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Say Cost-Cutting Has Hurt

Workers' Compensation a Case Of Mission Abandoned, Report Claims

By SARAH DORSEY

New Yorkers injured on the job face a host of frustrations when they seek Workers' Compensation benefits: complicated paperwork, an unresponsive system, diminishing benefits and more, according to a 105-page report issued by the Workers' Compensation Alliance, a group of attorneys representing claimants.

The organization called for a series of reforms that it said would attract higher-quality doctors and strengthen the safety net for those disabled on the job. A coalition of health-and-safety advocates including the New York Committee for Occupational Safety and Health (NYCOSH) and the National Economic Social Rights Initiative (NESRI) endorsed the recommendations.

'Return to Core Mission'

"The purpose of this paper is to call for wholesale changes in the Workers' Compensation system that will help it to return to its core mission of protecting injured workers," WCA Chair Robert Grey said in a statement. "These workers have been largely abandoned by a system in hot pursuit of 'cutting costs.' Every on-the-job injury represents an obligation to be met by business and government, not a cost to be ignored, avoided or minimized."

Lee Clarke, the chair of the NYCOSH Board of Directors, said, "Instead of insuring that workers are able to easily access a fair system, the system is focused on reducing employer costs and increasing the profits of insurance



ROBERT GREY: 'Need wholesale changes.'

companies at the expense of workers themselves."

The report, which can be found online at <http://bit.ly/1zYwLhL>, calls for medical treatment guidelines to be eliminated. Established in December 2010, the guidelines prescribe what types of treatments physicians can order for several common injuries, including back, knee, neck, shoulder and wrist problems.

If a doctor feels the standard treatment isn't best for her patient, she must apply to the Workers' Compensation Board for a "variance." The burden of proof is on the provider to prove that the care she ordered is necessary, Mr. Grey noted.

Often Delays Treatment

A Freedom of Information request filed by NYCOSH revealed that the Board received 202,643 variance requests in the first 10 months after the guidelines were introduced, or roughly 20,000 a month. A quarter of the re-



LEE CLARKE: System not serving workers well.

quests were rejected by the Board before the insurer even replied, and others triggered costly hearings: more than 20,000 hearings arose from requests in those first 10 months. Such procedures can delay treatment for patients who are in pain and whose condition may be deteriorating.

In addition to slashing the guidelines, the WCA called for higher reimbursement rates for specialists, who are often reluctant to take on occupational-health cases.

It also criticized the complex paperwork for both providers and patients. Providers must use 37 different forms for various purposes, and patients' forms have gotten longer and more complex over the years, Mr. Grey said.

The WCA also urged the Board to halt the annual loss in value of minimum payments due to inflation. It suggested minimum rates be fixed at 25 percent of maximum rates, which are in-

Workers' Comp

Continued from Page 1

dexed to the average weekly wage in the state.

Too High a Threshold

The safety net for workers who are permanently disabled also came under fire. People who've lost at least half their wage-earning capacity should be eligible for the long-term payments to compensate for lost wages, the attorneys argued. Currently, workers must have lost at least 80 percent of earning capacity to qualify. They must also demonstrate that they face "extreme hardship," which the WCA said is insufficiently defined.

The report's conclusions are familiar to occupational-safety advocates. The WCA presented two other white papers in 2006 and 2008 focusing on similar issues including delays and denials of benefits.

State Sen. Diane Savino, a former union vice president and Labor Committee chair, said in May that her colleagues in Albany showed little interest in tackling the problems in the Workers' Compensation system.

With the passage of a major reform law in 2007, state legislators sought to streamline the system and reduce costs, but Ms. Savino and worker advocates like the WCA and NYCOSH say the results were disastrous. Ms. Savino has said that the reforms left costs high, while workers are still subjected to long delays in treatment.

Continued on Page 3