

Submission
No 90

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

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Partially Confidential

New NSW Workers Compensation – Submission to Parliamentary Enquiry

Since the start-up of our company in 2001, we have had only had 2 Workers Compensation claims. One in 2006, being very insignificant at \$331. Another, more significant, was a back injury claim.

The cost of the larger claim, estimated at \$85,000, has had the effect of doubling our premiums for the next three years and will ultimately cost the company \$100k. The employee's back was apparently injured on three separate occasions, even though the employee was a supervisor and the occasions were not significant in themselves. It was not relevant to the workers compensation claim to determine whether there was any prior history that may have contributed to the current injury.

Workers Compensation is not insurance, as the customer invariably ends up paying back his claims through increased premiums. Should a business have a claim, the premiums are adjusted to cover the costs of the claim over a 3 year period.

Companies who don't make claims should in fact receive rebates for good work safety practices, such as certification to AS/NZS 4801, or NSW Government OHMS Accreditation, rather than being penalised on the basis of some esoteric combination of an industry average and a single claim.

If the insurance industry needs to increase its income, the need for extra funds must be coming from another source than the cost of claims. There are three likely candidates: the cost of legal fees, the cost of medical fees and the costs of the insurers.

Doctors often take little responsibility when identifying a 'Workers Compensation' case. It seems too easy to tell a patient to take a week off, when he or she could and should be back at work the same day. Doctors might treat it differently if they knew that ultimately, the small businesses are paying the dollars.

It can be to the patient's detriment too - our supervisor's back injury claim, for example, has resulted in his being no longer employed by us or anyone, and having little prospect of being so in the future. This is because his doctor told him, even though he was not required to do manual work, initially not to work for some time, and then to work part time only, and not to drive significant distances. He has now applied for his superannuation to be paid out, saying he can no longer work in the industry.

We have seen some law firms working together with some medical practices on a mutual referral basis. Since the law tends to blame the employer for all accidents that occur to an employee, however tenuous the link between the circumstances and the performance of work, this is fertile ground for any lawyers who choose to specialise in workers compensation.

There are additional financial issues at stake. For example, if an employee is injured in a car accident on their way home from their workplace and it is the other drivers' fault, are all expenses paid by Workers Compensation or by the at-fault driver's CTP?? Is there double dipping?

A premium increase of 28% across the board is unfair to the clean-skin businesses and seems hard to justify. As an employer, I would like to see a breakdown of the costs incurred by insurers in a workers compensation scheme. In particular, it would be useful to know how much goes in legal costs; how much in GP, specialist and surgical; how much in lost wages and employer's expenses; and how much goes in insurer's overheads.

15 May 2012