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The Current State of Workers' Compensation: Benefit Adequacy, Return to Work, and Prevention

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EMPLOYMENT RESEARCH

The Current State of Workers' Compensation

Benefit Adequacy, Return to Work, and Prevention

Marcus Dillender and H. Allan Hunt

ARTICLE HIGHLIGHTS

■ *Various plan-design elements have emerged that seem to provide better adequacy of workers' compensation benefits than the medical-based impairment and gross earnings replacement approach.*

■ *Disability management techniques appear to have the capacity to significantly reduce the burden of work-related disability for both workers and employers in our workplaces.*

■ *Workers' compensation programs have tools available to improve employer safety and prevention performance.*

Workers' compensation programs are state-level insurance programs that provide medical care and income replacement benefits for people injured at work. Although states' rules differ along various dimensions, each state other than Texas has statutes that require employers to provide insurance with specified benefits. Since each workers' compensation program is unique, comparisons across programs can be complicated or impossible. Moreover, data on occupational injuries, compensation, safety, and accommodation practices at firms are typically unavailable. When data are available, they can be suspect and suffer from the disadvantage that they often come from a single jurisdiction. Also, since different data and methods are used across studies, results can be difficult to compare across studies and to generalize to other workers' compensation systems. The result is a rather sparse and dubious-quality research literature.

In our new book, *Workers' Compensation: Analysis for Its Second Century* (see p. 7), we discuss and analyze the status of state workers' compensation programs along the three dimensions of benefit adequacy, return to work, and prevention incentives using the research record that has been compiled to date. We highlight the often-contrasting incentives that firms, workers, and insurers face as they operate within these programs. We consider recent trends in workers' compensation, discuss innovations that have yet to be evaluated, and try to draw conclusions from the research whenever possible and point to gaps in our knowledge that future research should address.

Benefit Adequacy

The chapter on benefit adequacy reviews recent studies of workers' compensation in Canada and Michigan. Michigan is unique because,

unlike other states, it does not have a statutory designation of permanent partial disability. And as a "wage-loss" state, Michigan law provides that lost earnings benefits shall be paid for the duration of the disability, with a few exceptions. This contrasts with other states with an "impairment" orientation, where a medical assessment of the degree of disability is made and benefit payments are derived from that rating. Furthermore, there is no designation of the level of disability in Michigan, so there is no impairment rating available, only a record of the payments made. Canadian workers' compensation systems are similar to those in the United States except that all workers' compensation insurance is with public entities, benefits are typically more generous, and waiting periods are shorter or nonexistent.

A study from the Workers Compensation Research Institute finds that the Michigan workers' compensation system provides more adequate benefits than many other state systems (Savych and Hunt 2017). Figure 1 charts workers' compensation benefits and postinjury earnings for workers with more than one month of lost work time or a lump-sum settlement compared to earnings of similar workers with injuries that did not qualify for wage replacement benefits. There is a marked drop in earnings after the injury and a decline in earnings that lasts at least five years, but the addition of workers' compensation benefits brings the earnings replacement rate to 97 percent at 5 years and 88 percent when projected out to 10 years.

This performance appears to be largely due to the wage-loss orientation and the "spendable earnings" wage replacement formula used in Michigan. Taking account of income taxes, payroll taxes, and family size clearly provides the opportunity for tailoring wage-loss replacement more closely to apparent need across all workers.

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Workers' Compensation: Analysis for Its Second Century

So, despite a lower maximum benefit in Michigan, set at 90 percent of the state average weekly wage versus 100 percent in most U.S. jurisdictions, workers' compensation wage-loss benefits in Michigan look pretty good. But if benefits in Michigan appear to be higher than those in some other states, they are clearly not as generous as in the Canadian systems that have been subjected to similar wage-loss studies.

Return to Work

While ensuring adequate compensation is a basic legislated priority of workers' compensation, returning injured workers to employment swiftly and safely lowers compensation costs for employers and helps workers by raising their incomes and by serving as part of their physical and emotional recovery from an injury. In our chapter on return to work, we discuss disability management

techniques designed to improve return-to-work performance that include maintaining close contact with the injured worker, improving medical management, and accommodating limitations at work.

