



Association of Canadian Search,
Employment and Staffing Services

Association Nationale des Entreprises en
Recrutement et Placement de Personnel

VIA E-MAIL

October 12, 2017

Consultation Secretariat
Workplace Safety and Insurance Board
200 Front Street West
Toronto, Ontario
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To Whom it May Concern

**RE: Submissions of the Association of Canadian Search, Employment & Staffing
Services on the Draft Temporary Employment Agencies Policy**

Introduction

The Association of Canadian Search, Employment & Staffing Services (ACSESS) is the only association representing the staffing industry in Canada. ACSESS represents over 1000 staffing service offices across Canada. ACSESS members provide placement and executive search services, and temporary and contract staffing to the public sector and virtually every type of business.

The mission of ACSESS is to promote the advancement and growth of the employment, recruitment and staffing services industry in Canada. It also serves as Canada's only national advocate for ensuring professional ethics and standards in this industry. All member companies pledge annually to uphold the Association's Code of Ethics and Standards which promotes ethical treatment of employees and clients, and adherence to all applicable laws including human rights and occupational health and safety legislation.

As indicated in our earlier submissions, ACSESS supported the WSIB proposal to assign staffing agencies the classification of their client employers for any workers that are supplied. ACSESS believes that this measure fully addresses any potential concern that staffing agencies are being retained by client employers to reduce workers' compensation costs.

ACSESS wishes to comment on two specific aspects of the Draft Temporary Employment Agencies Policy.

Obligation to Provide WSIB Classification Information About Client Employers

The Draft Policy states that staffing agencies are responsible for obtaining the information from client employers that is necessary for the WSIB to classify them based on the methods set out in the Policy. It is the respectful view of ACSESS that this approach places imposes an obligation on the wrong party. It should be the responsibility of the client employer to provide the WSIB with enough information to properly classify it under WSIB policies. A staffing agency does not have the same powers as the WSIB to gather information to properly classify an employer.

ACSESS suggests that the policy be rewritten to include the following language:

“TEAs are responsible for obtaining a clearance certificate from every client employer they assign workers and to provide a copy of the clearance certificate to the WSIB upon request”.

This approach will provide the WSIB with the information that it needs to ensure that the staffing agency is paying the correct rate for the client employer. It is the opinion of ACSESS that the WSIB does not require any further information to accomplish the relatively straight forward task of assigning the correct premium rate for the workers in question.

Staffing Agency Liable for Retroactive Classification Changes

The Draft Policy states that *“...WSIB will change a client employer's classification based on relevant classification and premium adjustment rules. If the classification change is applied to any period (including past periods) in which the client employer used workers supplied from a TEA, the TEA's classification during that period, with respect to those supplied workers, is changed to align with the client employer.”*

In other words, if the premium rate of a client employer is changed by the WSIB for any reason (i.e. often as the result of an audit or other enforcement activity) the staffing agency could be burdened with a surprise assessment for additional premiums that it did not anticipate and did nothing to cause.

Obviously, a staffing agency cannot communicate on behalf of a client with the WSIB and has no legal right to be involved in the classification process of a client. Further, a staffing agency has no standing to initiate or to participate in any appeals arising out of classification decisions by the WSIB. Staff agencies should not be punished with additional assessments simply because

a client did not provide adequate information to be classified properly or the WSIB made a mistake in the initial classification process.

The liability for staffing agencies in this context could be very extensive if a significant retroactive adjustment is made. As a matter of fundamental fairness, staffing agencies should not be held accountable for the mistakes of others.

ACSESS recognizes that there will be some circumstances where there is a retroactive assessment or appeal decision which retroactively reduces the premiums of a client. ACSESS concedes that the staffing agency should not benefit from any reduction in premiums resulting from a classification change if the staffing agency is not charged for any premium increases.

ACSESS agrees with the submission of the Office of the Employer Advisor that the introduction of a complex new revenue system will result in considerable confusion and classification problems at the start of the new system. ACSESS proposes the WSIB should only adjust premiums for the year of audit and should not retroactively adjust premiums any further back in time.

We thank you for the opportunity to make these submissions and look forward to the opportunity to continue to participate in the process.

Yours Very Truly,

Mary McIninch, B.A, LL.B (Membre du Barreau du Québec)

Director of Government Relations/Directrice des Affaires Publiques
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