

**STRATEGIES FOR THE SUCCESSFUL RETURN TO WORK OF INJURED  
WORKERS WHO EXPERIENCE LANGUAGE BARRIERS**

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## 1. EXECUTIVE SUMMARY

Evidence suggests that there are disparities in return to work experiences, with workers who experience language barriers having longer benefits durations and poorer employment outcomes compared to their fluent counterparts. This study, based in Ontario, reveals the unique challenges faced by workers who experience language barriers at all levels of the claims process and how each impacts return to work. It is based on interviews conducted with 12 injured workers with verbal and/or written English language barriers and 38 key informants representing the following sectors: legal aid, health care, employer, workers' compensation, and language and employment services.

English language barriers were found to be an important determinant of employment in jobs characterised by occupational health and safety hazards which exposed workers to sometimes severe injuries and illnesses. Language barriers, alone, or in combination with other factors, resulted in delays in reporting injuries and illnesses which were detrimental to workers' health and recovery, compensation claim and return to work. In addition, language barriers in the clinical setting at times negatively impacted diagnosis and treatment, particularly for sensitive, complex and/or chronic conditions, and hindered the establishment of work-relatedness and the collection and reporting of detailed health information by practitioners, with implications for return to work. While, by and large, doctors represented an important source of support for workers and conduit to the workers' compensation system, some health care providers were reported to be reluctant to engage with workers' compensation. Lack of effective communication between workers and WSIB decision-makers also created confusion and misunderstandings, which adversely impacted recovery as well as return to work outcomes. Although formal interpreters were used in many settings, reliance on informal interpreters or speaking without an interpreter was also common, raising concerns with regards to accuracy, consent and confidentiality. At the same time, issues were also raised with regards to working with formal interpreters.

Our study found that certain return to work policies and practices inadequately took language barriers into account, namely in the areas of work accommodation, modified work, suitable occupation, and training. Workers who experience language barriers had limited opportunities for modified duties and job accommodations in their pre-injury jobs and many reported returning to work that did not consider their limitations. Language and skills training were not always offered, particularly as workers tended to be low-income earners. When training was offered, workers reported it was short term and of variable success. In the absence of suitable training and targeted job search supports, and considering their various limitations (language, health, experience, etc.), workers struggled to find and keep employment. Workers' issues were compounded by remote and sometimes challenging communications and interactions with compensation staff; inadequate coordination among compensation staff and other stakeholders (i.e. employers, health care providers); a lack of accessible mechanisms for workers to contest decisions; the complexity of the frequently changing workers' compensation system and its terminology; and strict and short time limits. These system-level issues presented particularly high barriers for workers with language needs.

This report proposes a number of recommendations for workers' compensation, employers and health care providers, which can help workers with language barriers better navigate and access return to work services. In addition, based on the results of our research, we developed "A Guide to Identifying and Addressing Challenges Related to Language Barriers in Return-to-Work", for stakeholders involved in the return to work process, as well as a multilingual resource for injured workers who experience language barriers titled "What to do If You Get Injured or Ill from Work".

## 2. REPORT

### 2.1. PROJECT RATIONALE AND OBJECTIVES

Examining the return to work experiences of workers who experience language barriers is crucial because evidence indicates that they have difficulties returning to work following a work-related injury or illness. Analyses of claims data by WSIB statisticians found that, after controlling for covariates that included the nature of disability, French speaking claimants had a 7% higher risk of extended benefits duration relative to English speaking claimants, while claimants speaking other languages had a 21% higher risk.<sup>1</sup> At the same time, data from an internal audit found that just 27% of injured workers with English language barriers who completed a WSIB work transition program found a job, with some job categories for these workers having a 0% employment rate.<sup>2</sup> Safe, timely and sustainable return to work after a work injury or illness is important to minimize the social, economic and health impacts for workers, and the financial and resource implications for workers' compensation systems, employers, and society. Therefore, the present study sought to produce knowledge on the factors that may give rise to favourable or unfavourable return to work conditions for workers who experience language barriers in Ontario, with the objective of identifying concrete strategies to promote their successful (timely, appropriate and sustainable) return to work.

### 2.2. METHODOLOGY

Our study is based on qualitative interviews with 12 injured workers and 38 key informants in Ontario over 2018-2019. Most of the interviews were conducted in the Greater Toronto Area. Workers were recruited through clinics, unions and community organizations, and through online and newspaper ads. We posted flyers advertising our study throughout various Toronto neighbourhoods and leafleted flyers in subway stations, in front of hospitals, places of worship, schools, etc. WSIB staff also distributed information on our study to potential participants. We recruited workers who self-identified as having difficulties with English (verbally and/or in

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<sup>1</sup> Workplace Safety and Insurance Board. 2012. Strategic plan 2012-2016: strategic direction. Toronto, WSIB.

<sup>2</sup> Mojjtehdzadeh, S. 2019. Injured workers face benefits cuts as compensation board assigns them 'phantom jobs' with 'ghost wages': report. The Toronto Star. May 22  
<https://www.thestar.com/news/canada/2019/05/22/injured-workers-face-benefit-cuts-as-compensation-board-assigns-them-phantom-jobs-with-ghost-wages-report.html>

writing), and who experienced an injury or illness as a result of their work. To ensure our analysis of policies and practices was as current and comprehensive as possible, we only included workers who filed claims after 2011 and received return to work support/services from the WSIB. To minimize equity concerns related to recruiting workers from predominant language groups only, we recruited workers from any language group, as long as they experienced language barriers. However, because we could not translate our recruitment materials into all possible languages, we translated our flyer into the top 6 non-official languages for WSIB claimants (Mandarin, Cantonese, Portuguese, Punjabi, Spanish, and Tamil). The newspaper ad was published in Arabic and Vietnamese (the next 2 top languages).

In-person interviews with injured workers were conducted in private study rooms in public libraries or at the offices of community organizations. We offered all workers the assistance of a professional interpreter, and all but 2 accepted. It should be noted that while these workers managed to communicate their stories to researchers, they struggled with regards to the more complex and consequential workers' compensation system. In the interview, workers were asked about their pre- and post-injury trajectories, specifically their experiences with employers, health care practitioners, compensation staff, worker representatives, and skills and language training providers. They were asked about elements they found problematic and what they would recommend to improve the process. They were also asked about the impact on their health and employment of their injury and claim. Follow-up interviews were conducted with 5 of the workers.

Key informant participants were recruited from 5 different sectors (legal aid, health care, workers' compensation, language and employment services, and employers). They were recruited through our networks, snowball sampling and cold calling/emailing. Interviews with key informants were conducted either in person or over the phone. They were asked about how they perceived, evaluated and 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 return to work difficulties for workers who experience language barriers.

Ethics approval for this study was obtained from the McMaster University Research Ethics Board (certificate # 2018 009). All names used in this report are pseudonyms and details have been changed as appropriate to protect the anonymity of participants.

### 2.3. PROJECT FINDINGS / OUTCOMES

#### Characteristics of Participants

Characteristics of the workers we spoke to are presented in Table 1. Our sample was gender-balanced with equal numbers of men and women. All participants were over 40 years-old and half were over 50. A number of participants had been living in Canada for over 25 years at the time of the interview (5/12). Many of participants were from Asia (5/12), and spoke Mandarin as their first language (4/12). The workers experienced varying levels of spoken and/or written English language proficiency.

A majority had attained a level of education equal to or less than high school (7/12) from their country of origin. The rest of the workers attained either a bachelor’s degree or college diploma (three-year course after completing high school) from their country of origin. Three participants had pursued training or obtained degrees in Canada.

At the time of injury, participants were employed in factories (4/12), the low-wage service sector (4/12), and in other manual jobs such as in warehousing, auto repair, commercial cleaning, and transport (4/12). While most were employed in full-time, steady jobs with regular hours at the time of injury, these jobs were mostly low paying, unsafe, and typically involved a high physical workload. Only three participants were unionized at the time of injury. Many participants’ experiences with regards to the labour market fell short of their expectations as they experienced professional deskilling.

All participants had experienced a workplace injury or illness, with the injury or illnesses occurring a median of 5 years before the interview. All had filed a workers’ compensation claim after 2011, had their claim accepted and had received return to work services from the WSIB.

