureau comme ça elle parlait à tout le monde : « Ah ! Ça c'était facile, le monsieur n'a pas de problème ! ». Mais pourquoi, je me suis dit... je ne comprenais pas qu'est-ce que j'avais fait. Vous comprenez ?.. Je ne savais pas pourquoi la femme était heureuse comme ça. Je me suis dit : « Alors peut-être que je n'ai rien compris. »

Roberto (Injured maintenance worker, Qc)

In Ontario, professional interpreters sometimes attended these meetings; however, participants reported that there was no process to ensure that they were able to fully understand the information even when interpreters were present.

In some cases, skills and/or language training was offered; however, in both provinces, key informants suggested that low income workers were less likely to be offered training, which is particularly problematic for workers who experience language barriers since they are typically employed in minimum wage jobs:

Et tout ça pour dire que ça, pour nous, il y a un effet systémique qui fait en sorte que les travailleurs immigrants qui ont des salaires beaucoup moins élevés que les autres, vont avoir droit à moins de mesures de réadaptation que les autres, et donc vont avoir beaucoup plus de problèmes que les autres à se trouver un emploi après parce qu'ils n'ont pas de formation.

Jacques (Community worker, Qc)

In addition, French and/or English training, while sometimes offered in Ontario, was perceived by Quebec key informants as rarely offered in Quebec –where bilingualism is often required for service sector jobs, particularly in the Montreal region. As well, in both jurisdictions, key informants asserted that when skills and/or language training was offered it did not usually consider workers' prior experience and education. Training was also said to be typically offered for short periods (a few months) and was described as insufficient and lacking in quality, with high teacher turnover rates and pressure placed on students to pass rather than an emphasis on proficiency/learning. Training was reported to be especially difficult for older workers, those with lower educational levels and those with particularly disabling health conditions. Training in both provinces overall was described as ineffective by both workers and key informants:

'OK we'll give you some training in ESL and then you can be a customer service representative.' Six months of that and then that's it; they can't even

call a taxi with the English they have learned. That's a reality, that's what the system allows now...

Raoul (Community legal worker, Ont)

Job search supports, offered through third-party providers, involved mostly passive strategies in both provinces, such as preparing and submitting resumes, though job placements were offered in some cases. In Ontario, interpreters were sometimes sent by the WSIB to assist with job search training or placements. Opinions on the effectiveness of the job search assistance tended to be negative as workers struggled to find employment. This was compounded in Montreal for those who lacked skills in both official languages:

Dans mon CV, c'est marqué : « Langue parlée : ni français, ni anglais. ». L'unique langue parlée c'est turc et je n'ai pas d'autres expériences de travail que j'ai eu dernièrement, alors j'avais de faibles chances d'être embauchée.

Aleyna, speaking through an interpreter (Injured factory worker, Qc)

While in Quebec workers benefited from a much longer job search period before their benefits were reduced or terminated (up to 12 months versus up to 12 weeks), the language, health, stigma and other barriers that participants experienced in both provinces impacted their ability to find and maintain jobs.

Impacts on workers' lives

In both provinces, language barriers caused delays, misunderstandings and discrepancies which negatively impacted workers' health, recovery, claim and return to work.

I think if the injured worker don't speak any English I think they can, maybe then can get a bad result. Because they don't understand English... During that (claim processing time) time I don't think [my manager understood what I said].... I understand what they said mostly. Not everything... Yeah if I have a very good interpreter it [would have] help [ed] me... Because I don't understand completely,

sometimes I made stupid decision. I went back to work early, they call me... they give me hard time go back to, go home. I didn't [recover still].

Meng (Injured factory worker, Ont)

Workers reported that these negative experiences in turn led to feelings of depression, thoughts of suicide, irritability and insomnia.

No I do not feel that they [compensation provider] have ever provide[d] any help or any assistance what so ever. Instead, I feel that they gave me a lot of stress and pressure. I feel that those who speak English well, their case have been going on very smoothly and they know how to argue...they can get much better benefit than mine.... I'm supposed to receive more but I'm receiving only \$50 for every two weeks. That's a lot of impact in the mental situation.... this mental problems going around in my mind every day... I feel that I am a useless person... I spoke to the specialist, telling the specialist I was unhappy, and I also felt depressed and the doctor prescribed some medication to help with the depression but after taking the medication for some time I did not feel much better and I spoke about it and I was referred to a psychiatrist.

