



***“That’s not part of the compensable injury”:
Subcontractor relations and the under-
recognition of health problems among
injured workers in Ontario’s Labour-
Market Re-Entry program***

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What prompted this study

Much scientific research on RTW but little on labour market re-entry when worker cannot return to pre-injury employer.

LMR is *distinct* from RTW, because:

- It generally involves retraining
- workers are returning to the general labour market rather than to an employer.
- workers have a permanent disability and other problems that prevented RTW



Study design & data gathering overview

Iterative Data Analysis

Development of codes, themes

Document analysis

LMR-related marketing, WSIB policy and literature, education policy

Phase 1

Secondary analysis of
Complex Claims Study LMR
rich interviews N = 18

Phase 2

North Ontario:
Worker focus group
N=5
Employer focus group
N=4

West Ontario:
Worker focus group
N=9

South Ontario:
Worker focus group
N=6
Employer focus group
N=4

East Ontario:
Worker focus group
N=3

Phase 3

LMR Providers
Interviews
N=5

Education Providers
Public Colleges
N=2

Education Providers
Private Schools
N=4

WSIB 'LMR Specialists'
Interviews
N=4

Worker Reps
Interviews
N=4

WSIB Adjudicators
N=3

Phase 4

In-depth data analysis



Sampling, recruitment & analysis

Purposive sampling: Contact with all key players in LMR chain; sampled across Ontario regions (Total participants: 71). Collected related documents and policies.

Broad recruitment:

Workers: legal clinics, unions, occupational health clinics, injured worker groups, physiotherapists and chiropractors.

Service providers: Cold calling and referrals. Selected for LMR responsibilities and experience.

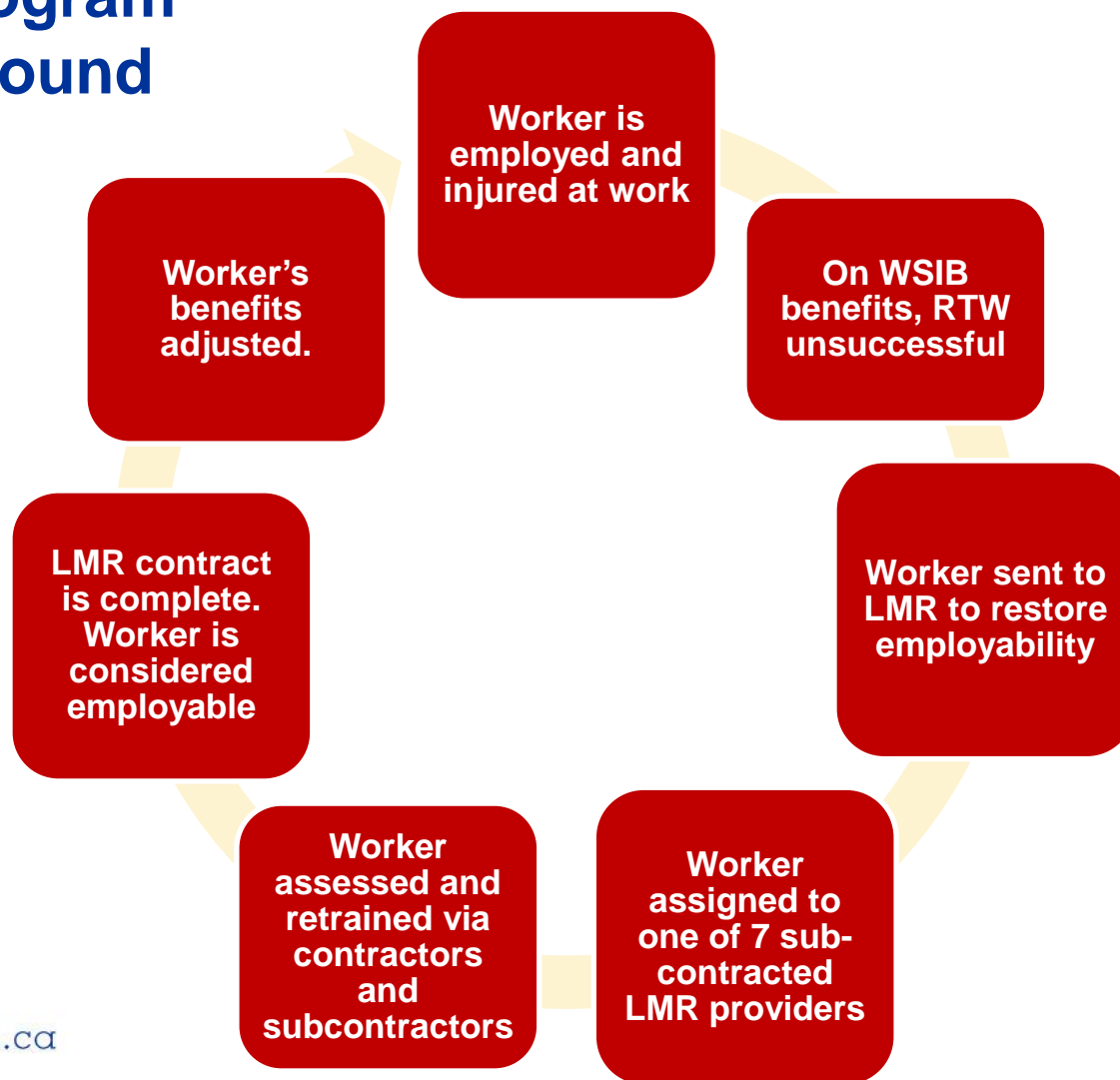
Analysis: verbatim transcripts, data coded, focus on constant comparison, deviant cases, discourse, document analysis.