**Table 1 Characteristics of Worker Participants**

<b>Variables</b>		<b>Ontario N=12</b>
<b>First Language</b>	Mandarin	4
	Arabic	1
	Cantonese	2
	Tagalog	1
	Tamil	1
	Oromo	1
	Italian	1
	Bengali	1
<b>Sex</b>	Male	6
	Female	6
<b>Age (in years)</b>	41-50	6
	51-60	4
	60+	2
<b>Region of Home Country</b>	Asia	5
	Middle East and North Africa	2
	South Asia	2
	Europe	1
	South-East Asia	2

<b># of years spent in Canada</b>	5 years or less	1
	6-10	1
	11-15	2
	16-20	2
	21-25	1
	More than 25	5
<b>Education/Training</b>		
<b>Education/Training</b>	High school or less	7
	College or professional training	3
	Bachelor	2
<b>Occupation</b>		
<b>Occupation</b>	Service sector	2
	Factory/warehouse	4
	Service (restaurant, retail and education service)	4
	Technical/mechanical and transport	2

Characteristics of the key informants are presented in Table 2.

**Table 2 Characteristics of Key Informants**

Affiliation	Ontario N=38
Health care providers	9
Worker advisers	9
Workers' compensation staff	12
Employers & advisers	5
ESL service providers	1
Employment service providers	2

### Work Trajectories and Experiences

English language skills were an important determinant of employment. Upon arrival in Canada, none of the worker participants possessed strong English language skills. According to workers and key informants, a lack of English language skills contributed to employment in unsafe and/or precarious jobs. These jobs, which were highly gendered, typically exposed workers to high demands (e.g. fast-paced work, heavy work, etc.) and otherwise difficult physical and



psychosocial conditions for low pay. Jobs also usually lacked training, and/or provided training in English only.

## Injuries and Illnesses

Some worker participants were injured after many years on the job. Others were injured after a relatively short job tenure. Most workers reported getting injured at their first and only job since immigrating to Canada. The injuries workers suffered could be grouped into two categories: spontaneous accidents and gradual onset injuries (e.g. repetitive strain injuries). Having an unreasonable workload, a lack of support or training, being asked to do things outside of regular duties and / or working in a fast-paced or otherwise dangerous environment were the most common circumstances of injuries. Participants' injuries led to varying degrees of physical and mental functional limitations, including permanent impairments.

## Reporting Barriers

We found that workers, health care providers and employers had a tendency to delay or abstain from reporting. Workers are encouraged to seek health care immediately after becoming aware of an injury, report it to their employer and submit a claim to the WSIB. Health care providers and employers also have the responsibility to report injuries to the WSIB once they become aware of their existence. Delays in reporting were found to be potentially very detrimental to a worker's ability to collect benefits and attain a safe, suitable, and sustainable return to work outcome.

### *A) Workplace Factors*

We found that some employers were reluctant to report injuries in a timely manner due to: a) concerns over experience ratings, which tie an employer's insurance premiums to the amount of lost-time days; b) the possibility of facing an accident investigation; and/or c) having to institute costly changes. Both key informants and workers mentioned that employers sometimes offered paid time-off or other arrangements in lieu of reporting an injury to the WSIB. Some employers were said to direct workers to other benefit systems (e.g. employment insurance) instead of informing them about the WSIB. In some cases, employers were reported to exploit workers' lack of information and language barriers to discourage reporting.

Key informants explained that reporting practices among employers were affected by factors such as business size and type of industry. In Ontario, employers with 20 or more employees must have a health and safety representative (HSR) or a joint health and safety committee (JHSC). Employers with strong health and safety protocols were described by key informants as more transparent in reporting a workplace injury and tended to have designated personnel to deal with WSIB-related matters (i.e. completing forms and providing information on workers' compensation). The workers who participated in our study did not describe their workplaces as having strong health and safety protocols.

## *B) Health Care Factors*

Claims were typically initiated by a family doctor, treatment doctor in an ER or a walk-in clinic submitting a Form 8. In many cases the doctors also provided workers with information about the compensation system. However, Alexa's family physician did not file a Form 8 during her initial visit, when she was diagnosed with a work-related repetitive strain injury (RSI). The physician only submitted the claim after she was laid-off by her employer. According to key informants, family doctors sometimes failed to, or delayed, reporting a worker's injury in order to avoid the extra work / time and energy that may be needed to file and follow-up with the WSIB.

## *C) Other Systemic Factors*

Key informants explained that workers who experience language barriers are typically unaware of workers' compensation. In some cases, workers were aware of the workers' compensation system but viewed it as too complex and confusing. Workers were also reluctant to report because of their social and economic situations, which made them fear losing their jobs. Workers employed in informal jobs ("under the table") had the added burden of needing to prove their employment, and not having the necessary tax documents or paystubs added a layer of difficulty. As a result of these factors, workers tended not to report less severe or gradual onset injuries until they prevented them from working.

## *D) Impacts of Delayed or Non-Reporting*

Delayed, or omitted injury reporting, was found to have far-reaching effects, impacting claim eligibility and outcome, as well as recovery and return to work. Key informants explained that workers who delayed reporting may be refused benefits and treatment due to lack of witnesses, loss of key evidence and the passing of the time limits for a claim. Delayed reporting could also complicate a worker's claim and therefore require additional resources. Finally, delays in reporting were described as having negative impacts on workers' health and recovery. Workers often continued to work with their injuries, which could become exacerbated.

## *Health Care*

An inability to seek timely and effective health care treatment was found to negatively impact workers' ability to achieve a safe, suitable and sustainable return to work. All worker participants had family doctors who shared their language. However, according to many of our key informants, access to a health care provider who speaks one's language – especially if it is an uncommon one – and is also within geographical reach, is not always easy. Another issue mentioned was cost, since some independent specialists, such as psychologists, are not covered by OHIP (provincial health insurance), and some workers reported facing difficulties receiving reimbursement for treatment after the WSIB accepted their claims, difficulties which may have been complicated by language barriers.

Workers sought care from, or were referred to, primary care providers and specialists (including at WSIB-contracted regional evaluation centres (RECs)) at different points in the process. Communication at family, speciality and drop-in clinics usually involved English communication or informal interpreters (i.e. anyone who is not certified as a professional interpreter, which can include friends, family or multilingual staff on site) since these providers typically do not have access to professional interpreter services, unlike providers in hospitals or at RECs. However, informal interpreters were reportedly sometimes utilized in hospitals and RECs. Key informants, who assist seasonal migrant workers, indicated that employers / coworkers sometimes act as interpreters when injured seasonal migrant workers are seeking health care, and due to workers' need for privacy, workers may be reluctant to share information with care providers.

Our findings suggest that workers with English language barriers have difficulty accurately explaining their symptoms to health care professionals, which can impact treatment, recovery, the claim, and return to work. Communication difficulties with care providers were found to sometimes hinder the establishment of work-relatedness, as well as the collection and reporting of detailed health information by practitioners. Communication around chronic illnesses (compared to traumatic injuries) and mental health issues was found to be particularly problematic. Key informants indicated that psychological treatments may be ineffective when there are language barriers, even when an interpreter is present. One psychologist stated that it was very important to provide psychological treatment in one's own language, but also indicated that finding a psychologist who shares the workers' language could be challenging. Lack of appropriate psychological treatment may accelerate workers' mental issues, which may in turn impact the physical recovery process and their ability to return to work.

Workers and key informants mentioned that family doctors, since they often have a detailed overview and understanding of the worker's health history, may be particularly well positioned to make recommendations about treatment and how a safe and suitable return to work can be achieved. In contrast, some key informants felt that care providers at RECs narrowly focused on the area of the injury without considering the worker's history, secondary injuries or potential comorbidities. On the other hand, some WSIB staff felt that family doctors favoured taking their patients off work without fully exploring the possibilities for return to work, and without properly evaluating and communicating the worker's functional limitations. Workers felt upset or confused when provided with contradictory directives (e.g. having their doctor tell them to stay off work while their case manager tells them they must return).

Although workers typically described family doctors as helpful in the claim process, interviews revealed that, at times, family doctors may not respond to requests from workers or stakeholders (such as the employer or the WSIB) and that workers may need to chase their doctor as a result. This can be particularly difficult when there are language barriers. Our study also found that obtaining medical records, such as the five years of records needed to adjudicate chronic pain claims, was particularly difficult for workers without family doctors.

