

Labor Campaign for SINGLE PAYER HEALTHCARE

Worker's Comp Under Gun: In an Era of Economic Crisis and Attacks on Labor, Could a Fight for Single-Payer Be the Way Forward? A LCSP Briefing Paper

The treatment of injured and ill workers is a national scandal. In this paper, we explore the causes and consequences of this systematic mistreatment and call for the integration of the medical component of workers' compensation insurance into a single-payer Medicare for All healthcare system.

Workers' Compensation Insurance (workers' comp) was one of the great social insurance achievements of the progressive era. Starting with Wisconsin in 1911, by 1948 every state had enacted some version of workers' comp. The laws were intended to provide quick, no hassle treatment for all workplace illnesses and injuries and replacement of lost wages while shielding employers from potentially onerous lawsuits. Workers, in effect, gave up their right to sue for punitive damages in exchange for a no-fault system that quickly provided needed treatment and resolved disputes without long, drawn out legal proceedings.

Workers' comp has always been "contested terrain" as employers have sought to limit their liability and minimize their obligations to injured and ill workers. The private workers' comp insurance industry has similarly sought to maximize its profits by limiting the amount of medical care and financial support that workers receive.

These attacks have intensified in recent years as healthcare costs have exploded and the political influence of employer groups has grown. They have rewritten workers' compensation policy in every state and have often turned the tragedy of a workplace injury into a living hell for workers and their families. In an investigative series published in the spring of 2015, Pro Publica and National Public Radio exposed the "[Demolition of Workers' Comp](#)":

"Over the past decade, states have slashed workers' compensation benefits, denying injured workers help when they need it the most and shifting the costs of workplace accidents to taxpayers."

Because these issues are fought out over time in fifty different statehouses, the breadth and scope of the coordinated employer attack on workers' comp has been under the radar. The voices of injured and ill workers are seldom heard in the political sphere and unions and other advocacy groups are often so beleaguered that they do not have the capacity to take up these issues. These factors are compounded by the fact that advocates for injured and ill workers generally must fight individual cases in a byzantine and bureaucratized legal system that all too often obscures the broad nature of the attacks on the rights of all workers.

The National Economic and Social Rights Initiative (NESRI), has been tracking the state by state unraveling of workers comp and has identified seven [National Trends and Developments in Workers' Compensation](#):

1. More workers' health conditions excluded from coverage.
2. Increased procedural barriers to workers' claims.
3. Reduced income support for injured workers.
4. Increased employer control over workers medical treatment.
5. End to a universal mandate that employers carry workers' comp insurance.
6. Bans on suing insurers for dishonest and misleading practices.
7. Reduce access to injured workers attorneys.

As the NESRI summary indicates, the corporations' success in weakening and undermining the system has only emboldened them. They are now going in for the kill: the actual elimination of this 100-year old social benefit. In a follow up to their Spring 2015 series, Pro Publica and National Public Radio recently published [Inside Corporate America's Campaign to Ditch Workers' Comp](#). They document how major corporations are promoting the state-by-state implementation of legislation that will allow them to completely opt out of any obligation to provide workers compensation insurance coverage for their employees who are injured or made ill on the job.

A Matter of Healthcare Justice

The attacks on workers' comp are not isolated from the broader attacks on the social insurance model. From social security to food stamps, many of the rights and benefits that working people have won over the past century have come under attack in the name of austerity and pro-business public policy. A recent study by OSHA -- [Adding Inequality to Injury](#) -- documents what happens when these policies are applied to the three million workers who are injured on the job each year:

“The failure of many employers to prevent millions of work injuries and illnesses each year, and the failure of the broken workers' compensation system to ensure that workers do not bear the costs of their injuries and illnesses, are truly adding inequality to injury.”

The report shows that fewer than 40% of eligible workers ever collect workers' compensation insurance. Workers' comp pays only 21% of the cost of worker injuries. Taxpayers pick up 16% of the tab and private insurance pays 13%. Injured and ill workers are forced to assume a staggering 50% of the costs!

The treatment of injured and ill workers is a distillation for all that is wrong with our dysfunctional, for profit healthcare system: costs are borne by those least able to pay, care is fragmented, untimely and unequal and private insurance drives healthcare decision making based on profit rather than the best interests of the patient.

OSHA estimates that approximately 50,000 annual U.S. deaths are attributable to past workplace exposures to hazardous agents. Getting timely and quality treatment for these victims is a burning matter of healthcare justice.

