

# Is An Opt-Out Workers' Compensation System Possible in Pennsylvania?

Recently, a study reported that more than a dozen large companies in Texas have decided to [opt-out of the state system for workers' compensation coverage for their employees](#), and the companies report 44% cost savings on workplace injuries as a result—an amount totaling millions of dollars.

Texas is the only state in which employers are not required to provide workers' compensation injury coverage for workers. Employers may at their own discretion provide alternative benefit plans called non-subscription plans.

Certainly, the savings reported are enough to make many other companies across the country sit up and take notice. Legislators in a number of states have already begun to take a serious look at allowing employers to substitute non-subscription plans for state-run workers' compensation.

## **How are such savings possible?**

A significant amount of the savings generated appears to have come from lower legal expenses, as compared to states in which workers' compensation coverage is mandatory. There is very likely a logical reason for this, which will be further discussed in this article. Perhaps more importantly, the question should not be how much money is being saved, but at what expense? Are injured workers paying the price?

## **How alternate plans work**

Non-subscription plans typically require employees to waive the right to sue in court, and instead take their claims to arbitration. Unfortunately for the employee, the employer

often gets to select the arbitrator. These plans may work well for minor injuries, but severe injuries may not be covered at all. Giving up the right to sue an employer in court could put at risk the compensation to which an injured employee is entitled and dramatically affect an employee's future. At least on the surface, non-subscription plans have the potential to serve the interests of the employer over those of the injured employee.

### **Could opt-out happen in Pennsylvania?**

In Pennsylvania, like many other states across the country, workers' compensation insurance coverage is the law for most employees. There are some very good reasons for this. For one thing, workers' compensation coverage doesn't only benefit injured employees. It is important to remember that this law also protects employers. The cost of disabling injuries can be devastating to small businesses. Without workers' compensation insurance, many small businesses simply would not survive. Employers would need to weigh the *possibility* of savings with a non-subscription against the *certainty* of protection with workers' compensation insurance before getting onboard with a change in the law.

Some of the rules, restrictions and narrow coverage common to non-subscriptions plans may lessen overall expense, but some injured employees could find themselves without coverage for their injuries.

Pennsylvania workers' compensation law allows for lost wage benefits and medical benefits for a work injury. The employer's workers' compensation insurance carrier is responsible for the payment of reasonable, necessary medical expenses related to an injury sustained on the job.

### **Who *really* stands to benefit?**

It is essential for every worker and employer to understand what is truly at stake. A change to the existing workers'

compensation act, may actually represent more harm than good to injured workers.

Perhaps a quote from attorney Joseph Huttemann of Martin Law, the highly-regarded Pennsylvania workers' compensation law firm, says it best:

"What seems clear is that there is a growing tide of support from big business to spread this system nationwide. In the states where the system has been integrated, the early results demonstrate the realization of the worst fears of injured workers. Claims being denied and/or limited by self-imposed rules that serve to solely benefit the corporate bottom line. Unfortunately, the system prevents access to the courts to get justice and the injured workers are left without remedy, other than public assistance and medicare. When a system improves the bottom line of business, regardless of the ultimate costs to society, there will be a strong push to influence legislators to enact such law. It is eminently clear that opt-out statutes are disastrous for injured workers and must be fought at all levels."

The Pennsylvania workers' compensation system is far from perfect, but it does provide injured workers with compensation for their work injury, including medical treatment expenses and lost wages. Should their claim be denied, Injured workers in Pennsylvania also have the possibility of redress through the courts and the assistance of an experienced workers' compensation attorney.

**If you are an injured employee, the current system can help you**

If you are injured at work, never sign any documents without speaking to an experienced attorney—you could inadvertently waive the right to sue your employer and ensure that you are awarded the compensation you deserve. The Pennsylvania

attorneys at [Martin Law](#) are here to help. Call today for a FREE consultation.