Yuyen, speaking through an interpreter (Injured factory worker, Ont)

Many workers in our interviews were underemployed or unemployed and had to rely on family members and/or social assistance:

Non, dans ce temps, parce que le système bouge lentement et la CSST a coupé l'indemnisation puis je suis tombée sur le bien-être social. En attendant, parce que j'ai contesté, puis en attendant la décision de l'audience, je suis allée sur le bien-être social. C'est très gênant. J'ai eu un accident de travail. Pour que l'employeur ne me paye pas, ou que la CSST ne me paye pas, le système public qui me paye.

Ervia, speaking through an interpreter (Injured Factory Worker, Qc)

Language barriers also made it more difficult for workers to access other benefits systems:

Well getting the treatment from the chiropractor and it was getting kind of expensive, right. So I thought maybe we should apply for social assistance right to, to make this, to pay for this and I applied for it but they were, I didn't qualify for it. I was, I wasn't sure why but yeah, that's also part of the you know language barrier. And... the person was

not able to explain to me why and then yeah, yeah it was, it was a big deal, the language at this time.

Miguel, Injured Cleaner (Qc)

Factors that Facilitate Access

Many factors helped workers experiencing language barriers access workers' compensation.

Family members played an important role in helping workers by locating resources, completing forms, and interpreting, translating and advocating on their behalf. Primary care providers served as conduits to the workers' compensation system and supported workers in the claim and return to work process. Worker advocacy organizations and unions educated workers about workers' compensation, helped facilitate workers' reports of injuries and illnesses and their access to benefits and services, and acted as intermediaries between workers, employers and compensation staff. Representatives from these organizations were found to be themselves interpreters of sorts, helping workers navigate complex medical and administrative systems and languages:

Il n'est pas capable de parler lui-même...il a besoin de sa femme, sauf que sa femme vient de subir une intervention chirurgicale et elle ne peut pas sortir de la maison...Bien l'employeur envoie une lettre à la CSST disant, demandant de couper son IRR parce qu'il ne se présente pas à son rendez-vous du BEM...Fait que l'agent au dossier m'appelle pour avoir une note d'action des faits avant de prendre une décision et compte tenu de ce que je lui indique, bien il décide de ne pas suspendre l'IRR. Bien là on est dans un contexte syndiqué, où est-ce qu'il y a un représentant qui est payé pour faire cette job-là...Mais s'il n'a pas de moi dans le portrait comme représentant, bien l'agent se tanne puis dit : « Monsieur est chez eux, moi je le coupe ».

Luc (Union representative, Qc)

However, community and union representatives were reported to sometimes lack specialized knowledge in workers' compensation or the language capacity required to assist workers adequately. In Ontario, worker advocacy organizations were able to access professional

interpreters through funding from Legal Aid Ontario, whereas in Quebec a number of organizations reported providing services in French only. Furthermore, in Quebec, key informants pointed out that unlike every other Canadian jurisdiction, there exists no independent legal services for non-unionized injured workers provided by the Ministry of Labour. This is particularly significant for workers who experience language barriers given that they tend to be employed in non-unionized workplaces.

Discussion

Adapting to Increasing Language Diversity

Language barriers, as seen in our study, lie in and contribute to system-level challenges. As such, language barriers must be addressed at a systems level. In addition to supporting efforts for immigrants to learn the official languages, governments must put in place measures to account for the increasing linguistic diversity of the population, to ensure that the provision of public benefits and services is irrespective of one's ability to speak English or French. While language is not explicitly protected under Canadian human rights laws⁹ (unless it masks discrimination based on race or place of origin), the failure to accommodate language needs will amplify inequities along racialized and gendered lines, as well as result in higher costs to society through increased reliance on public health and social benefits systems for those who suffer permanent impairments and/or are unable to access workers' compensation or to return to work. In that way, the costs of unsafe work will be shifted from employers to society as a whole – and thus employers will lack incentives to improve working conditions.