## Claim Filing and Adjudication

### *A) Claim filing*

All claim submission forms (Forms 6, 7 and 8) are available in English and French. Some key informants mentioned that it was possible for workers to fill out forms and submit letters in non-official languages. However, other key informants, as well as the workers we interviewed, were unaware of this option. Form 6, the workers' form, is three pages and requires workers to provide responses to some open-ended questions, check boxes and follow instructions. In one section, it asks workers to write about their injury, physical discomfort, etc. Participants in our study mentioned that they did not understand the content within Form 6 and required the help of someone, typically a family member or their employer, to complete it. Some key informants explained that the person assisting the worker in completing the form, or filling out the form on their behalf, may misinterpret what the worker is saying, or even falsely interpret details surrounding the injury. They also mentioned that workers who experience language barriers sometimes sign Form 6, completed by their employer, without understanding its content. One WSIB staff member indicated that some employers submit Form 7 but do not provide a copy to the worker, so that the worker remains unaware of the employer's position. Employers may also include incorrect information on the form, including incorrect contact information for the worker as experienced by one of our participants.

### *B) Adjudication*

The process of obtaining information from workers for the purpose of adjudication was found to be complicated by language barriers. Eligibility assessment is conducted with a five-point checklist by an automated claim registration system. If the required information is provided and forms from all parties are submitted, the claim is accepted and is forwarded to a short-term case manager, without Form 6 being requested. However, if a claim does not pass the checklist, and if there is missing information or discrepancies contained in any of the forms from any of the parties, the claim is forwarded to an Eligibility Adjudicator who communicates with the parties to try and determine whether the claim is allowable. During this process, Eligibility Adjudicators will request a Form 6 if one is not already on file. However, some key informants noted that, in their experience, claims may be processed in the absence of Form 6, therefore without the worker's perspective. The process of obtaining information from workers for the purpose of adjudication was complicated by language barriers and adversely impacted workers' ability to provide information for the purposes of adjudication.

## Language Services at the WSIB

### *A) Identification of Language Needs*

Language needs in some cases were not flagged, or not flagged early on, due to a number of factors:

WSIB forms offer workers, employers and health care professionals the opportunity to flag language barriers, but the process required to flag them may pose difficulties for some. First, Form 6 provides workers with the option to flag the need for an interpreter by writing/ typing their preferred language into a provided space on the form. Some workers with language needs, however, may not think they have a language need, or may not communicate it. Second, employers can flag language needs while completing Form 7 by typing / writing the worker's language, but there is no option to indicate the need for an interpreter. Finally, health professionals can indicate on Form 8 whether the worker speaks official languages or other languages. Unlike Forms 6 and 7, it does not allow them to indicate the language name and unlike Form 6, health care providers cannot indicate if there is a need of an interpreter.

Language needs were not always identified via Forms 6-8 and when they were, they were not recorded by the automated claim registration system. Instead, language needs were usually assessed: a) informally by WSIB staff through interactions with workers; b) by speaking with the employer; and/or c) by looking for clues in the worker's file. These informal assessments, however, did not capture the full range of potential language barriers. For instance, barriers with reading and writing may not be revealed through conversation.

Workers often did not make staff aware of their language needs, either because: a) they were not aware that they could ask for interpretation or translation, which is provided at no cost to workers by the WSIB; or b) they believed they had sufficient English language skills to navigate the workers' compensation system. According to some key informants, workers can be embarrassed to reveal language needs or can be reluctant to accept the help of an interpreter.

#### *B) Coordination of Language Services*

Even when language needs were identified and interpretation and/or translation services were provided by a WSIB staff, this did not result in language services being systematically available to workers for all of their interactions with the WSIB. Some staff described that the system did not facilitate the flagging of language needs among them:

*“And then, you know what? Sometimes... the nurses... they may not know the cases well because they get called to a task. Unlike I know the case well because they're active in return to work. The case manager knows the case well. So sometimes ... not sometimes, but referrals to medical appointments, that needs to be ... something that goes through the nurse consultant. If they don't know the case well they may miss that there's a need for interpreter unless the case manager communicates it”. Eleonor-WSIB*

Workers, for example, described receiving English voice messages from case managers despite their language needs being known by others within the WSIB. As well, language needs were not systematically flagged to, and therefore addressed by, the other stakeholders who may be involved in a claim (e.g. rehabilitation specialist, employment specialist, etc.). The coordination of language services among WSIB staff and other stakeholders was seen by some as central to the proper handling of claims involving language needs.

### *C) Formal Interpretation*

The practical task of arranging for translation and interpretation was reported to be difficult and time-consuming and to result in delays. WSIB staff worked with both telephone-based and in-person interpreters. As part of a pilot project, they worked with instant telephone-based interpreters to assist with short telephone-based conversations that involved things such as booking appointments, or situations when a language need was unexpectedly encountered. However, our interviews revealed a gap in the use of this service as many front-line workers were unaware of their access to phone interpretation services and/or of their importance.

The involvement of professional interpreters was not without its challenges. Interpretation could be difficult in sensitive situations. The social position (e.g. gender) of an interpreter was also reported to be important in terms of workers freely expressing themselves. Other issues involved the quality of interpretation, as examples were given of interpreters adding more details than what was being told to them or incorrectly summarizing workers' stories. Some interpreters were said to lack understanding with respect to confidentiality and professionalism, or to have limited understanding of how the WSIB worked and/or familiarity with compensation terminology, while others were reported to lack sufficient English language skills.

Some WSIB staff members asked workers for their feedback on interpretation quality, and they sometimes reported quality issues to the service provider, but there was no routine method to provide feedback on interpreters. Conversely, when an interpreter was found to be good, it was not guaranteed that they would be assigned to that worker again.

Importantly, the presence of a formal interpreter did not guarantee that workers understood what was being communicated to them. Despite this, key informants sometimes took the presence of an interpreter, the worker's signature or displays of agreement (nodding, answering "yes") as evidence of understanding. The workers, however, noted that a signature or display of agreement did not mean that they understood or agreed.

### *D) Informal Interpretation*

WSIB staff and other stakeholders who interact with workers in the claim and return to work process, with the exception of doctors in private practices, often utilized a combination of professional and informal interpreters. At the WSIB, informal interpreters – such as friends and family – were usually only employed for casual conversations, such as setting up an appointment, though at times they were involved in more complex conversations. There are a number of drawbacks to using informal interpreters. The use of informal interpreters could result in inaccurate information being communicated due to: a) conflicts of interest arising from the relationship between the worker and interpreter, and b) interpreters lacking specialized workers' compensation knowledge and terminology. Some key informants revealed how having a professional, trained interpreter rather than a family member, is beneficial for reasons of accuracy and consent, particularly as conversations involve administrative, legal and medical language.

### *E) Translation Services*

Although WSIB staff reported translating documents for workers who experience language barriers, this was not done systematically. Some WSIB case managers reported providing translated documents to workers for important decisions only. Whereas, members of specialized teams of Return to Work Specialists (RTWSs) who handle cases involving language barriers reported translating every piece of a worker's documentation if a language need was identified. In some cases, the lack of translation of documents resulted in workers not understanding the rationale for decisions and losing benefits because of missed deadlines.

### Case Management

Our interviews revealed a number of challenges in the claim management process that amplified difficulties created by language barriers and gave rise to delays, misunderstandings and complexities that negatively impacted workers' claims, recoveries and return to work.

#### *A) Difficulties Obtaining and Communicating Information*

Key informants and workers indicated that some case managers did not involve workers in decisions in a meaningful way. For example, workers reported that during worksite visits, case managers did not provide them with an opportunity to have a say in the decisions being made about accommodations or modified work. In this context, workers who were more vocal in communicating their needs were said, by some key informants, to receive more from the WSIB. Workers who experience language barriers are at a disadvantage in this regard since they may be less likely to vocalize their needs.

WSIB staff were also reported to provide insufficient justifications to workers about decisions made on their claims/entitlements. In fact, workers were often confused about the decisions or recommendations made on their claims due to lack of information, coupled with language barriers. Information gaps were compounded by the fact that workers were sometimes not made aware of their rights and entitlements, as well as by the frequently changing processes, staff, titles and terminology.

