

Submission
No 263

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Name: Name suppressed
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Partially Confidential

Submission to the Joint Select Committee on the NSW Workers Compensation Scheme

In respect of the Joint Select Committee on the NSW Workers Compensation Scheme I would submit for consideration the following observations.

The fiscal performance of the NSW Workers Compensation Scheme is, for the most part, a product of its extant legislative architecture and supporting operational structures.

Whilst significant emphasis is placed on provision of medical, rehabilitative and salary maintenance, the operational management of the scheme in terms of workers compensation insurance products has been left almost exclusively to the commercial providers, and this presents a number of clear problems and potential conflicts.

Currently it is not in the financial interest of commercial providers of workers compensation products to reduce workers compensation claims, in terms of numbers and duration.

Workers Compensation Insurance Scheme agents offering workers compensation insurance products profit a number of ways from the operation of workers compensation systems.

Claim management fees are payable to the insurer upon establishment to a new claim and throughout the life of the claim. The longer a claim is open the higher the management fee. Essentially more claims equates to more money payable to the insurer. \$17000.00 has been identified in some research as an average amount per claim for longer term cases.

For each dollar paid out under a worker's compensation policy, the policy holder may ultimately pay triple (or more) the paid amount, due to the fee structures and the hindsight premium calculation adjustments.

There is little or no incentive identifiable for claims managers to expatriate closure actions associated with a compensation claim.

The extant workers compensation legislation is so immutable as to prohibit any flexibility in managing compensation within the workplace.

Existing legislation mandates that subsequent to the occurrence of a work related injury incurring costs and or resulting in time off work a compensation claim must be offered to the affected employee and the management of the claim is mandated to the insurer by legislation.

As such the system prohibits any internal management of workers compensation costs, resulting in excessively inflated costs for all injury types including minor or moderate injuries, which could be easily and efficiently managed by a larger employer.

Many medium and large organisations would be inherently capable of managing a significant number of their own claims internally without the need to engage an insurer at all. Such an amendment to the provisions would require various sureties, but would significantly reduce the wholly unnecessary cost associated with many thousands of smaller claims.

Submission to the Joint Select Committee on the NSW Workers Compensation Scheme

Flexibility in workers compensation policies could include the option for employers to cover all salary costs and have the policy cover medical and allied services.

Flexibility in workers compensation system could realise options where employers that meet specified criteria could be allowed to manage claims internally within specific brackets which could be monetary and or time based.

There is no evidence apparent indicating competitive action of any kind is underway within the insurance market for workers compensation policy products.

An exercise perusing electronic and print media on any day identifies the significant level of competition in the insurance market for every insurance product line....with the notable exception of workers compensation insurance products!

Even publications and broadcasts directly targeting business audiences are bereft of advertisements or endorsements for workers compensation policy business...even though it is a legislated requirement for almost all businesses to purchase such a policy.

This is not a situation which is comfortable and some explanation may be warranted from the insurance sector as to the reasons why an apparent 'steady state' is being maintained, with seemingly no appetite for offering policies structured to attract new business.

Would not an insurance company with success in resolving claims above the industry norm have a sound basis for advertising its accomplishments and tout for additional business?

It can only be surmised that no one wants to 'rock the workers compensation boat' and bring competition to the market, perhaps a case of no insurer wanting to kill the workers compensation cash cow!

There would appear little if any rationale to afford responsibility to an employer for an employee's injury whilst the employee is journeying to or from a workplace.

Could a claim be made against Coles or Woolworths if a customer sustained an injury on their way to a supermarket? Should we not hold a petrol station responsible for a motor vehicle accident which occurred whilst someone was driving to the business to fill up?

Obviously ludicrous scenarios, but none the less poignant in highlighting the inherently unfair and wholly unaffordable situation whereby injuries which logically should be covered by personal insurances are legislatively forced onto employers, who had no responsibility at all for the occurrence.

17th May 2012