



Taking Control of our Health

HOMELAND INSECURITY: INJURED WORKERS DEFY ATTACKS ON THEIR LIVES

As Americans struggle each day to survive in the face of mounting economic and social insecurity worldwide, a public health crisis of major proportions has developed, shattering millions of lives in the United States.

Every two seconds one American suffers an injury or illness related to his or her job. This alarming statistic comes from a study published in 2000 that found that in one year

more than 14 million workers suffered job-related injuries and illnesses and 67,000 workers were killed on the job.¹

This major health crisis has developed as Americans put in longer hours than workers in just about every other developed nation.²

People in all kinds of industries commonly work 10- or 12-hour days, take on two or three jobs, and — especially women — continue their working day at home caring for their family. Overworked, overexposed to un-

healthy conditions, skyrocketing numbers of workers are getting hurt on the job — in offices, factories, construction sites, hospitals, schools and homes.

Workers are reporting repetitive-stress syndrome, back problems, leg injuries, vision problems, asthma, nerve damage from chemical exposure, muscle strains, and emotional distress from stress.

WHO CONTROLS OUR TIME

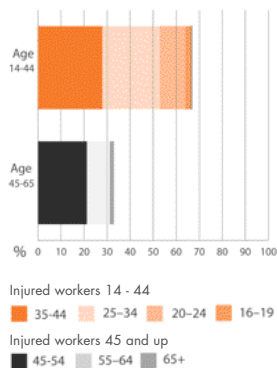
One-fifth of American workers, 48 million people, including

myth

"I'm young, I'm healthy. That won't happen to me."

reality

67% of injured workers are between the ages of 14 and 44



Source: BLS Age Breakdown of 2002 Reported Injuries in Private Industry

salaried and hourly professional and blue-collar, toil more than 50 hours per week.³

WORKING UNTIL WE BREAK:

The injury rate among workers increases 50% after the first 50 hours in a week.⁴

Men that work 60 hours or more per week and don't get regular sleep may double the risk of having a heart attack compared with men working 40 hours a week or less.⁵

LONGER HOURS ≠ MORE MONEY

The more hours that some workers work, fewer jobs are available for other workers. And once workers are forced to compete with one another employers can easily replace an employee with another worker for less pay and more work.

Salaried white-collar and contract workers are often forced to work longer hours to finish a job but don't get paid for those extra hours.

Piece-rate workers find that as they finish more pieces, the wage-rate is slashed, and they end up making the same amount or less money while working longer hours.

For example, in New York's Chinatown, 20 years ago gar-

ment workers worked 40 hours a week for \$200 a week. Today, they work 80 hours a week and make only \$180 a week.⁶

INJURED WHILE WORKING, THE NEW YORK STORY

When injured, workers in New York State are supposed to receive immediate medical treatment and cash benefits from the Workers' Compensation Board (WCB).

The WCB was established in 1914 with the objective of compensating injured employees and protecting employers from being sued by their employees who were injured on the job. By law, businesses must purchase Workers' Compensation insurance to cover each employee. Uninsured workers are covered by the State Uninsured Fund.

WORKERS' COMPENSATION: ROBBING THE INJURED TO FEED THE INSURERS

The reality, however, is an endless nightmare for workers who face the dehumanizing bureaucracy of the Workers' Compensation system. This system functions to benefit rich and powerful insurance companies by delaying and denying benefits to injured workers.

After being injured, many workers have to wait for four, 10 or

more years to have their cases resolved, and they are deprived of desperately needed medical and living assistance.

In the meantime, they often lose their life savings, their homes, and sometimes, their family and friends who cannot bear the additional financial and caregiving burdens.

Many are left with no choice but to return to work, exacerbating their health problems. Others turn to public assistance to survive. And, increasingly, the Workers' Compensation Board is giving some benefits to workers soon after they open their cases, only to cut the benefits later for no reason.

Both the delays and the cuts are ways of starving out injured workers, forcing them to eventually accept insultingly-low settlement offers.

My wife works six days a week as a domestic worker. She stays overnight. If I were getting Workers' Comp benefits, she wouldn't have to work so hard.

— HENRYK WIECHNO,
Injured asbestos worker

YOUR TAX MONEY HELPING INSURANCE COMPANIES TO PROFIT

Out of desperation, more and more injured workers are forced to apply for public assistance

because they receive nothing while their Workers' Compensation cases drag on, or because they receive starvation benefits of \$40 a week. This minimum benefit puts New York State's Workers' Compensation system among the bottom 11 states nationally.