Study conducted 2007-2009

Stakeholder Advisory Committee



LMR Program Background





I. The Labour Market Re-entry program logic: health problems do not get in the way

Labour Market Re-entry Process

- ✓ Design education program for a job that does not exceed functional limitations
- ✓ Once retrained, the worker is employable & not in need of benefits

If we are going to retrain an individual it's usually in an occupation that's going to be...light... **So, their injury won't have a large impact on what they are going to do.** (LMR Provider Bryan)

Logic: The injury is no longer a barrier to employment

BUT... injury is still a problem during LMR

WORKERS:

- Chronic pain
 - “Each one of us that’s going into an Labour Market Re-entry program have a **chronic condition** that we will always live with.”
- Ongoing surgeries
 - “I got to go for **more surgeries** again....They paint you a perfect picture that you can do this, and you can do that.”
- On strong medication
 - “I live on **pain pills**. I take...**Oxycontin**s everyday.”



Providers say health = biggest barrier to retraining

The **biggest** issue we have ...is helping the client through their pain. ... The **majority of clients have, still, significant pain...** (LMR Provider Firm A)

There's numerous challenges ... The person being accepting of their **injuryor daily pain** ...and getting them to buy into moving forward is certainly a barrier. (LMR Provider Firm B)

Retention is one of the **biggest problems** ...at our centre. We'll have clients who...**take a lot of medication** and...we teach them something and the next day they don't remember any of it. (Education provider School C)

We do **often** [have teaching problems] because people may have a **surgery** in the middle of their program or something may have happened to **aggravate their injury**. (Education Provider School B)



WSIB providers also refer to problem of pain

Pain even within a “success” story

Can you...describe to me an *LMR success story* and why you think it went well?

R: ...Like I said, with LMR it becomes very difficult... I currently have oneHe had...high marks.... [but soon] he started... **experiencing pain** in his back, becoming very pain focused.... Couldn't go to school anymore...So we pulled him out of the program...and sent him to a **pain clinic** and now he's back in his [educational] program. (WSIB Provider 3).



If health problems are present, why are they not acknowledged and managed?





Health problems don't fit into LMR program logic

Logic of LMR Program:

- Focus on 'functional limitations'
- Notion of "Maximum Medical Recovery "

What doesn't fit into this model?

- Chronic health problems, medication use, chronic pain, depression, emotional loss
- ***Problem that thwarted RTW is still present: pain /meds /depression***

