

Inquiry into the Aspects of Workers Compensation
House of representative
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From
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SUBMISSIONS

I have only just become aware of your inquiry into the Aspects of the Workers Compensation and ask that this brief outline of fact be accepted and should you require further explanation or expansion of facts please feel free to contact me at the above address.

- 1. The incidence and costs of fraudulent claims and fraudulent conduct by employees and employers and any structural factors that may encourage such behaviors*

I have a different approach to this question and look at the Workers Compensation Corporations and in particular South Australia. The evidence of illegal activity and fraud committed by the WorkCover Corp SA is something I do not give out freely and I believe that a Royal Commission into these activities is the only way justice is going to be seen to be done.

In SA the WorkCover Corp has the control of enforcing the Workers Compensation and Rehabilitation Act as amended 1986 hereafter called the Act. This is the first problem with the scheme in South Australia as the WorkCover Corp does not have to answer to any authority or body. The first solution to this would be the setting up of a Complaints Authority similar to the Police complaints Authority which could look at problems cheaper than the Courts but must have the power to issue penalty such as imprisonment and or fines against the staff of the WorkCover Corp of SA for failing to comply with the Act.

The staff of WorkCover does conduct and believe it is their duty to hinder claims. This hindrance includes fraudulent act of non-compliance of Awards. Section 4(7) of the Act states that WorkCover must pay an injured Worker no less than the Award rate. However in my case this has never occurred and after 12 years of having casemanagers, heads of depts and CEO's etc, the underpayment to myself is over \$940 000. The response from WorkCover was "WorkCover has been getting away with underpayment for so long that it would be unfair and prejudice to have to correct the fraudulent underpayment".

Further the WorkCover Corp has not paid the superannuation to myself for the relative period for the same reasons. However the two awards covering myself both state that if I am injured I am still entitled to superannuation. This has far reaching problem due to the fact that superannuation does not kick in till retirement.

Further WorkCover SA would use undercover agents

placed undercover for periods of over two years and being paid by WorkCover \$1000 per week in the hand to entrap injured Workers, falsify evidence, steal documentation by removing them from the injured workers possession without permission.

Another activity that occurs within the WorkCover Corp of SA was the use of out sourced agency that were owned by WorkCover employees

This is surveillance companies owned by personnel in the fraud investigation dept, select chemist for medication owned by employees in the WorkCover, Lawyer firms etc the list goes on.

The WorkCover Corp of SA would reject over 95% of all claims so that the injured would be forced to confront financial difficulty and the judicial system.

Further the WorkCover Corp of SA would delete sections of the Act to achieve fraudulent convictions such as sect 35 (1) b (ii) of the Act. Further producing 5 (five) false and misleading documentation to a court in WCT JD 1 of 98 of payment records paid to the injured worker.

Further the WorkCover Corp do not produce any Documentation pursuant to the Freedom of Information Act , discovery of Documentation or sect 107b of the Act and this is due to the fact that the WorkCover Corp has to much illegal activity to hide.

But the section 122-4 of the Act allows all WorkCover personnel to be protected from prosecution. This was given to them in a Supreme Court of SA "Millikan v Moore-McQuillan" 1998. The removal of this section to allow staff of the WorkCover Corp to face criminal prosecution would quicken the process and streamline the whole claim process.

Further the system is heavily lawyer involved and the lawyers are now considering the WorkCover system as a license to print money and the objectives of the Act are basically non existent.

The sect 122-4 also protects Lawyers also from prosecution, which should never happen.

Injured workers are still left with post traumatic stress disorder and treatment to continue for many years to come. It would be better to assist these injured workers and have an investigation into the wrongs done against the injured.

One activity that does exist in the WorkCover Corp of SA is the company car, which is part of the salary sacrifice. The car is given form \$9500 pa and over two years. This is a total amount of \$19000 but at the end of the two years they are sold to a private car yard for \$26000 giving them a tax fee gift of \$7000 and a new car to start over again with. Also the petrol and service is also paid by the WorkCover Corp and no questions are asked. So if a bill is obtained from holiday say to Cairns again no question is asked. This is abuse and fraud.

2. The methods used and costs incurred by Workers Compensation scheme to detect and eliminate-fraudulent claims

WorkCover Corp of SA would and have spent in excess of \$250 000 on investigations on one injured Worker in SA and then spent \$34 rehabilitating the same injured worker.

(I have numerous accounts of this on record and available from other injured workers should the committee wish proof of this.)

Till recently WorkCover would not pursue employees for incurred expenses pursuant to sect 54 of the Act. It is now being asked to delete this section from the Act so the employees can feel safer.

The use of unauthorized companies such as _____ mentioned above is a good example fraud being committed by WorkCover Corp of SA

In 1996 the WorkCover spent \$1 600 000 on legal expenses in 1997 that figure rose to \$7 000 000 and in 1999 the figure increased to in excess of \$20 000 000. It is obvious that the only group of people defrauding the system is the legal system.

- The failure of employers to pay the required workers Compensation premiums or otherwise fail to comply with their obligations

If an employer has not been paying the premium or percentage and is found out there is no punishment or penalty made. My employer did not pay WorkCover benefits at all and when discovered sacked me instead. This was against the Act at the time but to this day no penalty has ever been taken against my employer. So it is safe to say WorkCover Corp SA do not pursue employers who do not pay premiums.

3. Rehabilitation programs?

WorkCover Corp of SA would and have spent in excess of \$250 000 on investigations on one injured Worker in SA and then spent \$34 rehabilitating the same injured worker.

(I have numerous accounts of this on record and available from other injured workers should the committee wish proof of this.)

The removal of programs that assist the injured Worker such as physiotherapy, gym and swim programs, courses in educating the injured to live with the injury by the WorkCover Corp of SA, while increasing the expense on the legal system, only goes to show that the system is in a state of imbalance.

These are a few quick answers for your committee to look at. Like I said I only just found out about the inquiry and it is due tomorrow.

I am a former president of the Injured Worker Ass, which I helped form in 1996 and boost a membership of over 1000 injured workers now. It is this membership that has provided evidence that I feel a Royal Commission would be needed to solve many of the issues from the wrong doing conducted by WorkCover Corp SA. I am happy to provide any specific answers to question you may have and if need be I can produce evidence to back up what I say.

Yours truly,

M Moore-McQuillan