



moreton
exhibitions and events

SUBMISSION

Australian Workers' Compensation

Submitted to

**The Secretary
Standing Committee on Employment and Workplace
Relations
House of Representatives
Parliament House
CANBERRA ACT 2600**

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1. COMPANY BACKGROUND

Moreton Exhibition and Events is a privately owned company operating for the past 36 years in Queensland, 4 years in NSW and 12 months in Victoria with a total work force of 160 employees which is increased by approximately 50 labour hire people during our peak periods.

Moreton's is covered by the Exhibition Industry Awards.

Response to relevant matters Australian workers' compensation schemes:

The incidence and costs of fraudulent claims and fraudulent conduct by employees and employers, and any structural factors that may encourage such behavior.

Moreton's is currently experiencing a case that our Insurer – NRMA and our company believe has a high probability of being fraudulent.

Employee sustained injury approximately 9 months ago in lower back – original prognosis was for a quick recovery and back to work with no ill effects. Since this prognosis employee has:-

- Been on workers compensation for approximately 9 months and still continuing claiming totally incapacitated.
- Had 5 suitable duties certificates issued by his treating Doctor which were more often than not overturned the same day to 'totally incapacitated' as the employee would turn up to work and then go back to Doctor reporting "can't do it". Duration of working ranged from 2 hours to not even commencing work.
- Has been treated by a plethora of Doctors and allied Health Professionals including: Psychologist, Physiotherapy x 2, Pain Management specialists reportedly all or most under the same medical centre roof.
- All of these treatments are ongoing especially and significantly the psychologist.
- However everyone agrees no surgical intervention is required as the injury is not on that level.
- Employee's only treatment to date has been psychology, hydrotherapy and no mention of medication for pain.
- Employee has had his lawyer involved from very early in the process and phones him regularly asking does he have to do this or that.
- Claims he is unable to live a normal life in his family or community – yet we had surveillance conducted and he demonstrated over 2 separate days he indeed lives a normal life walking round shopping centres with his family, walking miles to his medical appointments, folding and lifting pram into boot of vehicle, standing on bank lines in excess of 20 minutes (during this time stood on one leg and twisted body across to see what was on sole of shoe).
- Due to his continued presentation of 'totally incapacitated' certificates his employment was ceased at the 26 week – within 24 hours he produced 'suitable duties certificate' to regain his full benefits. Moreton then offered his position back at work for rehabilitation seeing he was able to work – within 24 hours he produced a certificate of 'totally incapacitated' once again

and that is where the case stands now except the new focus is not the back injury now it is psychological problems with pain that is being pursued by his treating Doctor.

- Spoke with treating Doctor on two occasions, as NRMA and Specialist Dr. McGroder were unable to have the Doctor cooperate with the rehabilitation program. Dr. [redacted] on both occasions was uncooperative stating "I am a clinician if my people say they are in pain then I will believe it and give them a certificate every time" - he further stated "I have a lot of malingerers in Liverpool I cannot say to their faces you are a malingerer, a liar, can I".
- It was explained to Dr. [redacted] for employee to regain his health both physically and mentally it was important that he returned to work and adopted a normal life as soon as was possible. - Dr. [redacted] stated "I agree but he doesn't want to go to work - I tell him he has family welfare won't give him everything he needs to live on".
- Dr. McGroder's report (specialist) states, "This case defies medical science as to why it has been going on so long".

The methods used and costs incurred by workers' compensation schemes to detect and eliminate:

a) Fraudulent claims;

The following is our experience of methods used by workers compensation scheme:

- This claim went unchecked for months prior to our intervention when it became very clear this case was not being properly managed by the insurer or the treating Doctor.
- No specialist was asked to check employee - treating Doctor ran the case as he saw fit and according to subsequent specialist this case has been mismanaged in treatment application and cooperation with the return to work program.
- Once company concerns were brought to the attention of Insurer more Doctor's were thrown at the case, which ended up with 'duelling doctors' agreeing and disagreeing.
- Two Occupational Therapists have walked away from the case as they cannot gain the cooperation of the treating Doctor to initiate suitable duties program.
- The Fraud Department of our Insurer was brought in and we were advised that we had a fraud case. Subsequently they say they can't prove it at this stage.
- Currently we have been advised the only way to handle this case now is to go to the Commission and demonstrate how we have solidly and conscientiously worked within the system and are still unable to have the employee accountable, the doctor accountable nor arrive at a decision as to whether this employee has the capacity to work so some equitable conclusion can be arrived at.
- To date the employee has driven this case and working within the system has not given the employer a fair go. No fault for the employee has become All fault for the employer.

Factors that lead to different safety records and claims profiles from industry to industry, and the adequacy, appropriateness and practicability of rehabilitation programs and their benefits.

- Event and Exhibition industry has a high number of casual employees and blue collar workers – the workers compensation system is open for abuse from this group who take advantage of paid leave that would not normally be available, via the ‘no fault system’.
- Our premium has risen by 300% from a previous case whereby the employee was charged and convicted of negligent driving but received entitlements currently in excess of 150k and now this current case is set to cap and increase our premium another 300%.

Rehabilitation programmes I believe have a significant contribution to make in assisting an injured employee back to work and the community. However, some concerns I have experienced include:

1. Over servicing by allied professionals by the length of time progress is measured, always totally accepting injured workers comments and indeed on one or two occasions having overheard taking longer time to scale up activities being encouraged by the treating O/T where not appropriate.
2. Rehabilitation is practical as long as we gain some cooperation from the treating Doctor who in turn encourages the employee this is the way to health and recovery and I have no doubt it is.
3. Enormous benefits have been gained when treating doctor, employee and employer work together with the sole purpose of returning the worker to a normal work and community life with reasonable graduated activities.
4. Currently the system is flawed due to an over emphasis on medical intervention of a lets try this treatment and this treatment and this specialist and so it goes on creating an air of ‘ill health’ rather than an air of ‘now we go into recovery mode and return to work’.
5. Whilst an obvious statement it is one that is relevant: as long as the Employee and the Doctor isn’t footing the bill people are running amok on this system and to date I have not seen any advantage to the idea of “This is about getting better” – it seems more in line with “This is about litigation and compensation”.

Yours sincerely
 Diane Gibson
 Manager – People Works