Beyond Linguistic Competence

Our study indicates that improving the linguistic competence of health care and workers' compensation systems, by identifying language needs systematically and early on, and by providing information and services in different languages, is crucial to ensuring that injured workers who experience language barriers recover, are compensated, and are able to return to work. Particularly concerning is the reliance on informal interpreters in many settings, which poses concerns related to privacy, confidentiality, consent and accuracy²⁹, as well as reports of economically vulnerable workers having to pay for their own interpreters (in Quebec). However,

⁹ Language is protected grounds under Quebec human rights law.

providing interpreters and translators and producing information in multiple languages, while necessary, is not sufficient to ensure equity in access since the indiscriminate implementation of policies and practices may inadvertently amplify access difficulties for workers with language needs. Accordingly, all decisions, such as those involving the determination of suitable work and training, must be viewed through the lens of language. At the same time, general system characteristics which complicate access for all workers, and particularly for those who experience language barriers, should be re-evaluated (e.g. complexity of system and its terminology, culture of and mechanisms for employer contestation, inadequate coordination among some staff, short and strict time limits, etc.).

Words Versus Voice

At all stages of the process, and particularly at the stage of return to work, it is important for injured workers who experience language barriers to not only be able to understand and communicate words through the technical process of interpretation and translation, but also to have their voices heard and acted upon. Indeed, our study reveals that merely providing language accommodations is not sufficient to ensure appropriate space for workers' voice, and that additional efforts are required to make sure that workers are fully involved in decisions. Promoting workers' voice in the compensation process will increase the likelihood of successful outcomes such as in safe, decent and sustainable return to work.

Conclusions

In Ontario and Quebec, as in other jurisdictions,^{2,6,7,8} workers who experience language barriers faced discrimination, unsafe conditions, low wages, high workloads, lack of training, and professional deskilling. As found in other studies,¹⁰⁻¹⁶ they often delayed reporting injuries and illnesses until they became severe because of factors related to their structural vulnerability, and these challenges were amplified by a difficult claim filing process. Once involved in the workers' compensation process, language-related barriers were experienced by workers in both provinces, in different forms and to different degrees. Our research suggests that these barriers were experienced more acutely in Quebec due to the larger gaps in language accommodations in that province. Ultimately, while their paths differed, the outcomes for workers in Ontario and Quebec were often the same as they faced long-lasting health problems, did not typically return to their pre-injury employer and had difficulties finding and maintaining new work.

Study limitations and strengths

Our study is limited by the fact that compensation policies and practices often change and it is possible that some of the descriptions included in this report do not reflect current experiences or conditions. For example, none of the workers in our study had experience with the team of return to work specialists who specialize in cases involving language barriers which was established in 2017 by the WSIB. In addition, most of the key informants were from Ontario and, given that we were not able to interview CNESST representatives, the descriptions of Quebec policies and practices were obtained exclusively from the experiences of claimants and other key informants and may not reflect the full range of practices within the CNESST. Lastly, our findings may be influenced by our recruitment strategy, which relied heavily on worker advocacy organizations, and which may therefore reflect more complex cases.

Despite these limitations, our study adds to the existing literature that has documented language-related difficulties with navigating compensation systems^{3,10-17} by untangling how compensation policies and practices facilitate or hinder access for workers who experience language barriers. Workers' compensation systems are aware of the challenges involved in providing services and benefits to workers who experience language barriers. This comparative study offers a starting point for in-depth analyses of the policies and practices of individual compensation systems which is needed for the development of context-specific guidance and directives. In Ontario, this work is underway. A WSIB-led study on claim pathways for workers with language needs with the objective of providing better support workers and improve outcomes was recently completed. In addition, since 2018, we have been conducting research to identify strategies to promote the return to safe and sustainable work for injured workers who experience language barriers, with funding from the WSIB. The project is expected to result in a practical guide for stakeholders on ways to identify and address problems related to language barriers in the return to work process.

Recommendations

To address the disproportionate burden of injuries and illnesses in this population,^{2,6,7,8,9} we recommend that governments improve access to official language learning and develop programs that support the recognition of foreign qualifications, for example by expediting and facilitating the process of assessing and upgrading credentials. In the event of an injury or illness, we recommend, below, ways that governments and workers' compensation systems may work to facilitate access to benefits and services for workers who experience language barriers. These recommendations were either suggested by research participants or are being proposed by the research team in response to the challenges identified. Again, additional research is needed on

individual workers' compensation systems to develop a deeper understanding of the specific policies and practices that shape access, and to flesh out these various potential opportunities for action.