#### *B) Lack of Face-to-Face Communication*

Workers and key informants reported that case managers were difficult to reach by phone, and only used one-way email communication. The predominance of phone conversations over face-to-face communication may contribute to an inability to identify language barriers. It may also make communication more complicated as non-verbal cues are missed. This is true whether or not an interpreter is involved, and in fact phone conversations involving interpreters may be even more complicated as multiple parties are involved (e.g. worker, employer, case manager and interpreter). Key informants from different sectors explained how this lack of face-to-face communication can lead to gaps in understanding and create mistrust which may in turn adversely impact recovery and return to work.



### C) *Negative Communications*

Negative communication dynamics resulted in a breakdown of trust and withdrawal of workers from the process, which in some cases was interpreted as non-cooperation. Interactions with WSIB staff were sometimes described as lacking sensitivity, while some workers reported feeling harassed and/or surveilled. Moreover, key informants described case managers as generally focused on early RTW, regardless if the worker felt ready, while being inflexible and non-receptive to worker complaints. Negative interactions with WSIB staff members were found to take an emotional toll on workers. For example, two workers described developing psychological issues as a consequence of their interactions with WSIB staff. The high workload of WSIB staff was suggested by key informants, including some WSIB staff, as a contributing factor to negative interactions with injured workers. Overall, WSIB staff expressed empathy for the workers and a desire to adequately meet their needs, but also described feeling constrained by their workload in their ability to do so.

### D) *Involvement of Multiple Stakeholders*

Claim management can be complicated by the involvement of an overwhelming number of stakeholders (see Figure 1 in the Appendix). The number of stakeholders can drastically increase throughout the claim process as time progresses. Many key informants noted how the involvement of many stakeholders can needlessly complicate the claims process. For example, at the WSIB, injured workers may need to interact/communicate with case managers (short term, long term), return to work specialists, nurse consultants, etc. For health care they may need to interact with a treating physician, a specialist, a health assessment provider, etc. All of this can potentially create confusion for injured workers, especially those experiencing language barriers.

In addition, claims may be complicated by turnover among WSIB staff. Nearly all participants reported that their case managers were changed without notification. Transfers from a short-term case manager to a long-term case manager, or to a new short or long-term case manager, were said to lack explanation. This contributed to workers being confused and frustrated. It also resulted, at times, in workers receiving contradictory information by numerous parties who they had difficulty identifying.

### E) *Gaps in Coordination and Communication among Stakeholders*

Case managers played an important role in communicating and coordinating information, and gaps in this regard affected experiences and outcomes. In some cases, delays in the referral process from one staff to another resulted in complications for the claim as well as for workers' health.

*“So it [the referral by the case manager] could be sitting there for months...Some case managers... won't make any referrals until, the shit hits the fan.....[one worker] had surgery ... he's been sent back to work. ....he shouldn't be at work at all using that [body part]. .... He's going to have permanent limitations....[another worker] had surgery. The operative report isn't on file. He had fusion, just from what he told me. ...He's got ongoing pain but [another front-line staff] was never involved [by the case*



*manager] in that file because he went back to work immediately to his employer with no wage loss.” Jennifer-WSIB*

Case files sometimes lacked relevant information about the case (in addition to language needs, as previously noted), requiring workers to play the role of messenger by relaying information back and forth between different stakeholders, which was more difficult when language barriers were present.

## Return to Work

Our study identified a number of challenges related to the return to work process in the areas of health, vocational and language assessments, the determination and communication of accommodations, modified duties, and suitable work, skills and language training, and job search.

### *Assessments*

#### *A) Health / Functional Ability Assessments*

The WSIB, in most cases, refers workers to RECs for health assessments. While RECs typically utilize interpreters through the WSIB, some of the REC professionals mentioned that, in some cases, they can also access the interpretation services available through their hospitals. These health care providers themselves do not book the interpreter, but they flag it in the system when indicated in the case file. Their administrator submits the request for approval of reimbursement to the WSIB and arranges the interpreter for the meeting. Our interviews reveal that the approval process is simple. If the need for language services was not already flagged when the file is forwarded to the REC, the REC will try to assess the need for language services by speaking with the worker when they meet in person (this is also the case for other providers to whom the WSIB may refer workers). In cases where language needs were not flagged ahead of time, key informants reported that they had to use instant telephone interpretation services or reschedule appointments since there was a delay for in-person interpretation.

According to the WSIB staff, the availability of interpreters at the RECs is an advantage over family doctors and drop-in clinics. However, although interpreters are typically made available during assessments, the testing tools used were reported to be available in English only. While interpreters may assist with communication with service providers or with translating instructions, they did not typically translate questions as it could impact the tools' validity. Accordingly, workers struggled with the assessments which generally took more time than for workers who do not experience language barriers. This created difficulties given the time limits for appointments. Following the assessment, workers were typically provided with an English document which contained recommendations. The providers we spoke to described reviewing the document with workers with the help of an interpreter when necessary. However, under the time constraints of the appointments, key informants suggested that health professionals may not have enough time to evaluate a worker's understanding of the recommendations.

## *B) Psycho-Vocational Assessments*

A psycho-vocational assessment is conducted when a new suitable occupation needs to be determined for an injured worker because they cannot return to work with the pre-injury employer or find another job in the same field. The WSIB may conduct an in-house assessment of the transferable skills or refer workers to external assessment providers, such as a REC. These assessments may be conducted with the assistance of an interpreter, though as for health assessments, interpreters may not translate test questions for validity reasons. They may translate the findings and recommendations of the assessment by the service provider and/or RTWS, although reports from health and psycho-vocational assessments are only available in English. Despite having an interpreter present, one of the injured worker participants reported only partially understanding the documents he was signing and not knowing how to disagree with the assessment. According to some WSIB staff, it is preferable to conduct psycho-vocational assessments with workers with language needs informally, because formal assessment tools may not work in contexts of language barriers. Some WSIB staff described taking a more holistic approach and considering workers' interests, abilities, aptitudes, as well as previous educational qualifications and employment experiences in this process.

## *C) Language Assessments*

While members of specialized teams of Return to Work Specialists (RTWSs) who handle cases involving language barriers reported systematically assessing workers' language skills, interviews with workers revealed that language skills were not always assessed, and that in some cases workers were instructed to look for jobs without being offered language assessment and ESL training. Assessments are conducted by publicly-funded third party language providers. The assessment process follows a standard testing tool and assesses the worker's language competence in reading, writing, listening and speaking against the Canadian Language Benchmark (CLB) standards, with 12 benchmarks.

One of the language providers mentioned that WSIB claimants typically do not need interpreters at the assessments because they usually have sufficient English skills to understand the instructors. However, the same language provider mentioned that it is possible for a worker to require an interpreter to understand the assessment instructions, results and class options (in these instances, the language provider may arrange for the interpreter through a language service provider). As with other types of assessments, interpreters may not translate the content of the test tool. However, some workers reported that interpreters translated the questions for them, impacting the results of the assessment.

Based on their benchmark score, workers are provided with ESL class options and locations. Workers may need a certain CLB level for entry into a specific retraining course or employment, in which case the case manager or RTWS may enroll the worker. All workers reported undergoing language assessments before starting ESL training. However, only a few workers received a post-ESL training assessment to measure their improvement, because they needed evidence of their English language proficiency to be enrolled in a retraining program. In the absence of formal language assessment after ESL training, staff relied on informal means such as readings the workers' assignments and teacher reports to evaluate progress and success.

Return to work with the pre-injury employer was usually the WSIB's first course of action after a worker suffered an injury or illness. Many employers are bound by a re-employment obligation, which is determined by the size of the business (twenty or more employees) as well as the worker's pre-injury job tenure (one year or more), though workers with English language barriers are over-represented in areas of employment that are excluded from the obligation (i.e. seasonal migrant worker or employed through a temporary agency).

Many workers described having a positive relationship with their employers and co-workers before their injuries. However, the relationships eventually deteriorated, often because the workers submitted a claim against their employer's wishes. Typically, in cases of minor injuries with straight-forward return to work options, WSIB staff left it up to the worker and employer to decide the measures to take regarding accommodations and modified duties, while overseeing the process. However, direct negotiations at times resulted in poor outcomes for workers.

