

CLAIMANT'S SUE TEXAS DIVISION OF WORKERS COMPENSATION

As a Claimant's attorney in the work comp system, Durkin Law Offices talk to injured workers on a daily basis and have handled work comp for over a decade. Our experience has shown that the current state of the Division of Workers Compensation (DWC) leaves more and more injured workers without benefits than ever before. These injured employees are forced onto unemployment, food stamps, Medicare, private health insurance, or some return to Mexico to get treatment. Many of them get evicted or foreclosed on because they cannot get their benefits in a timely manner.

The net result to **taxpayers** is that instead of work comp insurance carriers paying for on the job injuries, more and more it is the taxpayer that is paying. The touted savings in the system are accomplished by forcing claimants out of the system onto taxpayers, not by getting them better faster.

The net result to most **employers** is that they have seen little or no savings in premiums and what they have saved in premiums they have more than paid for in light duty jobs. Some employers really do have a variety of light duty that they can actually get some productive benefit out of having an injured worker present in the workplace but for most employers in the system when they put a welder in a file clerk slot so that the carrier can save on paying that injured worker income benefits, that employer is often getting little or no productivity out of an employee that is in pain, is on medication and is now in a job they no nothing about, that is not a net gain for employers.

The key here is that the net result to the work comp insurance **carriers is increased profits**, for example despite what people have heard about AIG its' work comp division is one of its most profitable businesses segments!

The DWC gets bigger but not better.

This suit highlights the ways that the DWC has failed to deliver on the legislatures goal to provide prompt benefits, fair hearings and reasonable medical and income benefits to rehab Claimants from their injury and get them back to work. This suit lists a few of the problem issues that our clients have dealt with and that thousands of claimants state wide have dealt with in the DWC and hopes to secure declaratory relief that the DWC must follow the law and in some areas address shortcomings in the law itself.

Specifics:

- * Hearing Officers who fail to hold hearings and issue decisions in a timely manner
- * Hearing Officers refusing to use the power of interlocutory orders
- * Networks being used to deny both treatment and the ability to get a hearing
- * Claimants being unable to secure attorneys because the attorney can not get paid if they help the injured worker fight for medical care, wheelchairs and small income cases
- * The Division misleading injured workers on what they have to do to qualify for benefits and then when the injured workers do what the Division lead them to believe they needed to do – they get denied benefits!

ISSUED: October 7, 2008