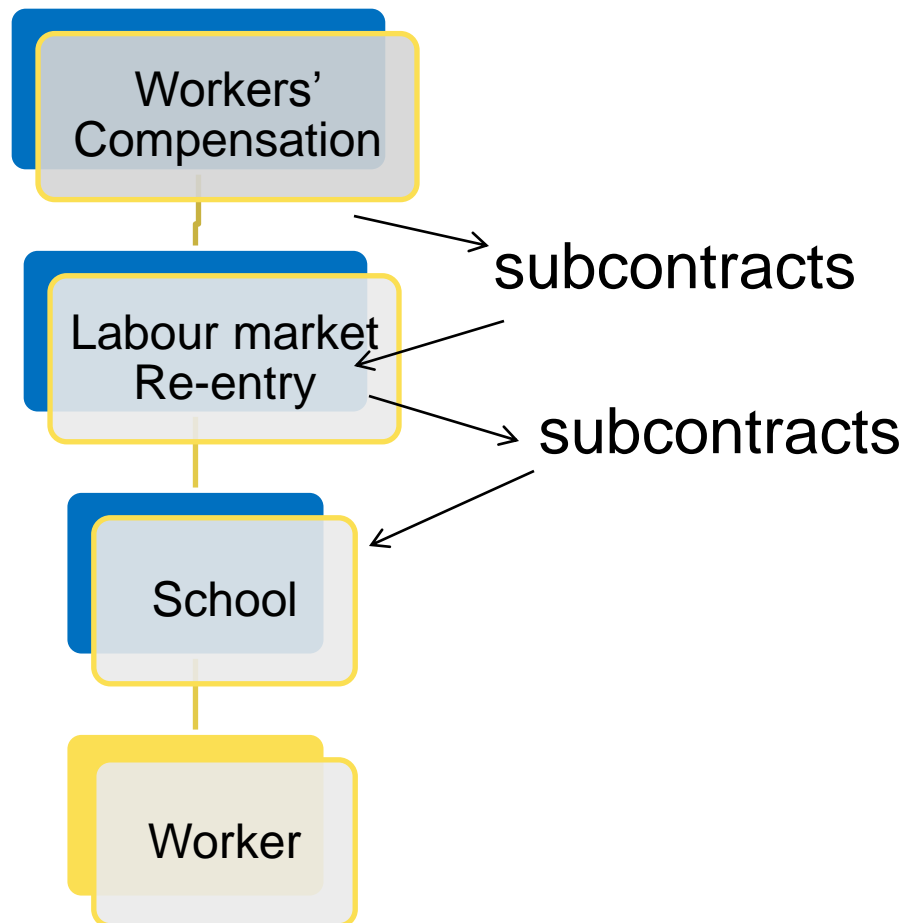


Employers have financial incentive to send **MOST** unhealthy injured workers to LMR

Accessing Secondary Injury Enhancement Fund (SIEF)

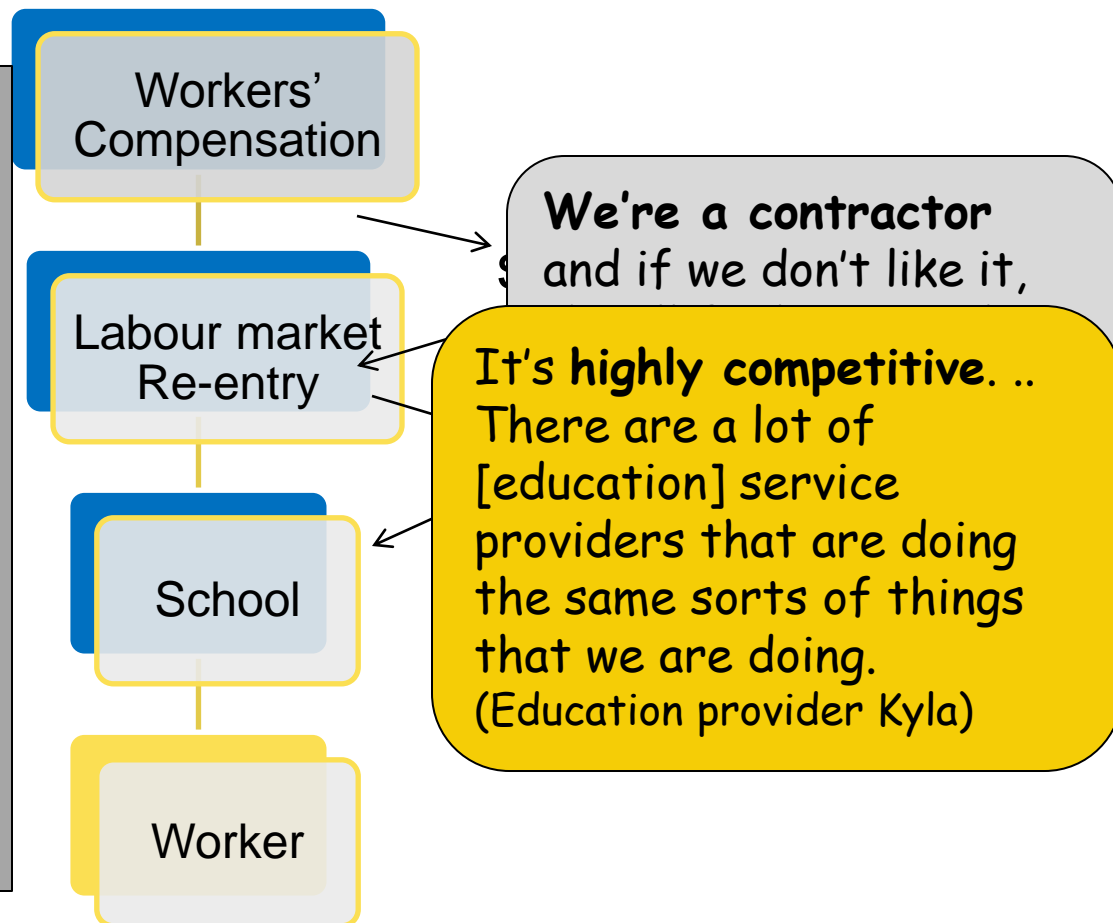
P4: We'll be dinged with HUGE surcharges. Then you start looking at who has a pre-existing condition, because ...we've got cost relief [through SIEF]. ... You end up...being forced into these financial decisions, and you're going to take the person who has the most pre-existing, who is actually the worst candidate to be retrained. (Employer focus group, Central)

LMR system
organisation makes it
difficult for decision-
makers to *know* about
health problems



Sub-contractors have *disincentives* to draw attention to worker health problems

The problem comes when they're in the [LMR] plan [and having chronic pain]. And, and then WSIB...they'll make it clear that that's **not part of the compensable injury** They could reduce their benefits...or just...terminate them in their plan....[And] **we have to kind of ride the fence** you know? Because **we're not supposed to act as advocates for the client.**
(LMR Provider Dylan)





LMR providers see worker health problems. What do they do/can they do?

