



**REPORT TO THE COMMISSIONER OF LABOR BY THE  
WORKMEN'S COMPENSATION ADVISORY COMMISSION**

NEWARK, N. J.

March 11, 1931

HONORABLE CHARLES R. BLUNT,  
Commissioner of Labor,  
Trenton, New Jersey.

Dear Sir:

The undersigned, constituting an Advisory Commission appointed by you to examine into the operations of the Workmen's Compensation Bureau of the Department of Labor and the administration of the laws relating to the same, beg to report as follows:

The Workmen's Compensation Act, which was originally enacted in 1911, was designed to secure to injured workmen or their dependents, definite amounts of compensation for injuries suffered and pecuniary loss sustained, irrespective of the question of fault and negligence on the part of either the employee or employer, and it was intended that the statute should be liberally construed in order that the economic loss resulting from injury to the employee should be reduced as much as possible. Amendments to the law have been made, from time to time, increasing the amount of compensation awarded for the term for which the stated compensation should apply, and in other respects as experience demonstrated defects and weaknesses in the original Act.

In order to obtain as wide and as thorough investigation as possible you have appointed as members of the Advisory Commission representatives of labor, industry, law, medicine and insurance, and in the conduct of our investigation we have extended invitations to various groups representing these interests and have been favored with their views on a number of questions relating to the Act itself, and to the operation of the Bureau.

We find at the outset that, while the number of cases reported to the Bureau during the first full year of its operation numbered 11,922, during the year 1930 the total number of cases had increased to 28,269. These figures would seemingly indicate the necessity for enlarging the administrative staff, as well as the equipment and facilities necessary to proper administration of the law, but we find that there has been no increase in personnel, equipment or other facilities proportionate to the increase of the business of the Bureau, and this fact has been the cause of a number of the criticisms which have been addressed to us. The old headquarters of the Bureau at No. 9 Franklin Street, in the City of Newark, were notoriously inadequate, but the removal of the department to the new headquarters in the Industrial Building has eliminated one of the chief causes of complaint to which our attention has been called.

A majority of the various interests who have given us their views with reference to the operation of the Bureau, are of the opinion that the Bureau has not a sufficient personnel in the way of referees and examining physicians, in order to examine and pass upon cases in full fairness to the injured employee, the employer, or the insurance carrier. The evidence before us indicates that in some cases, owing to the pressure of business or the limited time available for the work of the State Physicians, the physical examinations are not as thorough as they should be. A criticism has also been made of the practice of notifying claimants, employers, insurance carriers and

others interested in a large number of cases to appear at the Bureau at a stated hour in the morning, and that by reason of the large number of cases set down for a particular time and the length of time necessary to get through the list the time of the interested parties is largely wasted in waiting to be heard. This seems to us to result partly from the lack of sufficient personnel, as above indicated, as well as from the practice of assigning more cases for hearing at a stated hour in the morning instead of being scheduled for different hours during the day. It seems to be the consensus of opinion, and we find and report, that at least two additional referees should be appointed and that the medical staff should be enlarged correspondingly. As to the medical staff, we have had additional criticisms to the effect that certain physicians employed by the Rehabilitation Clinic have also at various times become interested in compensation cases either on behalf of an injured workman, an employer, or insurance carrier. It is our belief that the physicians employed by the State should be prohibited from engaging in such practice. It has been suggested that the work of the Bureau would be expedited and rendered more effective by the employment of a physician or physicians on a full-time basis at an adequate salary and we have been advised that a competent physician can be obtained, whose full time could be given to the examination of cases coming before the Bureau, at an adequate salary. We do not doubt that if such a physician were employed and would attend at the Bureau every weekday for the purpose of making examinations, and that such physician be precluded from engaging in practice on behalf of any injured workmen, employer or insurance company, the work of the Bureau and its results would be materially enhanced. The Commissioner of Labor should also be authorized to engage as many as three independent physicians to make examinations and advise the Deputy Commissioners in any important case where it appears to the Deputy Commissioners that the testimony of the physicians obtained by the parties is in irreconcilable conflict.

There seems to be also a very strong sentiment among the majority having contact with the Workmen's Compensation Bureau, that in no case should a case be set down for a formal hearing until the matter has been examined into at an informal hearing, and a recommendation made therein by the Referee or Deputy Commissioner, so that the parties involved may have the opportunity of speedily settling or adjusting these cases if they so desire. It has been urged upon our attention that there have been many cases which could be informally adjusted by a Referee without delay and to the entire satisfaction of all parties concerned, but that owing to the intervention of certain lawyers and doctors whose chief interests seem to be obtaining the allowance of fees, these cases are not permitted to be informally adjudicated by a Referee but are set down for a formal trial. This practice necessarily suspends and delays the payment of compensation when it is most needed, and in the long run seems to work more to the benefit of the doctors and lawyers who become interested in cases rather than the claimants themselves.

We therefore believe it would be in public interest that in these cases the claimant should at the earliest possible date report to the Bureau for a physical examination, and that at such time claimant should be examined by a Referee as to the time and place and circumstances of the accident and extent of the injury, and the present condition of the claimant stated and duly recorded with recommendation of the Referee, and a docket, file or other record kept for that purpose.