Injured workers have no choice but to turn to the public assistance that so many New Yorkers need. Taxpayers end up subsidizing workers' compensation insurance companies, which, instead of covering injured workers' lost wages and medical treatment, are making huge profits.

The insurance companies have my money, collecting interest. Nothing for me. Before this happened to me, I used to push up my nose at homeless people. Now I know how easy it is to get there.

— VALERIE ALEXANDER,
Injured hospital cleaner

THE MAN RESPONSIBLE: NYS GOV. GEORGE PATAKI

Pataki appointed chairmen to the Workers' Compensation Board to set up a system that guarantees that employers never have to take responsibility for workplace injuries and insurance companies never have to pay medical bills or benefits without a lengthy process of delays. For instance, one study

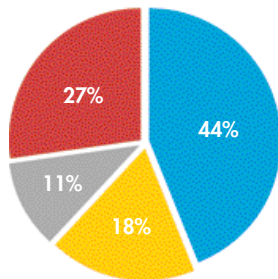
myth

The Workers' Compensation system takes care of injured workers

reality

Workers' Compensation covers only 27% of all occupational illness and injury costs.⁷

Who pays?



Estimated national cost
\$155.5 billion



Source: Paul Leigh et al
Costs of Occupational Injuries & Illnesses

by the Mt. Sinai Occupational Health Clinic found that 80% of their patients with repetitive-stress syndrome had claims that initially were not accepted by the insurer.

PATAKI'S SMEAR CAMPAIGN

Pataki's fiction #1: Injured workers are frauds

One of Pataki's underhanded ways of blocking injured workers from getting compensation is to attack their reputation and integrity. Rather than address their urgent needs of medical treatment and living expenses, Pataki launched an anti-fraud task force in 1996, searching for a few examples to broadly portray injured workers as criminals.

The truth:

What Pataki didn't tell New Yorkers is that in 1996 only 2% of Workers' Compensation insurance fraud in New York involved injured workers for a total of \$107,300. Meanwhile, health provider fraud, such as submitting fraudulent claims for tests, and employer premium fraud, such as failing to carry Workers' Compensation insurance or under-reporting employees, totaled more than \$500 million.⁸

In fact, most Americans are hesitant to use Workers' Compensa-

sation at all, let alone attempt to steal from the system as Pataki claims. Only half of Americans with serious workplace injuries that require professional medical attention filed Workers' Compensation claims.

Study respondents cite fears that they would be fired, denied promotions, or thought ill of by their employers or colleagues as reasons for not filing claims.

Pataki's efforts criminalize injured workers and turn insurance companies into victims.

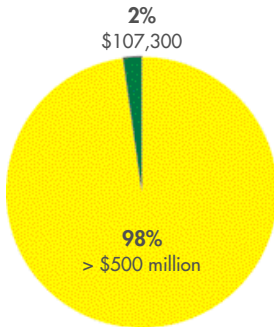
Workers are intimidated and public attention, including that of policy makers and enforcement agencies, has been diverted from the real social and financial costs of employer and provider fraud.⁹

Pataki's fiction #2: Injured workers are driving up employers' premiums

The truth:

Since Pataki's 1996 Workers' Compensation "reforms," New York State boasts that Workers' Compensation insurance premiums paid by businesses have decreased on average nearly 30%. Meanwhile, benefits paid to workers declined by 12.5%.¹⁰ Employers and insurers are driving down benefits to injured workers and pocketing their "savings."

In a 1996 study only 2 percent of Workers' Compensation insurance fraud involved injured workers.



Source: Labor Research Association, Workers' Compensation Fraud: the Real Story, June 1998



ROBBING THE POOR TO FEED THE RICH: PATAKI'S LATEST SCHEMES

Attack on Injured Workers

1. Capping at 10 years the lifetime benefits that workers with permanent partial disabilities now receive. This cap would affect thousands of injured workers in New York State and penalize many workers who are in fact totally disabled but who end up accepting negotiated benefits as partially disabled after suffering years of humiliation, destitution or worsening health.

2. Tying benefit levels to a standardized rating system of

impairment that does not factor in other considerations related to one's loss of wage-earning capacity, making it more difficult for injured workers to qualify for higher categories of benefits.

Assault on Working Families

- Slashes to Medicaid, Child Health Plus and Family Health Plus
- Reduction of services to help families apply for Medicaid and Family Health Plus
- Cuts to public assistance benefits to families with a disabled member

Who benefits from Pataki's cuts?

