



Common Pitfalls & Problems When Members Break Teeth in the Course of Employment - Beware – WSIB Must Approve Dental Claim Before Treatment

By: Gary Majesky, WSIB Consultant & Executive Board Member



That's right, members frequently break teeth when they are struck in the face, typically after pulling on something with their pliers, when the pliers slip flying backwards hitting your mouth.

Most workers don't know that WSIB expects to receive a Dental Form from the dentist documenting the damaged teeth, and await approval before proceeding with dental work completed.

Dentists Averse to Dealing With WSIB

Since Dentists do not fall under the *Canada Health Act*, they have tremendous latitude in deciding whether they wish to offer their dental services to an injured worker, usually on the basis of the administrative hassle dealing with the WSIB, and secondly, the fee schedule.

Members who have broken teeth at work notice immediately the disinclination that dentists have for dealing with WSIB, who usually steer the worker onto the union benefit plan, versus workers compensation.

It All Boils down to Peso's

If you run a restaurant, are you going to give customers a free bowl of soup? Conversely, when you work for your employer, do you expect to be paid next week? In my experience problems arise when workers proceed with emergency dental treatment, pay upfront, usually cash or credit card, then seek reimbursement from WSIB. Health Professionals, such as Dentists, according to the law, cannot charge the patient. When these situations occur, WSIB expects the Dentist or Dental Surgeon to reimburse the patient, and WSIB will pay the health professional directly based on their fee schedule.

A decade ago, I had a case that was adjudicated by the Ontario Dental Association, because in order for the members' dental bill to be paid, the Dental Surgeon first had to reimburse the patient, and be reimbursed based on the WSIB dental fee schedule. And any costs not covered by the WSIB cannot be charged to the patient (extra billing). Getting that money to flow back to the patient is like water running uphill.

Dentists are not obligated to treat patients without being paid, and in my experience, want to see the colour of your money when they provide dental services. If you have a regular dentist, they'll also know that you



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have a good union dental plan, and bill Great-West Life for dental care. However, most dental injuries, such as a chipped or broken teeth, do not require emergency surgery and WSIB expects to receive a Dental Estimate (Form 0278) before your dentist proceeds with dental work.

Each case is unique, however WSIB does recognize that certain emergency dental treatment can be provided without first getting WSIB approval, but the paperwork must be submitted without delay.

The average member is surprised to learn that WSIB will not reimburse Great-West Life when they submit any dental costs not covered by GWL, and told by WSIB that unpaid dental costs are a form of co-pay, which will not be covered.

WSIB Policy – Dental Injuries

OPM 17-03-03 (Dental Entitlement) sets out the WSIB policy regarding dental entitlement, including the circumstances of emergency



treatment. In all claims, a **Form 0278** must be submitted before proceeding with dental work.

OPM 17-03-01 (Health Care Fees), also sets out the Board's general authority to set and pay health care fees, as well as penalties for late submission of health care accounts.

Most dentists will be aware a patient has broken their teeth as a result of a work accident. And in fairness, they know they are obliged to submit a Dental Estimate Form to the WSIB. And that's when a dental claim goes off the rails.

In some respects, I understand the disinclination in the dental community to accept and treat injured workers who have suffered dental injuries which are to be paid by the WSIB. Firstly, WSIB may not cover 100% of the cost, and secondly, the dentist is prohibited from extra billing. From the dentists' perspective, WHY should they subsidize the patient for services they render?

It is at that precise moment when the member has three choices. Submit Estimate to WSIB (often unaware or ignored), Pay by Visa or Debit Card (highly unlikely), or submit an invoice to the union insurance carrier/GWL (bingo!).

For members who suffer work related dental injuries, you do have coverage by WSIB, but the proper paperwork must be submitted. If you pay out of pocket, WSIB WILL NOT reimburse the patient directly, upon receipt of a paid invoice for dental services rendered as this is prohibited under the law (s. 33(5)). Nor are Dentists allowed to extra bill above the WSIB dental fee schedule.

It seems to me WSIB equates a dental expense submitted to our union insurer (GWL) being analogous to the patient paying the dentist directly. That is wrong. How is a dentist invoice any different when the union seeks reimbursement for physiotherapy or chiropractic treatment when a claim was denied, and we seek health care costs after we win an appeal? Frankly, I don't see the distinction.

My position is the WSIB is obligated to reimburse our insurance company (Great-West Life), to the extent permitted by the WSIB dental fee schedule, and remit to the dentist any additional fee's that were not covered by the union's third party insurer.

Section 33 of the *Workplace Safety & Insurance Act* sets out the statutory framework regarding an injured workers right to health care, and the prohibitions and limitations on workers paying for their treatment:

Entitlement to health care

33 (1) A worker who sustains an injury is entitled to such health care as may be necessary, appropriate and sufficient as a result of the injury and is entitled to make the initial choice of health professional for the purposes of this section.

Arrangements for health care

(2) The Board may arrange for the worker's health care or may approve arrangements for his or her health care. The Board shall pay for the worker's health care.

Same

(3) The Board may establish such fee schedules for health care as it considers appropriate.

Penalty for late billing

(4) If the Board does not receive a bill for health care within such time as the Board may specify, the Board may reduce the amount payable for the health care by such percentage as the Board considers an appropriate penalty.

Prohibition

(5) No health care practitioner shall request a worker to pay for health care or any related service provided under the insurance plan.

No right of action

(6) No action lies against the Board to obtain payment of an amount greater than is established in the applicable fee schedule for health care provided to a worker. No action lies against a person other than the Board for payment for health care provided to a worker.

Bottom line, be sure your dentist submits a Dental Form to WSIB before proceeding with dental work. If your dentist refuses to deal with the WSIB, which is not unheard of, call me for instructions. At the end of the day, you should not have to pay for teeth broken in the course of employment, which is no different than treating a work related broken arm.

Gary Majesky

WSIB Consultant

Direct Line (416) 510-5251

gary_wsib@ibew353.org