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**Sent:** Monday, 16 September 2002 2:53 PM  
**To:**  
**Subject:** Workers Compensation

----- Forwarded by Kim Mettam/CTASIAPAC/CTGroup on 16/09/2002 12:24 -----

Kim Mettam

16/09/2002 12:51 To: cc:  
Subject: Workers Compensation

Thank you for the opportunity to submit your inquiry.

I was very keen to express some views on problems with Workers Comp systems around Australia and some of the underlying causes of these problems.

History of workers compensation reform in Australia has been a mixed bag.

Overall, solutions have often been pushed and implemented without proper analysis of what the actual underlying problems are and whether such solutions actually solve the problems.

I believe this is because ideology, stereotyping and misguided good intention have generally driven the outlook of legislative reformers.

Problems with this kind of approach is the solution adds to the original problem and builds complexity without bringing about any real major change or improvement.

Reform becomes even more challenging.

The independent causes remain virtually untouched.

We have to ask three questions .

What are the problems ?

What is causing problems ?

and how do the metrics look around these problems?

What are the major problems with workers compensation in the system?

Of vital importance we need to recognise and understand at a forensic level the key drivers of both problems for employers and costs .

The single most overwhelming phenomena in workers compensation is the following.

Ten to 15 percent of injuries?? consume?.

80 to 85 percent of the dollars paid in claims.

We need to look very closely at this 10 to 15 percent group.

Most of the cost in the system comes from people with illness based conditions.

It may seem simplistic but I tend to categorise two key groups of claimants, those who receive trauma as a result of their employment. 'Trauma based claims.'

( These tend to accord with the community's perception of someone covered by workers compensation and why workers compensation is a just vehicle in our community.)

And those

In in second group with an illness in which they attribute a relationship whether it major or minor to their employment. 'Illness based claims.'

As a practitioner—in the field of workers compensation for over 27 years I have generally found trauma based conditions have a much lower cost and a relative trouble free recovery process .

The injury \ recovery \ post recovery process, all proceed with a minimum of problems and with limited obstacles when good communications exist between employees and employer.

Illness based conditions on the otherhand are much more difficult and characterised by high costs , ambiguity in diagnosis, and significant challenges for a restoration of employment function. Underlying disease or NSLBP are usually evident.

Illness base conditions are the predominant claims in the 15 percent higher costs group.

Over 60 percent of this group have back complaints.

Drilling down it is usually the norm to find an individual's back problem is not a primary problem as seen by the medical attendants but more a symptom of personal problems in their life which the individual is having difficulty coping with.

Because of the inability to cope with their personal problems a level of stress occurs which makes a back susceptible to soft tissue injury and heightens vigilance in reporting pain symptoms..

This group also have another major characteristic which can be termed 'activity intolerance syndrome'.

A Boeing study by the Aircraft Company in the United States in the early 1990s conducted for safety reasons to predict employees who would be more at risk of having sprains, strains and back injuries . In particular N. S. L. B. P or non-specific low back pain. Reported by W.Fordyce in an International Association for the Study of Pain publication on Backpain in the Workplace..

A sample of people were studied over a period of several years and in a comprehensive way.

This study revealed an unexpected outcome ??..

ergonomic or biomechanical factors around the type of work people perform was not found to be a predictor of whether they might have a back injury and workers compensation claim .

Whether somebody was lifting all day and carrying out a heavy manual job was not the predictor of whether they would have an incapacity or claim for workers compensation.

Rather the predictor which was a surprise was?. happiness in their job

Mood or psychological state may have greater predictive power.Using the Minnesota Multiphasic Personality Inventory Test, those lower on job happiness measures were two and a half times likely to file back injury reports.

This introduces a most significant point?.. voluntary imposition of disability

we need to consider in workers compensation reform when it comes to rules around 'incapacity and disability' of illness based claims that these need to be different to allow for the 'voluntary imposition of disability'

This may sound politically insensitive?. but it's fact of life.

It is also a primary reason why no general social reform in workers compensation has ever been successful.

Investments in injury prevention, injury management and rehabilitation to have a major impact on the costs of workers compensation need to have both process and content rules of a workers compensation system designed to allow for voluntary imposition.

Tennyson White , clinical psychologists in Western Australia have developed a model around imposition and disability .This is used for training of councillors ,employer HR people and injury management coordinator's.

Their model suggests people either consciously or subconsciously impose disability and generally the rest of the workers compensation system reinforces the imposition of this disability. Events follow an unfortunate sequence, sometimes with a lucky lottery win but most often not. Conflicts of interest make medical arbitration less than objective and can be readily exploited by vigorous self seekers. Causation and levels of incapacity can then be legitimized for claimant gain.

Summary ?We have looked at the significance of focusing on the 'key 15 percent group,'

appreciating this group is largely comprised of illness base claims

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which in turn are predominantly?. back injuries characterised often with voluntary imposition of disability.

Putting this all together we need to have specifically a template of rules both for benefit and process, which deal with the problems associated with the illness based claims.

As an example currently there is no uniform Evidence Act in Australia and in some states an individual can make a claim for workers compensation for the aggravation of an illness and use the Evidence Act to refuse to allow an employer to objectively examine the allegation. We need a Federal Evidence Act template covering this area.

If someone makes a claim in the system for an illness based claim they must be prepared to allow the truth to be discovered. Claiming prejudice under an Evidence Act to prevent a review of the previous medical history is not either fair or correct .

Fraud both intentionally and innocently is encouraged.

Health Insurance Commission records are extremely valuable and when an individual makes an allegation of employment relatedness regarding an illness based condition, an employer , an underwriter or government'agency should be entitled to access a complete historical and relevant record of attending doctors (and notes) as contained on the HIC data base ..

We should also consider adjusting benefit rules to recognise illness based claims should receive temporary income support only. Payments after the temporary period should only accord with both the community's capacity to pay and the proportion of work caused contribution objectively determined.

Using disability as the gate for payments only magnifies the suffering of illness based claimants.

With illness based claim lump sum \$dollar payments, these should be proportional to work contribution and objectively determined on all the facts.

Hence the percentage loss of use would be split into two components those of the underlying illness and the proportion contributed by employment. Workers Compensation would only apply proportionately.

Trauma Workers Comp claims would have a very different set of benefit and process rules.

The objective would be to incrementally make these within the system more beneficial for employees each year as greater control of the illness based costs eventuated..

I would be very happy to discuss my views and experiences with your Inquiry

Kind regards  
Kim.Mettam.