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Three Systems of Workers' Compensation

Introduction

Only three countries in the world maintain sub-national workers' compensation systems: Australia, Canada, and the United States. Three models are used to organize the insurance responsibilities for making the payments to injured or ill workers: private market, exclusive public insurer, and mixed (although the three models do not correspond exactly with the three countries).

All 10 Canadian provinces, 6 U.S. states, and 3 jurisdictions in Australia use the exclusive public insurer approach; the remaining 44 U.S. states and 4 jurisdictions in Australia use a predominately private market approach; and 3 Australian states use a mixed approach, in which the public fund bears the underwriting risk, but private firms collect and disburse the money.

We will look at each of the three models, one from each country.¹ Studying different jurisdictions, even though from different nations, follows the tradition of using the "laboratory of the states" to inform policy decisions. We will describe the essential features of each system and then review system performance.

British Columbia

British Columbia has an exclusive public fund (monopoly) that collects the insurance assessment from employers and pays the specified benefits to workers. Virtually all employers are required to purchase coverage from the Workers' Compensation Board of British Columbia (WCB). Premiums are determined by the WCB annually for some 70 classes of employer and are designed to ensure that, in the aggregate, all future benefits arising from injuries and illnesses in the current year can be paid from the funds collected in that year.

The WCB also attempts to see that employers are treated equitably in their relative cost of assessment. Experience-rating provides that assessment rates can vary by one-third (either up or down) from the class average. The British Columbia fund is fully forward funded (unlike many others), and 35B40 percent of annual income is currently derived from investment earnings on reserves held against future obligations.

Michigan

Michigan has a fairly pure private system, which is noteworthy for a large segment (about 50%) of self-insurance. This self-insured sector includes the huge firms of the auto industry and an extensive "group self-insurance" program for smaller employers.

Michigan is also noted for its very early, and successful, deregulation of insurance

rate-making in 1983 (the second jurisdiction in the United States to do so). Insurance prices are set by individual insurers based on market considerations, with no interference from the state. With the sale of its state accident fund in 1994, Michigan demonstrated that it did not wish to foster the competition of public firms with private firms; Michigan put its faith completely in the market.

Victoria

Victoria has a workers' compensation system that is unique to Australia, characterized by public underwriting (risk-bearing) but private marketing, premium collection, and claims administration. The impetus for this system came from widespread dissatisfaction with the private system before 1985 and strong revulsion to the excesses of a monopoly public system from 1985 to 1992. This "third way" puts a special burden on the administrator and regulator, the Victorian WorkCover Authority (VWA), to provide appropriate incentives for all participants in the workers' compensation system. The VWA bears the risk and holds the money. Some 14 private "agents" market the insurance, collect the premiums, and make the benefit payments.

Another unique Australian invention is the "employer excess." In Victoria, the employer is directly responsible for making the first 10 days of income maintenance payments, as well as the first \$317 of medical expenses. This is thought to increase employer incentives for prevention, to raise the likelihood of prompt payment of income maintenance benefits, and to reduce system administrative costs.

Benefit Differences and Similarities

So, we have three quite different administrative and regulatory systems designed to accomplish basically the same tasks. Before looking at overall system performance, we should note some significant differences in benefits among the three systems.

The first difference is in the waiting period before wage replacement benefits commence. In British Columbia, the public fund pays from the first day of lost wages. In Michigan, the insurer begins paying after 7 days have passed. In Victoria, the employer is responsible for paying the first 10 days of lost wages directly.

These differences have significant implications for the number of claims that are compensable and, hence, that the administrative entity has to deal with. They also have implications for any attempt to compare the performance of these three systems.

Wage replacement levels for injured workers also differ and are set by statute. Michigan specifies that injured workers shall receive 80 percent of their pre-injury net wage (net of taxes), subject to a maximum at 90% of the state average weekly wage (\$533/week in 1997).²

British Columbia provides 75 percent wage replacement against the net wage, again subject to a maximum (\$580/week in 1997). Benefits are free of federal and state income taxes in both British Columbia and Michigan.

Victoria replaces 95 percent of the workers' pre-injury base wage (not including overtime or premium pay), subject to a maximum of 100% of average weekly earnings (\$505/week in 1997); this drops to 60 percent at 26 weeks unless the worker is totally incapacitated or is found to have a "serious injury." Benefits are taxable in Victoria; it is also common practice for the employer to "top-up" the compensation benefit to 100% of the pre-injury weekly earnings in a collective agreement.

