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Is Compensation for Workplace Injuries Adequate?

The issue of the adequacy of compensation for workers who are disabled by their employment generates great controversy. State-regulated workers' compensation programs provide wage replacement (or "wage-loss") benefits to workers while off work due to a work-related disability, as well as medical treatment and rehabilitation services to assist such workers in returning to work. Since employers apparently pay the costs of workers' compensation programs and workers apparently derive the benefits, the situation is ripe for misunderstanding and hyperbole.[1] Nevertheless, policymakers must make such judgments when they set benefit schedules under workers' compensation statutes.

Wage-loss benefits are usually stated as a percentage of the worker's previous weekly earnings; typically two-thirds of gross wages or 80 percent of net (take-home) pay.[2] The latter formula has arisen to ensure that injured workers are not "overcompensated" for lost wages when viewed from an after-tax perspective, since workers' compensation benefits are free of all income and payroll taxes.

What is Benefit Adequacy?

Unfortunately, there is no universally accepted definition of benefit adequacy. The National Commission on State Workmen's Compensation Laws recommended 30 years ago that states provide at least two-thirds wage replacement up to a maximum of 200 percent of the state average weekly wage. This standard was subsequently adopted by the Council of State Governments in 1974 when they amended their "Model Act for Workmen's Compensation." Because this represents the closest thing we have to an accepted adequacy standard, and because 35 states actually use two-thirds of gross wages as their replacement formula, the Sub-committee on Benefit Adequacy of the Workers' Compensation Steering Committee at the National Academy of Social Insurance (NASI) has also been using this standard in its review of benefit adequacy (see www.nasi.org for more details). Given these precedents, I will also adopt two-thirds of gross wages as the measure of adequacy.

What Does the Research Say?

Recently, three separate empirical studies carefully explored the level of

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workers' compensation wage-loss replacement in the states of California, Washington, and Wisconsin. Both the Washington and Wisconsin studies estimated losses for the full range of injured workers, while the California study included only workers with permanent partial disability benefits. All the studies used administrative data on actual earnings of individuals who were not injured, or not seriously injured, to estimate the wages that workers' compensation claimants would have earned in the absence of the disability.

In a recent volume published by the Upjohn Institute for NASI, the three primary authors of these state-specific studies derived comparable estimates of the losses suffered and compensation received for permanent partial disability (PPD) claimants in the three states (see Budetti et al. 2001). While this analysis is not as broad as the earlier ones (at least for Washington and Wisconsin), it does cover a very interesting workers' compensation subpopulation that accounts for about 60 percent of all benefit payments and includes many of the most contentious cases in the workers' compensation programs. It is also the group of cases which raise the most significant questions about benefit adequacy because of the likely permanency of wage losses.

Workers' compensation benefits in these studies are defined to include both temporary and permanent wage-loss benefits, cash settlements (which can include payments for future medical benefits in California and Wisconsin), and vocational rehabilitation maintenance allowance. For this comparison, the authors chose to ignore the effects of taxation, so results are presented in pretax dollars. Injured workers are compared to noninjured workers of similar preinjury wage levels employed at similar (or the same) firms. Using the wages of similar uninjured workers standardizes the comparison for unemployment, inflation, job promotions, and other labor market changes.

Benefits paid and wages lost are measured for at least 3.5 years after the point of injury. They are projected beyond the observed 3.5 years by carrying the final observed year's losses and benefits forward for an additional 6.5 years and discounting all amounts back to the point of observation. It is worth noting that attorney fees and other potential medical/legal costs have not been deducted from the gross benefits paid, nor have any lost fringe benefits been counted as economic losses.[3]

Wage-loss replacement adequacy seems to be better for low-wage workers, for employees at smaller, insured firms, for more severely disabled workers, and in certain states.

Table 1 shows the total wage-loss benefits paid in the first 3.5 years following the injury, the estimated wage losses for the first 3.5 years, projected losses for the 10 years following the injury, and the estimated wage-loss replacement rate for 10 years in California, Wisconsin, and Washington.

