

# Recommendations 2011

## Second Quarter Update

April - June 2011

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## Overview

At Ombudsman Saskatchewan, we promote and protect fairness in the design and delivery of government services. One of the ways our office does this is by taking complaints from citizens about unfairness in government services.

We assess each complaint we receive to determine whether it is within our jurisdiction and if so, what is the most appropriate method of service: coaching, negotiation, mediation or investigation. For those complaints that require investigation, several outcomes are possible. For example:

- We may determine that the government office was fair and that no further action is needed.
- The government office may discover and voluntarily correct an error.
- We may recommend that the government office make a change or do something differently.

An Ombudsman recommendation is different from a suggestion and is a much more formalized process. Each recommendation is the result of thoughtful research and investigation. It may be specific to the individual that brought the complaint or it may be broader, impacting policy, processes and future interactions for many people.

Although government is not obligated to accept our recommendations, it usually does - and so it should. Recommendations are not made lightly and the applicable government office always has an opportunity to review and comment on a recommendation before it is finalized. This step, which is mandated by The Ombudsman and Children's Advocate Act, is part of a fair process and provides an opportunity for government to state any objections they may have or challenges they may face in implementing the recommendation.

Unless there is some good reason to withdraw or change the recommendation, it remains as it is. It is then up to the ministry or government agency to determine whether it will comply with the recommendation and respond accordingly.

For files that were closed in the second quarter of 2011, Ombudsman Saskatchewan's recommendations statistics are:

Recommendations Made: 5  
Accepted: 5  
Partially Accepted: 0  
Not Accepted: 0

## Recommendations

Following is a brief description of the complaints that resulted in recommendations and were closed during the second quarter of 2011. The names of those involved have been changed to protect their privacy.

### Who Decided? What Was Provided?

#### *Workers' Compensation Board*

Dylan was seriously injured in a work accident. After a few years of medical treatment, he was able to return to similar work. Eventually, this became too difficult, so he retrained and took a more sedentary job. After working full-time for many years, Dylan began having problems with basic mobility, as well as a neck condition.

Based on these changes, he applied to the WCB for benefits. He was approved for benefits relating to his other problems, but not for the neck condition. He did not think this was fair and contacted our office.

Our investigation found that the Medical Review Panel for the WCB had looked at the request and examined Dylan. The Panel had concluded that the neck condition was a result of the original injury. The WCB had then requested clarification from the Panel, which was provided.

Normally, the WCB is required to accept the conclusions of the Medical Review Panel. In this case, however, the WCB found that the panel had exceeded its mandate by concluding that the neck condition was caused by the accident. Only the Board could make the final decision whether a given condition was caused by a work accident.

While the Board was correct to make this distinction, it appeared not to take the next logical step and make a determination whether the neck injury was indeed caused by the accident. We made our first recommendation on that basis and the Board assured us that it did indeed consider the matter. Our other recommendations asked the Board to communicate its reasons and other relevant information to Dylan.

#### **Recommendations**

1. That the Workers' Compensation Board treat the conclusion of the Medical Review Panel (that Dylan's neck condition is the result of his original injury) as some evidence that the injury complained of by Dylan may have been work-related and determine whether or not his neck condition is the result of his original injury.

***Status: Accepted***

2. That the Workers' Compensation Board provide Dylan with the reasons for its decision that his neck condition is not a condition that arose of his original work accident.

***Status: Accepted***

3. That the Workers' Compensation Board provide the response it received from the Medical Review Panel in response to the Board's request for clarification of the Medical Review Panel's decision.

**Status: Accepted**

4. That the Workers' Compensation Board provide the response from the Medical Review Panel to Dylan's advocate.

**Status: Accepted**

## If Not, Why Not?

### *Workers' Compensation Board*

Danton's legs were injured by application of a chemical at work. Initially, he suffered one condition. Later, he was diagnosed with another leg condition that caused him to limp and resulted in further difficulties. He and his doctor believed that these problems were all the result of the chemical injury, but when he applied for benefits from WCB, he was only approved for benefits based on the initial condition.

He did not understand why the WCB made this decision and did not think it was fair, so he contacted our office. We investigated his complaint and found that, while the WCB's decision was not necessarily unfair, it could have done a better job of explaining its reasons to Danton.

### **Recommendation**

1. That the Workers' Compensation Board provide Danton with reasons as to why it does not accept the conditions as resulting from his work accident.

**Status: Accepted**