For more complex cases, options for accommodations / modified duties are determined by a WSIB staff member (case manager or RTWS), the employer and the worker, in a worksite meeting. An occupational therapist from a third-party organization and the worker's representative may also attend. Workers and key informants explained that worksite meetings did not always bring to light the reality of the job.

*"[The case manager asked me if I can open the box] and the employer asked somebody to open...the box for me then I grab something and put inside the box. Actually, this just simply is demonstration ...instead of 2 people it actually should be [done] by one person. Open the box, grab something and put something inside box". Jen-restaurant worker, through an interpreter*

Jen felt that the worksite meeting had been held too early in her recovery process and that she was being forced to return to work. She also felt intimidated and described nodding her head and indicating 'yes' to everything, while feeling that she did not have any input into the process. Worker representatives also reported workers feeling intimidated and nodding along in such meetings. Our data reveals that WSIB staff employ formal and informal interpreters for worksite meetings when there is a language barrier. Staff felt that the presence of an interpreter ensures workers understand the information and have a voice. However, a number of key informants explained that workers often do not understand the work modifications and do not have a say in decisions, even when an interpreter is present.

Possibilities for modified or accommodated work could be limited for workers who experience language barriers, particularly in factories and other environments where most of the work is manual and where non-manual jobs typically require good English language skills. According to workers and some key informants, accommodations and modified duties were often non-existent or inappropriate (e.g. task is menial, requires help that is not provided, etc.). In other cases, workers who returned to work at their pre-injury employment were subjected to poor treatment.

Some case managers and RTWSs described following up with workers about accommodations/ modified duties. Other participants, however, spoke of a lack of proactive

monitoring of accommodations/ modified duties by WSIB staff. Workers have the option of communicating their concerns with return to work, but some key informants indicated that workers who experience English language barriers were reluctant to discuss their needs with their employer, or call their case manager or RTWS with their concerns. In addition, they explained that when workers reported problems to their employer or the WSIB, they were not usually listened to. As a result, workers sometimes quit their jobs, which could result in their benefits being terminated.

#### *Determination and Communication of Suitable Employment*

When an injured worker can no longer return to work with modified or accommodated work, a RTWS will establish a return to work plan and determine a suitable occupation for the injured worker, with the same or a new employer. The RTWSs described considering a range of factors in this determination: pre-injury wage rate, educational background, work experience, years remaining in the workforce, level of English proficiency, worker preference, and functional abilities (including psychological impairments). Results and recommendations from different assessments could factor into this decision-making process as well, though a number of WSIB staff noted that those test scores may not be meaningful for workers who experience language barriers, as discussed above. Accordingly, some RTWSs described a process of discussion with the worker as being the best avenue to arrive at a decision on suitable employment.

In some cases, workers were directed to conduct research on the types of jobs they might want and/or ESL/skills training options, in order to identify a suitable occupation. Workers often did not have enough English language skills and technological competence to do this research, and sometimes required family members to assist. RTWS talked about lacking the time to assist workers with this research due to their heavy workloads.

Decisions about one's suitable occupation are communicated to the worker during a meeting with the RTWS, during which an interpreter may be present. Despite the presence of an interpreter, interviews revealed that workers often did not fully understand the information communicated to them, signed papers without understanding what they were acknowledging or agreeing to, and were unsure how to disagree with decisions.

Workers described feeling ignored when they communicated their preferred occupation. Many workers with a low CLB level reported being recommended for jobs that required relatively low levels of English skills (i.e. security guard). Or, they were referred to jobs that required a higher level of English or more functional abilities than they possessed or were offered training for.

#### *Training*

To support return to work in a suitable job, some workers were offered language and/or skills training, and/or job search supports; however, some key informants noted that the pre-injury earning rates were a major determinant of the work transition services offered to workers. Therefore, many of the worker participants in our study, who were minimum wage earners at the time of injury, reported not receiving any work transition services.

Return to work services include ESL and skills training, which include private and public options. Some workers and key informants mentioned that training periods were insufficient, and that ESL training detracted from the maximum of 3 years of training that can be offered to workers. They also described how training was often ineffective, because of length, quality, or because of the worker's language skills, age, education, health, and/or comfort in a classroom environment. Many workers who struggled with classes often stopped attending, which could be viewed as non-cooperation and thus jeopardize their eligibility to benefits and services. Workers were sometimes offered alternative forms of language training such as on the job training with a job coach. On the job training however could cause friction in the workplace, as colleagues and/or supervisors sometimes felt that the individual was receiving special treatment. In some cases, despite successfully completing ESL training, workers felt like they lacked the language skills required to follow skills training programs or to find work.

### *Job Search*

A WSIB job search support program typically involves a referral to a job search provider, either private providers contracted by the board, or publicly available providers such as Employment Ontario. Workers usually receive two weeks of job search training workshops followed by ten weeks of assisted job searching. Our study found that different providers specialize in different areas. For example, one provider may have a strong job placement program in a certain field (i.e. construction or technology), whereas another may offer programs targeted to newcomers or workers with language needs. Different service providers have different language requirements for attending job search workshops – some do not have any minimum requirements, while others were reported to have a minimum CLB-5 language requirement. Workshops, which are offered in English, may be in groups and/or online, and typically cover subjects such as resume and cover letter writing, interviewing and networking skills, workplace etiquette, conflict resolution, applying for jobs in person or online, etc. Workers were sometimes provided with an interpreter by the WSIB to assist with the online workshop, and some reported receiving the assistance of a family member. The identification and communication of language needs early on was found to be helpful to ensure the availability of in-person interpretation.

Following completion of the two-week job search training period, workers are usually provided with 10 weeks of job search assistance, during which they meet with job placement specialists or developers and/or employment specialists or counsellors on a weekly to bi-weekly basis. Employment specialists or counsellors help workers craft their resumes and cover letters, refer them to job postings and help them apply for jobs. According to some key informants, an interpreter is not typically present during these weekly meetings. Our study revealed that it may be difficult for a worker with language needs to fully comprehend what exactly an employment counsellor / specialist is advising them to do without the assistance of an interpreter. Many employment counsellors and specialists applied to jobs on behalf of workers because of job search time constraints and because workers lacked the language skills or know-how to apply for jobs online, despite completing two weeks of job search training. Key informants from other sectors (e.g., worker representatives) argued that in order to attain and sustain employment, workers need to build the capacity to produce their own resumes, cover letters and apply for jobs on their own.

Employment service providers are confined to the length of time they can spend providing job search training or job searching with a client. However, some reported exercising flexibility around how they use the time. In addition, workers were sometimes provided with a work trial (also known as ‘on the job training’) or an employment placement, the length of which was sometimes extended for workers who experience language barriers. However, some key informants stated that, based on their experience, work trials rarely ended in employment. In the context of job searching, some workers expressed that the case manager or employment counsellor / specialist over-emphasized their language barriers, which hindered their self-confidence. Others reported feeling like their language barriers were being trivialized, as they were encouraged – and sometimes pressured – to job search in the English job market by employment counsellors, case managers and RTWSs. Sometimes, workers were directed to find employment within their language community. However, this strategy could be limiting as language communities are much smaller than the general labour market, or could be geographically inaccessible to the worker. Furthermore, jobs within language communities could still require English language skills (e.g. server in a Chinese restaurant).

Workers and key informants cited many reasons for difficulties finding employment, namely limited English skills, years remaining in the workforce, lack of education, gap in employment history, lack of job searching skills (interviewing, computer skills, etc.), lack of experience in the new field, injury history, and mental health issues. Some workers reported that they had been instructed by employment specialists and WSIB staff to minimize or conceal barriers with potential employers, a strategy which could result later on in difficulties maintaining employment. Importantly, our analyses indicate that there are currently no mechanisms in place to assess workers’ success in finding and keeping a job beyond a three-month period following job searching.

