

Responding to COVID-19:
Workers' Compensation
and Workplace Safety

Tuesday, June 16, 2020

2:00 pm EDT

NATIONAL
ACADEMY
OF • SOCIAL
INSURANCE

William Arnone

Chief Executive Officer

National Academy of Social
Insurance

Les Boden

Boston University

Chair, Academy Data Panel on
Workers' Compensation



RUSSELL SAGE
FOUNDATION

WORK-ACCIDENTS
AND THE LAW

By

CRYSTAL EASTMAN

MEMBER AND SECRETARY, NEW YORK STATE EMPLOYERS'
LIABILITY COMMISSION

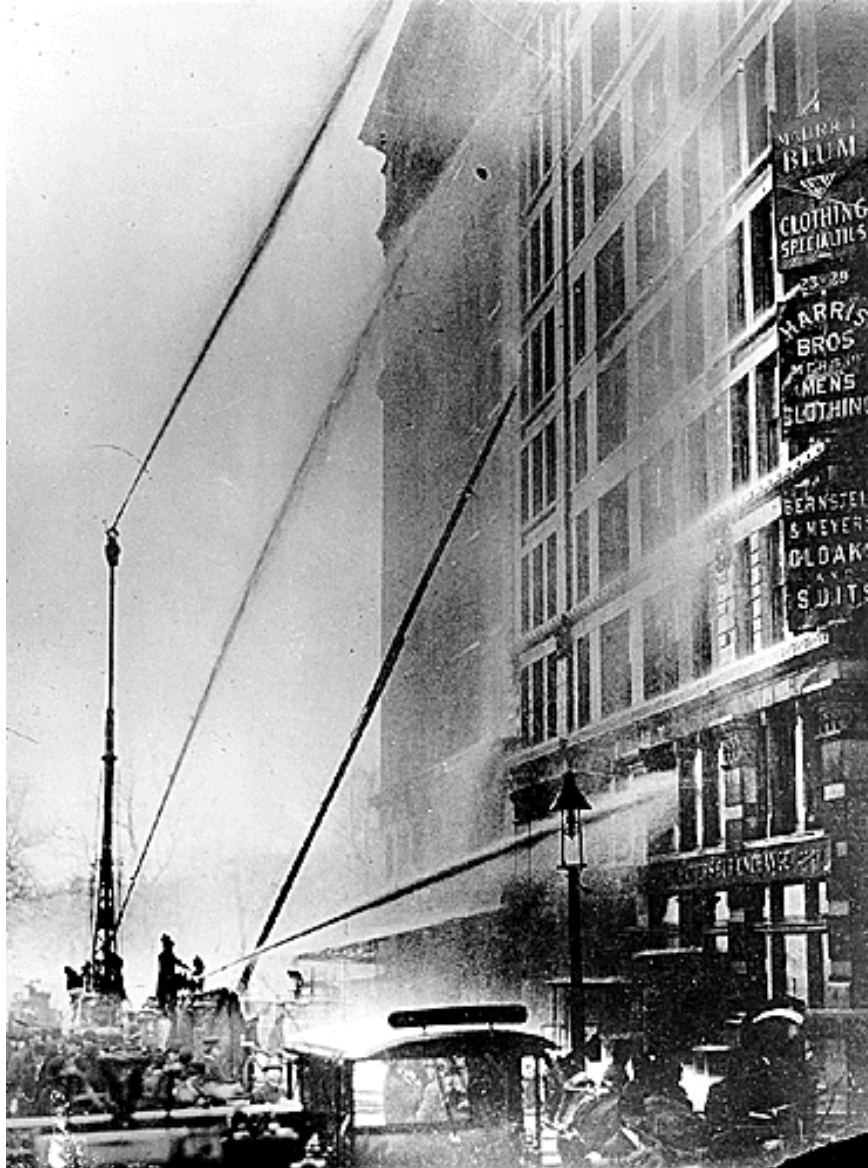
THE PITTSBURGH SURVEY

FINDINGS IN SIX VOLUMES

EDITED BY

PAUL UNDERWOOD KELLOGG

NEW YORK
CHARITIES PUBLICATION
COMMITTEE MCMX



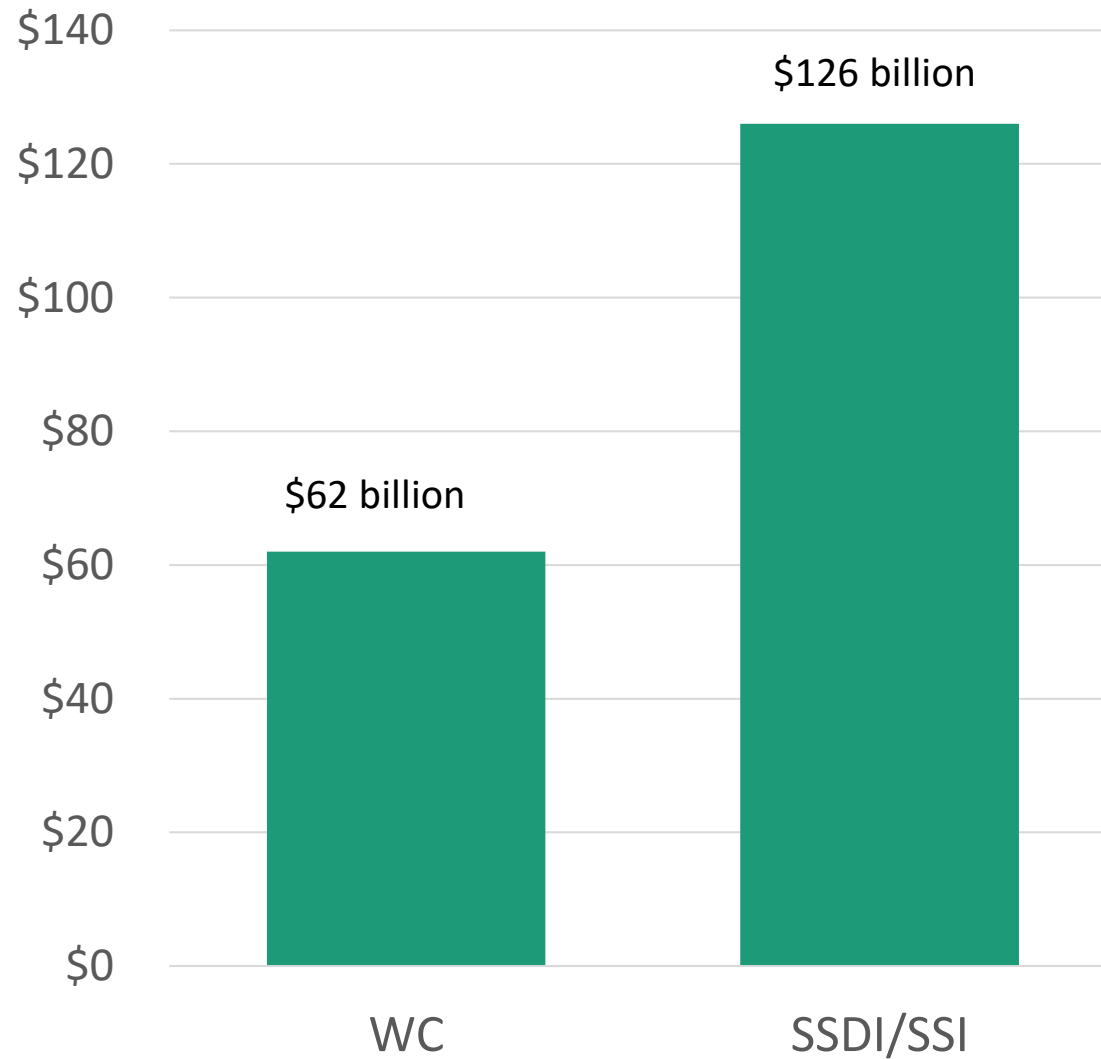
***Ives v South
Buffalo Railroad,***
March 22, 1911

**Triangle
Shirtwaist Fire,**
March 23, 1911

**Pennsylvania
Mine Fire,**
April 7, 1911

**Alabama Coal Dust
Explosion,**
April 8, 1911

Benefits Paid Disabled Workers, Billions (2017)



Workers' Compensation

- Primarily a state-based system: compensation without regard to fault
 - Employers must purchase insurance or self-insure
 - Employers generally immune from tort liability
- Medical costs reimbursed
- Disability benefits partly cover lost earnings
- Importance now: Workplace exposure is a key source of transmission of COVID-19

Work-related Illness and WC

- No-fault but must show work-relatedness
- Barrier to compensation for most illnesses, especially those common in the population
- How/when did a worker contract COVID-19?



Debbie
Berkowitz

Worker Safety and Health Program
Director

National Employment Law Project



Jeff Eddinger

Senior Division Executive –
Regulatory Business Management

National Council on Compensation
Insurance



Melissa
McInerney

Associate Professor of Economics
Tufts University

Debbie Berkowitz

Worker Safety and Health Program
Director

National Employment Law Project

COVID-19 is spreading in the workplace

- CMS reports that over 34,000 nursing home workers infected with COVID 19 and over 300 have died
- At least 24,000 meatpacking workers infected with COVID 19 and 100 have died
- In early April ,public transportation unions report over 1,000 cases among bus drivers and scores dead
- Over 3,000 UFCW grocery store members infected with COVID-19; scores have died
- Other areas of spread: warehouse; farmworkers; manufacturing

