

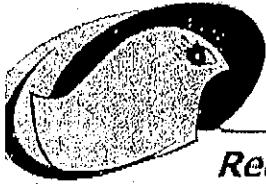
**Submission  
No 206**

## **INQUIRY INTO NSW WORKERS COMPENSATION SCHEME**

**Organisation:** Red Lea Chickens Pty Ltd

**Date received:** 17/05/2012

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**RED LEA CHICKENS PTY LTD ABN 40 002 156 569**

**Red Lea**  
farm fresh chickens

17<sup>th</sup> May, 2012.

Joint Select Committee on the NSW Workers Compensation Scheme  
Parliament House  
Macquarie Street  
Sydney NSW 2000  
Fax (02) 9230 2981

Dear Sir/Madam

**Re: Submission for NSW Workers Compensation Scheme**

We would like to show our full support to the NSW Government in relation to amendments to the NSW WorkCover reforms.

The increased premium expectation of 28% would have a devastating effect on our business. We are a family owned business which has been operating since 1952, as a Group we currently employ approximately one thousand (1,000) people.

The management of Workers Compensation Claims has become critical to the business as a blow out in the cost of claims doesn't just effect one of our businesses it also effects two others. If one company for example, the Processing Plant has an increased cost of claims it impacts the premiums of the rest of the group. We are currently reviewing the growth of our business in NSW due to the high cost of operating a business, in particular Workers Compensation.

G&M Velcich Partnership operates thirty three (33) retail stores and Kyndek Pty Ltd operates nine (9) retail stores, neither business relates to the Processing Plant yet we are grouped and penalised. With the continued increase in premium I am giving considerable thought as to the viability of opening future stores and in fact we have just closed one and are looking at other closures, job losses will inevitably follow.

The employer is virtually the bystander who foots the bill, without any say in what is happening to his business. The impact on moral on the shop floor cannot be counted monetarily, employees know when a co-worker is fraudulent and they can't understand why the company doesn't "do something", little do they realise just how powerless we are, probably just as well or many more claims would be heaped upon us.

***"The Better Tasting Chicken"***

Premium calculations are based on estimated costs of claims whether the claim has been accepted or not, too bad if they get it wrong. The impact on premiums by these "guesstimates" can be enormous, by that I mean hundreds of thousands of dollars. A business like ours has to be constantly on the lookout for technology that does away with labour. This must have very negative impact on the positions for unskilled labour available in the Western Sydney area.

The cost of doing business in NSW is something that many companies will have to review by necessity if this problem is not addressed, they just can't be competitive with other States.

We appreciate being able to take part in this submission and look forward to the Government's favourable findings.

Yours faithfully  
**RED LEA CHICKENS PTY LTD**

Giovanni Velcich  
**DIRECTOR**

NSW WORKERS COMPENSATION SCHEME SUBMISSION

We have read the "Issue Paper" and wish to comment as follows;

- **Severely injured workers;**

We agree that too much is paid as ongoing compensation; there are real problems with the management of these claims. We have to make sure that payments are available for the genuine cases and that fraudulent claims are dealt with swiftly.

- **Removal of coverage for journey claims;**

We agree with this as the object of workers compensation is to cover employees for an injury at work.

- **Prevention of nervous shock claims from relatives or dependants of deceased or injured workers.**

We agree that this should align with other States and remove provision for payments to estates.

- **"Simplification" of the definition of pre-injury earning and adjustments of pre-injury earnings.**

This would depend on the cost impact. It may also encourage a higher number of "short" claims as no loss of earning involved.

- **Incapacity payments – total incapacity**

Agree – Need a greater capacity for testing independent examiners, e.g. G.P.'s have too much flexibility to make someone unfit, e.g. sprained ankle should be 2 to 3 days not 2 to 4 weeks.

- **Incapacity payments – partial incapacity**

Agree, although should be limited to no more than workers pre injury earnings.

- **Work Capacity Testing**

Agree, but testing must be done by a "reliable" Independent Medical Consultant and/or Examiner, which the Employer should have some input into the source. The insurance company and employer should have the ability to manage Rehabilitation providers properly.

- **Cap weekly payment duration – lower level permanent impairment (e.g. Case Study 1)**

Agree, workers know that they would have a limited timeframe to get to work fitness, instead of prolonging their rehabilitation; there is no incentive for them to get back to work.

