



# The Iowa Policy Project

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## EXECUTIVE SUMMARY

# Giving Workers the Cold Shoulder

## *Shifting the Risk under Iowa's Workers' Compensation Law*

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Workers' compensation is our oldest social insurance system, representing a century-old commitment to sharing the costs associated with workplace injuries on an industry-wide basis. The system is designed both to protect individual employers from unpredictable lawsuits associated with industrial accidents, and to ensure reliable, predictable and timely benefits for workers who sustain injuries or illnesses on the job. Unlike pension and unemployment insurance, workers' compensation is primarily a matter of state law.<sup>1</sup> General principles of those laws:

- Workers' compensation is a "no fault" insurance system paid for by covered employers.
- Workers who are injured at work are eligible for compensation for medical care, rehabilitation and cash benefits covering lost earnings and earning power.
- Families of workers who die of job-related injuries or illness receive survivor benefits.

This venerable, carefully balanced system has served Iowa workers and employers well. But, in 2017, lawmakers made sweeping changes that make it harder for workers to file workers' compensation claims, narrow employers' liability, limit attorney fees, and reclassify specific injuries in order to dramatically reduce both the amount and duration of benefits.<sup>2</sup>

The 2017 changes to Iowa's workers' compensation system represent a substantial and intentional shift in the costs and the risks associated with industrial hazards, away from employers and insurance companies, and onto workers, their families, and taxpayers. Moreover, they are not home-grown responses to issues in Iowa, but reflect an outside agenda. The changes clearly mimic employer-friendly "reforms" enacted in over 30 other states.<sup>3</sup>

This report examines the new implications for Iowa workers and their families. Specifically, we focus on an important element — **the reclassification of shoulder injuries**, analyzing a large sample of shoulder injury cases, under both old and new rules.

Early 20<sup>th</sup> century law relieved employers of liability for most work-related injuries or illnesses. But where employers were found responsible, legal costs and settlements were increasingly expensive and unpredictable. And the increasing number of crippling injuries and lack of compensation corroded labor relations and damaged the reputations of industrial employers. Eventually, many employers eventually saw the attraction of reform and joined the clamor for a "social insurance" solution to the cost of workplace injury or illness.<sup>4</sup>

Iowa was among 22 states passing laws between 1910 and 1913. These laws generally deemed that workers injured on the job are entitled to compensation for their injuries, without regard to fault. Compensation — limited by law — includes medical costs, lost-time and monetary compensation for permanent injuries or death. Employers are required to pay the cost of

compensation, but the cost is covered by insurance. Over time, coverage has broadened and state statutes now cover over 90 percent of the workforce. In Iowa, the only notable exclusions are domestic and casual workers who earn less than \$1,500/year, agricultural workers whose employers have an annual payroll of less than \$2,500, and officers of family farm corporations.<sup>5</sup>

Despite an unsustainable premise that workers' compensation costs and claims were "out of control," cuts to state workers' compensation systems have accelerated over the last decade. Between 2003 and 2015, 33 states passed laws that reduced benefits, established arbitrary time limits, sharply constrained workers' choice of doctor, and made it more difficult for those with certain injuries and diseases to qualify for benefits at all.<sup>6</sup> The pace and focus of "reform" reflected not the costs of compensation — but turnover in statehouses that created new openings for business-friendly legislative change.

*In Iowa, employers in 1988 paid \$2.79 in workers compensation premiums for every \$100 paid in wages; by 2014, the premium cost had fallen back to \$1.88. In the five years leading up to the spring 2017 legislative session, workers compensation benefits and costs in Iowa — measured in the aggregate or as a share of wages, changed little.*

In 2017, the Iowa Legislature passed HF518, making a huge number of changes to Iowa workers' compensation law. The new law contains devastating reductions in the amount of compensation that injured workers will receive, combined with super-specific changes that will affect only a handful of cases each year. Some changes reverse specific decisions by the Iowa Supreme Court, meeting a "wish list" of insurance company lawyers losing a workers' comp case in the last 25 years. ***The only constant among all the changes is that they are bad for workers. Probably the most significant impact will be on workers who have serious, permanent disabilities.***

### **Conclusion**

Our study suggests strongly that the change in the method used for evaluating shoulder injuries under HF518 will have a very significant impact on the total amount of compensation received by injured workers. Workers with permanent disabilities resulting from shoulder injuries will receive far less in compensation. The "typical worker" with a shoulder injury could expect to lose about 75 percent of his/her compensation. The change will have the largest impact on the most vulnerable workers. Older workers with less education, fewer skills, learning disabilities, or language issues will be particularly hard hit. Some will see a reduction of more than 90 percent.

Data on arbitrated shoulder cases from 2017 provides a startling glimpse into the impact of just one of the most extreme changes to Iowa's workers' compensation system. In these cases, we find the average claimant losing \$72,000 in compensation under the new rules, and some losing as much as \$200,000. The new rules mark a massive shift in the costs and risks of the 50,000 nonfatal workplace injuries in Iowa each year. Claims paid by insurance companies and self-insured employers will fall. Costs to workers, their families, and public programs will rise accordingly.

<sup>1</sup> There are federal laws that govern workers' compensation for railroad workers, maritime workers and federal employees.

<sup>2</sup> Kevin Hardy, [Branstad signs bills limiting workers' compensation, blocking minimum wage hikes](#), Des Moines Register (March 30, 2017).

<sup>3</sup> See Michael Grabell and Howard Berkes, [The Demolition of Workers' Compensation](#), ProPublica (March 2015); American Legislative Exchange Council, [Statement of Principles on Workers' Compensation](#) (September 2016).

<sup>4</sup> James Weinstein, "Big Business and the Origins of Workmen's Compensation," *Labor History* 8:2 (1967), 156-174; Robert Asher, "The Origins of Workmen's Compensation in Minnesota," *Minnesota History* 44:4 (1974), 42-153; Price V. Fishback, Shawn Everett Kantor, "The Adoption of Workers' Compensation in the United States, 1900-1930" (NBER Working Paper No. 5840, 1996), 14, Table 3.

<sup>5</sup> Iowa Code, Title 3, Chapter 85, [Workers' Compensation](#).

<sup>6</sup> Grabell and Berkes, [The Demolition of Workers' Compensation](#).