

**Submission
No 334**

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Name: Ms Elizabeth Marr

Date received: 16/05/2012

workerscompinquiry - Written Submission

To: <workerscompinquiry@parliament.nsw.gov.au>
Date: 5/16/2012 7:44 PM
Subject: Written Submission

To The Chair, Hon Robert Borsak MLC,

I would like to address the terms of reference as follows,

1a: "the performance of the scheme in the key objectives of promoting better health outcomes and return to work outcomes for injured workers".

Whilst all literature concerned with workers compensation states that the industry's aim is to deliver the best possible health outcome the current system does not embrace the ideal of longevity in regard to health, financial decisions regarding health treatments are made with only a short term view of the patients care. As a person who has an ongoing workers compensation case (work injury 2002) I believe I am in a position to comment, especially with regard to my type of workplace injury. I have a lower back injury which I was able to manage with exercise, physio and avoiding certain repetitious movements and activities, if I deviated from this regime I would have a flare up and require medication and care. After some time there was a deterioration in my condition and my symptoms increased including loss of mobility due to severe weakness in my right leg and in fact I began to need a cane to get around as I had many falls caused by my leg giving way beneath me. A request for surgery by the specialist I was seeing was unsuccessful for months until I saw a solicitor and she obtained the permission immediately (that day) by phone which was then backed up by written copy. My surgeon was compliant with all that the insurance company required from him. During the wait for permission I became virtually immobile only able to walk short distances without great pain, along with this went weight gain, damage to my right foot and depression and anxiety. **THE POINT IS** the insurance company was always going to pay for my operation anyway so why make me wait an undue length of time and cause more problems for my long term health? This surely is not promoting a better health outcome and I am certainly not the only person to be affected in this way.

1b:

I have participated in some return to work programmes and in my experience they have been of extremely poor quality in fact in some instances dangerous to not only my health but the safety of my co-workers and customers. The insurance companies paid large amounts of money to these rehab companies without seeming to check the validity of the programmes that they came up with or in fact whether the person had the appropriate training for this task. More often than not tasks that my treating doctor had specifically stated were to be avoided whilst rehabilitation was taking place, were included in the return to work program and when questioned as to why this was, the rehab person said that after consulting with the employer they had been told by him that he needed me to carry out that task as part of my employment and therefore they had to include that particular task. So decisions on my current and future health outcomes were being made by (a) my employer, a man with no medical training and (b) a professional rehab consultant who could not recognise that her job was to look after and protect me from further injury. Eventually I was told I could not go back to my workplace as I kept reinjuring and the insurer had a duty of care to protect me. I have been one of the lucky ones in some ways, I have strong competent professionals who look after me and are not intimidated by the rhetoric of the claims managers, rehab consultants and in some cases medical practitioners, these professionals have always encouraged me to strive to improve my condition, to be proactive in my recovery, to use every resource available such as exercise and pain management and above all to be totally honest when stating my ability, to say when I have no pain or when a task is causing excessive pain.

Many thousands of dollars were spent by the insurer for me to attend job clubs, return to work training and relevant courses. In my experience a job club comprised of a very large table with many suburban newspapers and a dozen chairs and you looked for jobs in these papers. As many of these papers were from the same publisher the same jobs appeared many times. We were encouraged to apply for jobs that were "too good to be true" earn \$2000.00 a week from the comfort of your own home. When questioned why, these professionals would tell us that at least it would show we were trying. I could have carried out this task at home and saved the insurer a lot of money. There does not seem to be any scrutiny of these practices, injured workers such as myself who really needed help to find a workplace suitable to our injuries were instead used as the bait for these companies to trawl the workers compensation pool and reel in a disproportionate amount of the money pot. In the beginning I believed the spiel and thought this was going to be a new beginning for me and I would start to get excited and imagine myself back at work albeit with restrictions. Of course I soon realized that there was no real solution to be found in these schemes only a temporary ticking of the boxes for my claims manager and lovely fat bonuses for the rehab consultant who signed you up for yet another course. Why were these companies not accountable when they took so much money from the scheme?

In closing I would like to state that as a participant of the Workers Compensation Scheme I feel I have the right to say, why are you proposing to punish the injured when only a proportion of injured people make dishonest claims? It is very easy to sensationalise with an account of someone supposedly paid a million dollars for sitting at home doing nothing and refusing to attend courses but if this were true this person would have been ruled non-compliant and payments would have ceased. The biggest costs are costs that can be eliminated by making insurers comply with Work cover rules such as timely responses for medical treatment, accepting the diagnosis of Two or Three doctors rather than Seven or Eight, strictly monitoring the activities and ethics of rehab companies and asking for **PROOF OF RESULTS** as any other company would be obliged to present and finally huge fines for Insurance companies who know, by law they will be required to pay a claimant but drag the process out resulting in higher costs for the system and therefore everyone. Finally the question needs to be asked, who is supposed to benefit from the scheme, the injured worker, the medical fraternity, the rehabilitation provider, the legal profession or the insurance companies? Employers are not given a choice but must contribute to this scheme under the guise of worker protection and to save Medicare the resultant cost but in fact this scheme has been used and abused by all of the above but none more so than those whose very employment should place constraint upon their greedy and sometimes illegal actions. By the very nature of their education and standing within the community there is an implied trust that goes along with the positions that these professionals hold, but, it is very clear that to trust blindly has cost everyone too much. Please do not punish injured workers, change the things that are truly wrong in the system, make Work cover a strong advocate for workers and demand accountability from the insurance companies. To do any less would be a backward step and further lower the regard in which we hold our workforce, a regard that is constantly being challenged by people who would see profit as the only valid outcome, holding no regard for the quality of life of individual workers.

Yours Sincerely
Elizabeth Marr