- **Workers' Compensation Insurance Companies:** Recent surveys identify Workers' Compensation insurance as the most profitable segment of property/casualty insurance. In New York, Workers Compensation insurance companies enjoy a high profit margin of 14.3%, almost three times that of homeowners insurance companies (5.4%) and auto insurance (5.5%).¹¹
- **Governor Pataki and his allies:** The insurance industry

(Continued on page 8)



At the age of 36, **Laura Gillis** was running, swimming, studying yoga and riding her bike. She was planning another cross-country bike trip before settling down to a serious career. Laura had been temping as an office worker for seven years. But in 1992 her life took a drastic turn when she got a job as a temp in a chemical manufacturing company. She noticed an ammonia-like odor. And by her 11th day on the job, she felt a burning sensation in her nose and throat and was completely disoriented. She couldn't remember how to drive. Her head felt as if it were clamped in a vise. Later, she was diagnosed with toxic encephalopathy, a condition affecting her central nervous system and causing damage to her brain. After an eight-year Workers' Compensation case, which included 30 hearings, 12 insurance company-paid doctors, and \$12,000 in legal fees, her lawyer and the insurers pressured her to settle for \$170 a week. With the deterioration of her health and her inability to work, Laura relies on her partner, Steffi, to survive.



Al Lewis was a security guard for a Leona Helmsley building for almost six years. At times he worked 16 hours a day, so long that he slept overnight on the basement floor because he barely had enough time to travel home and back for his next shift. He rarely saw his three daughters who began to grow distant from him and lose interest in school. The long hours and stress contributed to a heart attack that he suffered on the job in 1994. Denied Workers' Compensation benefits, Al lost his apartment and was forced to apply for public assistance and live in a shelter with his eight-year-old niece and seven-year-old nephew for three years. His case was closed as Workers' Compensation accepted Al's employer's claim that no workplace injury occurred.



Maria Reyes, an immigrant from the Dominican Republic and a mother of five, worked as a garment worker in New York for seven years. After falling in her factory in 1995 and waiting in vain for her Workers Comp benefits and for authorization for her surgery, Maria was forced to return to work despite her pain. Because she had to clean garments with harsh chemicals, Maria developed severe respiratory problems in 2002. She eventually was granted \$113 a week, but her benefits were cut off completely pending more hearings. Because Maria has been denied benefits, she is completely dependent on her family. Her sons work long hours to support the family, and one, aged 33, has recently been injured at his warehouse job.



Joan Charles is an immigrant from Jamaica. A mother of five, Joan worked for 14 years as a home attendant in this country until she was injured in 2001, trying to catch a falling patient. Hospital workers quickly came to the aid of the patient but left Joan lying on the ground. She was unable to work with her injured shoulder and applied for Workers' Compensation. But she couldn't survive on the \$37 a week — even less than the Workers' Comp legal minimum of \$40 a week. She had to rely on public assistance and Medicaid for three years. And, after moving in with her daughter when she couldn't pay her rent, Joan almost became homeless when her daughter put her out, telling her it was time to support herself. When Joan finally won a decision this year, she ended up with \$160 a week.

Rising from our **Hardships**

(Continued from page 5)

contributed more than \$2 million to Pataki and state legislators between 1999 and 2001.¹²

NATIONWIDE MOVE TO ROB INJURED WORKERS OF RIGHTS

Since the late 1980s, 40 states have passed laws reforming Workers' Compensation laws to cut claims and costs by slashing benefits and pushing

injured workers out of the system entirely. The standard "reforms" include:

- requiring claimants to get treatment from insurer- or employer-approved doctors
- reducing the number of weeks that workers can receive benefits
- stopping benefits when a worker could return to any work regardless of whether the injury persists
- robbing injured workers of rehabilitation and income replacement by promoting the exclusive use of such standards as the American Medical Association Guides, which don't measure all relevant aspects of one's disabilities and inability to work
- deducting Social Security or pension payments from Workers' Compensation benefits



- discouraging attorneys from disputing claims

WORKING PEOPLE UNDER SIEGE

Workers are being stripped of their rights by the Workers' Compensation Boards across the country. And the attack on the health of workers is taking place on multiple fronts.

The rights of undocumented workers who are injured on the job are being challenged in many states. States like Michigan and Pennsylvania are denying benefits for wage loss.