Despite some differences among the states in the method of compensating PPD cases (although all three use disability ratings), the replacement rates for 10-year losses are quite similar and remarkably low. Workers' compensation programs replace about 38 percent of lost earnings for injured workers with permanent partial disabilities in California and 46 percent in Washington and Wisconsin (see Biddle, Boden, and Reville 2001, p. 276). After-tax replacement rates would be higher, since workers' compensation benefits are free of income tax. However, it is clear that gross wage replacement rates fall well below the two-thirds standard generally specified by statute, at least for this group of injured workers with permanent partial disabilities.

Differences by Disability Rating

A major policy issue is benefit adequacy as a function of the degree of disability. Presumably, more seriously disabled workers are less likely to eventually return to work and therefore more likely to be dependent upon workers' compensation or other social insurance benefits.[4] Table 2 reports projected losses for 10 years following injury and 10-year replacement rates for workers' compensation claimants according to their disability rating in the three states. The disability rating is a rough attempt to quantify the degree to which an individual is disabled. It estimates the percentage of impairment to the "whole man." This is the most common way of setting compensation for permanent disabilities among U.S. jurisdictions (Barth and Niss 1999).

Since permanent partial disability benefits are largely determined by the disability rating, rather than vice versa, we are looking for confirmation that

Table 1
Average Losses and Pretax Replacement Rate for Permanent Partial Disability Cases in Three States

State[a]	Total income benefits ($)	Losses by years from injury ($)		Replacement rate for 10-year losses (%)
		3.5 yr.	10 yr.[b]	
California	21,229	26,383	56,340	38
Washington	14,975	15,358	32,427	46
Wisconsin	14,196	17,602	30,746	46

[a]All dollar values measured in constant (1984) dollars.

[b]Projected, assuming wage-losses and benefit payments continue at same rate as in final observed year.

SOURCE: Biddle, Boden, and Reville (2001), p. 276.

Table 2
The Relationship of Losses and Income Benefits by Disability Rating

	Permanent disability rating				
	0–20	21–40	41–60	61–80	81–100
California 1993 injuries					
Losses projected 10 yr. ($)	24,120	29,948	43,107	55,754	114,226
10-yr. replacement rate (%)	7	19	29	44	54
Washington 1993–94 injuries					
Losses projected 10 yr. ($)	30,512	28,834	34,555	32,485	35,775
10-yr. replacement rate (%)	14	31	41	56	82
Wisconsin 1989–90 injuries					
Losses projected 10 yr. ($)	8,255	13,816	20,957	32,036	65,713
10–yr. replacement rate (%)	40	45	47	46	58

NOTE: "Benefits" means temporary plus permanent disability benefits.
SOURCE: Biddle, Boden, and Reville (2001), p. 281.

estimated wage losses increase regularly (proportionally?) with disability rating. Such a finding would provide evidence that workers' compensation systems are at least getting the wage-loss replacement dollars to the right people.

The table shows that while 10-year losses increase steadily with disability rating, at least in California and Wisconsin, compensation more than keeps up, as wage-loss replacement rates rise with disability rating. This is very pronounced in California, with replacement rates rising from 7 percent for the least serious injuries to 54 percent for the most serious. Wisconsin shows a more gradual increase, from 40 percent replacement in the least serious to 58 percent in the most serious injuries. In Washington, losses do not increase with disability rating, indicating that disability ratings are not well correlated with earnings losses.

Conclusions

These recent studies based upon administrative data and using carefully selected comparison groups improve our estimates of wage replacement adequacy in workers' compensation programs significantly. Research to date indicates that wage-loss replacement adequacy seems to be better for low-wage workers, for employees at smaller, insured firms (which is likely the same thing), for more severely disabled workers, and in certain states.

However, very few of the before-tax replacement rates reported here even came close to the two-thirds standard of adequacy. Thus our conclusion must be that workers' compensation wage-replacement benefits are not adequate, at least for workers with permanent partial disabilities in these particular states. As usual, more research is needed to shed more light on these questions.

NOTES

1. We say "apparently" because labor market analysts believe that both costs and benefits can be shifted between workers and their employers by the market forces of labor supply and demand.

2. Actually 35 states maintain temporary total workers' compensation benefits at two-thirds of gross earnings, while 4 states use 80 percent of net, and 2 states are at 75 percent of net. Six states pay more than two-thirds of gross, two states pay less than two-thirds, and one state uses a variable replacement rate.