### WSIB Language Initiatives

Despite the lack of a legislative or policy requirement,<sup>3</sup> the WSIB has put in place a number of strategies to address language barriers. Senior staff members, with the endorsement of senior management, established the Centre of Excellence to develop and implement initiatives to improve work reintegration experiences and outcomes for workers who speak English-as-a-second-language (ESL). Several initiatives were piloted and launched as part of this endeavour. Beginning in 2017, it established specialized teams of RTWSs and case managers in various locations to work with ESL clients. These teams continually strive to improve their services and practices through trial and error, regular groups meetings, experience sharing and brainstorming. Through these activities they adopted best practices which were outlined in a guide for RTWSs. This guide includes guidance for example on how to work with an interpreter, facilitate return to work meetings, or otherwise support individuals who experience language barriers. Additional

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<sup>3</sup> Provincial and municipal governments typically only support service provision in the language of the majority. There are exceptions, as illustrated by the Ontario *French Language Services Act* that guarantees access to provincial government services in French in 25 areas with significant numbers of Franco-Ontarians. On the legislative side, Canadian, provincial and territorial human rights laws set out the “duty to accommodate” the different needs of clients in service provision. While language is not explicitly protected in all provinces and territories (including Ontario), it is potentially so if it masks discrimination based on race or place of origin.



initiatives include the implementation of over-the-phone instant interpretation services and the posting of signage in multiple languages at the Toronto location. The WSIB has also spearheaded a study on claim pathways for workers with language needs that was completed in 2019.

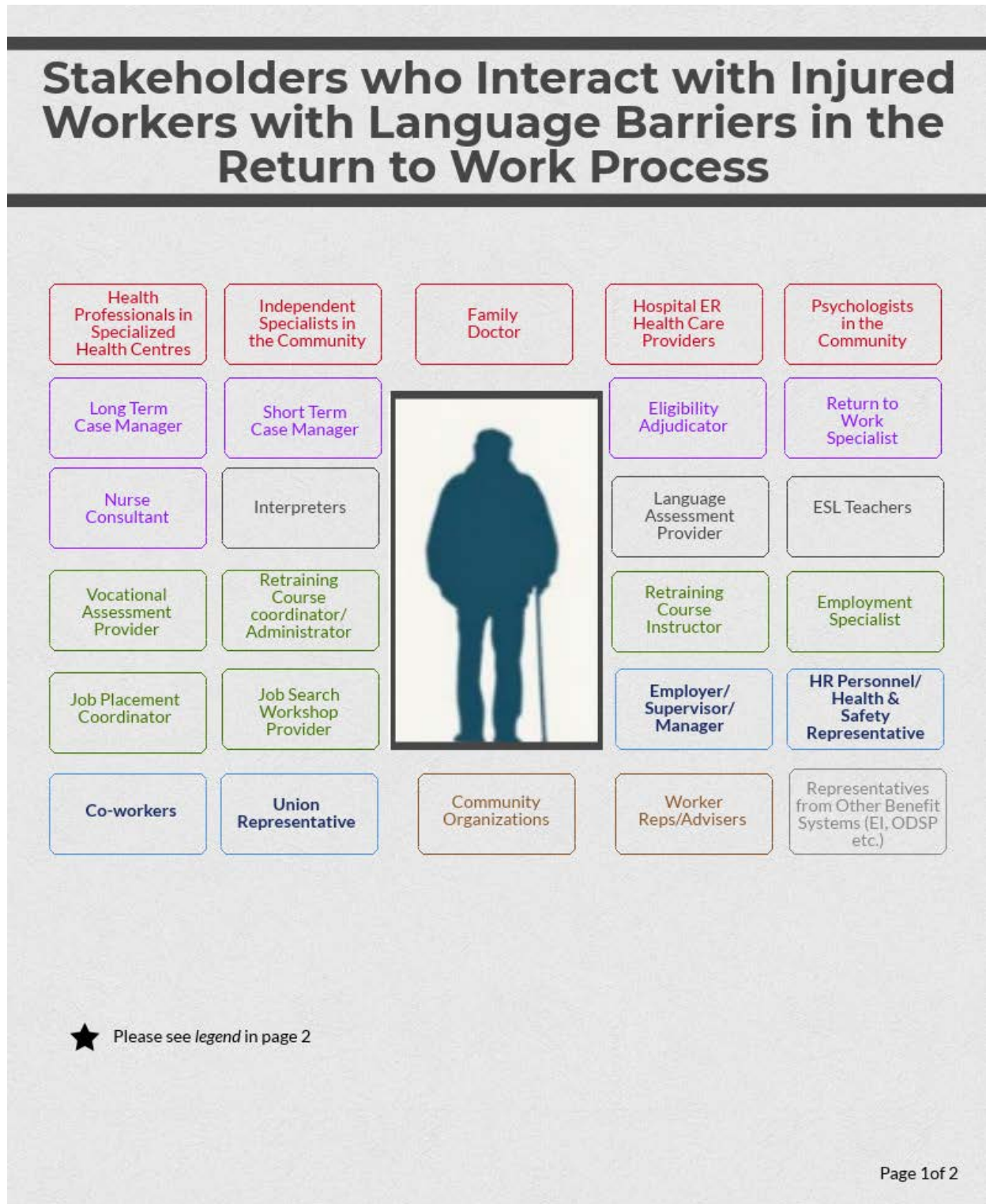
## Conclusion

Return to work issues, amplified by language barriers, may originate at any point after an injury or onset of illness, creating a snowball effect of delays, misunderstandings and complexities that could result in re-injuries, permanent impairments and negatively impact timely access to services, recovery and return to work. Taking into account language needs therefore has important implications for the workers' compensation system as well as for workers, their families and society. Instituting systematic ways for identifying and addressing language barriers, and for considering language in the decision-making process, can help workers navigate the workers' compensation system and lead to improved access to services, recovery and return to work.

Compensation policies and practices change and it is possible that some of the descriptions presented do not reflect current conditions. For example, none of the workers in our study had experience with the specialized teams working with ESL clients that began to be put in place in 2017. It is also possible that our recruitment, which included various strategies but relied heavily on worker advocacy organizations, may have resulted in the representation of more complex cases. Nevertheless, our research suggests important avenues for improvements in service delivery which are outlined below. To ensure that best practices are effectively implemented, it will be necessary to consider the additional time required to manage cases that involve language barriers and take this information into account in the determination of staff caseloads.

Of particular concern is the WSIB's new approach of no longer assigning a dedicated case manager to workers, which has the potential to create particular difficulties for workers who experience language barriers, and who would benefit from having case managers who are knowledgeable about their situations, as well as from having to communicate with fewer stakeholders. In addition to issues related to the number and allocation of staff, it will be important to ensure that staff are trained on the importance of language accommodations, the availability of language services and the ways they might consider language in their practices and decisions. Significantly, a number of the challenges identified in this report are not exclusive to workers who experience language barriers, but are rather amplified due to language barriers. As such, addressing these challenges has the potential to improve experiences and outcomes for workers overall.