Employers argue that these workers had no right to be working in the first place. This assault is part of an onslaught of regressive anti-worker and anti-immigrant laws across the country that stem from the employers sanctions provision of 1986 which criminalized work for undocumented immigrants.

In Washington, the Bush Administration issued new rules to eliminate overtime pay for many categories of workers—particularly white-collar workers — which will increase the profitability of businesses and the rate of injuries among workers who are forced to work longer hours. The President's proposals to privatize Social Security is another blow to the health and welfare of older Americans.

6 More and more workers I know are getting injured, and go for years without any benefits. Others of us find our benefits suddenly cut off even though our health has not recovered. It's like Workers' Comp is waiting for us to die before we get any real compensation. We injured workers need to demand our rights.

— QUAN LU,
Injured delivery worker

IT'S ABOUT TIME TO STAND UP AND TAKE CONTROL OF OUR LIVES:

In the face of this nationwide siege on working people, we must make our voices and concerns heard. Elected officials must be held accountable for the hurtful policies that lengthen our work day, increase our chances of getting injured, and create a Workers' Compensation system that cheats injured workers.

WORKERS SAY YES TO CONTROLLING THEIR TIME

A dozen states around the country have passed or are considering bills to limit or prohibit mandatory overtime, particularly for health-care workers. This year New Jersey became the second state, after Washington, to bar healthcare institutions from forcing health care workers to work overtime except in emergencies. New York has a similar bill pending.

It's About Time!



JOIN THE IT'S ABOUT TIME! CAMPAIGN FOR WORKERS' HEALTH & SAFETY

The “It’s About Time! Campaign for Workers’ Health & Safety” is a multi-racial, grassroots initiative established in 1999 by workers’ centers in New York City including Chinese Staff & Workers’ Association and the National Mobilization Against SweatShops. The campaign, which has been endorsed by scores of churches, community organizations, unions and workers’ groups, is pushing to overhaul the Workers’ Compensation system and eliminate the mandatory overtime hours that cause many workplace injuries.

WORKING PEOPLE ARE CREATING CHANGE

Some of our achievements include:

- putting the Workers’ Compensation and health issue on the forefront of the state, national, and even international agenda
- making the N.Y. State WCB provide translations of testimonies at hearings and compelling them to speed up some cases
- informing the introduction by State Assembly Member Susan John of a legislative bill to overhaul the WC system and prohibit mandatory overtime, a leading cause of occupational-health problems
- winning a First Amendment lawsuit against the City of Albany upholding the right of injured workers and 9/11 survivors to march in the streets of Albany, as well as re-writing the regulations for the city’s march ordinance

- gaining acknowledgement that the problems of injured workers are a human-rights concern now being investigated by National Economic & Social Rights Initiative

- winning a decision from the Mexican government last fall which, in response to our 2001 petition, found the U.S., Pataki and the N.Y. State Workers’ Compensation Board guilty of violating the labor-side agreement of NAFTA by failing to protect workers’ health and safety

BUT THERE IS STILL WORK TO DO

In the coming year, we will organize to call for:

- 1.** Workers’ Compensation cases to be resolved within three months and interim benefits provided within a week of filing a claim.
- 2.** The minimum benefit rate (currently \$40 a week) to be raised to at least state minimum-wage levels, and the weekly maximum benefit rate to be raised correspondingly.
- 3.** Workers having the right to decline overtime hours if they choose to.

Please visit our website at www.nmass.org.

**YOU CAN SUPPORT THE
"IT'S ABOUT TIME! CAMPAIGN" IN MANY WAYS**

- Join us in tabling and door-to-door outreach in your neighborhood. If you're part of an organization, church or school, help outreach to your membership, congregation or classmates.
- Urge your organization to endorse the IAT Campaign.
- Circulate our postcard to put Pataki and other elected officials on alert.
- Urge your elected official to pledge his/her support for the Campaign.
- Arrange discussions with organizations, including senior citizens' centers, schools, churches, synagogues and mosques.
- Reach out to injured workers in your congregation or workplace and send us your stories.
- Help to create a video exposing Pataki's attacks on our health and documenting the organizing efforts to gain control of our health and time.
- Make a contribution to the IAT Campaign (make checks out to NMASS, earmarked for the IAT Campaign) or help to organize a fundraiser.
- Share your ideas with us!

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Designed by Maria Manlicic

Please mail your endorsement and/or contributions to the:
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It's About Time!

A campaign for **Workers' Health & Safety** | Sponsored by the Chinese Staff & Workers' Association and the National Mobilization Against SweatShops

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