Disability management's promise for improving the return-to-work performance of workers' compensation systems is reflected in the proliferation of state policy innovations that directly or indirectly support or encourage these interventions. Credible evidence on the impact of return-to-work programs is sparse but promising. Reductions of up to 40 percent in disability duration have been reported among large self-insured firms (McLaren, Reville, and Seabury 2010), and several review articles have found strong empirical support for the effects of disability management techniques.

The widespread adoption of such techniques among private

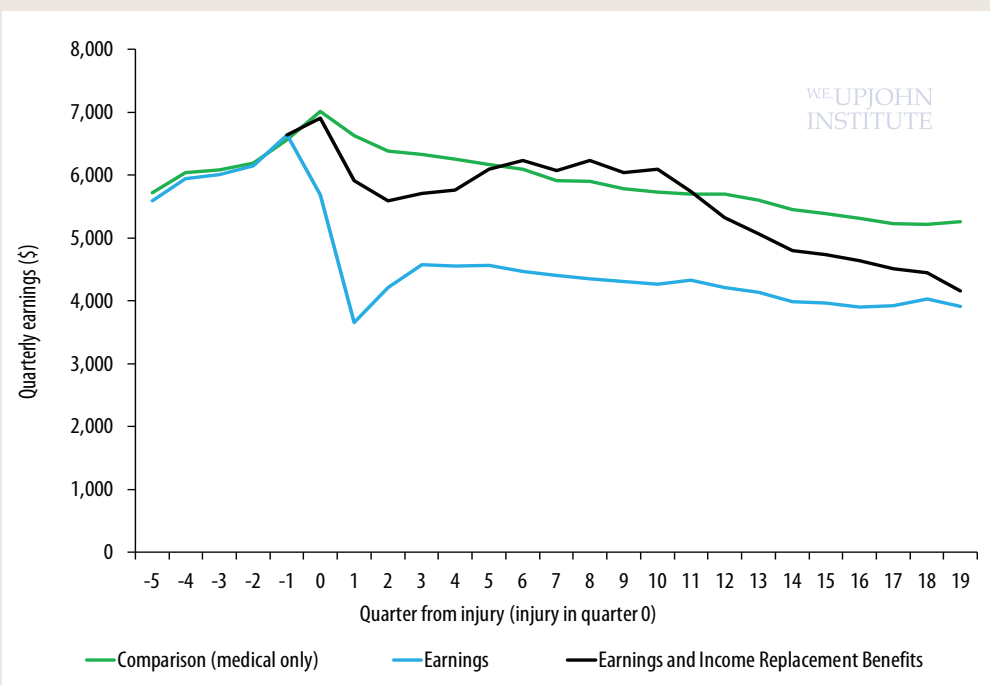
employers throughout the 1990s also demonstrates their efficacy. Figure 2 shows how the balance has shifted from injuries with days away from work to those with restricted activity only. This serves as evidence of the spread of disability management techniques. We conclude that properly motivated disability management techniques can remove many barriers to return-to-work for workers with impairments, which reduces both workers' compensation costs for employers and lost wages for workers.

Prevention

As the need for income benefits and return-to-work considerations can both be avoided if injuries are prevented in the first place, we also discuss how workers' compensation insurance can affect both workers' and firms' prevention efforts. As can be seen in Figure 3, average wage loss benefits and average medical benefits have both fallen since the early 1990s as occupational injury rates have dropped, but wage loss benefits have fallen much more dramatically than medical benefits. The increased medical benefits as a percentage of all workers' compensation benefits makes the need for prevention efforts an important component of cost containment considerations regardless of a state's benefit adequacy.

In the chapter on prevention, we discuss how workers' compensation alters both firms' and workers' inherent incentives to prevent occupational injuries and diseases. For workers, more adequate compensation benefits reduce the costs of injuries, which lower their incentives to avoid injury. For firms with experience-rated premiums, higher claim costs increase future premiums, meaning that experience rating gives firms a financial incentive to improve safety. Empirical work has devoted considerable attention to trying to understand which of these conflicting effects dominates, but it is often stymied by the simultaneous effect of workers'

Figure 1 Average Quarterly Earnings, Workers' Compensation Income Replacement Benefits, and Reweighted Comparison Earnings, by Quarter from Injury, Injuries in Michigan in 2004



NOTE: Indemnity injury sample includes workers who had more than one month of lost time or received lump-sum payments. Comparison-sample quarterly earnings information covers period between 2003 and 2008. SOURCE: Savych and Hunt (2017).

