

# LABOR SAFETY AND HEALTH INSTITUTE

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*"To assure safe and  
healthful working conditions  
for working men and women..."*

## Guide #12

FRANK GOLDSMITH, Director

### LOCAL UNION COST SAVINGS PROGRAM: SCREENING OFF-THE-JOB DISABILITY INSURANCE CLAIMS FOR WORKERS' COMPENSATION INJURIES AND DISEASES

Union health benefit programs face a tremendous financial crisis. The uncontrolled cost of health care has increased pressure on unions to negotiate greater employer contributions to maintain or expand current benefits. This is often done in lieu of a greater wage increase. The failure of the federal government to respond to workers, unions and community demands and enact a national health program has further aggravated this problem.

A unique feature of most New York City union benefit programs is a negotiated (off-the-job) disability insurance program which substitutes for the mandatory New York State Disability Insurance Program (DBL).

These health fund administered DBL programs often provide a larger weekly benefit (sometimes \$10-\$15 more) than required under the N.Y. State (\$95/week) benefit. The fund facilitates quicker payments than the state agency. Under DBL, the union-negotiated health fund pays all the medical and hospital bills at the same physician and hospital rate normally paid for other claims.

#### Union Hazard Control Program

Local 447 of the Printing Specialties and Paper Products Union (of the Int'l Printing and Graphic Communication Union) has a vigorous leadership and health benefit program. It provides an extensive health benefit package, including a negotiated off-the-job disability program for its 3,000 members in New York and New Jersey. The union has an aggressive occupational safety and health hazard detection, control and prevention program. The special hazards of printing include machine guard injuries, illnesses from exposure to toxic substances and cancer-causing chemicals.

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The union leadership became aware of its occupational disease problems through membership complaints and from federal agencies (the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health) and independent scientific institutes. In fact, the landmark study on the hazards of printing inks was done with Local 447 by the Mt. Sinai Environmental Sciences Laboratory.

Using the results of this study, the union embarked on a prevention program which includes the following activities:

- Hazard identification in which new chemicals used by employers are researched through the use of NIOSH personnel and other information agencies. (The companies are supposed to inform employees of hazards and new chemicals in use, but rarely do.)
- Education programs for the local and initiating regional educational conferences based on its job safety and health programs;
- Placing demands on employers to switch to safe chemicals, and correct unsafe machine guards;
- Participating in conferences and meetings inclined toward greater knowledge for all workers and unions.

### Injuries and Illnesses On or Off the Job?

The union became aware that increasing membership interest in safety and health education programs and in particular, occupational disease, did not appear to increase claims for workers' compensation. However, in the same period, the union leadership found a tremendous increase in its health care costs and in the health fund's deficit. This was reflected in the skyrocketing cost to the health fund, since it pays medical and hospital bills under DBL. The union began an intensive educational program through its shop stewards to inform members of the importance of directing their claims for job-related illness and injury to Workers' Compensation, not DBL. In addition, the union decided to screen all DBL claims to determine if any were actually job-related, and, therefore, to be filed with the N.Y. State Workers' Compensation Fund. If effective, this screening procedure would greatly relieve the health fund since the employer's Workers' Compensation insurance carrier would pay physician and hospital care costs as well as the weekly benefit. Prior to the current period, the \$2,520 weekly benefit maximum for 26 weeks (\$95 x 26 wks.) was the major cost. However, rising costs have propelled these costs ahead of the weekly financial benefit. By screening its disability claims, the union did not intend to eliminate or place workers at risk of losing their weekly benefits.

On the contrary, the union understood the difficulty of attaining Workers' Compensation for occupational disease. Therefore, the union quickly conforms to N.Y. State law which requires immediate granting of DBL benefits to its members once their Workers' Compensation claim is controverted (challenged) by the employer's insurance carrier, something which almost always takes place for job-related diseases. This is also the proper method under ERISA\* rules. If and when the claim is approved by Workers' Compensation, the union health fund is financially reimbursed by Workers' Compensation for all physician and hospital payments and the weekly benefit.

### Results of Cost Saving Screening

The union reports that this DBL screening program has resulted in a dramatic cost savings. From 1976 to 1977, the Blue Cross insurance premium paid by the Health Fund increased from \$661,000 to \$759,000. In the same period insurance costs for physicians also increased. Overall costs to the Fund increased from \$1.4 million to \$1.5 million. These increases were dramatically above the costs in the previous years. The Union instituted its screening program in the beginning of 1976.

In that 1976 - 1977 period, at the same time that hospital and physician rates were on the increase, the union reduced its Health Fund deficit from \$350,000 to \$175,000. In the 1977 - 1978 fiscal period the fund broke even. The reductions, according to the union leadership, were directly attributable to the DBL screening program.

The Union does not keep a record of the number of claims shifted from DBL to Workers' Compensation. Nor does it know the amount of increased use of Workers' Compensation which has taken place among its membership.

### Conference Findings

In 1978, the New York State School of Industrial and Labor Relations, Cornell University, held a conference on "Who Pays for Job-Related Injuries and Illnesses of Workers: Workers' Compensation or Union Negotiated Disability Insurance?" to discuss the prevalence of occupational disease and who pays for it. The twenty-five unions who attended reported programs similar to Local 447's or were about to embark on such a program.

Unions who self-insure their physicians and/or hospital claims reported that they have had disability screening programs for a longer time with the same successful results.

\*The Employee Retirement Insurance Security Act.

### Remove Impediments

Thus, these union-connected disability programs, while attractive and certainly increasing workers' rights under the state DBL law, actually may be serving as an impediment to workers' seeking Workers' Compensation for occupational diseases. This problem is one more of many impediments which workers face when they seek their rights under Workers' Compensation.

Other obstacles may include general discouragement from shopmates, no confidence in government programs, union representatives not knowing how to direct workers, employment fears (e.g., being fired, or manipulation of overtime), wage loss (re-assignment to "light duty" at lower pay), inaccessibility of physicians and lawyers, etc.

### Federal Reform

Under the 1970 Occupational Safety and Health Act, Congress mandated the Labor Department to reform the Workers' Compensation system. A provision in the 1977 Black Lung Amendments to the Social Security Act require special attention to the problem encountered by workers seeking compensation for respiratory diseases. Union-initiated programs such as Local 447's coupled with the Black Lung Amendments and the OSHA Acts's mandate have expanded the discussion concerning the necessity of fundamental reform of the Workers' Compensation system. However, there appears to be little understanding of the everyday problems workers face in receiving Workers' Compensation for job-related diseases. A pre-condition to future legislation reform (whether the 19 recommendations of the W.C. Commission or a full reform toward a federal system) should be the elimination of all the loopholes and impediments facing workers who deserve Workers' Compensation. These barriers are often very subtle and societal in nature or they can be obvious, as in fear of job and/or wage loss. They are often not immediately perceivable to the casual or even academic/government researcher. Without their elimination, a new system may be created to compensate victims of occupational disease which appears equitable and effective to Congressional, government, academic and administrative personnel, but will not be used by those for whom it is intended.

- 1 There are two basic health benefit arrangements in collective bargaining: 1) Union health benefit programs administered through a joint labor management board of trustees (with the union playing a leading role of negotiating the greatest amount of benefits per employer contribution.) 2) Employer-provided health care benefit at a union-negotiated, collectively bargained contribution rate.
- 2 N.Y. is one of the five states which has a mandatory DBL program for all private sector employees. However, many large companies in non-DBL states, and also government units, provide their own DBL programs for their employees.