

Workers Compensation Reform: Concerns from Aging Organizations

May 16, 2011

Dear Lawmakers,

As Washington's policymakers consider how to update and improve our workers' compensation system, it is important to formulate proposals that are fair to older workers and younger workers alike. The undersigned aging organizations write to express our strong concerns about two alternative proposals under consideration that would single out older workers for adverse treatment. We urge you to reject approaches that would discriminate against workers on the basis of age.

Compromise and Release/Lump-Sum Settlements

There are numerous concerns with adding a lump-sum settlement option to Washington's workers' compensation system: first and foremost, it would shift the risk of an inaccurate estimate of damages on to the worker, who may face substantial economic pressures to settle too soon. But, there is another significant problem: it is our understanding that this new resolution option would target workers age 55 and older, ostensibly because these workers are closer to retirement age and therefore would have an easier time estimating the amount needed to replace lost wages. However, statistics show it can no longer be assumed that workers can or will retire at normal retirement age.

After falling for several decades after the end of World War II, the labor force participation rate for older Americans has steadily increased since the mid-1980s. Nationally, in 1985, only about 54% of those age 55-64 and 18% of those age 65-69 were remained in the labor force. In 2009, 69% of persons age 55-64 and 31% of those age 65-69 were still working. Washington State's workers are similarly working longer: in [2010](#), 67% of the state's population age 55-64 and 17% of those 65 and older were still in the labor force. With fewer people receiving traditional-style pensions from their employers, and the erosion of retirement savings accounts and falling home prices wrought by the recession, workers 55 and older may be losing many more than 10 years of earnings as a result of workplace injury, and they should be assured adequate compensation for those lost earnings. Permitting a lump-sum settlement option - even if "voluntary" - would jeopardize that guarantee.

Another rationale advanced by proponents for introducing a lump-sum settlement option for 55+ workers is that older workers may have another source of regular monthly income. At age 55, this is not likely the case. Nonetheless, even if a worker qualifies for a private pension at or around that age, having to claim retirement benefits earlier than planned and earlier than the full retirement age may trigger a significant reduction in benefits. From the standpoint of retirement income security, it is not wise to establish a policy that drives workers to claim benefits early. Further, if a worker *has* reached normal retirement age and the regular monthly income contemplated by the lump-sum proposal is Social Security retirement, the result would be the same. Under the other proposal being considered now, these workers would face reduced benefits under a new Social Security offset.

Social Security Offset

Washington's workers' compensation system should reimburse older workers for lost income in the same manner as it does for younger workers. It is true that both worker's compensation and Social Security exist to help replace lost wages. However, there is no offset for private disability insurance, or for private sources of retirement income such as a private pension or savings. Presumably, this is because these other benefits are separate, and were separately funded. Social Security retirement

benefits are separately financed and administered from workers' compensation, and separately earned over a lifetime of hard work. Injured workers who cannot return to work should collect the full amount of workers' compensation and Social Security to which they are entitled. To do otherwise merely shifts the cost of providing compensation from employers, who are traditionally responsible for bearing this expense, to Social Security.

Conclusion

The lump sum buyout and Social Security offset, for workers of any age, are harmful policies. [Studies show](#) that older workers are often already short-changed by the workers' compensation systems: it tends to replace a smaller share of lost earnings for older workers, and older workers are less likely to be re-employed after an on-the-job injury than younger workers. The alternative proposals referenced above and under consideration would target older workers for even greater burdens based on their age and proximity to retirement age. The State should therefore find other, less discriminatory means of improving Washington's worker's compensation system, which has proven to be valuable to both employees and employers.

Sincerely,

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Jerry Reilly, Chair, Elder Care Alliance

Robby Stern, President, Puget Sound Alliance for Retired Americans

Roy Walker, Chair, Washington Association of Area Agencies on Aging

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