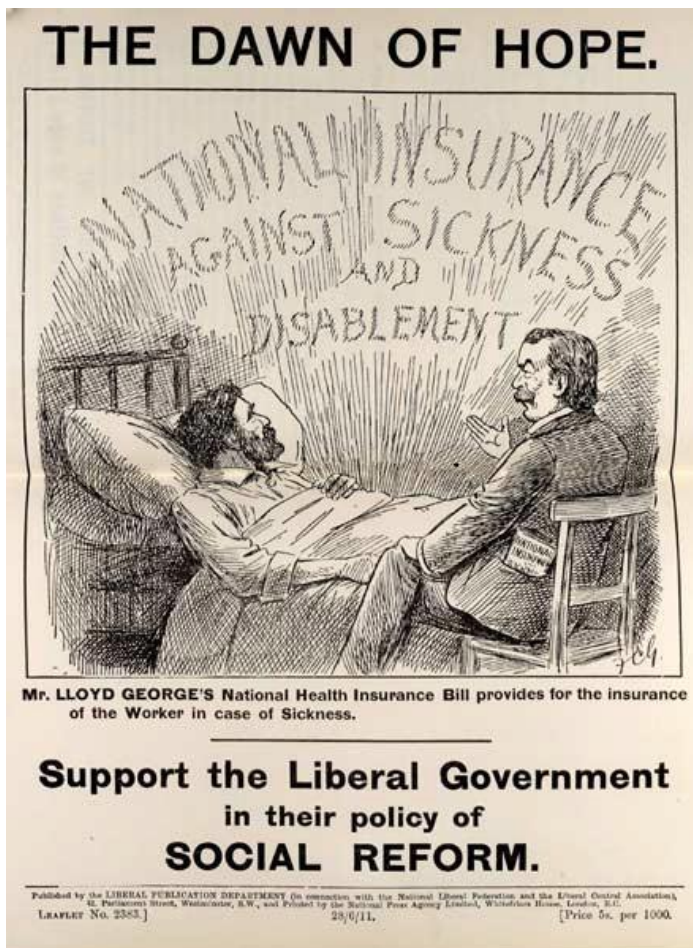


UNIT 2 LECTURE NOTES



Workers' Compensation Objectives

Workers' compensation was developed to allow injured employees to be compensated without the need for litigation. It has four main objectives:

- Replacement of income
- Rehabilitation
- Accident prevention
- Cost allocation

Early Workers' Compensation

Prior to the enactment of workers' compensation laws, employees' only recourse when injured was through the courts, and the laws favored employers. Early workers' compensation laws were ruled unconstitutional.

The constitutional debate continued until 1917 when the U.S. Supreme Court ruled that workers' compensation laws were acceptable.

Purposes of Workers' Compensation Laws

All 50 states have workers' compensation laws. Although they vary greatly, all laws were enacted to:

- Provide benefits
- Pay medical costs
- Provide for rehabilitation when needed
- Decrease litigation
- Encourage accident prevention

Types of Workers' Compensation Insurance

There are several types of workers' compensation insurance:

- Compensation insurance
- State funds
- Private insurers
- Self-insurance

Workers' Compensation Defined

Workers' compensation applies when an injury can be categorized as arising out of employment (AOE) or occurring in the course of employment (COE).

Employee Defined

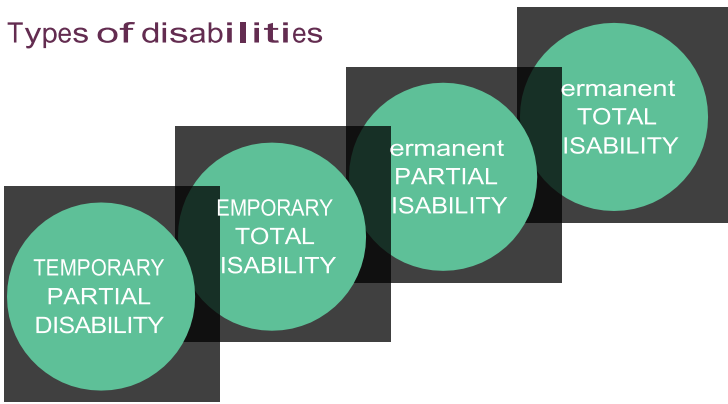
The legal definition of an *employee* can vary from state to state. However, one key concept in distinguishing between an *employee* and an *independent contractor* is direction (supervision). Employees are provided direction by the employer; contractors are not.

Compensable Injuries through Workers' Comp

Injuries that are compensable (eligible for compensation) through workers' compensation are divided into four categories:

- Temporary partial disability
- Temporary total disability
- Permanent partial disability
- Permanent total disability

Types of disabilities



Handling Permanent Partial Disability

There are three theoretical approaches to handling permanent partial disability cases:

- The whole-person theory
- The wage-loss theory
- The loss of wage-earning capacity theory

Accrued Benefits

Workers' compensation benefits accrue to the families and dependents of workers who are fatally injured. Typically, the remaining spouse receives benefits for life or until remarriage. Dependents typically receive benefits until they reach the legal age of maturity.

Selection of Physicians

All workers' compensation laws provide for payment of medical expenses, but there are differences on how a physician is selected. The options are:

- Employee selects the physician of choice.
- Employee selects the physician from a list provided by the state agency.
- Employee selects the physician from a list provided by the employer.
- Employer selects the physician, but the selection may be changed by the state agency.
- Employer selects the physician but after a specified period of time the employee may choose another.

Serious Injury Defined

The definition of a serious injury can vary, but, as a rule, an injury is serious if it requires over 24 hours of active medical treatment. (This does not include passive treatment such as observation.)

Settling Uncontested vs. Contested Claims

Workers' compensation claims can be settled in one of three ways. The first two are for uncontested claims. These are:

- Direct settlement
- Agreement settlement
- Public hearing

Goals of Medical Management of Workplace Injuries

The goals of medical management of workplace injuries are to:

- Speed up the processing of claims
- Reduce costs
- Reduce fraud and abuse
- Improve medical management

Cost Allocation Defined

Cost allocation is the process of attempting to spread the cost of workers' compensation across an industry so that no individual company is overly burdened. The cost of workers' compensation includes the cost of premiums, benefits, and administration.

Problems with Workers' Compensation

The problems being experienced with workers' compensation are:

- Workers' compensation is not achieving its intended objectives.
- It has not succeeded in taking litigation out of the process.
- The cost of the system rises steadily, but the benefits to injured workers have decreased in real terms.
- There is evidence of abuse.
- Therefore, the future of workers' compensation can be summarized in one word—**reform**.