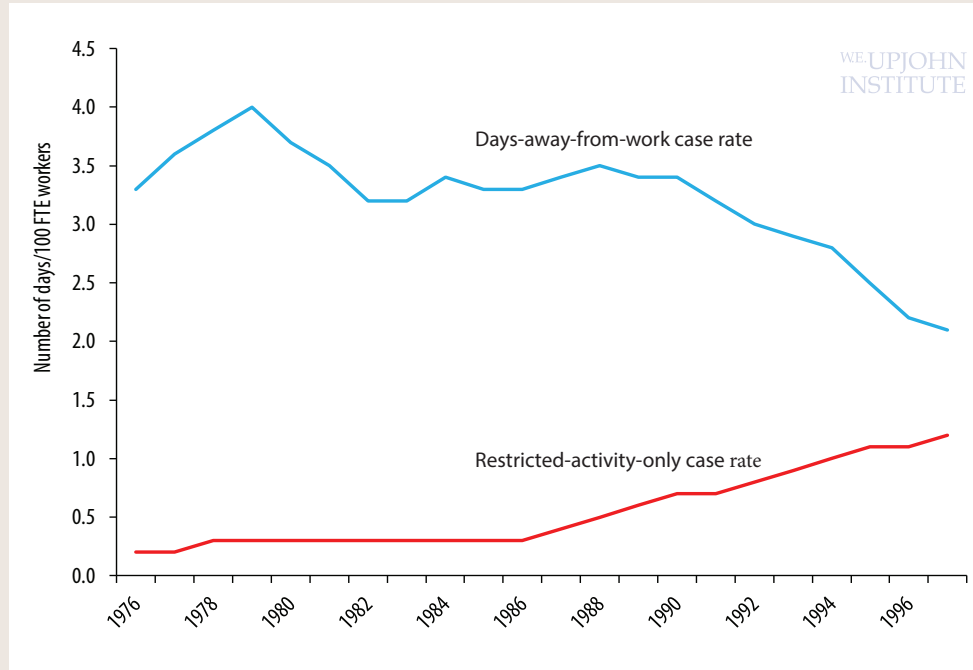
compensation benefits on reporting incentives conditional on the number of true injuries at a firm. When benefits are higher, workers have an increased incentive to report injuries, while firms have incentives to suppress reporting of injuries.

Although much existing empirical evidence points to a positive relationship between frequency of injuries and the level of workers' compensation benefits (e.g., Krueger 1990; Ruser 1985), we feel the evidence is not persuasive that better workers' compensation benefits actually encourage workers to act more recklessly. However, making workers' compensation premiums more accurately reflect the previous claims history of individual employers appears to improve employers' safety and prevention efforts, as well as encourage employers to devote more attention to the worker's successful return to work.

Conclusions

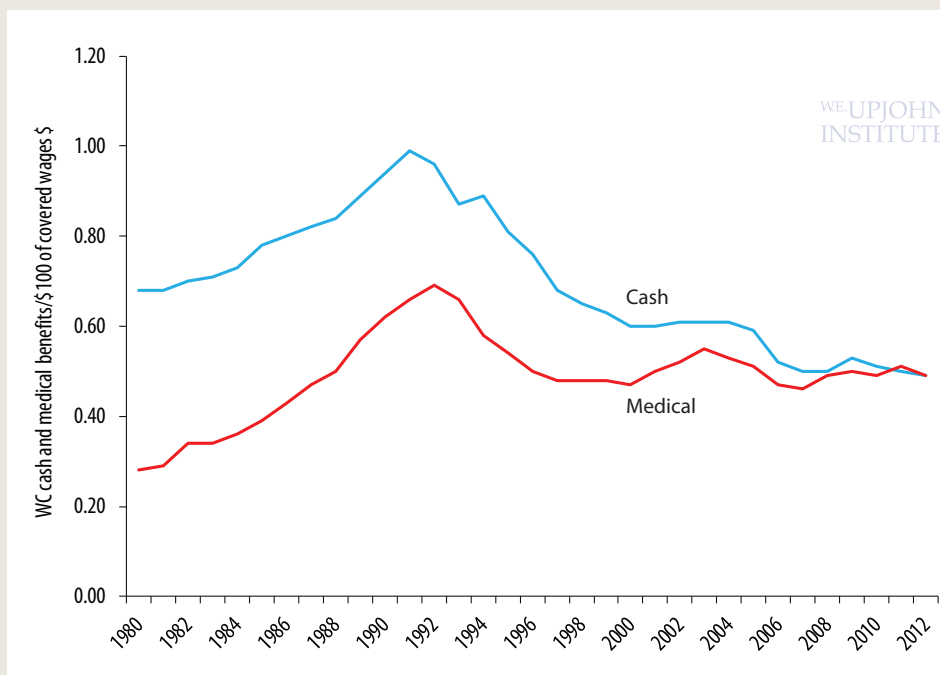
Given the current state of knowledge, we believe that workers' compensation programs could be improved along several dimensions. However, there seems to be a reluctance to consider improvements under the existing political environment. More research is needed on various workers' compensation issues, but we also believe that there are reasons for optimism about the three performance dimensions that we consider. With benefit adequacy, various plan-design elements have emerged that seem to provide better adequacy of workers' compensation benefits than the medical-based impairment and gross earnings replacement approach. With return to work, disability management techniques appear to have the capacity to significantly reduce the burden of work-related disability for both workers and employers in our workplaces. With prevention, workers' compensation programs appear to have tools available to improve employer safety and prevention performance.

