Association of Ontario Health Centres
Community-governed primary health care

Association des centres de santé de l'Ontario
Soins de santé primaires gérés par la communauté

Strengthening employment legislation in Ontario: Upstream policies to help promote health and wellbeing

Submission from the Association of Ontario Health Centres to the Changing Workplaces Review
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Working Conditions: A Social Determinant of Health

The Association of Ontario Health Centres (AOHC) is the voice of community-governed primary health care in Ontario. AOHC's vision is the best possible health and wellbeing for everyone living in Ontario. We know that good, secure jobs with fair wages, extended benefits and healthy working conditions all contribute to health and wellbeing for people and communities. Strong and effective legislation is essential to govern workplaces and ensure good wages and working conditions with rules that protect everyone.

AOHC members include 109 Community Health Centres (CHCs), Aboriginal Health Access Centres (AHACs), Community Family Health Teams (CFHTs), and Nurse Practitioner-led Clinics (NPLCs) across the province. CHCs and AHACs have a mandate to serve people with barriers accessing health services, including low income people, Aboriginal People, people with disabilities, newcomers and refugees, people who are LGBT, Francophones and people in rural or remote communities.

About 54% of people served by CHCs are low income– many of these people are in precarious jobs where they work for low wages in part-time, temporary or contract positions without employment benefits or workplace protection. So health service providers in CHCs see firsthand the impact of precarious work on the physical health, mental health and overall wellbeing of the people we serve.

CHCs and AHACS are the only primary health care providers in Ontario with a specific mandate to focus on the determinants of health such as income, working conditions, education, and the environment. Under one roof, CHCs and AHACs provide both primary health care services and a wide range of health promotion and community development services that help address the determinants of health. Examples include: Pathways to Education, pre and post-natal nutrition programs, community gardens and community kitchens, and programs that support improved employment and housing.

But as health service providers we can only go so far in addressing the determinants of health – we need upstream interventions with public policies that promote good jobs and healthy working conditions. So AOHC is pleased to provide input to the Changing Workplaces Review as you develop recommendations to the Ontario government on how the Employment Standards Act and Labour Relations Act could be amended to better protect workers while supporting businesses in our changing economy. We will also share the research findings of one of our members, Access Alliance Multicultural Health and Community Services, on the harmful health effects of precarious jobs.

The Rise of Precarious, Insecure Work in Ontario

A number of recent reports have documented the growth of precarious, non-standard work in Ontario which now makes up 41% of work in the province. But our labour laws and employment benefits are still based on a standard employment relationship of full time work with a single employer. There has been a growth in temporary agencies, and more workers are misclassified as 'independent contractors' so they are not covered by the Employment Standards Act and lose out on decent wages, overtime pay, paid leave, and employer health benefits and pensions. Part-time work is on the rise and part-time workers are paid less than full-time workers. In Ontario, about 33 percent of part-time workers are in positions with low wages, no union and no pension, as compared to almost 9 percent of full-time employees [1].

Precarious work in Ontario

- Currently 41% of work in Ontario is part-time, contract or self-employed [2]
- Part time work makes up 19% of total employment, temporary work 12% and self-employment 10%.
- Precarious work is growing faster than full-time work. Since 2000 part time jobs have grown 25% and temporary jobs 40%, while full time work has increased only 16%.
- 32% of all workers report they would rather be working full time.
- Employers pay precarious workers less. E.g. The median wage for part time workers is $12.38/hour, compared to just over $15/hour for temporary workers and $24/hour for full-time workers [3]

People in precarious work have less access to supports when they are sick. Small businesses with less than 50 employees are not required to provide unpaid sick leave. This affects 1.6 million people in Ontario who have no sick leave protection. And low wage, precarious work is less likely to provide health benefits such as prescription drug and dental coverage [4]. Less than ten percent of temporary workers receive extended health benefits and only 2% of temporary workers have dental benefits [1].

The growth of precarious work affects living standards and overall health and wellbeing of our communities. The first Ontario report to draw on the research used for the Canadian Index of Wellbeing looked at how Ontarians are really doing for the period 1994 to 2010. One of the measures of wellbeing examined was Living Standards. Many aspects of Ontarians' living standards did not improve between 1994 and 2010 with widening income inequality, substantial increases in long-term unemployment, decreases in economic security and lower job quality. Worsening living standards have an impact on stress levels and lead to deterioration of health. [5]

Harmful Health Effects of Precarious Jobs

According to the World Health Organization, insecure jobs harm health, even more than unemployment. [6] People in insecure work are three times more likely to rate their health as 'less than good' than people in secure employment [6].