Outreach and Support

- Conduct outreach to communities who experience language barriers and offer community-based assistance in multiple languages with respect to the workers' compensation system in general and claim filing in particular.
- Increase the availability of independent legal advice and representation for injured workers (through community legal clinics, Office of the Worker Adviser).
- Provide information about the healthcare system and improve accessibility to family doctors.
- In Quebec, ensure that worker advocates, for example in community legal clinics, have access to professional interpretation services as they do in Ontario.
- Declare workers who experience language barriers "especially vulnerable" given the double burden of being injured and experiencing language barriers.

Translation and Interpretation

- Establish a system for flagging language needs early on (including, in Quebec, adding a question to the claim form).

- Provide interpreters and/or translators to these workers systematically, at all points in the process and for all interactions or communications, and include in the information about the claim filing process that workers may ask for an interpreter.
- Adjust delays as needed to take into account the time required to secure interpreters and translate communications.
- Ensure interpreter training on the workers' compensation system and its terminology, and systematize the selection and assessment method for contracted interpreters, and ongoing assessments of the interpretation process.
- Evaluate and utilize new technologies to ease the use of translation and interpretation services by staff (e.g. instant phone interpretations) and support a work culture where professional interpretation is promoted and accepted.

Compensation Staff Training

- On the model of the specialized team of return to work specialists, train specialized staff to handle claims involving language barriers, and reduce the caseload for these staff.
- Train all front-line compensation staff on best practices for working with an interpreter, including how to check for understanding, and assess and report interpretation quality. This should include training on the appropriateness of including interpreters for specialized appointments especially regarding mental health.
- Conduct diversity training with staff and promote staff-claimant interactions that are based on patience, empathy and trust, and institute working conditions that allow the successful application of the training.

Claim Filing

- Provide translation into multiple languages of the workers' compensation website and translate and make available resources that promote education about rights in the event of a work-related injury or illness.
- Make forms available in non-official languages, and on the doctor form in Ontario (Form 8) include a space to write the worker's preferred language.
- Provide alternative means of claim filing in both provinces (e.g. apps) and allow doctors to initiate claims (Quebec).

Adjudication Practices

- Institute flexibility in timelines for claims involving suspected or documented language barriers or other access barriers (e.g. precarious employment).
- Favour in-person meetings over phone communications, to allow for non-verbal communication, and ensure that two-way communication is available.
- Ensure that follow-ups are conducted with workers before making decisions about their claims.
- Conduct a language audit to identify opportunities to simplify the language used (e.g. in letters) so that it is easier to understand.
- Streamline the workers' compensation process so that it involves fewer stakeholders and centrally coordinate communications to workers, healthcare professionals and the employer.

- Address the drivers and mechanisms for employer contestation while establishing simpler mechanisms for contestation of decisions by workers.

Return to Work Practices

- Involve return to work services earlier when workers experience language barriers, are precariously employed, low income, or experience another significant barrier to return to work.
- Systematically conduct formal language assessments prior to establishing return to work plans when there are suspected or known language barriers.
- Properly consider language in return to work plans, including in the determination of accommodations, modified work, suitable work, employability, training and job search. Language skills should be considered to be as important for return to work as job skills.
- Examine avenues for successful language training and offer training to promote employability in a suitable job.
- Provide ample opportunities for workers to properly communicate their needs and concerns and ensure that they truly understand the information communicated to them (e.g. by asking strategic questions instead of questions that elicit “yes/no” answers).
- Establish mechanisms for complaints with regards to modified work or accommodations that minimize the need for workers to negotiate directly with their employer and institute proactive follow-ups by compensation staff.
- Recognize the important role of treating health care professionals for recovery and return to work and listen to their opinions about the appropriateness of return to work plans.³¹

- Ensure that long-term follow-ups are conducted to make sure that workers have successfully returned to work and end the practice of terminating benefits once a suitable job has been determined.
- Recognize the importance of language and other barriers to finding and maintaining employment and increase time to find suitable work.
- Publish employer return to work duties in multiple languages and increase fines for non-compliance to injury reporting.

Many of the difficulties mentioned in our report are also experienced by workers who do not experience language barriers, but these difficulties are amplified in a context of language barriers. In many cases, addressing the challenges identified would therefore benefit injured workers overall.

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ⁱ <https://www.canada.ca/en/employment-social-development/services/foreign-workers.html>

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