

**Submission
No 17**

**FIRST REVIEW OF THE WORKERS COMPENSATION
SCHEME**

Name: Ms Abbey Wilkinson

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Parliamentary inquiry into Workers Compensation

Dear Sir/Madam

I am writing to you in regards to the state of the current workers compensation laws and implications of the 2012 reforms on cases such as my own.

I would like to point out that I am not complaining about the workers compensation system on a whole. I am grateful for the fact that over the last 14 years I have been in receipt of weekly payments. I have always respected the process and have never had my payments stopped for non-compliance. Even when my weekly income was the same as someone who chose to be in receipt of government benefits, without half of the extra benefits such as cheaper licences; discounted electricity etc, I was still grateful to have an income. I am however extremely concerned with the implications of the 2012 Workers Compensation reforms that were retrospectively applied and continue to have very real and dire future consequences for me and my family.

I was injured on the 4th January 2002 in a job that I loved, for a company that I loved, in a career that I was going to take to the highest level. I was 22 at the time.

Over the last 14 years, a third of my life, I have had my entire existence ruled by Allianz insurance. Since the introduction of the 2012 reforms, I have been subjected to laws that have dramatically changed the course of my claim, and not for the better.

It is my understanding that the new reforms were brought in to bring the scheme out of the immense debt it was in and return it to a surplus. I am so pleased to see that this has happened. What I am not pleased to see is that it has been at the expense of people such as myself who are continuing to be treated as individuals milking the system who must be stopped. The work capacity reviews that were introduced were obviously a way to ensure that people who were malingering were encouraged back into the workforce. On the surface that is a very effective measure. Unfortunately, it seems that every claimant is treated as a malingerer, made evident by the fact that the insurance companies now refer to the scheme as a "return to work scheme."

My goal has always been to return to work and get my life back to normal. That is not an option for me now due to the mismanagement of my claim and the breach of the duty of care owed to me by the insurance company.

In 2003 I had my treatment cancelled, no reason was given, it was just cancelled and no further treatment was approved, despite numerous requests by my treating doctors. I did not receive any formal physiotherapy treatment for my injury until 2014, After my surgery in 2013 my surgeon had requested intensive rehabilitative physiotherapy. Even after ignoring treatment requests for ten years, the insurance company continued to ignore post surgical treatment requests for an entire year. My injury was left undiagnosed for 7 years. Once I received the diagnosis the insurance company further delayed the required surgery for 2 and a half years. They didn't deny it, which would have given me an avenue to pursue a remedy, they just refused to accept the request. Meanwhile in all of this I was sent to 5 job rehabilitation courses, to teach me how to apply for job. One course required me to drive 400km's a week with an upper body injury. I complied, because that is what was asked of me. It became very apparent to me that the insurance company didn't particularly care that I had an injury, they cared that I didn't have a job.

As it turns out the injury that I have, which is bilateral, could have been remedied had a diagnosis been made early on in my claim and intensive physiotherapy been provided. Due to the inaction and the negligence of the insurance company in treating my injury, I am now left with chronic pain and an injury that won't ever heal itself, regardless of how much treatment they now throw at it in the attempt to undo their errors.

I have attached for your consideration a time line of my injury and lack of action on behalf of the insurance company.

Finally, after years of being subjected to what can only be described as negligence by the insurance company, I am now staring down the barrel of my income being stopped next year when I reach the 260 week limit. Prior to the 2012 reforms this was not an issue for me. I have recently had a whole person impairment assessment done and while I was assessed at over the required 21% the insurance company has ensured that the IME acting on their behalf has made a deduction which has left me at 15%. In this process, much like the rest of my claim, they have delayed certain aspects, withheld important medical information and attempted to bully me into accepting the 15%, obviously so they can delete me from the system in twelve months' time.

I am in this position because of the insurance company. I am in this position because of retrospective laws. I am in this position because of a man who ignored numerous recommendations and pushed through these laws at 2:30 in the morning while holding his ministers under duress and refusing to release them for their winter holidays if they didn't agree to the changes. It begs the question as to why he was so intent on pushing these laws through?

Nevertheless, these laws were introduced as I previously mentioned to weed out malingerers. I can only assume that given these laws have been in place for almost 4 years now, that the bulk of claimants who were refusing to work, or exaggerating their injury would now by way of work capacity assessments be back in employment or relying on Centrelink for an income. Now, this is where my issue is. In the last 4 years I have been found to have no work capacity, I have in fact not worked for 13 years. I have no ability to work and function as a mother and a wife due to the constant intense pain I am in. My pain level sits at a 7-8 out of 10 every single day. I can experience pain episodes anywhere up to a 12-13 out of 10. Yet, because of these laws, as of this time next year I will be axed from the system if I am found to be under the 21% WPI level, and given the manipulation of medical evidence by the insurance company, this is likely.