There is a growing body of evidence that demonstrates the impacts that insecure work has on health, from occupational injuries to chronic life-threatening illnesses. For example, results of a 2001 study showed that when compared with permanent workers, temporary workers showed significantly higher rates of traumatic occupational injuries: almost threefold greater for nonfatal and two and half times greater for fatal occupational injuries [7]. Part-time, casual and other types of non-permanent and non-full-time jobs contribute to stress which results in health problems for workers.

Shift work, job insecurity and overtime work impacts cardiovascular health and the risk of diabetes. Research has shown that self-reported job insecurity is associated with a 40% risk of coronary heart disease compared with secure employment [8]. Overtime work – specifically 3-4 overtime hours per day- is associated with increased heart disease and risk of heart attack [9]. Working more than 11 hours a day is associated with a fourfold rise in risk of type 2 diabetes [10]. Compared to those working in regular daytime work hours, shift workers have a 40% higher risk of cardiovascular diseases [11).

In addition, precarious work has an impact on the mental health of workers and their families, with precariously employed workers more likely to experience depression-like symptoms and increased anxiety [12].

What we see in Community Health Centres

The rise of insecure, precarious work is taking a toll on our most vulnerable communities- many of the people who Community Health Centres serve. Women, recent immigrants and racialized people are more likely to be working minimum wage jobs, part-time jobs, physically demanding jobs and be involuntarily self-employed [13]. Older workers often find employment through temp agencies, and persons with disabilities are more vulnerable to precarious work.

Access Alliance Multicultural Health and Community Services has conducted research on the health impacts of precarious work with a particular focus on newcomers and refugees. As healthcare providers we have seen firsthand the direct effects on health and wellbeing. We see newcomers and recent immigrants who cannot find stable employment and rely on temporary agencies, working two to three jobs, taking on overnight shifts, in efforts to make ends meet and support their families. At the same time, they are upgrading their skills and education and volunteering in their field.

Many of the health impacts of precarious employment are intergenerational and therefore affect children. Our research has shown that the health status of recent immigrants declines over time, largely due to these employment barriers [14].

Quotes from Access Alliance research report, *Where are the Good Jobs?* (2013):

In [my] job, there is no security… I have seen through the experiences of a lot of workers where they have done their jobs, but they are asked to do more than what the job requires. There have been many people who they have [been] fired, or terminated … A lot of stress because we're always thinking 'Okay, this week I'm here, you know?' I made it until the end of the week. Now it is like a war is going to start in order to hold on to this job, in order to survive, in order to make it to the next week. And this turns into a vicious cycle. Everything feels temporary because at any given time, it can end whether it is your fault or not. – Carlos Bolivar (working split-shifts at a major courier company in Toronto, Access Alliance, 2013)

Everyone fights to become full time, but that is really difficult. How long have I been here? Fifteen years, and you can never become 'full-time'. It's the same thing in the hospital. They don't want to give it to you because of the benefits. Which is why I ask 'after living in Canada for so many years' one starts to feel bad because you can never become full-time. Now, I'm coming close to retirement age . . . When I was facing the problem with two shifts, three shifts, and that's when it started [being diagnosed with pre-diabetes]. So for that, at the end, one lives with this horrible stressful state, the same with tumours or cancer, it comes from stress, unfortunately." - Carmen Pérez (stuck in part-time on-call job in a hospital; Access Alliance, 2013)

Even though I'm sick now, I have to go to work, because if we don't go to work we have no sick leaves and we don't get paid. I had a cough and I was vomiting and yeah I had vomiting at the job and I still continued to work. – Nutan Sharma (on-call casual worker at a bakery; Access Alliance, 2013)

In rural parts of the province a number of CHCs provide seasonal clinics for migrant agricultural workers who come to Ontario each year to fill a critical agricultural labour shortage. They labour under strenuous working conditions on farms and in greenhouses usually working 6-7 days a week, 8-12 hours a day and often more during the high season. A number of minimum standards under the ESA do not apply to agricultural workers including: number of hours of work, eating periods, rate of overtime pay, and paid vacation. These working conditions and lack of access to health care means that many seasonal agricultural workers have high rates of occupational health illness and injury, and live with unmanaged chronic diseases and mental health conditions [15].