The Single Payer Solution

The Labor Campaign for Single Payer maintains that a publicly financed, Medicare for All universal healthcare system must be part of the solution to the crisis in workers' compensation. Removing the involvement of employers and their insurance companies from the provision of desperately needed healthcare to injured and ill workers will vastly improve their access to quality healthcare. The current workers' comp system has been captured by the employers. A single-payer system provides the best way to get prompt treatment, track illnesses and injuries and hold employers financially liable.

Single payer will not solve all the problems in workers' comp. Workers and their advocates will still need to fight to recover lost wages, maintain job security during their recovery and receive adequate accommodation on the job for any temporary or permanent disabilities. But, under single payer, workers will receive healthcare as a right under the same terms and conditions as everyone else. Moreover, connecting the plight of injured workers to broader healthcare justice issues helps to bring their struggle out of the shadows and the inclusion of their voices and concerns will help to build a movement powerful enough to win healthcare for everyone in America.

In the questions below, we explore how the promise of workers' comp is no longer a reality and how single payer can be part of the solution:

1. Does Workers' Comp provide timely medical care to injured workers as originally intended? No.

- A.** Insurance companies have a financial interest in delaying medical treatment needed by workers who suffer on-the-job injuries or contract occupational illnesses. Consequently, injury and illness claims are frequently contested.

- B. When a claim is contested, doctors often withhold medical treatment until payment responsibility is determined.
- C. Delay in providing treatment often exacerbates the injury or illness. Many injuries are much harder to treat after weeks or months of delay. Workers' medical conditions often deteriorate; some are forced to return to work while still injured or ill.
- D. Delay in medical treatment often means that workers are prevented from returning to productive work - costing both the worker and the employer additional money.
- E. Workers who contract occupational diseases are particularly vulnerable since their cases are almost always contested—both because they are more difficult to prove and because they are the most expensive cases. Delayed treatment prevents early intervention that could be life saving.

A single payer healthcare system that integrates the medical treatment currently provided by workers' compensation would provide everyone with equal rights to care without having to prove the cause of their injuries – eliminating the delays caused by insurance companies. Injured workers would get care much faster. Employers would not be able to withhold care as a bargaining chip.

2. Does Workers' Comp guarantee workers their choice of doctor? Less and less.

- A. Many states have cut the reimbursement rate paid to doctors with the consequence that large numbers of doctors no longer participate in the system.
- B. In addition, reimbursement from workers' comp is often slow, cumbersome and uncertain, and requires extra work from them and their staff – providing additional incentive for doctors to leave the system.
- C. An increasing number of states require workers to pick a doctor from a referral network set up by the employer or workers' comp insurer. Since the employer or their insurance company pays these doctors, they can't be relied on to put the patient's needs ahead of the employer's.
- D. First aid and emergency care increasingly comes from commercial "occupational health" clinics set up to meet the employer's needs, not the worker's.

In a single payer healthcare system that integrates the medical component of workers' comp there would be no distinction between work-related injuries and diseases and other conditions requiring medical treatment. Every doctor is "in your network". Everyone carries the same insurance card.

3. Does Workers' Comp attract an adequate quantity of high quality specialists? Not anymore.

- A. Many states have adopted fee schedules that pay extremely low levels of reimbursement for specialists. Like general practitioners above, many specialists refuse to take workers' comp cases.

In a single payer healthcare system that integrates the medical component of workers' comp, reimbursement rates will be uniform and doctors will have no reason to reject you. Everyone will have the same insurance.

4. Does the cost of workers' comp "hold the employer accountable" for injuries caused by an unsafe workplace? Hardly!

- A. The system has never really fulfilled the goal of forcing employers to improve the workplace to avoid accidents. It's even farther from doing that today.
- B. Under our current system of multiple private insurance carriers, it is impossible to collect data that can be used to understand patterns of workplace injury and disease and develop targeted programs to eliminate them.
- C. Fewer workers are filing workers' comp claims. Workers are afraid to report injuries, and are quietly using their group insurance (if they have any) for treatment, which requires denying that their injury happened at work.
- D. Thus, workers' comp does not even provide a very reliable way to monitor the real state of occupational injury in the workplace.

A single-payer healthcare system that integrates the medical component of workers' comp would be financed by an assessment that supports the healthcare system. Taking control of healthcare away from employers and their insurance companies will reduce the opportunities for employers to intimidate workers into under-reporting injuries or lying to doctors about their work injuries.

5. Does workers' comp provide adequate support for disabled workers? No. Many, perhaps most workers who are permanently disabled already end up relying on public programs for care.

