

Workers' Compensation: The System's Devastating Economic Impact on Workers' Lives

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Workers' compensation was created for two primary purposes—to provide at least partial compensation for lost wages and to pay for medical treatment and rehabilitation services for workers injured or made ill on the job. This approach seems to offer a great deal—if it only worked.

Unfortunately, the workers' compensation system is deeply dysfunctional on multiple levels. One serious problem is the harsh financial impact the system has on workers' lives.

When established, workers' compensation was framed as a trade-off. In exchange for giving up the option to sue their employers when hurt on the job, workers would receive benefits including modest but reliable economic support. The "modest" has often been minimal, and the "reliable" has become a cruel joke.

Workers are still without the right to sue, but the benefits they receive have been systematically reduced through anti-worker legislative reform. This perversion of justice leaves workers' hands tied even in the most egregious cases, while simultaneously failing to provide for their basic needs.

Three issues in particular severely undermine the economic security workers' compensation promises.

First, the system too often pays benefits only after long delays. This is an intentional "starving out" tactic aimed at coercing workers burdened with massive out-of-pocket costs and desperate for funds to accept less favorable settlements or seek other means of support. Second, and equally troubling, workers' legitimate claims for benefits are often flatly denied. And third, even when workers obtain benefits, these are frequently inadequate to meet basic needs.

By compromising workers' capacity to earn a living, injuries and illnesses unleash a cascade of destructive impacts affecting access to housing and food, stability of relationships, and poverty-related health problems.

It is unconscionable that workers' compensation places much of the economic burden of occupational injuries and illnesses on workers and their families. This makes workers' compensation all too often the accomplice, if not direct perpetrator, in pushing workers – especially low wage workers – into debilitating economic insecurity. Injured and ill workers report depleting their savings, sometimes taking out retirement funds or even declaring bankruptcy in their efforts to cope.

In New York, the maximum weekly wage replacement benefit from 1992 to 2007 was \$400 a week. This translates into about \$20,000 a year in wage replacement, which is below the federal poverty level for a family of four. Many workers can barely survive on this. Often they suffer the additional indignity of being dependent on loans from friends and family. And for those receiving benefits at the lower end of the scale, the situation is far worse.

One would think that increasing the wage replacement benefits would be an uncomplicated affair. Yet in 2007, in exchange for increasing the upper limit of compensation to two-thirds of the state's average weekly wage, and the lower limit from \$40 to \$100, the New York legislature imposed reforms that abandon workers suffering from permanent partial disability after ten years. Many of these workers, who may be suffering substantial and permanent earning losses, will have nowhere to turn when the temporary benefits end. The legislature in essence took three-quarters of a billion dollars from injured and ill workers and awarded it to employers, following the general anti-worker pattern of workers' compensation reform trends.

Because every state has its own workers' compensation program, there's a dangerous race to the bottom as states compete to attract businesses by reducing workers' benefits. In addition, the largely privatized nature of the system guarantees ever-deepening power disparities between workers and employers. This

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skews the system to primarily represent the interests of employers and the insurance industry, ensuring that discussions on workers' compensation and reform initiatives are focused on the cost of the system.

We propose a different approach—one focused on human rights. This demands that we move from a singular focus on reducing costs to considering the impact of the system on injured and ill workers.

A new organizing strategy is also in order. For progressive reform efforts to gain traction, we need to link the struggles of injured and ill workers with the fight for human rights waged within larger systems. For example, because injured and ill workers frequently do not have access to adequate healthcare, we could address workers' compensation issues within the larger context of the universal healthcare debate, which would allow the issue to receive critical attention that it would not normally get on its own. The human rights framework offers a way to position workers' compensation obligations and benefits within a wider set of shared goals that put people first.

There is little doubt that the current system is failing injured and ill workers. Our workers' compensation system treats workers as disposable commodities, rather than as human beings entitled to dignity and equality within our society. We urgently need to start moving towards a system that better protects their rights.

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