Our work has taught us that governments need to move to an upstream approach and make strategic policy decisions that will improve health and wellbeing today to prevent spending on sickness care and rehabilitation in the future. Strengthening workplace legislation to ensure good wages and working conditions with rules that protect everyone represents an example of an upstream approach to address the social determinants of health.

Recommendations:

The Association of Ontario Health Centres believes that all Ontarians deserve decent work with fair wages, sufficient hours, paid sick days, and rules that respect and protect everyone. We know that the conditions in which people work affect their mental and physical health as well as their overall sense of wellbeing.

We offer the following more detailed recommendations, with a particular focus on the Employment Standards Act (ESA):

Ensure that the rules protect everyone

- Expand the definition of employee to ensure people are not excluded from ESA protection.

- End the exemptions from the ESA and special rules for different types of workers. For example, ensure that agricultural workers are covered by the ESA.

- Make employers liable for wages and all ESA entitlements, even when they use subcontractors, temporary help agencies and other intermediaries.

- Ensure that temp agency workers receive the same wages, benefits, and working conditions as workers doing comparable work that are hired directly by the client company.

- Make client companies jointly responsible with temp agencies for all rights under the ESA, not just wages, overtime, and public holiday pay.

- Eliminate barriers to client companies hiring temp agency workers directly during the first six months.

- Prohibit long-term temporary assignments. Require that agency workers become directly-hired employees after working a cumulative total of six months for the client company. Limit temporary staffing to 20 percent of a company's workforce.

- To address the fact that many workers are being misclassified as independent contractors establish a reverse onus on employee status so that a worker must be presumed to be an employee unless the employer demonstrates otherwise.

- Ensure all workers get a written contract.

- Work with federal agencies to undertake inspections in sectors at risk for misclassification such as cleaning, trucking, food delivery, construction, and courier services.

- Ensure the ESA establishes the framework for equality among workers doing comparable work by not allowing differential treatment in pay, benefits and working conditions for workers who are doing the same work but are classified differently, such as part-time, contract, temporary, or casual.

Ensure Fairness with decent hours and fair scheduling

- Ensure a ceiling on maximum work hours. The ESA should provide for an eight-hour day and a 40-hour workweek. Employees should have the right to refuse work beyond 40 hours. Overtime at time and a half should be paid (or taken as paid time off in lieu) after 40 hours. No overtime exemptions or special rules. Repeal overtime averaging provisions in the ESA.

- Permits for overtime in excess of 48 hours per week must be reviewed. Permits should only be given in exceptional circumstances and be conditional on demonstrated efforts to recall employees on layoff, offer hours to temporary, part-time, and contract employees, and/or hire new employees.

- Require employers to offer available hours of work to those working less than full time before new workers performing similar work are hired.

- Ensure a floor on work hours and advance notice of work schedules by requiring two weeks' advance posting of work schedules (including when work begins, ends, shifts, meal breaks).

- Require that employees receive the equivalent of one hour's pay if the schedule is changed with less than a week's notice, and four hours' pay for schedule changes made with less than 24 hours' notice.

- Workers must be able to ask employers to change schedules without penalty (i.e., protection from reprisals).

Enforce the law; promote respect at work

- Follow through on enforcing the ESA by improving proactive enforcement, increasing the cost of violations, and supporting workers to enforce their rights.

- Adopt new measures to protect employees who detect ESA violations through, for example, anti-reprisal protections and an anonymous and third party complaint program.

- Ensure access to unionization for workers in precarious employment to improve working conditions and power imbalance in the workplace.

Paid Vacation and Sick Leave

- To support work/life balance Ontario should follow the lead of other provinces and increase paid vacation entitlement to three weeks per year, with four weeks of paid vacation after five years of service.

- Ensure paid sick days for all by repealing the exemption for employers of 49 or less workers from providing personal emergency leave /paid sick days

- Allow all employees to accrue a minimum of one hour of paid sick time for every 35 hours worked, with no more than 52 hours of paid sick time per year (unless the employer selects a higher limit). For a full-time 35- hour per week employee, this works out to approximately 7 paid sick days per year.

- Repeal Section 50(7) and amend the ESA to prohibit employers from requiring evidence (e.g. medical notes) to entitle workers to personal emergency leave or paid sick days.

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