- A. Rather than being awarded lifetime benefits, most permanently disabled workers settle for a lump sum and end up on Social Security Disability, relying on Medicare for insurance, in effect shifting the cost of workplace injury and disease from the employers who are responsible and onto the workers themselves and the general public.
- B. A recent [CEPR report](#) finds that “[T]here is a strong relationship between the decline in state level WC beneficiaries and rise in new DI [social security disability insurance] awards. This suggests that people are turning to DI because they are less able to collect WC benefits.”
- C. Medicare’s attempts to protect its interests by requiring “set-aside accounts” from the WC carrier just add another layer of costly bureaucracy to serious workers’ comp claims.

A single-payer healthcare system that integrates the medical component of workers’ comp would provide seamless care for injured and ill workers while allowing them to pursue their claims against their employers.

6. Do lawyers have a stake in the current system in which they must litigate for the medical care of injured or sick workers? Mainly it’s the opposite!

- A. Workers’ comp lawyers are awarded fees for wage replacement paid to a worker for on-the-job injuries or occupational diseases they contract or lump sum settlements. They are NOT awarded fees for the medical care they win for the client.
- B. Lawyers for injured workers are awarded small amounts for each case they win. They make money by handling a large number of cases. This means that there is a disincentive for taking complicated, or difficult to win cases – such as cases dealing with occupational disease where it is difficult to prove that exposure to toxic substances resulted in illnesses 20 or 30 years later. Workers with difficult cases or occupational diseases are often counseled to use their own insurance (if they have any); in some cases, they are told that it would take too much time and resources and can’t get legal representation.
- C. Lawyers’ ability to refer clients to a competent and knowledgeable doctor is limited by the low reimbursement and high hassle index in the system as described above, as well as by “reform” laws that allow the company a greater voice.

A single payer healthcare system that integrates the medical component of workers’ comp will allow workers to get timely treatment by a doctor they trust. Workers may be able to settle minor claims without a lawyer’s help. Doctors will not be bound by a financial relationship with employers and insurers so fighting and winning the major claims will actually be easier.

7. Has workers' comp reforms eliminated poor quality, wasteful medical care? Despite all the rhetoric, corruption and unethical practices have increased.

- A. The low reimbursement rate and the requirement to submit complicated, time consuming forms has discouraged many doctors from accepting patients who have workers' comp claims.
- B. Some doctors remaining in the system engage in assembly-line care providing minimal attention to the injured or ill worker.
- C. The low rate of reimbursement provides an incentive for unethical providers to engage in various schemes to increase revenue and profits. For example, injured workers in chronic pain are often referred to pain-management clinics where they are often prescribed large amounts of opioid narcotics, resulting in needless addiction, disability and even death.
- D. Other doctors have been known to "pad the account" with lots of unnecessary care: endless chiropractic or PT sessions, multiple epidural spinal injections, and even unnecessary surgery. Some of this care is merely ineffective; some of it causes real harm.
- E. Some "workers' comp friendly" medical practices stay afloat by selling their disputed accounts receivable to (often related) finance companies. The pressure these outfits create for a return on their investment encourages overbilling and drains money from the system into the pockets of subprime lenders.

A single-payer healthcare system that integrates the medical component of workers' comp will eliminate many, though not all, problems faced by injured workers needing prompt and quality medical care. It will increase the reimbursement rate paid to doctors and specialists and remove many of the incentives for corruption and overtreatment.

Next Steps

- ▶ The healthcare justice movement needs to take up the cause of injured and ill workers. Shining a light on their mistreatment is a powerful argument for change. Including their concerns will strengthen our movement, bring in new allies and open up new fronts.
- ▶ Unions need to find new ways to organize and speak on behalf of injured and ill workers. They need to connect their policy and advocacy work in this area to the fight for single-payer Medicare for All.



- ▶ Advocates for injured and ill workers need to bring their passions and resources to the healthcare justice movement and ensure that the voices of injured and ill workers are heard.
- ▶ We all need to support the organization of injured and ill workers, connect their concerns with the efforts to defend and expand the social insurance model and expose the role of private insurance companies and our dysfunctional healthcare system in the demolition of workers' comp.

Labor Campaign for Single Payer Healthcare

The Labor Campaign for Single Payer is funded entirely by labor organizations and union members.

Please consider making a contribution online or by check payable to Labor for Single Payer mailed to

LCSP
2929 S. Jefferson Ave.
St. Louis, MO 63118

Contact us at: organizers@laborforsinglepayer.org