LMR case managers focus on 'success' of contract: complete program, on time, at cost

- E.g. focus on attendance

Private schools offer course completion within contracted timeline

Stripped down courses : We have lower level as well as an upper level.
...**They could still get exactly the same information but with less words.** (Private Upgrading school B)



Speedy grades: “**It's 2 months a grade level and...it** doesn't matter whether you're ESL or native born, and...what grade you are in. ” (Private Upgrading school Education School C)

Make sure workers pass courses: According to the test...I was a **genius**, I was in the 95 average...Well, the way it worked is I would write a test, if **I would get a failing mark they would correct it**, and then they would make me write it again. (Worker FG South P9)



Scenario of all parties managing by *‘going through the motions’*

Workers, educators, LMR case managers very aware of ongoing health problems that thwart worker ability... BUT

- *Keep benefits/contracts*
- *Sub-contractors charged with figuring out how to manage*
- *WSIB bureaucracy: ‘compensable’ injury*

WSIB adjudicators make decisions about worker ‘compliance’ with LMR and deem workers as ‘employable’

- *BUT have a distant role*
- *Health problems (and more) don’t easily filter up to them*



Conclusion: Health and ‘Employability’

Study shows different incentives and goals of players in system

- LMR service provided amidst web of financial and other situations
- Injured workers in a vulnerable position--ongoing health problems and no employer

Worker health problems at odds with ‘employability’

Didn’t fit program logic

Worker employability can be ‘**deemed**’ after reports from LMR providers that workers have completed program.

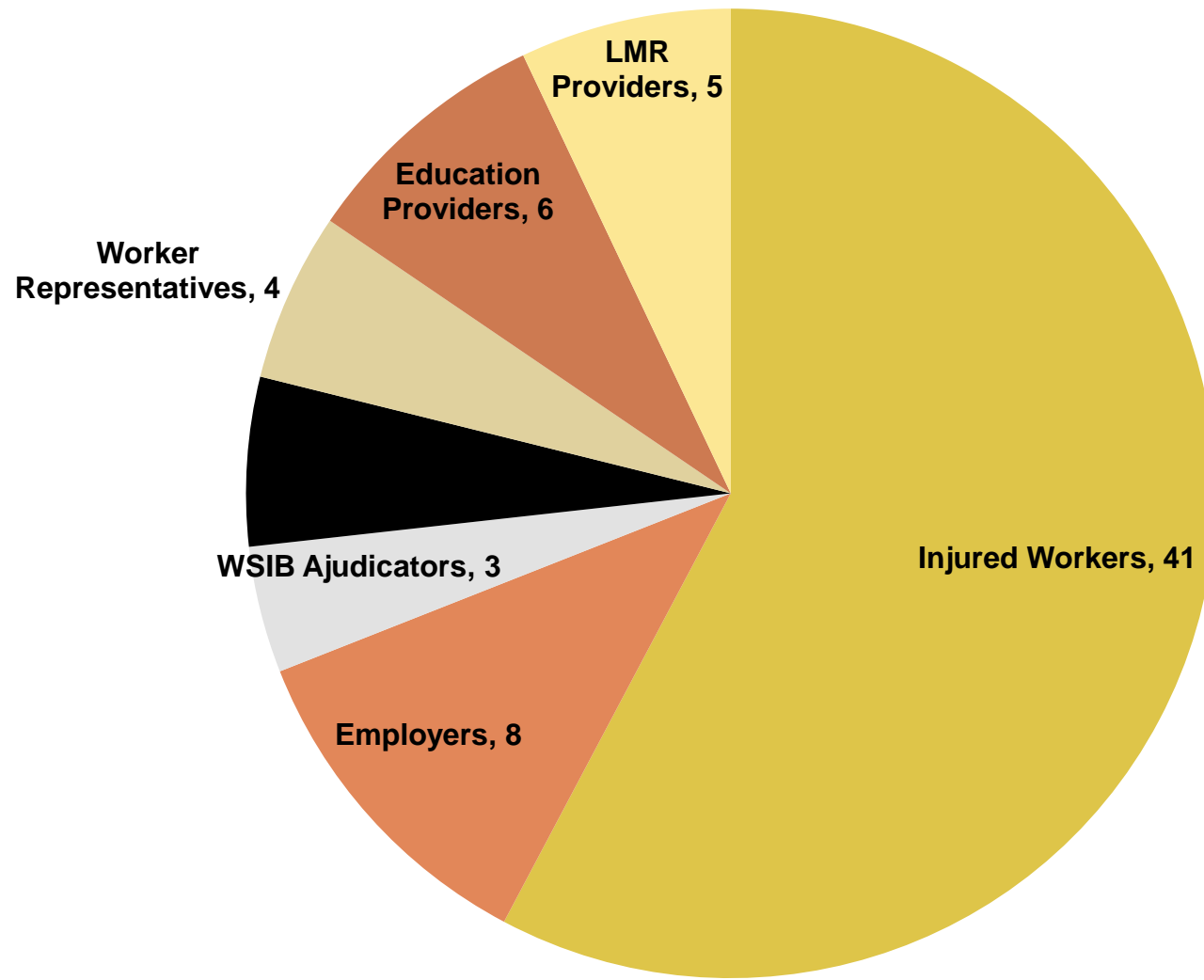
➤ *But in context of health problems:* what did workers achieve in LMR?

