Workers' Medical Centre

117 Ipswich Road Woolloongabba 4102 Queensland Australia
Ph. 32173566 Fax 32173028 E-mail whc@powerup.com.au

Dr Sherryl Catchpole
M.B. B.S.
M. Hlth Sc. (Occ Med Hlth Sfty)
Certified Independent Medical Examiner
Prov No 0080426Y

REPORT FOR THE HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON EMPLOYMENT AND WORKPLACE RELATIONS - INQUIRY INTO ASPECTS OF WORKERS COMPENSATION

Brisbane 22 November 2002

I work as a general practitioner in the field of Occupational Medicine and have considerable experience with patients with Workers Compensation claims. For 7 years I held the position of Occupational Medical Officer for a public service employer with 3500 staff. Since 2000, I have worked at the Workers Medical Centre. Here a large part of my work deals with Workers Compensation claims that have met with difficulties.

"The incidence and cost of fraudulent claims and fraudulent conduct by employees and employers and any structural factors that may encourage such behaviour."

In my work in Occupational Medicine I have met with only one claim that was an elaborate fraud, involving a worker assuming two identities and opening two similar claims with two different employers.

I have knowledge of one patient who stated a false causation for a real injury at first consultation, but who did not go on to submit a claim.

A significant number of patients are certain that an illness or injury is caused by work, when I have been uncertain as to the cause. I have often advised patients that their diagnosis is one that is not usually accepted as related to work, but completed a certificate for them. The insurer makes the decision on claim acceptance. These patients have a genuine belief in their theory of causation and are not therefore attempting fraud.

There have been many instances when the employer has disputed work as the causation of injury or illness. In some cases the employer is correct about this. Often in these cases however, an employer decides that the worker is also wrong about being ill, and acts on that decision. I have intervened in a situation when an employer was about to take punitive action on a worker with a condition that was terminal within weeks.

When there is a poor relationship between employer and employee, the injured worker is reluctant to return to the workplace. There is a psychological component to all illnesses, and if negative this may impede recovery. The perception by the employer that the worker is malingering, if communicated to the injured worker, will significantly erode any remaining trust, and just ensure that the worker remains focused on being ill.

Making a Workers Compensation claim is stressful to the patient, who is ill and often unfamiliar with bureaucracy and is going through a time of reduced income. It is my observation that when patients perceive that they are not being treated with dignity they become resentful. Recovery and rehabilitation then become more difficult.

If the illness is prolonged beyond the expectation of the employer, the situation deteriorates. It sometimes becomes my role to educate an employer about the expected length of an illness and correct misconceptions.

In situations of poor relations between employer and employee, recovery and rehabilitation are more difficult and more prolonged. This occurs relatively commonly, with the commencement of poor relations at the start of the Workers Compensation claim. When poor relations exist prior to the claim there are even more difficulties. It is my observation that these situations are likely to engender perceptions in the employer that the patient is committing fraud both with the claim and with the slow recovery.

A number of patients in the above situations become "stuck" and no improvement occurs until prolonged legal action is completed. The likelihood that there will be significant improvement in the medical condition diminishes with time.

Fraud by employers has also been encountered. A recent example relates to a situation in which a patient with English as a second language worked for a tiler and received a weekly cheque. When he sustained an injury he was told he was a sub-contractor and should have paid his own Workers Compensation or other disability insurance premium.

Another situation of fraud by employers that is fairly commonly encountered, is the denial of the possibility of a rehabilitation light duties program because no such duties exist. On further investigation it can be discovered that such a short-term position is possible, and even that such a position has been used for rehabilitation in the recent past.

I am not familiar with the calculation of the monetary cost of fraud by employee or employer. In any case it could only be accurately calculated for proven cases. I am however aware that in work environments where fraud occurs or where the employee is alleged to have committed fraud, that the morale of all in the workplace is significantly diminished. This will obviously affect the conduct of the business.

A structural factor that may contribute to a worker becoming reluctant to return to work can relate to the workers perception of the separation or non-separation of power between employer and insurer. It is my observation that the patients who are covered by a self-insured employer have great difficulty identifying a difference between the insurer's decision making and that of the employer. Very often the person who manages the rehabilitation program is also perceived to be a manager for the employer. The worker feels that Natural Justice is not being observed and becomes angry. The self-insurers aim, by effective case management, to return injured workers to the workplace and to close cases as soon as is possible, thereby cutting costs. The worker may perceive active case management to be harassment from the employer.

A patient making a Workers Compensation claim signs an agreement with the insurer that the insurer has access to details of the medical condition. This also gives the employer the right to access this information, and this can be resented by the patient.

"Regarding factors that lead to different safety records and claim profiles from industry to industry and the adequacy appropriateness and practicability of rehabilitation program."

Industry to industry difference in safety record and claims profile is to be expected, and is well known by professionals in the field. Attention is still given to reducing accidents and claims on an industry wide basis.

Valid comparisons can be made between companies working in the same industry. If the Health Insurance Commission can perform a profile of billing for my medical practice and a profile of prescribing, another arm of government should be able to measure a company's performance with regard to safety and claims, and this may form the basis for counselling of a company.

I have encountered numerous organisations providing rehabilitation programs. The professionals, mainly from the disciplines of Physiotherapy, Occupational Therapy and Psychology have provided competent assessment and management.

On occasion the company appointed workplace rehabilitation person, who takes this responsibility in addition to other duties, is not experienced in the role and has no background in rehabilitation on which to make decisions. When this is encountered considerable medical officer time can be taken for education of this person.

Summary:
Fraud is rare.
Workers treated with dignity get well quicker.
There is the perception of less Natural Justice in the decision making of self-insurers.

This report has been prepared by Sherryl Catchpole

I refer the Inquiry to documentation produced by the Australasian Faculty of Occupational Medicine of the Royal Australasian College of Physicians, 145 Macquarie Street Sydney 2000, relating to Workers Compensation.

Sherryl Catchpole