Federal OSHA Has Decided Not to Issue any Specific Requirements for Employers

- Federal OSHA has failed to issue a standard to protect workers from COVID-19 exposure in the workplace
- Federal OSHA is not enforcing CDC Guidance (as it did during H1N1 pandemic)
- Guidance issued by OSHA and CDC is voluntary; filled with words such as 'consider this' or implement 'if possible'
- OSHA has conducted very few if any inspections so far (most in response to fatalities); issued only one citation on reporting violation
- Because of the lack of Federal action , states have implemented new standards, , either through EO or Ordinances, requiring workplace protection measures
- IL, PA, NY, NJ, CA, OR, WA, NV, MI, MN, and now VA



Specific State Actions to Cover COVID-19

- Some states expand coverage for COVID -19 to health care workers and emergency responders (KY, WA, MI, AK, AR for example)
- Some states expand coverage to all essential workers: CA (IL will soon)
- Actions done through legislation and Executive Orders.



COVID-19 Impact on Workers Compensation

**Jeff Eddinger, FCAS, MAAA
Senior Division Executive**

June 16, 2020

COVID-19 – Impact on Workers Compensation

- COVID-19 Claims not the only issue for WC
 - Mass telecommuting
 - Furloughed workers
 - High unemployment
 - Recession
- Compensability
- State Actions

COVID-19 – NCCI Response

- FAQ's
- Rule Filings
- Legislative Analysis & Tracking
- Hypothetical Scenarios Tool
 - Infection rates, compensability rates, etc.
 - Wide range of scenarios
 - \$2.7B to over \$80B on WC system
 - First Responders / All Healthcare Workers
 - By state for 38 NCCI states

COVID-19 – NCCI Response

- Industry facing this from a position of strength
- NCCI continues to update information on its COVID-19 Resource page on ncci.com
- NCCI will be making decisions soon relating to upcoming rate filings

Melissa McInerney

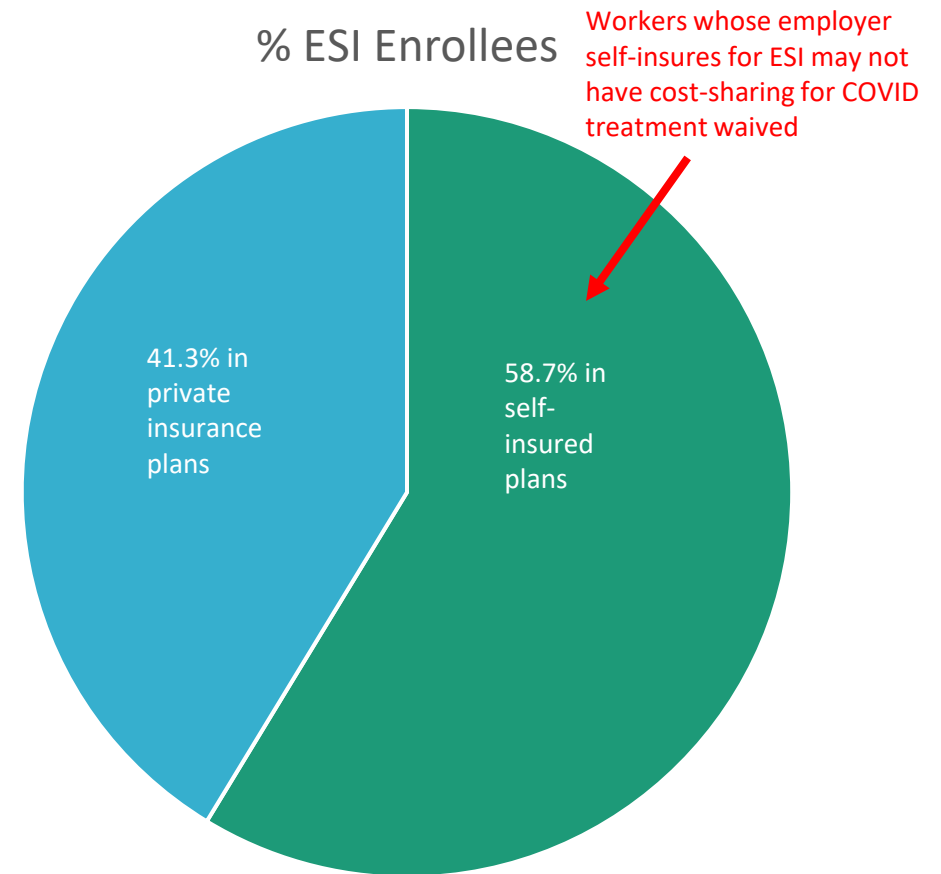
Associate Professor of Economics
Tufts University

