

Submission to
Workers Compensation and OHS
Productivity Commission
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This submission is concerned with the question “How effective are the existing premium setting arrangements in providing incentives for employers to reduce the incidence of work-related injury or illness and facilitate rehabilitation and return to work?” (Issues Paper, page 14). In particular, the incentives for employers to continue employing, rather than terminate, injured workers are examined.

Workers compensation premia are usually set in such a way that employers who terminate injured workers soon after their injury are penalised with increased WC premia. Termination is prohibited for a specified period after injury, but beyond that period the premium setting process provides incentives for termination to be delayed still further.

Unfortunately, the premium setting process is typically so convoluted that these incentives for continued employment are far from transparent. As a result, employers are often unaware that it is in their own financial interest to defer any contemplated termination of injured workers.

I have attempted to construct a spreadsheet which would enable employers in NSW to identify the optimal termination date for an injured employee who they have decided to terminate. This spreadsheet incorporates the tradeoff between additional salary, superannuation contributions, etc. and increased WC premia: the later the termination the higher the employment cost but the lower the WC premium penalty. The output of this spreadsheet is illustrated in the chart below. My analysis was constructed for a major industrial employer in NSW, with over 500 employees. We were aware that the analysis was incomplete, because of numerous questions which it raises for which there do not appear to be transparent guidelines. There appears to be no single source of regulatory advice for determining all the features of such an analysis.

The information required is contained in the legislation, and more importantly the annual Insurance Premium Order and the Workers Compensation (Insurance Premiums) Regulations, especially the “Estimation Manual” which is difficult for employers to obtain. I have attempted to secure the cooperation of the WorkCover Authority in NSW without success. Since the spreadsheet was initially developed, there have been several changes to the legislation in NSW, but I believe that the crux of the analysis remains the same. I have also been surprised to discover that not many WC advisers have constructed an analysis along the lines which I have attempted.

It is difficult to understand why the economic incentives for better management of injured workers, which exist in the premium setting process, have not been made more transparent. It is only when employers realise that such better management is in their own financial interest that improvements will occur. Such pursuit of self interest is surely more likely to be successful in improving injury management than exhortations from government.

Economic appraisal of preventing work accidents and managing injured workers appears quite undeveloped in Australia. The Commission is urged to involve itself in the kind of analysis illustrated in the chart below, or facilitate the provision of information which would allow employers to undertake this analysis. WorkCover NSW appears to make it difficult for employers to do this kind of work, apparently preferring that employers work with insurers on these matters. But insurers themselves do not appear to have undertaken this kind of analysis. It is interesting to note that the European Commission appears to be developing work in this area: see European Agency for Safety and Health at Work (<http://agency.osha.eu.int/publications/factsheets/28/en/index.htm>).