3. Of course, analyzing only permanent partial disabilities also biases the wage-loss result, since these cases are the most likely to be disputed and to result in compromise settlements. See Barth and Niss (1999).

4. See Barth and Niss (1999) for a description of the variety of PPD methods.

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Suggestions for further reading

Barth, Peter S., and Michael Niss. 1999. *Permanent Partial Disability Benefits: Interstate Differences.* Cambridge, MA: Workers' Compensation Research Institute.

Biddle, Jeff, Leslie I. Boden, and Robert T. Reville. 2001. "Permanent Partial Disability from Occupational Injuries: Earnings Losses and Replacement in Three States." In *Ensuring Health and Income Security for an Aging Workforce*, Peter P. Budetti, Richard V. Burkhauser, Janice M. Gregory and H. Allan Hunt, eds. Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, pp. 263–290.

Budetti, Peter P., Richard V. Burkhauser, Janice M. Gregory and H. Allan Hunt, eds. 2000. *Ensuring Health and Income Security for an Aging Workforce.* Kalamazoo, MI: W.E. Upjohn Institute for Employment Research.

David I. Levine

The New Employment Contract?

Economists often assume markets set wages. On the contrary, for most Americans, employers set their wages within an internal labor market that is often only weakly associated with a spot market. A characterization of internal labor markets back in the 1960s and 1970s might be that they provided an implicit employment contract that exchanged employees' hard work for employment security. For lack of a better term, we refer to that arrangement as the "old employment contract."

During the last decade, the media have proclaimed the death of the old employment contract and a new emphasis on flexibility and external, not internal, labor markets. In fact, this pronouncement is overstated, if not incorrect. As Samuel Clemens remarked upon seeing his obituary, "The news of my death is greatly exaggerated." Data do show that employment security may be tempered. However, while tenure is a bit shorter on average than it used to be, the declines are modest for most groups of workers.

While past research has emphasized the length of jobs as a measure of the strength of internal labor markets, it is also important to understand the evolution of complementary measures; the divergence of pay in the internal and external labor markets. In a forthcoming Upjohn Institute book (Levine et al. 2002), we present an exhaustive study using five distinct sources of data, including a unique data set with information on employers and employees in both the United States and Japan and a new survey on fairness in employment. We examined changes in internal labor markets, company pay structures, and the employment contract. Our conclusion is that, as far as the wage setting process is concerned, there is very little confirmation of the existence of a "new employment contract."

The Old Contract

In the classic old employment contract, especially at large employers, wages were not strongly responsive to the labor market. Instead, each company had a distinctive company wage level and pattern. The implications of these patterns were as follows:

1. Large employers pay higher wages;
2. Large and small employers reward employee characteristics such as age and education differently;
3. Wage levels of large and small employers within a region are only weakly related;
4. Wage levels among large employers within a region have large and persistent deviations from each other;
5. The pattern of pay differentials inside an internal labor market often differ from those in the external labor market;
6. Large employers hire higher-skilled employees and those from demographic groups managers preferred; and
7. Employees hold strong norms against almost any type of pay cuts.

Our study finds that these implications are supported in the data from the 1960s to the mid 1980s.

Have Institutions and Wage Structures Weakened?

The standard reading of recent business history suggests that the wage structures associated with internal labor markets (as described by Doeringer and Piore in their1971 work) weakened between 1980 and 1996 (e.g., Cappelli 1995). If internal labor markets have declined, we should be able to answer "yes" to all of the following questions. Our analyses did not find this confirmation.

1. Did wage levels at large and small employers become similar? Yes, but modestly. The wage gap paid apparently similar employees at large (over 1000 employees) and small employers (under 100 employees) declined from 18 percent in 1979 to 14 percent in 1993.
2. Did the returns on education and tenure in large and small employers converge? No.
3. Did the correlation between average wages in a local labor market and large company wages rise? No. In neither the Current Population Survey (covering 1979 to 1993) nor the Hay data set (1986 to 1992) did the correlation between average wages in a local labor market and large company wages rise.
4. Did inequality across employers decline? No. The standard deviation of employer wage effects remained near 11 percent in both the Cleveland Salary Survey (CSS) and Hay data sets. In addition, the persistence of employer wage effects remained similar in the 1990s as in the early 1980s (CSS).
5. Did the distinctiveness of wage patterns within an employer decline? No. Among large employers, the variability and persistence of distinctive internal wage structures remained constant from the early 1980s to the 1990s (CSS). Similarly, the differentials large firms paid for more education, age, and other worker characteristics did not

come to resemble the differentials that small firms paid.