Appendix  
Figure 1





## Legend:

- ★ Health professionals in specialty clinics- workers may receive health care from the specialized clinics available in the community or contracted by the WSIB. These specialty clinics provide health care in terms of physical, mental and vocational assessments, treatments and rehabilitation.
- ★ Independent specialists in the community- those practicing privately (i.e., an orthopaedist)
- ★ Family doctor- the worker's family physician
- ★ Hospital ER health care providers- health care providers at emergency care in a hospital (i.e. nurses, doctors and technicians)
- ★ Psychologist- for psychological services, a worker could be referred to a psychologist from the roster of multilingual psychologists published on the WSIB website or at the WSIB contracted specialty clinics, or to an independent private practitioner in the community.
- ★ Eligibility Adjudicator- the WSIB staff member that determines one's eligibility to move forward with a claim
- ★ Case Manager – the WSIB staff member that focuses on the opportunities and obstacles to return to work, determines ongoing benefits to be paid to the worker, and arranges and monitors labour market re-entry services wherever and whenever needed. Short term case managers manage the case for up to 26 weeks, and long term case managers for 6+ months until claim closure.
- ★ Return to Work Specialist-facilitates return to work and case resolution at the workplace
- ★ Nurse Consultant-make decisions on health care entitlement, resolve objections to health care entitlement decisions and intervene in work reintegration obstacles
- ★ Interpreters- professional interpreters booked through third party language service providers.
- ★ Language assessment providers- third party services- could be publicly funded or a private organization contracted by WSIB- that assess the level of English language competence of the worker through standardized language test system. The result of the assessment indicates a Canadian Language Benchmark Level (CLB).
- ★ ESL teachers- provide English as a Second Language training- at any publicly funded or private organization contracted by WSIB
- ★ Vocational assessment provider- may administer standardized testing (i.e., IQ test, computer skill test etc.) in combination with the nonstandardized approaches such as one-on-one interviews to determine workers' abilities, interests, skills and aptitudes to identify vocational needs, strength and labour market potential.
- ★ Retraining course coordinator/administrator- coordinators/administrators of various courses at different public and private colleges/institutions, where workers are sent to complete a retraining course as part of their return to work or suitable occupation plan (when return to work with the injury employer is not possible)
- ★ Retraining course instructor- teachers/trainers/instructors of the program/course at various public/private colleges/institutions where workers are retrained
- ★ Employment specialist- assesses workers' work experience, qualifications and interests to match with possible jobs in the labour market
- ★ Job placement coordinator- works with the employment specialist and finds/matches job placements for the worker with different employers. Sometimes retraining courses have a co-op / job placement option and a coordinator at those colleges/institutions who helps students/participants find a placement within the field of the retraining course.
- ★ Job search workshop provider- the instructor/trainer of a job search workshop that often takes place in a group setting. However, they can also provide one-on-one services depending on the need of the worker.
- ★ Employer/supervisor/manager- the employer or supervisor/manager at the workplace where the injury occurred
- ★ HR personnel/health & safety representative- at the workplace where the injury occurred. Workers may need to interact with both the HR personnel as well as the health and safety representative or any one of them-depending on the complexity of the case.
- ★ Co-worker- colleagues/co-workers at the workplace where the injury occurred
- ★ Union representative- union representative at the workplace where the injury occurred
- ★ Community organizations- workers may visit the community organizations within their community/ethnic community to find information about the workers' compensation system/finding help with the claim related paperwork, for finding avenues to any source of income etc.
- ★ Worker representatives/advisers from LAO & OWA- worker representatives or advisers from the Legal Aid Ontario and from the Office of the Worker Advisers
- ★ Other benefit systems- workers may visit Employment Ontario or other organizations to get help applying for / determining eligibility for Employment Insurance (EI), Canada Pension Plan (CPP), Ontario Works (OW) and Ontario Disability Support Program (ODSP)

## 2.4. Workers' Compensation Applications

Our team generated a series of recommendations for the WSIB based on our findings. These recommendations, which are presented below, are of meaningful and practical value for the WSIB since their implementation would likely result in improved return to work experiences and outcomes for injured workers who experience language barriers.

### Recommendations

Reporting issues may be improved upon by:

- Encouraging and incentivizing employers to report injuries in a timely manner and promoting the support they can receive from the Office of the Employer Adviser;
- Easing the reporting process and claim requirements and/or increasing compensation for health care providers;
- Simplifying the claim filing process for injured workers;
- Offering information workshops on workers' compensation for workers in different languages and doing proactive outreach at workplaces and in the community;
- Advertising the WSIB's mandate in community newspapers to raise awareness among workers about reporting;
- Making available a multilingual information pamphlet to be distributed by physicians who are often the first point of contact between injured workers and the system;
- Producing multilingual posters for employers to post in the workplace, making them available on the WSIB's website and keeping the translations updated in case of information or policy changes; and
- Ensuring that worker's compensation staff are aware of reporting barriers and associated delays and employ flexibility in adjudicating claims when there are language barriers.

Health care issues may be improved upon by:

- Working more closely with family doctors in planning and implementing return to work;
- Ensuring that a professional interpreter is available for interactions between claimants and doctors as relates to the claim;
- Ensuring that psychological care is provided in the worker's preferred language;
- Encouraging staff to employ flexibility in reviewing reported medical information, which may involve gaps and inconsistencies;
- Notifying health care providers to use WSIB forms, so all FAFs/F8s may be billed directly to the WSIB, to encourage them to provide important functional abilities information; and
- Developing an internet accessible WSIB template for health care providers to submit medical records, tied in with automatic billing to expedite responses, while encouraging providers to also provide copies of the records to workers.

Claim filing and eligibility adjudication issues may be improved upon by:

- Simplifying claim forms and reference guides and making them available in multiple languages;
- Making it as policy that workers may submit information related to their claim in their preferred language and ensuring that the original information remain on file; also making this option known to workers;
- Providing multilingual and accessible support for workers in filling out forms, for example by establishing satellite WSIB offices to serve as facilities for helping workers with claim submission and paperwork;
- Developing multilingual video guides to assist workers with filling out Form 6.
- Developing new means and multilingual formats for claim submission (e.g. teleclaim, app, voice recording, etc.);
- Ensuring that staff give consideration when there are delays/missed deadlines as well as gaps and inconsistencies in the medical information for cases involving language barriers;
- Requesting that workers submit Form 6 for all claims and ensuring that they have the additional opportunity to provide their perspective in the adjudication process through in-depth discussion in their preferred language;
- Making sure that staff employ a critical lens when reviewing Form 6 when there are known or suspected language barriers as information reported through an intermediary may unknowingly be inaccurate; and
- Providing support to workers who experience language barriers early on in the process by sending them directly to case management rather than adjudication.

Language services may be improved upon by:

- Providing staff training on the importance and availability of language accommodations and ways in which they may consider language in their practices and decisions;
- Providing additional options to flag language needs on all claim forms (i.e. checkbox for interpreter need and space for language name and dialect) and increasing the visibility of these questions on the forms;
- Identifying the full range of language needs early and formally, ideally while registering the claim;
- Systematically flagging language needs among WSIB staff and between staff and other stakeholders;
- Informing all claimants of the availability of language services, emphasizing their importance, and communicating the need for language services in a sensitive way;
- Encouraging a work culture of relying exclusively on professional interpreters and translators for communication with workers with language needs, and encouraging family and friends to accompany the worker for support only;
- Making the availability of instant phone interpretation services known to all staff;
- Exploring the possibility of email communication to ease setting meeting appointments and to allow the use of Google Translate (with necessary caveats). A verification e-mail between WSIB staff and the worker could ensure privacy and confidentiality;

- Ensuring that staff always have a formal interpreter present and always communicate in writing in the worker’s preferred language once a language need has been identified;
- Providing staff training on best practices with regards to selecting and working with an interpreter;
- Developing interpreter training on the WSIB and contracting language services only from agencies whose interpreters have undergone the training; and
- Examining and addressing the barriers to the systematic translation of written documentation by all stakeholders involved in a WSIB claim.

Claim management issues may be improved upon by:

- Fully informing workers about relevant rights and entitlements, for example by including reimbursement forms in correspondence or giving them a package at the beginning that explains their rights and the compensation process in their language.
- Making sure that workers are meaningfully involved in decisions and demonstrating receptiveness to worker feedback or complaints.
- Addressing the drivers and mechanisms for employer contestation while establishing simpler mechanisms for contestation of decisions by workers.
- Including a “lay language” summary of the content of letters communicated to workers, ideally translated in the worker’s preferred language.
- Conduct a language audit to identify opportunities to simplify the language used (e.g. in letters) so that it is easier to understand.
- Adding to the claim registration letter instructions to call the WSIB in case help is needed.
- Ensuring that workers are aware of who is responsible for their case and that they can easily reach that person (e.g. by ensuring staff return phone calls in a timely manner).
- Streamlining the compensation process so that it involves fewer stakeholders.
- Minimizing staff changes and explaining necessary staff changes to the worker.
- Triaging and referring cases promptly, and ensuring that a complete record is maintained and communicated in the referral process.
- Encouraging staff to indicate whether there is a language barrier in the banner of the claim.
- Prioritizing face to face communication and putting in place conditions to support it (geographical proximity, reduced caseload).
- Conducting 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.
- Providing lower caseloads to account for the additional time required to handle cases involving language barriers.

Assessments (health, psycho-vocation and language) may be improved upon by:

- Making sure that mechanisms are in place to notify assessment service providers of workers’ language needs prior to the first appointment;

- Eliminating the use of English assessment tools (health, psycho-vocational) for workers who lack English language skills; alternatively, translating and validating tools in other languages;
- Favouring informal, holistic psycho-vocational assessments in cases of language barriers;
- Extending appointment times and/or breaking up the assessment over two or more appointments for workers with language needs;
- Ensuring that workers understand the assessment and recommendations and instituting mechanisms to systematically translate a copy of the report or its summary and provide it to the worker;
- Establishing meaningful ways for workers to provide feedback on assessments and ensuring that feedback is considered in decisions; and
- Conducting formal language assessments prior to and following language training, and extending the ESL training period until the target benchmark level is achieved.