Occupational exposure is important to the pandemic

- Next to home, most social contacts occur at work
 - *Mossong et al., 2008*
- Seasonal flu spreads less when jurisdiction has mandated paid sick leave
 - *Pichler et al., 2019*
- Seasonal flu spreads more when economic activity is higher
 - *Markowitz et al., 2019*

Despite efforts by states and private insurers, infected workers may face significant costs related to medical care due to COVID-19

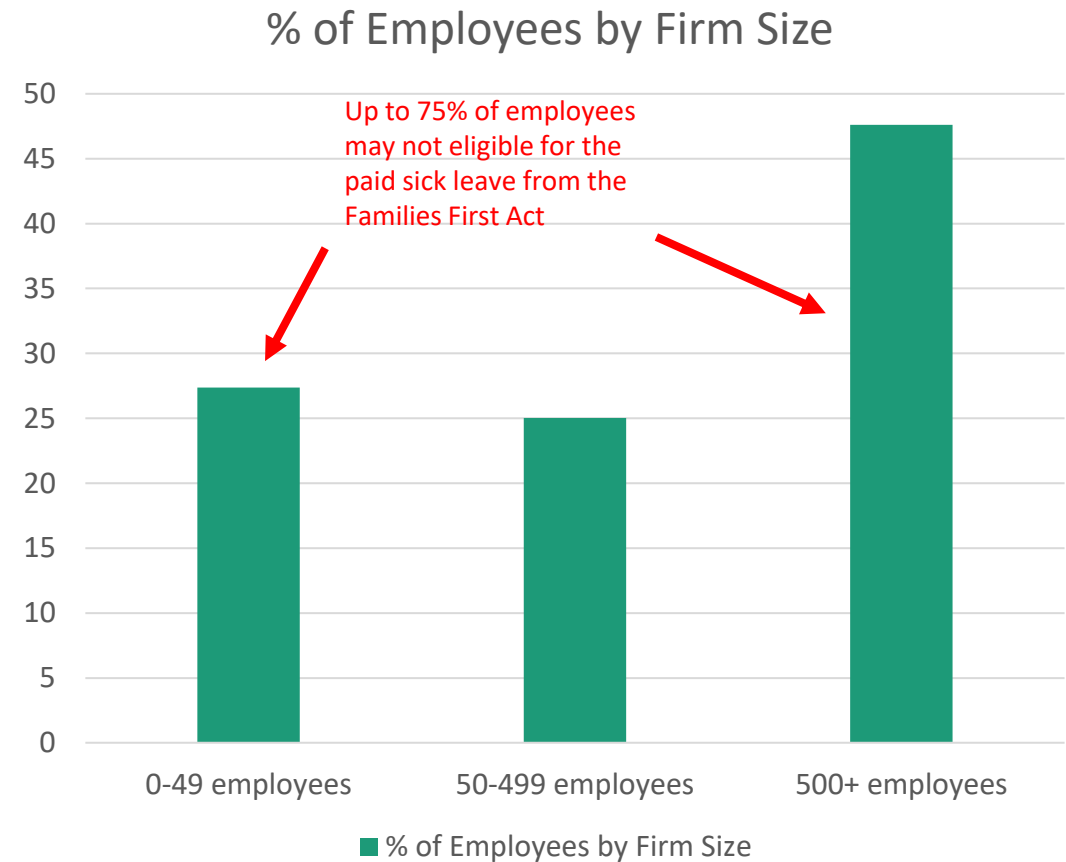
- DC, MA, and NM have required that all private insurers waive cost-sharing
- ID, MI, and MN have negotiated with several of the large insurers in their state to do the same
- Many of the largest private insurers are voluntarily waiving cost-sharing for COVID treatment
 - *In many cases, for in-network care*



SOURCE: MEPS data, 2018

Despite the paid sick leave mandated in the Families First Act, infected workers may face significant costs related to time away from work

- Employers with fewer than 500 employees are mandated to provide two weeks (10 days) of paid sick leave at full pay for workers quarantining for or recovering from COVID-19
 - *Employers with fewer than 50 employees may request an exemption*



SOURCE: BLS data, 2019

Despite expansion of unemployment compensation under the CARES Act, current workers will not benefit and higher benefit ends soon

- **Pandemic Unemployment Assistance (PUA)** extends unemployment compensation to those typically not covered by UI, including: self-employed, seeking part-time employment, or otherwise would not qualify for regular unemployment compensation
 - *Not available to those who are still working*
 - *Does not cover those who quit because do not feel comfortable going to work*
 - *Ends December 31, 2020*
- **Federal Pandemic Unemployment Compensation Program (FPUC)** provides an additional \$600/week to UI and PUA recipients
 - *Not available to those who are still working*
 - *Ends July 31, 2020*