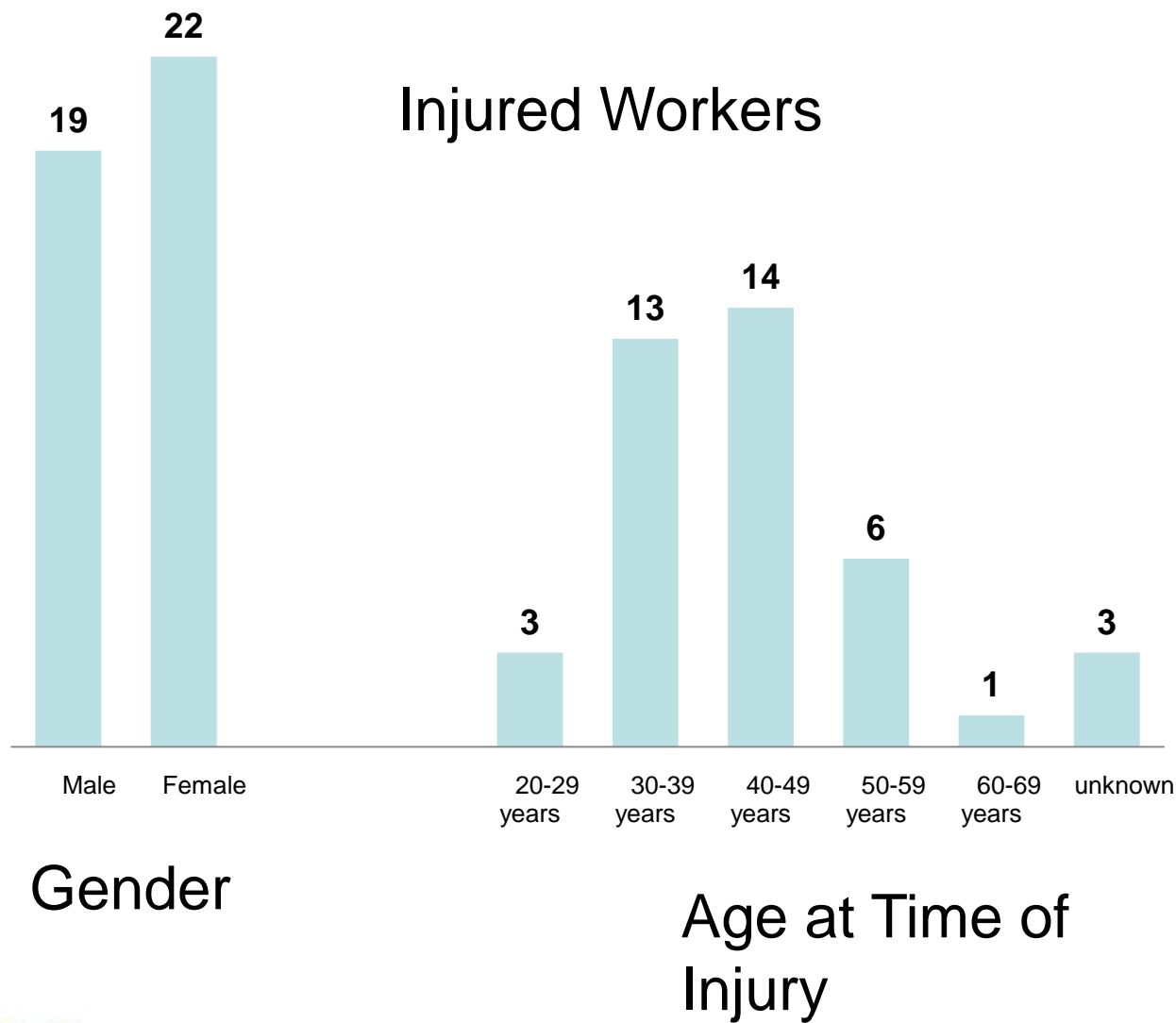
How do we know that injured workers who have completed LMR are really competitively employable?