- **Remove "pain and suffering" as a separate category of compensation.**

Agree, incorporate into lump sum payments. Currently W.P.I.'s have the capacity of claiming for e.g. 15% on the actual impairment e.g. rotator cuff damage and up to 15% on pain and suffering.

- **Exclusion of strokes/heart attack unless work a significant contributor.**

Agree, eliminate all non work claims, there must be some test that can prove that work is the contributing factor. (See Case Study 2)

- **One, one claim can be made for whole person impairment**

Agree, currently can make any number of claims and aggregate various injuries. This will provide incentive to have injury stabilised and make help reduce fraudulent claims.

- **Strengthen work injury damages**

Agree

- **Cap medical coverage duration**

Agree, this would be the largest contributor to cost blow outs.

- **Strengthen regulatory framework for health providers.**

Agree, would also recommend the capping of fees charged for expenses from Nominated Treating Doctors and Independent Medical Examiners.

- **Management of claims agents**

More rigorous checks by Scheme Agents need to be applied to injuries "are they really work related", medical assessments, treatments and work capacity. There should also be a statute of limitations of say 3 years.

- **The GP as Gatekeeper**

There should be no time limit in relation to when you can request and I.M.C. or I.M.E. or an investigative organisation. This should be permitted at any stage of the claim. Employers should have the right to independent examination of any suspicious claim. E.g. a Slip and fall did it really happen at work or at Football on Sunday.

G.P.'s have total say in what happens with the employee and can have absolutely no knowledge of the industry or any duties they may be available. There should be some system in place in which the employer's investigation can be discussed with the G.P.

- **Work related injury – Section 9A**

Wording should be amended, to work has to be "the" not "a" substantial contributing factor. It is too opened to interpretation; courts and the Workers Compensation Commission appear to have a very narrow view.

- **Provisional Liability**

Employers should have time to investigate claims, especially when they believe the claim to be fraudulent before Provisional liability is accepted.

- **Role of Employers**

Employers must have a role in claim acceptance and management of claims other than "pay the price".

- **Stress Claims**

Stress claims must be investigated rigorously. If the employee is removed from the "stressor" then there time on benefits should be reduced.

- **Disputes**

Employees can easily have medical assessments reviewed. Employers should be able to challenge decisions made by the W.C.C.

- **Dispute management**

Employers have a very limited ability to challenge WorkCover operations. There should be a simpler independent process to appeal and review disputed premiums. The employers has nowhere to go to appeal any decisions made by WorkCover that they don't agree with.

- **Cannot effectively challenge cost of claims and premium levels**

Even where cost of claims is reduced, the employer continues to bear the original cost in estimate premium, there is no way to go back and recover any of the premiums. This is grossly unfair.

### Case Studies

- 1) A cook in one of our Retail Store has slipped and injured his knee, a minor repair was made to the knee. With all the rehabilitation he has had over a period of 9 months, he is allegedly pain focused with no recovery in site, as there is no incentive for him to return to work.
- 2) A new starter having been fully inducted in safety procedures and job skills falsified information on his pre-medical application. He suffered a blackout at work was transported by ambulance to the local hospital where his medical history had been taken by medical staff uncovered that he had been in consultation with a neurosurgeon for several months as a result of a brain aneurysm. Had he been severely injured while falling at work the potential impact on workers compensation for the company could have been exorbitant, depending of the severity of injury.
- 3) We currently find ourselves in a position of being sued by a worker who was employed by a Labour Hire Company, he was inducted and trained, he claimed to have hurt his back after only one and half shifts. He was granted Workers Compensation by the Labour Hire company's insurer, but is now suing our company for the same injury, he gets to double dip. He is 21 years old and wants to be compensated until retirement age. This is not the first instance where we have had to fight this fight; it is usually a long, protracted and expensive exercise. If an employee is granted workers compensation payment from one employer he should not be permitted to sue the "host" employer as well.
- 4) An employee who worked on one of our farms injured his right shoulder was granted workers compensation payments after a period of 18 months he was given a clearance to come back to work. Some months later he resigned and moved to another town. It would appear that he was unable to find work in the new town so went to the local doctor who gave him a WorkCover Certificate for aggravation of the old injury and the claim blew out to over \$150,000, which is \$750,000 over three years on our premium.
- 5) A new store employee on her first day of work slipped and hit her head on the counter which required 2 stitches. She never returned to work as this particular injury was allegedly so debilitating, she couldn't work, cook, do housework, walk unaided and have a sexual relationship with her husband. This claimed maxed out at \$150,000 which of course impacted on our premium for 3 years.