

**Submission  
No 8**

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

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I'm writing to outline a few issues that may be of value to a review of the Workers compensation Scheme.

Quite simply, it's no wonder the scheme is in such a huge deficit when the following conditions apply to employers:

1. Employers pay a hefty premium yet have no control over the claims. If a person submits a Workers Compensation Medical certificate, our insurance company accepts it, even when we make it clear that it's questionable. Recently we have tried to have a claim declined on the basis that the individual stated it was a personal injury for some 2 months before they ran out of sick leave and then it became a claim. It's an outrageous abuse of the system.

We used to be able to ask for an Independent Medical Examination in the event of questionable claims to at least get a second opinion. Now it appears that Workcover has made it impossible to get one. At least that's the story we're told from our insurer.

2. Workcover appears to punish insurance companies when they don't accept a claim. Our insurance company appears to be terrified of Workcover whenever we question a decision. They always say it's in the Workcover guidelines or that if Workcover reviewed it they would make them accept it. It appears that they live in fear of Workcover. Or at least that's something else the we're told, and again, we have no way to challenge or confirm that.

3. Doctors are the main problem in the abuse of the system. They have no investment in the scheme so they're quite happy to write unfit certificates for their patient even though it's contradictory to any concept of Returning to Work. If they were more accountable for their actions then they might be more focussed on the outcome rather than indulging their patients.

We recently had a worker who used their doctor to avoid having to do certain parts of their job despite the worker telling all and sundry that they never felt better. In addition the worker's physio and exercise physiologist were both saying they were fit for Pre-injury duties but the GP kept writing suitable duties certificates 'specifically' nominating the work activity the person was not allowed to do based on what the worker said. Furthermore, the GP was hostile to the Rehab Provider when they wanted a case conference on the claim.

4. There is no recourse on the worker or their GP if they defraud the system. If some miracle were to occur and we had a claim overturned then we don't either get our premium back or recover our costs from the worker or the GP. There are certainly penalties for fraud but no one is ever charged. In fact in my experience, the system rewards the people who set out to abuse the system.

Have a look at Workcover's website and see if you can find the last time someone was prosecuted for defrauding the scheme. The only thing I could find was the following from 2 years ago.

<http://www.workcover.nsw.gov.au/aboutus/newsroom/Pages/WorkCoverfraudprosecutionofWyangwo-man.aspx>

In that apparently unique case (as someone actually was prosecuted) it took 9 years of abuse of the system before anyone did anything. But of course there's no mention that the employer was reimbursed for the additional premium paid.

So in conclusion, to make this scheme work there are three simple conditions that need to exist.

First, there needs to be an independent assessor of claims to determine their merits. Workcover is clearly not that body, nor are the insurance companies.

Second, doctors need to be financially and professionally accountable for their actions.

Third, if people abuse the system then they need to be penalised rather than rewarded.

Should you require any further information in relation to my email or to discuss please feel free to contact me.

Regards

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tumbleweed1.pscop.com.au made the following annotations

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