ONA WINS

SUMMARY OF ANOTHER SUCCESS AS YOUR UNION STRIVES TO IMPROVE YOUR WORKING CONDITIONS

ONA SUCCESSFULLY APPEALS LTD DECISION MEANT TO BE BINDING

In an important first for our union, ONA has successfully appealed the Medical Appeals Process (MAP) under the hospital collective agreement, which is meant to be binding.

The appeal centred around a hospital member who has been absent from work since November 2016 due to chronic migraines. The insurer denied initial entitlement to long-term disability (LTD) benefits after alleging the member's illness did not equate to a level of incapacity that would prevent performing regular duties of the pre-disability occupation. The insurer also alleged that the member had long suffered from migraines, but was able to work through them.

The appeal showcased the opinion of two of the member's doctors, both of whom stated that the migraines were severe. The insurer's own internal medical consultant appeared to agree, stating there was no way to measure pain. It was also noted that although the member had a history of migraines, she had long struggled with regular attendance at work. Given this opinion, it was argued that the insurer had to trust the member's doctors along with the subjective level of pain noted by the member.

The initial appeal was unsuccessful, and the insurer maintained its position that the member's symptoms did not prevent a return to regular duties.

In response to this denial, the member applied for MAP as per Article 12.05 of the hospital collective agreement and was evaluated by an independent third party doctor in January 2018. The MAP decision was more positive, with the insurer agreeing to pay a portion of the member's claim. However, there were still several months the insurer would not cover. Normally, MAP decisions are not subject to an appeal, however, the decision appeared so incorrect that ONA wrote to the insurer.

Our appeal of the MAP decision made three primary points:

1. The insurer had provided the MAP doctor with the incorrect definition of total disability.

2. The intent of MAP was to rely solely on the decision of the doctor to approve or deny the claim, however, the insurer had written in a letter to the member that it had considered other factors outside of the MAP report when only approving a portion of the claim.

3. The MAP doctor's report was supportive of total disability and the insurer either ignored that opinion or simply got it wrong.

The insurer reversed its decision and approved the member's claim for the entire own occupation period, resulting in a retroactive payment of approximately $80,223. Unfortunately,

the member was then denied in the any occupation period for which another appeal may be warranted.

(Front Lines, February/March 2019 edition)