It has also been suggested and we recommend that, if at places like Newark, Jersey City, Paterson, Camden or wherever a large amount of

work falls on the attending Referee or examining doctor, he be provided with a stenographer to make a record of the facts elicited instead of the long-hand method now in use and that such record be made a permanent file, and that such record and file should in all cases be made part of the cases to be submitted to the Deputy Commissioner on final hearing. The procedure in practice in Jersey City appeals to us as that which should be adopted generally.

We have had considerable evidence indicating that the practice before the Bureau on the part of certain attorneys and physicians is becoming commercialized; that there is a certain amount of "ambulance chasing" on the part of the doctors, lawyers and runners, and that this practice is carried on in the quarters of the Department of Labor, and this charge has been made with respect to cases which, although being satisfactorily handled by the Referee, might be made the occasion of obtaining professional fees by throwing the matter into a formal hearing.

Another matter with reference to which we have had considerable criticism, is the practice of State physicians recommending to the Referee and Deputy Commissioner the allowance of some arbitrary percentage for assumed permanent disability in cases where there has been or is indicated a complete recovery from a temporary disability. Doubtless there are cases of fracture followed by a complete union, which may cause future recurring pain or disability, but we do not believe that the letter or spirit of the Workmen's Compensation Act justifies general allowance of permanent disability percentage where the injury is of a temporary nature.

Much criticism has also been expressed before us in the matter of making allowances for attorneys fees and medical fees. The statute authorizes in contested cases the allowance of attorney fees not exceeding 20% of the amount of the judgment except in cases where compensation has already been paid, in which event the attorney's fee is based upon the excess compensation awarded on the final hearing. The criticism in this connection is that some of the Deputy Commissioners have in the past frequently awarded the full 20% of the judgment or of the excess as the case may be without recognizing that the amount suggested by the statute is a maximum amount and not an arbitrary percentage to be applied in all cases. The same criticism is directed to the allowance for medical fees. The statute directs an allowance of a maximum of \$50. to any one physician not exceeding \$150. in any one case, and it has been stated that, as to these allowances also, the practice of the Deputy Commissioners is to allow \$50. to each physician, notwithstanding that the same physician may appear in three or four cases before the same Deputy Commissioner on the same day. We believe that if the design and purpose of the law were kept in mind by the Deputy Commissioners and the legal and medical fees based on the actual work done, it would discourage to a great extent the apparently growing practice of commercializing compensation cases by doctors and lawyers.

Requests have been made, in which we concur, that the rules of the Bureau be amended to provide for five days' notice to both parties of the dates of informal hearings, and that the time for filing an answer to a formal petition be extended to twenty days instead of ten days after service of the petition or bill of particulars.

It has been called to our attention that frequently a case is repeatedly set down for a hearing, and the petitioner does not appear or notify the Bureau in advance of the fact that he will not appear. This may be due partly to the fact that the petitioner's address does not properly appear in the records or that the petitioner may have moved from the address given at the time of the injury, and it is suggested, and we concur in the recommendation, that where a case has been set down for hearing, and ample notice is given

to the petitioner, and the petitioner does not appear, such case should not be again assigned for hearing, except on the request of the petitioner. We also concur in the suggestion that in every case either the employer or insurance carrier be authorized to accept and endorse acknowledgment of service of petitions, as this is a common method used in civil suits of law.

We have given consideration to numerous suggested amendments to the Act, many of which seem to be desirable, particularly the following:

Repeal the provision relating to penalty for failure to file accident reports, and extend the period of limitation in which petitions may be filed to two years. Also to extend the time for filing a petition by a widow or other dependents until one year after the date of death of the injured.

That all non-resident employers engaged in work and hiring labor within the State of New Jersey should be required to provide security for any liability they may incur in New Jersey under our Workmen's Compensation Act, or, that the service of process upon the Secretary of State be made a valid method of service in all cases where non-resident employers cannot otherwise be served.

To abolish the appeal to the Common Pleas Court and provide for review by writ of certiorari in the Supreme Court.

Amend the hernia section of the Act so as to provide for a 48 hour notice whenever an accident occurs on a day preceeding a Sunday or legal holiday.

Substitute for Section 23F a new section providing that the employer or insurance carrier may institute an action against third persons in the event that the injured employee refuses or neglects to institute such action within a limited time.

While it might be desirable to make a number of other changes in the laws, we do not believe that further amendments of the statutes should be attempted. We urgently recommend, however, that the entire body of the workmen's compensation laws should be entirely revised. The Act of 1911 has been amended fifteen times, and the supplement of 1918 has been amended seven times, and other supplementary acts have been passed, so that the law as a whole is now in a state of confusion, and in many instances of inconsistency. In our judgment it is impossible to amend the law adequately so as to provide a harmonious understandable and workable code covering the matter of workmen's compensation. The whole matter should be revised, modified and clarified to afford a better understanding and proper administration of the law.

In conclusion, we would like to take this opportunity to express our commendation to the Commissioner of Labor, as well as the personnel of the Bureau, for the satisfactory manner in which most of its affairs are being conducted. Notwithstanding the criticisms offered in the foregoing pages, we find that everyone in the Bureau is making a conscientious and determined effort to better the general efficiency. As a matter of fact, noticeable improvement has been made, in our opinion, during the past eight months while the Commission was functioning. We wish to express our thanks officially, also, for the cooperation of the Deputy Commissioners and Referees whose comments and explanations have been very helpful.

Respectfully submitted,

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