6. Did sorting of employees decline? Unclear. In the Hay dataset, sorting of skills was similar in 1986 and 1992. In the Current Population Survey, with the exception of race, differences in the characteristics of employees at large and small employers either remained constant or converged substantially between 1979 and 1993. In the CSS, the correlation between an employers' average wage (conditional on its occupation mix) and the mean wage of entry-level occupations rose by an economically meaningful amount.
7. Have attitudes changed to be more accepting of the vagaries of the market? No. Our study repeated questions about the fairness of pay cuts that were asked in a Canadian study in Vancouver and Toronto in the mid 1980s (Kahneman, Knetsch, and Thaler 1986). When we surveyed workers in those two Canadian cities as well as in Silicon Valley in the United States in 1997 and 1998, the acceptability of a pay cut was almost identical.

Implications for Theory

Our results are surprisingly unsupportive of any single story about changes in wage structures at large U.S. employers. Human capital theorists posit a tight relationship between skills and wages. Consistent with the hypothesis that returns to human capital have risen, returns to measures of skill such as education, tenure, mean occupational education, and Hay points rose in the 1980s and 1990s.

Nevertheless, most of our results are inconsistent with human capital explanations for wage differentials among employers (Juhn, Murphy, and Pierce 1993; Davis and Haltiwanger 1991). In the early period, controlling for skills did not systematically reduce the estimated wage gap between high- and low-wage employers (Hay, CSS, U.S.A./Japan). Moreover, controlling for measures of skills did little more (CSS) or nothing more (Hay) to undo the rising inequality among employers. High-wage employers remain high-wage employers even with very detailed controls. These results challenge *all* theories of wage determination.

An important question motivating our work was whether rising wage inequality is related to weakening internal labor markets. Studies using longitudinal data on individuals conclude that rising inequality appears to be due to job changes, not to rising pay variance within a career at a single employer (Gottschalk and Moffit 1994). Our study did not examine longitudinal data sources, but consistent with the past research, we found no increase in variability within employers' wage structures over time, implying more is at risk when people change jobs.

As far as the wage setting process is concerned, there is very little confirmation of the existence of a "new employment contract."

Our findings of unchanged wage-setting rigidities (on average) pose a puzzle for institutional theories of these rigidities. Most of the rigidities (employer wage effects, size-wage effects, etc.) have historically been linked to unions and to product markets characterized by oligopolies, regulation, and limited international competition. The last quarter of the twentieth century witnessed a decline in all of these product-market rigidities, but without a corresponding decline in rigidities in compensation outcomes examined here. These findings suggest that fairness considerations and other micro-level determinants of bargaining power and the payoff to efficiency wages may play a relatively larger role in determining wage patterns and rigidities than many researchers previously thought.

Implications for Managers

The rhetoric of the new employment contract suggests that employers and employees now accept external labor markets as the best way to organize employment. Our survey results show that employees' norms toward pay cuts and layoffs remain consistent with the traditional employment contract. Moreover, companies' pay policies, presumably in part reflecting this stability in norms, do not appear vastly more flexible or market-oriented than in years past.

For managers, our results suggest that traditional internal labor market policies such as minimizing layoffs may still be useful in promoting high levels of skill and effort. Moreover, when layoffs are necessary, employees accept them more if they are due to external causes such as low sales, if top executives share the pain, and if the firm provides notice and assistance.

Implications for Public Policy

Employment-related policies in the United States have often been linked to the old employment contract. For example, the United States is the only industrialized nation in which an employee's pension and health insurance depend on his or her current employment relationship. Training decisions after college are largely determined by a worker's current employer, with no visible means of certifying to future employers what was learned on the job. Affirmative action policies have emphasized increasing employment of underrepresented groups in large employers, based on the assumption that jobs at large employers have above-average career prospects. Unemployment insurance and protection from many other labor laws often do not apply to workers with short-term or nonstandard relations with their employer.