Figure 2 National Trends in Rates Associated with Lost Workdays



SOURCE: Ruser (1999).

Figure 3 Workers' Compensation Medical and Cash Benefits per \$100 of Covered Wages, 1980–2012



SOURCE: Estimates from the National Academy of Social Insurance.

Workers' Compensation: Analysis for Its Second Century

Count us among those who believe that today's workers' compensation programs have the potential to serve for another 100 years, but they will require significant improvement. We call upon legislative bodies to address current shortcomings, and we call upon the research community to provide appropriate guidance for these efforts.

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Regulating Access to Work in the Gig Labor Market

The Case of Uber

Morris M. Kleiner

U.S. labor markets traditionally have included long-term employment relationships that last many years or decades. They also have been characterized by internal labor markets, unions, and a web of rules that, often by law, both employers and workers are required to observe. New innovations and technologies, such as smart phones and their accompanying apps, have allowed labor markets to become more fluid and responsive to spot market supply and demand conditions. They have allowed workers more flexibility in their choice of hours worked, and have allowed consumers to better evaluate the quality of services. As a result, gig labor markets, which let workers easily book jobs by the hour or project, have grown and flourished. The number of workers directly working through apps now comprise nearly 1 percent of the total workforce, making gig labor markets one of the fastest growing areas in the labor force (Katz and Krueger 2016; Torpey and Hogan 2016).

Workers who have entered the gig labor market have few of the government regulations or web of rules that govern traditional labor markets. In addition, labor laws such as the Fair Labor Standards Act and the National Labor Relations Act usually do not apply to these workers (Harris

and Krueger 2015). Yet one area of labor market regulation, occupational licensing, is pervasive, and in this article, I examine the interaction of this institution in one large company that operates largely in the gig economy.

The Uber Innovation

The ride-sharing firm Uber has come to exemplify the recent technology "revolution" and labor market outcomes embodied in the gig economy. It had 84–87 percent of the total ride-sharing trips (i.e., cab-substitute markets) in 2016 and is currently active in 450 cities in the United States and worldwide.¹ Uber began offering its first rides in 2010 in San Francisco and in New York City in 2011 as a way to match individuals who needed rides to work or recreation with those individuals who were willing to provide those rides for a price. The creation of an app and accompanying software allowed this matching process to be done in an efficient and profitable manner for the company (Roth and Ockenfels 2002). Uber takes a percentage of the ride price for the company as their fee for matching the drivers and riders. The drivers anticipate an ample supply of customers, and the waiting times for drivers in traditional cabs were reduced and revenues enhanced for those

ARTICLE HIGHLIGHTS

- The number of workers directly working through apps now comprise nearly 1 percent of the total workforce, making gig labor markets one of the fastest growing areas in the labor force.
- Evidence from a quasi-experiment in New York and New Jersey suggests that there are few gains from occupational licensing of ride-sharing providers as assessed through customer satisfaction or measures of customer safety.