For the last 7 years I have been unfit for work, and therefore in the eyes of the insurance company, unfit to live. I have been told numerous times that if I am unfit to work I am unfit to study. I have not been able to better myself in any formal capacity, yet under these news laws I will have to work to survive, regardless of the pain. The chances of me finding employment with limited skills, no current training and above all else crippling pain will be impossible. No-one wants to employ someone who has been on workers compensation, let alone someone who has no work history for 13 years and is unable to function in any capacity.

My life has been held ransom by a system that is in place to help injured people. Yet, what I have experienced is far from help, and nothing short of interference and negligence. I have consulted with lawyers who have advised me that, from a brief summary of my claim, I have been a victim of professional negligence and the insurance company has breached their duty of care to me, in their capacity as the decision makers of every aspect of my injury and consequentially my life. I have lost my excellent credit rating because I am unable to get finance, I have lost my professional reputation and

any contacts I had made within my chosen industry, I have lost most of my friends, a percentage of my relatives and am no longer the person I was, or who I wanted to be in life. I am most certainly not the mother I wanted to be, and this breaks my heart most of all.

I understand that making an accusation of negligence, breaches of duty of care and quite possibly unconscionable conduct under Tort law are serious statements to make. I would not do so if I didn't have the evidence to support it.

I have attached for you a summary of the breaches I have been able to identify of the Workplace Injury Management & Workers Compensation act 1998, Workcover guidelines for the handling of claims, and the Civil Liabilities act of 2002. They are serious breaches and have had and will continue to have serious implications for my future. If the insurance company had done the right thing by me I would not be facing the future I am, if the 2012 reforms were not applied retrospectively I would not be facing the future I am.

Fortunately, I am an organised person, and have kept meticulous records over the last decade and a half. This means, that I have access to 2 years' worth of records, that I obtained from the insurance company under FOI, that they are claiming never existed. This is an issue. How are they making decisions on my future without all of the information? Obviously this works in my favour in any future litigation and if I don't choose to take that path, the court of public opinion. I would however prefer to have a conversation with law makers and see changes made that will benefit myself and other affected workers with legitimate injuries.

To add insult to injury, with the recent developments of Icare, it now costs people like myself to access our own information held by the insurance company. Information that should be and has been readily available from the insurance company in the past is now the subject of a minimum \$30 fee and possible \$30 an hour payment to retrieve it. This is just another slap in the face of people who are already vulnerable and financially disadvantaged.

The rhetoric around worker's compensation is that the claimant must surely be trying to rot the system and fraudulently claim payments. Every injury is treated as if its fake and even when, as in my case, it has proven to be a genuine injury, the claimant is still treated like they are trying to claim something they aren't entitled to. I have been bullied, I have accused of being

a liar, I have been threatened, I have been lied to, and I have had case managers manipulate the truth to suit their agenda. If I was employed by a company who did this, I would have had a case for bullying and harassment and I would have quit my position and moved to a better company, unfortunately, that is not an option here. I didn't choose Allianz, my employer did.

Perhaps now may be the time to change the discussion surrounding worker's compensation and put the focus on the people who are in charge of the claims. The unqualified, inexperienced case managers who make life altering decisions without any understanding of the injuries they are dealing with or the affect these injuries have on people's lives. The middle management who encourage staff to lie and cover up their errors, prolong treatment that will ultimately benefit the injured, and refuse to acknowledge that not every claimant is the same.

Why are the injured workers held to a higher standard than the insurance companies who are in charge of claims, considering we are all bound by the same laws?

It is my understanding that the Baird government has been and will continue to investigate the reforms, and I can only hope that when you look at the WPI laws and the termination of weekly payments for people under 21% at 260 weeks that you might recall this letter, and the story it contained of a woman, a wife, a mother, who through no fault of her own became entrenched in a system and ended up with a lifelong injury because she worked hard to build a career and ended up having her life owned by people who care more about a dollar then they do about the wellbeing of the people they claim to help.

I have attached a list of questions that I would like addressed.

I look forward to a timely response addressing my concerns. If you require any further information, please do not hesitate to contact me on the details below.

Kind Regards

Abbey Wilkinson