

IN REVIEW: Illinois' Workers' Comp Debate

What is workers' comp?

When workers are injured or made ill by work, through workers' comp, they can get medical bills paid and a partial replacement of the wages they have lost due to their condition.

When states created these systems 100 years ago, the idea was that workers and employers both made trade-offs. Workers got more timely access to medical care and compensation for their work-related injuries and illnesses regardless of fault, but lost the right to sue their employers. And employers enjoyed more predictable costs by accepting responsibility for insurance premiums that fund workers' comp.

The workers' comp "causation standard" has become a focus of public debate. What is it?

Workers can access workers' comp benefits only if work *caused* their injury or illness. The rule a state applies to decide whether work caused a condition is called the "causation standard".

This standard exists because, while some injuries are obviously caused by work, like an explosion or amputation, most cases are more complicated. Many conditions have multiple possible contributing causes. It can be impossible for doctors to determine all the contributing causes or how much each is to blame. Thus, the causation standard, which draws the line between what is covered and what is not in these cases, is a political – not medical – definition.

How does Illinois decide whether a worker's condition is caused by work?

In Illinois, workers gain access to workers' comp by proving that work was a cause of their injury or illness.

This simple standard is based on the longstanding legal rule that "employers take employees as they find them." This ensures workplace injuries and illnesses are addressed regardless of the degree of damage they cause due to a worker's unique physical or social circumstances.

What changes has Governor Rauner proposed?

Governor Rauner wants to change the causation standard to require proof that work is "more than 50% responsible for an injury compared to all other causes."

If this is allowed to happen, the consequences will be devastating. It will guarantee that workers with work-related injuries and illnesses are excluded from accessing workers' comp. Insurers will challenge more claims, leading to more costly litigation that involves more lawyers and paid experts. Workers suffering work-related injuries or illnesses will experience greater delays or more denials in access to benefits. In practice, workers with repetitive motion injuries, chemical exposures and pre-existing conditions, including most aging workers, will be excluded altogether. Many workers will be discouraged from pursuing claims in the first place. And ultimately, it will make it less expensive for employers to maintain dangerous workplaces, the costs of which will be shifted onto workers, their families and communities, and the state.

IN CONTEXT: Workers' Comp Premium Rates

Governor Rauner's proposal to "reform" the Illinois workers' comp system today is unjustified. Not only have workers' comp premiums in Illinois already declined 41% since 1998, but a large package of workers' comp reforms passed by the legislature in 2011 should have resulted in further savings for employers.

Employers should already be seeing lower premium rates throughout Illinois, thanks to the 2011 caps on compensation rates and other restrictions impacting the state's injured and ill workers. In fact, based on the 2011 reforms, the National Council on Compensation Insurance (NCCI), an agency that determines insurance premium rates, recommended a 20% rate reduction in workers' comp premiums for Illinois employers. But, because those recommendations were not mandatory, insurance companies pocketed the savings for themselves rather than reduce employers' premiums.

BOTTOM LINE: Illinois' Current Causation Standard is Best

The current standard delivers the most certain and timely access to care and compensation that workers injured or made ill by work need.

In all cases, to gain access to Illinois' workers' comp system, workers must prove that work is a cause of their injury or illness. The current causation standard ensures these injuries and illnesses get addressed regardless of the degree of damage they cause due to a worker's unique physical or social circumstances.

The current standard is the most efficient and cost-effective way to determine coverage.

By keeping it simple, Illinois' current causation standard minimizes expensive litigation for workers, employers and the state.

The current standard maintains a fair business climate in Illinois that respects workers' rights.

The current standard benefits employers who practice workplace safety. Lowering premiums at the expense of workers will only create an advantage for businesses that violate safety standards and interfere with injured and ill workers' access to workers' comp. Ultimately, it will shift the costs of workplace hazards out of the workers' comp system and onto workers, their families and communities, and the state.

The most effective way to further lower the cost of work-related injuries and illnesses is to prevent them in the first place.