Does our argument that the new employment contract is not much different from the old contract imply that changes in employment-related policies are moot? Not at all. While mobility and flexibility have not shown marked increases, North American labor markets have always had high mobility. Thus, public policies based exclusively on the old model never fit the careers and lives of

many Americans. For example, it never made sense for health insurance and pensions to have been based on a model of lifetime employment at a single firm. Instead, public policies should encourage portability of pensions and health insurance. Government connection to learning should never have stopped after college; instead, the government should oversee a system of industry-designed certifications for general skills.

At the same time, the results in our study imply that labor market policy should not abandon the focus on creating stable jobs. While few employers can assure lifetime employment, most employees still value the predictability and relationships that come from long-term employment.

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Suggestions for further reading

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Juhn, Chinhui, Kevin M. Murphy, and Brooks Pierce. 1993. "Wage Inequality and the Rise in the Returns to Skill." *Journal of Political Economy* 101(3): 410–442.

Kahneman, Daniel, Jack Knetsch, and Richard Thaler. 1986. "Fairness as a Constraint on Profit-Seeking: Entitlements in the Market." *American Economic Review* 76: 728–741.

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Temporary Employment in Auto Supply

George Erickcek and Susan Houseman at the W.E. Upjohn Institute, along with Arne Kalleberg of the University of North Carolina, are completing a case study on the use of temporary agency workers by auto suppliers in the Midwest. The research effort is part of a larger study being funded by the Russell Sage Foundation that also explores the use of flexible staffing arrangements in hospitals and public schools.

The nonunion plants in our study extensively used temporary agency employment to respond to short-term increases in production and to screen workers for permanent positions. Temporary help agencies enjoyed economies of scale in recruitment and screening. The use of temporary help employment to screen potential workers was especially attractive to manufacturers when labor markets were tight and many job applicants had marginal work histories. Because workers were employed by a temporary agency during the probationary period, the manufacturer was spared some of the financial and emotional costs associated with dismissal, when that became necessary.

The use of temporary agency workers also appeared to lower labor costs for low-skilled production activities. The agency fees charged for temporary workers were found to be lower than the full compensation package offered to new direct hires. By lowering dismissal and wage costs, temporary help agencies facilitated employers' use of less-experienced and otherwise riskier workers, thereby minimizing employers' need to increase wages to attract experienced workers away from other companies. The latter strategy likely would have resulted in higher wages not only for new hires, but also for existing employees.

While the use of temporary agency workers can have a negative impact on productivity or the production error rate, several employers organized work stations to minimize such problems. Well-trained permanent workers routinely monitored the agency temporaries and helped avert production problems.

Although agency temporaries received lower wages and benefits than permanent workers, they were considered for permanent positions in all of the plants in our study. Moreover, because many of the agency temporaries lacked manufacturing experience or had poor work histories, temporary help agencies may have given these workers access to jobs that they otherwise would not have had. In general, we found that the use of temporary agency employment had little or no negative impact on the morale of permanent workers or the temporaries themselves. In one exception, resentment built when temporary workers believed that they were being kept in temporary status long after they had proven themselves to be qualified hires.

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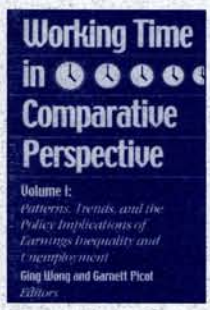
Garnett Picot, *Statistics Canada*, Editors



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- **Supply of Hours per Day and Days per Week—Evidence from the Canadian Labour Market Activity Survey**, Richard E. Mueller
- **Hours Constraints**, Kevin Lang and Shulamit Kahn
- **Measuring the Effects of Short-Time Compensation on Workforce Dynamics**, Karen Needels and Walter Nicholson
- **Short-Time Work in the United States**, Alec R. Levenson
- **Economic Activities and the Demand for Work Sharing in Canada**, Tom Siedule, Carol Guest, and Ging Wong.

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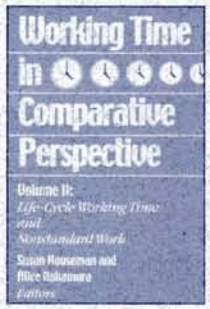

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