

New York employers, insurers seek to gut workers' compensation system

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Proposed changes to New York state workers' compensation regulations would severely reduce the benefits workers receive for work-related injuries and illnesses. These changes, developed by the state's Workers' Compensation Board, and presented in draft form on September 1, were formulated in response to a requirement mandated by the state legislature, at the behest of employers' associations and insurance companies, to reform the existing law with the aim of reducing costs. This directive was included in the 2017 state budget, passed by the Republican-controlled Senate and Democrat-dominated Assembly, and signed by Democratic Governor Andrew Cuomo.

The new regulations are to be in place by January 1.

The proposed changes include substantial reductions in payments to workers who have suffered diminished use of limbs, increased requirements placed on workers to prove reduction in future earnings, restrictions on a worker's ability to obtain an independent medical evaluation of an injury, and greater obstacles placed against workers seeking to contest the level of an award.

Proponents of the proposed changes contend that medical advances have rendered the consequences of on-the-job accidents less severe and, therefore, that the amount and duration of compensation should be reduced. This is a specious argument on its face.

Since such medical advances will, of themselves, result in more effective recoveries from workplace injuries, the proportion of severely partially or fully disabled workers will inevitably be reduced, lowering the overall expense of compensation claims. However, the effect of the proposed changes is to drastically reduce costs to employers and insurers across the board, regardless of the severity of the injury or degree of recovery.

Critics charge that the board's assessment of reduction of injury impacts is not based on any objective medical data.

The cost reductions to employers envisioned to result from the new regulations come on top of a cut of 4.5 percent in insurance premium rates enacted as part of the 2017 state budget. This is expected to reduce employers' costs by \$400 million this year. The rate reductions are the result of limitations on disability payments to workers mandated in the budget.

The new draft regulations seek to limit consideration of particular circumstances that may exacerbate the consequences of an injury on a worker and his or her family by imposing rigid "objective" criteria for judging its severity and impact.

The proposed changes would affect low-paid workers most severely, since the amount of compensation is primarily based on a worker's existing wages. Partial or complete loss of the ability to work is devastating to any worker, but especially to those and their families who are already close to the margin.

The workers' compensation law in New York state dates to the early twentieth century. It was prompted by the tragic 1911 Triangle Shirtwaist fire in New York City, which killed 146 garment workers, among the deadliest industrial disasters in US history. An earlier version had recently been ruled unconstitutional by state court as an impermissible transfer of wealth from employers to workers.

Such laws in New York and elsewhere were presented as a compromise, designed to provide some compensation to workers for devastating injuries incurred on the job, which were becoming increasingly common and severe as industrialization advanced and, at the same time, to insulate employers from occasional large judgements against them.

For years, employers and insurance companies have raised increasing claims that the existing regulations are too lenient and cost too much money. In fact, total loss awards in New York State are lower now than in 1996.

A recent editorial in the Albany *Times-Union* complained that “prohibitively high Workers Compensation insurance costs” in the state have “long stifled growth and investment.” As with all such moves to reduce costs to businesses, proponents claim that the reductions will spur business growth and increase jobs.

The New York State AFL-CIO has raised toothless objections to the proposed changes, appealing to the Workers’ Compensation Board to reject the draft guidelines and prepare new ones less detrimental to workers. Such appeals will fall on deaf ears.

The proposed changes to the New York workers’ compensation system are part of the broader social counterrevolution being carried out by the capitalist elite, which sees every social benefit won by the working class through decades of struggle as an illegitimate restraint on their ability to realize maximum profits. As with the assaults on health care and retirement benefits, the attack on workers’ compensation is another step in the drive to return workers to conditions not seen since the nineteenth century.



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