Finally, permanent disability award criteria vary. Victoria is just implementing (as of 30 September 1998) a new system of impairment rating, based on the American Medical Association's Guides to the Evaluation of Impairment, 4th Edition. This system will use medical practitioners, independent medical examiners, and medical review panels to rate the impairment of each worker, replacing the serious injury system, which proved to be too difficult to control.

British Columbia uses a sophisticated system of interdisciplinary disability evaluation that includes medical doctors, vocational rehabilitation practitioners, and expert claims personnel. The disability pension awarded to a worker is the higher of the estimated medical impairment level or the estimated lifetime earnings losses.

Michigan in theory pays wage-loss benefits for life. However, a system of compromise and release settlements ("redemptions") has evolved that serves to "cash out" the worker's claim in exchange for the employer's release from further liability. This system is run by the lawyers, who tend to think of it as a rather sophisticated disability rating system that responds to the many nuances of individual worker situations, injuries, etc. Critics tend to think of it as a "crap shoot" where the financial results bear little correlation to the disabilities.

Workers' Compensation Performance

It is extraordinarily difficult to make comparisons across jurisdictions because of statutory differences and variations in local practice. Most comparisons are actually more misleading than informative. However, comparisons on the broadest aggregates may be meaningful.

First, the difference in the number of injuries (claims per 100 workers) is vast. British Columbia has more than twice as many compensable claims as Michigan or Victoria (Table 1), but this primarily reflects the differences in the waiting periods for wage-loss benefits.

Table 1. Workers Compensation Comparison, 1997

Measure	British Columbia	Michigan	Victoria*
Wage loss claims/100 workers	\$ 4.09	\$ 1.48	\$ 1.47
Benefit payments/worker	\$ 284.27	\$ 278.93	\$ 335.56
Employer cost/\$100 payroll	\$ 2.23	\$ 1.72	\$ 1.80

*Victoria data as for 1997-98 fiscal year.

On the other hand, aggregate benefits paid per worker in 1997 are quite similar. Since aggregate benefits per worker reflects both the number of workers who receive payments and the average payment received, it is a better index of the actual burden of workers' compensation payments on the economy.³ Basically, Victorian workers are receiving lump-sum payments for specific injuries, pain and suffering benefits, and common law settlements that bring them above the North American standard. Michigan workers receive lump-sum settlements that capitalize their future wage-loss, whereas British Columbia workers receive periodic income maintenance payments.

Table 1 also reports the average employers' cost of workers' compensation insurance. Michigan is the lowest (1.72 percent of payroll), followed by Victoria and then British Columbia. Of course, these results do not control for industry structure or a host of other differences between the three jurisdictions.

What this quick analysis seems to show is that comparisons between different workers' compensation systems are not simple. Moreover, the systems' differing structures are not the reason for the differences in performance. Rather, each system is an organic whole that has its own internal logic, which is why it is not possible to just lift features from one system that seems to work and insert them in another system that doesn't work.

What is needed, rather, is good, aggressive management and attention to system indicators. This is one social policy area where the "continuous improvement" model makes more sense than "best practice." Through the continuous improvement path, we can all attain more efficient and equitable workers' compensation systems.

Notes

1. These are jurisdictions where the Institute has done work and with which we are quite familiar. The references cited below provide more detail on these three workers' compensation jurisdictions.
2. All monetary units are in U.S. dollars, based on average currency conversion rates for 1997.
3. Ignoring the privately borne costs. In Michigan, injured workers bear the first 7 days of wage-loss costs, while in Victoria, the employer bears the first 10 days of wage-loss costs. These costs are included in the British Columbia figures.

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Suggested readings

Duncan S. Ballantyne, and Lawrence Shiman, *Revisiting Workers' Compensation in Michigan, Administrative Inventory*, Workers Compensation Research Institute, Cambridge, MA, October 1997.

H. Allan Hunt, Peter S. Barth, Terrance J. Bogyo, Alan Clayton, Robert W. Klein, and Ralph W. McGinn, *Victorian Workers' Compensation System: Review and Analysis, Volume I*, Victorian WorkCover Authority, Melbourne, Australia, August 1997.

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British Columbia: Still in Transition, Workers' Compensation Board of British Columbia,
Richmond, British Columbia, March 1996.