Questions?/Comments?

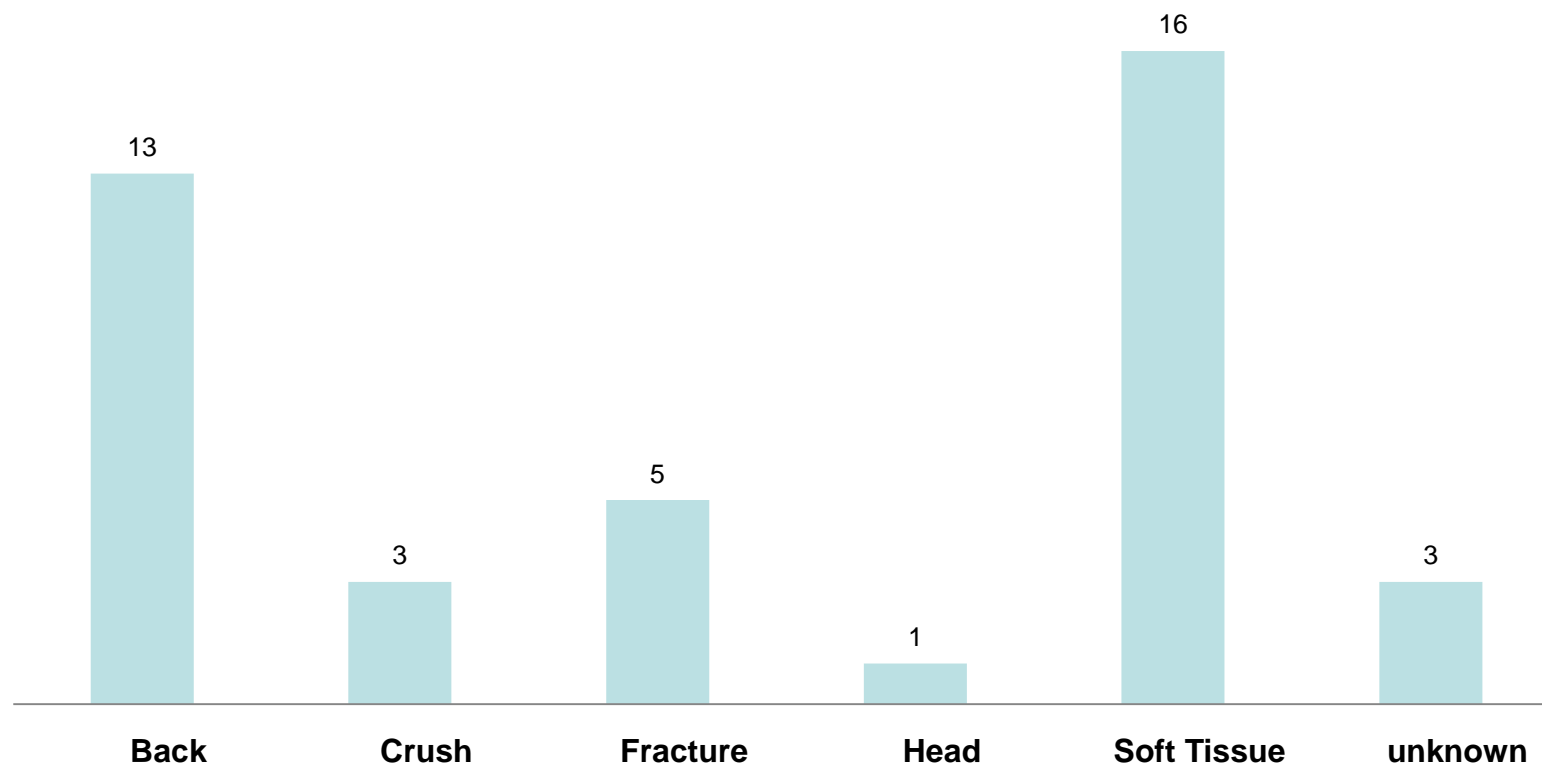






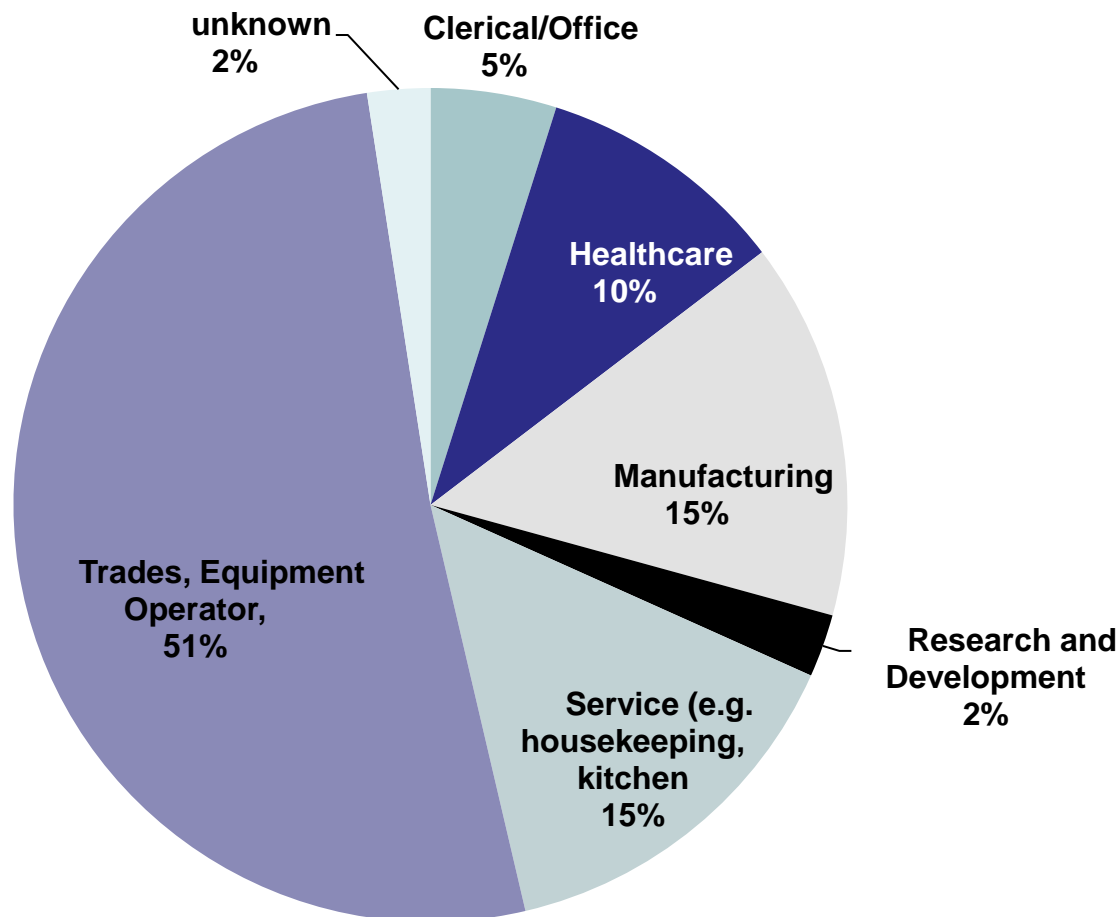


Initial Injury of Injured Workers



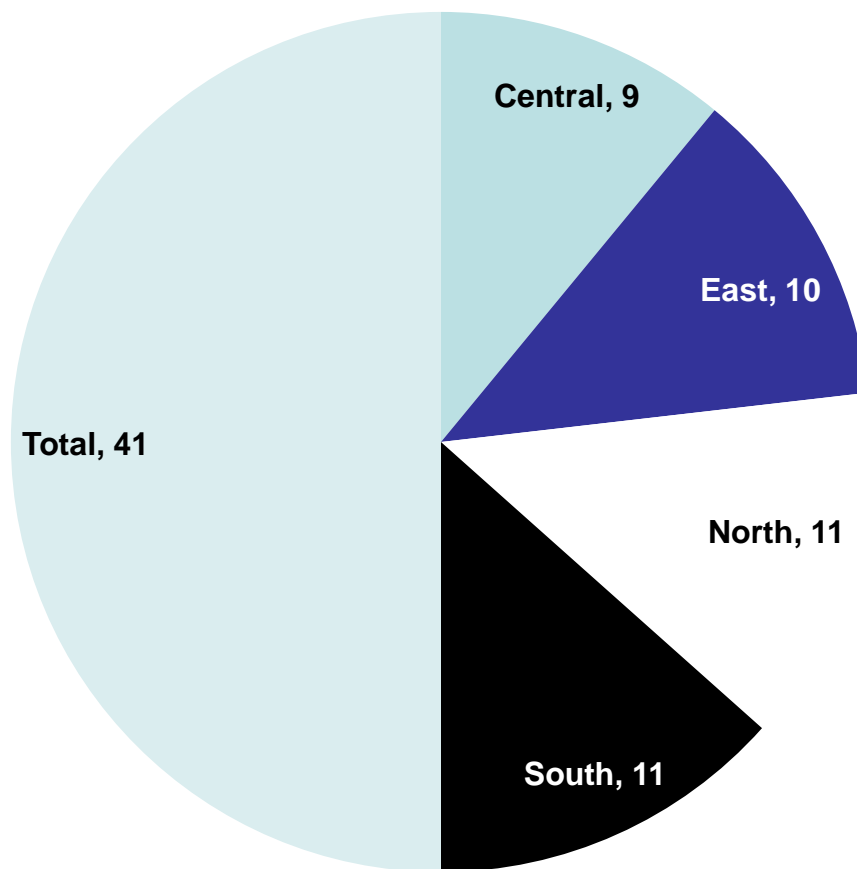


Pre-Injury Occupation of Injured Workers



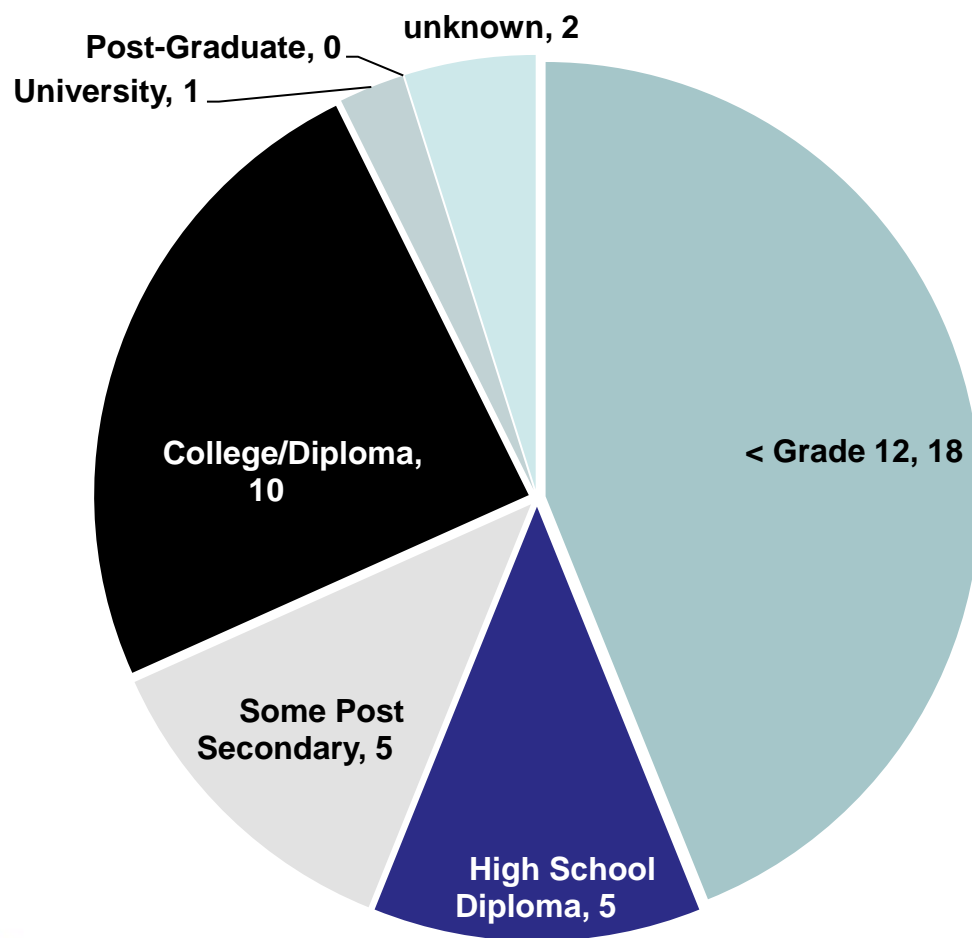


Geographic Distribution of Injured Workers





Education of Injured Workers





Employer Sample

| Region | Industry Sector | Organizational Role | Number of Employees |
|---------|-----------------|-----------------------------------|---------------------|
| Central | Manufacturing | Health and Safety Coordinator | 600-700 |
| Central | Healthcare | Director of OHS | >10,000 |
| Central | Manufacturing | Occupational Health Nurse | 500 |
| Central | Service | Human Resources Coordinator | 240 |
| North | Service | Human Resources Manager | 220 |
| North | Service | Liaison | 4000 |
| North | Manufacturing | Supervisor, Disability Management | 1200 |
| North | Healthcare | Rehabilitation Consultant | 3500 |



Why so many health problems?

Employers have legal and financial incentives to prolong RTW beyond cost window... drawing out unproductive injury time

The three year liability window

P3: We're just trying to keep her working... we just want to prevent...that **three year mark before we get hit** ... (Employer FG Central)

Avoid WSIB and Ministry of Labour attention

P4: If you put them into labour market re-entry and you get the large surcharge... Now you've **drawn the attention of Work Well and the Ministry of Labour**. ...Besides the **surcharge**, there's this **punitive [aspect]...the Ministry of Labour hired all these inspectors, and off they go**...All of a sudden there's a whole pile of **consequences** for these different things. (Employer FG Central)