Return to work to the pre-injury job may be improved by:

- Encouraging staff to act as supportive mediators between workers and employers and consider avoiding situations that result in their direct negotiation about return to work conditions;
- Considering how meetings, including at the worksite, may be more inclusive of workers' needs and concerns, for example by having staff encourage workers to bring a support person and making sure the worker is meaningfully involved in decision-making;
- Instituting different mechanisms for feedback from workers on accommodations / modified duties, and incorporating feedback in decisions;
- Making sure that staff have the means to obtain a complete picture of working conditions (e.g. availability of co-worker support) when making return to work plans, for example by ensuring staff have time to visit the workplace;
- Verifying that workers have the language skills or are offered training to develop the language skills required to perform the accommodated or modified job;
- Establishing systemic monitoring and follow-ups at various stages of the return to work process, for example through unplanned workplace visits by WSIB staff; and
- Making sure that staff thoroughly investigate instances of potential non-cooperation to determine if accommodations or modified duties are suitable and whether they may need to be altered.

Issues around the determination and communication of suitable employment may be improved by:

- Ensuring that decisions on suitable employment are made in tandem with the worker, and that the worker has the opportunity to be meaningfully involved in the process;
- Providing support to the worker in the determination of suitable employment. For example, involving a career counsellor or labour market specialist early in the process to increase the chances that a realistic and appropriate suitable occupation is determined; and

- Providing staff with the means to consider the complete range of tasks involved in the suitable job and making sure that the worker has or is offered training for the necessary language skills.

Training issues may be improved upon by:

- Avoiding using pre-injury salary as a determinant of training or other return to work services;
- Ensuring that staff consider factors such as language, years remaining in the workforce and education in determining the likelihood of success of training, and realistically evaluating all potential obstacles to training;
- Exploring and evaluating alternatives to classroom learning, such as on the job training, or industry-specific language training;
- Ensuring that language training does not detract from the maximum training time that is provided to training;
- Increasing training periods as appropriate to ensure workers develop the necessary skills to realistically complete further training or find employment in the identified occupation;
- Ensuring that workers' language skills are formally assessed before entering a skills training program;
- Ensuring that staff investigate all instances of potential non-cooperation to identify obstacles to training;
- Documenting training successes and challenges and regularly reviewing providers for training quality;

Job search may be improved upon by:

- Ensuring that workers have received sufficient English language and/or vocational training prior to job search;
- Allowing longer job search periods for workers who experience language barriers and discouraging the use of pressure in the job search process;
- Ensuring that flexibility is employed when determining timelines, training content or approaches;
- Evaluating work trials, placements and other models to determine which may be most effective in contexts of language barriers, and considering novel ways for workers to acquire practical experience;
- Making sure that language needs are realistically considered at all stages of the job search process, namely by inquiring about the worker's self-assessment of their language skills;
- Ensuring that job search training emphasizes building the worker's capacity and confidence for independent job searching while providing support (helping workers connect with employers, providing suggestions to workers, etc.);
- Ending the practice of encouraging workers to seek employment in their language community, unless a specific opportunity can be determined; and



- Establishing a systematic mechanism to follow-up with workers about their employment situation for up to one year following the end of benefits or services, and providing support to workers if needs are identified.

## 2.5. Implications for Future Occupational Health and Safety Research

Our project indicates a need to evaluate the effectiveness of language-related initiatives through feedback from current service users, as frequent changes in policy and practice may make it difficult to obtain relevant feedback from workers who have exited the workers' compensation system. It will also be important to explore how best to obtain this feedback since traditional methods (e.g. customer satisfaction surveys) may not work well in contexts of language barriers. In addition to documenting the customer experience perspective, it will be important to examine how initiatives shape return to work outcomes. Importantly, this will require the collection of data over longer follow-up periods as well as more flexibility in measures of success both in terms of timelines and outcomes.

*“And success is a hard thing to measure right, because success for us may not be seen as successful for the work. Because what we look at is return to work outcomes. So did they go back to work with their employer? If they didn't go back to their employer were we able to help them make it by the way with a new employer and this is what we kind of reflect on successful. But for some of these individuals it might not necessarily be that they return to work but it might be that we helped them to kind of weigh out the choices that they had in front of them and they decided not to return to the workforce but they may see that as successful because that was what they that was the best thing for them. So it's like what we would measure as successful may not necessarily be seen as successful by that worker population group”. Catherine, WSIB*

## 2.6. Knowledge Transfer and Exchange

i. The project has resulted in a number of practical applications for the workers' compensation system. Section 2.4 outlines recommendations for changes to policy and established practice that may be implemented and promoted by decision-makers at the WSIB. In addition, we produced guidance for front-line staff in “A Guide to Identifying and Addressing Challenges Related to Language Barriers in Return to Work” (28 pages). The guide provides advice on how to identify and address challenges that arise from language barriers after a work injury or illness and in return to work. It also includes the resources “Four steps to identify language needs” and “Tips on working with an interpreter”. The guide is designed to be used by workers' compensation staff, worker advocates, employers, vocational rehabilitation providers, and health care providers. Although the guide was developed from this research project, the information may be applicable to other jurisdictions.

In addition, we produced a printable pamphlet for workers who experience language barriers, called “What to do if you get injured or ill from work”. The pamphlet is available in 7 languages. The tips provided in the pamphlet are specific to Ontario. The contents of the guide and worker pamphlet were reviewed by our research advisory committee and, subsequently by other stakeholders and injured workers through focus groups and individual consultations.

ii. a) Our research findings and their practical implications will be presented to decision-makers and front-line staff at the WSIB in the spring of 2020. The guide will be printed and posted on the McMaster University website, and will be disseminated in print and web formats to stakeholders who participated in our research, as well as to a wider network of stakeholders (e.g. decision-makers in other workers’ compensation systems) with the help of the Institute for Work and Health (IWH) Knowledge Transfer and Exchange Specialists. The pamphlet will also be printed and posted online and will be distributed to our networks (worker advocates, physicians, settlement agencies, etc.), again with the assistance of IWH.

b) We do not have plans to monitor and evaluate the effectiveness of shifts in policy and practice that may come about as a result of our research as it falls outside of the scope of the current project.

### 3. Publications

<b>Publications</b>	<b># Published</b>	<b># Submitted</b>	<b># Accepted</b>
<b>Refereed Papers</b>			
<b>Book/book chapter</b>			
<b>Non-refereed report</b>		1	
<b>Media (In-Press)</b>			
<b>Conference Presentations</b>		1	2
<b>Other, please specify below...</b>	2		

#### 3.1. List of Publications

The report listed refers to the current report. For the category “other”, we refer to the guide and worker pamphlet as described in section 2.6. We do not have other publications at this point.



### Conference presentations

Premji, S. 2020. Access to Workers' Compensation and Return to Work in a Context of Language Barriers. Oral presentation at an Internal Plenary of the Ontario Institute for Work & Health. February 25, Toronto.

Premji S. 2019. Language Barriers and Workers' Compensation. Panel presentation, Law Society of Ontario Continuing Professional Development Program (attended by approximately 300 lawyers and paralegals). October 3, Toronto.

### Conference presentations - submitted

Premji S. 2020. Risk and injury in contexts of language barriers: The role of workplace dynamics. Abstract submitted to the American Public Health Association Annual Meeting. October 24-28, San Francisco.

### 3.2. List of clinical tools, patents or instruments

N/A

## 4. Research Capacity

### 4.1. Training opportunities

Names, roles and details of training opportunities made through this grant

Full Name	Title / Position	Role on Project Team
Momtaz Begum	Project Coordinator	Coordination, data collection and analysis
Alex Medley	Research Assistant	Data collection and analysis

### 4.2. Formal qualifications

Has participation in this grant led to formal qualifications (e.g. PhD) for any members of the project team?

Yes  No

Full Name	Degree	Year Awarded/Expected

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