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DISABILITY AND WORKERS' COMPENSATION

by Bruce Poyer

Workers' Compensation benefits in California were raised significantly by the legislature last year. Charles Jeszeck, Research Director, California Labor Federation, commented that, "The new benefit increases were badly needed and are a vast improvement, but still don't bring injured workers to adequate weekly levels."

Some comparisons are as follows (with 1983 and 1984 benefits effective January 1 in each year):

	1981-1982	1983	1984
Temporary Disability Weekly Benefit - minimum	49	84	112
- maximum	175	196	224
Permanent Partial Disability Weekly Benefit			
- minimum	30	50	70
- maximum	70	130	140
Weekly earnings required to qualify for maximum benefit	262.50	294	336
Death Benefit: Total Amount 2 or more dependents	75,000	85,000	95,000

Another participant in the shaping of last year's benefit package explained that "There was concern that the courts would declare the workers' compensation system unconstitutional because the benefits were so low....We had to do something to return viability to it, or we feared the whole structure might be undermined or thrown out." (George Tye, Executive Director, Association of California Insurance Companies).

The Problem of Disability in the U.S. State Workers' Compensation levels were adjusted upward throughout the 1970s, and employer costs escalated rapidly. In California, Workers' Compensation expenditures equalled 2.135 percent of employer payroll in 1978, compared to only .707 percent in 1958.

But no state in the nation has increased Workers' Compensation benefit levels enough to keep up with the rate of inflation. And the problem of disability itself is escalating. The 1972 Social Security Administration survey of 106 million civilian adults aged 20-64 showed that 15% were disabled, including 7% who were severely disabled. Nearly half of those surveyed reported that they suffered from one or more chronic health conditions or impairments (*Social Security Bulletin*, April, 1978).

Nearly one-fourth of the 15.6 million disabled adults indicated in this survey that their disease or health impairment resulted from an accident. 37% of these accidents occurred on the job (25-30% occurred in moving vehicles, and 13-16% occurred at home). On-job accidents disabled more than five million workers, and afflicted two million more with chronic health impairments.

The Role of Workers' Compensation in Protecting Against Wage Loss from Disability. Similarly comprehensive surveys have not been undertaken to show how disabled people are assisted. There are different sets of data covering Social Security and SSI disability programs, railroad, longshore, harbor-workers, and veterans programs, public assistance, negotiated pension coverage, and other even more specialized programs.

Social Security gives the most important disability protection to the most people--4,456,000 received disability benefits in 1981. The Reagan Administration then carried out administrative "re-determinations" of eligibility for disability benefits, as mandated by Congress, and the Social Security disability rolls were reduced to 4,184,000 by June of 1982. New legislation was then passed by Congress to protect the disabled from the "re-determination" process of the Reagan Administration. At least 45,000 of those whose disability benefits were stopped will now have their benefits restored, and the appeal rights of all disabled beneficiaries will now be protected.

The Social Security Administration surveyed 861,000 severely disabled people aged 18-64 in 1970, in order to determine their sources of income. The following gives some indication of the relative insignificance of Workers' Compensation as a source of wage loss protection, and the relative importance of family earnings and Social Security:



	Percent with income from specified source:
Earnings of family members	81.1
Social insurance (including Social Security	59.9
Assets	21.1
Public Assistance.	16.0
Relatives, insurance, other income	12.1
Private pension benefits.	10.8
Workers' Compensation benefits.	5.0

(Source- *Social Security Bulletin*, Sept. 1975, Table 5, p. 6).

The Continuing Problems of Workers' Compensation. The workplace is the primary source of accidents causing health impairment and disability, but the state Workers' Compensation programs are at the bottom of the list as a source of wage loss protection for disabled people. Why? Here are some of the reasons:

(1) The extent of disability in the U.S. continues to surpass the ability of the state Workers' Compensation programs to offer effective protection to workers. For example, assistance to the victims of black lung disease had to be federalized, because the state Workers' Compensation programs could not handle the burdens imposed by that disease. Legislation is now in Congress to federalize asbestosis benefits--for the same reason. There are now many other occupational diseases which continue to raise complex issues still unresolved in most state Workers' Compensation programs.

(2) The state programs were established to simplify legal and administrative procedures and to make the future status of the injured worker more predictable. But as the extent and severity of a worker's disability increases, so does the degree of uncertainty about benefits--whether they will be awarded, and the amount. There is general agreement now, at least among labor representatives, that state programs fail primarily in their administrative procedures. One indication of this failure is in the national ratio of Workers' Compensation benefits to costs: 62.4 in 1975, down to 50.9 in 1979. In other words, every dollar that goes into the nation's Workers' Compensation systems must now be split about equally into benefits for disabled workers, and into administrative costs--including insurance company costs and profits, and extremely high legal costs. Most of the administrative half of the benefit dollar goes to contest the workers' compensation claims of injured workers. In sharp contrast to all other states, OHIO relies on an exclusive state fund which returns 95 cents of every \$1.00 to benefits for injured workers.

(3) When Workers' Compensation benefit levels are periodically adjusted, only those workers with injuries or diseases incurred after the specific adjustment date receive the benefit increases. Those with disabilities which occurred before the adjustment date continue to receive benefit payments which continue to be eroded by the impact of inflation.

(4) There has been some collective bargaining supplementation of Workers' Compensation benefits (in sick leave provisions, in job return or retraining rights, and in disability provisions of pension plans). However, it has been neither an extensive nor as widespread as the supplementation of Unemployment Insurance benefits in the SUB programs of the industrial unions, or the supplementation of OSHA enforcement provisions in most collective bargaining agreements.

(5) Much of the progress of the 1970s in raising state Workers' Compensation benefit levels came in anticipation that Congress would pass national minimum standards. There is now no proposal in Congress for a national Workers' Compensation program which the AFL-CIO can support. There is no proposal for any comprehensive national approach to the increasing problem of disability--whether it is traceable to the workplace or not. There is no Congressional discussion or action on the long-standing proposal by the AFL-CIO to permit more liberal early retirement under Social Security for disabled workers aged 55 or over, who are involuntarily unemployed. These workers are having enormous difficulties in today's economy. With any kind of disability, they can only rarely find alternative employment.

-- Bruce Poyer