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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

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PENNSYLVANIA INTERGOVERNMENTAL
COUNCIL

March 8, 1993

Rep. Bill Lloyd
Chairman
Agriculture and Rural Affairs
Room 128, South Office Bldg.

Dear Bill:

My staff person, Bruce Armon, recently met with a representative of Lukens, Inc. regarding the current workers compensation hearing loss provisions. Although I was detained in another meeting at the time, I have read through some of the information they left with my office and believe Lukens is raising some important workers compensation issues that we should try to address. I am under the impression someone has already discussed these concerns with you.

There appears to be a few problems with our current statutes that may be "easily" corrected. Apparently, our current law does not define "complete" loss of hearing or delineate objective standards for loss determination. Further, the statute of limitations for potential hearing loss reimbursement begins when the claimant is informed by a doctor that he has work-related hearing loss, not when they complete their employment with that particular employer.

While I realize that I have not been a part of your on-going negotiations, I hope that some of the issues can be taken into consideration at an appropriate time. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Leo J. Trich, Jr.' with a stylized flourish.

Leo J. Trich, Jr.
47th District

LJT:ls

cc: Charles Hossack
Lukens, Inc.

WILLIAM R. LLOYD, JR., MEMBER
SOUTH LYNN AVENUE & PLANK ROAD
P.O. BOX 425
SOMERSET, PENNSYLVANIA 15501
PHONE: (814) 443-4230

ROOM 128, SOUTH OFFICE BUILDING
HARRISBURG, PENNSYLVANIA 17120-0028
PHONE: (717) 783-5183



COMMITTEES

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VICE CHAIRMAN
TRANSPORTATION

House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

March 9, 1983

Honorable Leo Trich
House of Representatives
25A East Wing - Main Capitol
Harrisburg, PA 17120

Dear Sir:

Thank you for your correspondence regarding the possibility of including an amendment on hearing loss in the workers' compensation package.

I have recently met with representatives of the business community to discuss this amendment. Although I agree that there is a problem with the way some lawyers and workers are approaching the hearing loss issue, I can make no commitments regarding this amendment until I have had an opportunity to study the specific language.

Please be assured that I will consider this issue as negotiations proceed.

Sincerely,

A handwritten signature in cursive script that reads "Bill Lloyd".

William R. Lloyd, Jr.
State Representative
69th District

WRL/jf

MAR 11 1983

Workers' Compensation Comparison

SENATE BILL 1
Conference Committee

(MADIGAN/MELLOW #1)
H.B. 2140, P.N. 3636

Scope of Review/
Burden of Proof

*scope of review unchanged from current law, however, parties are entitled to a reasoned decision explaining the rationale for that decision

*sufficient, competent and substantial evidence required
*technical/scientific opinions must be logically derived by standard methodological principles

*referee to give detailed reasons for acceptance/rejection of all evidence and justify/explain each disputed finding

*expands WCAB scope of review

CEO Exemptions

*allows CEO exemption to WC coverage for subchapter S corp. if has ownership interest and for subchapter C corp. if ownership interest is at least 5%

*allows CEO exemption to WC coverage with no limitations

WC/UC Offset

*permits offset of WC by amount received under UC; weeks on WC count towards eligibility for UC but not toward calculation for benefit; and offset not to be applied to death benefits or schedule loss

*permits offset of WC by unemployment compensation

Intoxication/Drug
Use Exclusion

*same

*excludes WC where injury caused by intoxication or illegal drug use

Minimum Benefits
Elimination

*benefit payable shall be the lower of 50% of the statewide average weekly wage or 90% of the worker's average weekly wage

*abolishes statutory minimum compensation

Incarceration
Exclusion

*same

*excludes compensation to claimants who are incarcerated

Number of Days to
Visit Doctor

*requires claimant to be treated by one of six employer-designated health care providers for a period of 30 days

*requires claimant to treat with a listed physician for 45 days

	(Conference Committee)	(Madigan/Mellow #1)
Medical Cost Containment	*113% of Medicare schedule	*120% of Medicare Schedule
	*same	*updates fee schedule by percent increase in SAWW
	*provides for CCOs to be certified by Secretary of health	*provides for CCOs certified by Sec. of Labor and Industry
	*same	*carriers/employers may own CCOs
	*same	*permits CCOs to negotiate higher fee reimbursements than the schedule provides
Utilization Review	*same	*caps reimbursement for drugs and pharmaceutical services at 110% of average wholesale price
	*same	*create UR for review of reasonableness and necessity of medical treatments
	*same	*informal conferences at employer's request
Peer Review	*same	*utilizes peer review by an impartial practitioner, or panel, selected by Sec. L&I
	*same	*on his own or at request of a party, referee may refer questions on necessity or frequency of treatment
	*same	*report made part of record
Deductible Plans	*same	*carrier to offer deductible options, with appropriate premium reductions
Competitive Rating	*same	*group filing for pure loss costs with prior approval required
	*same	*individual filing for profit and expense (or loss costs adjustment)
	*file and use for individual filings after initial filing	*file and use: do not need prior approval of Insurance Commissioner to increase rates
	*requires no showing of a non-competitive market before review of individual filings	*requires Insurance Department to show that a competitive market does not exist before it can act on a rate review of individual filings

	(Conference Committee)	(Madigan/Mellow #1)
Self-Insurance Pooling	*same	*expands use of self-insurance option to pools of small businesses and governmental units
Guaranty Fund	*same	*creates fund to make payments upon default of self-insurer
Health and Safety	*carriers/self-insured to maintain injury prevention program	*carriers to provide safety consultation upon request; consultation may be provided by mail, telephone or in person
	*one year premium reduction of 5% if employer establishes a safety committee	*no mention of safety committees
Fraud Provisions	*does not create WC Fraud Enforcement Division	*creates WC Fraud Enforcement Division within the Insurance Department
	*same	*claimant felony fraud includes supplying false/misleading/incomplete information with relation to a WC claim and not just fraudulently receiving benefits
	*same	*creates new fraud offenses by lawyers and medical providers, with very harsh punishments
Small Business Advocate	*gives Small Business Advocate standing to represent the interest of employers as a party in proceedings before Insurance Department or any court involving filings by rating organizations and insurers	*no change from current law, no standing for Small Business Advocate
WC/Auto Subrogation	*same	*allows WC/Auto Subrogation
Temporary Compensation	*same	*permits payment without employer admission of liability for six weeks

(Conference Committee)

(Madigan/Mellow #1)

Professional Athlete

*wages for purposes of computing compensation due for partial disability shall equal 8x SAWW

*wages for purpose of computing compensation due for partial disability shall equal 2x SAWW

*same

*reduces compensation payable by other employer benefits

Occupational Disease

*same

*no change in current law

Rate Relief

*Insurance Commissioner to set new rates by December 1, 1993

*does not address

*permits new filing this year then prohibits new filing until Dec. 1994

*does not address

TALKING POINTS AGAINST S.B. 1 CONFERENCE REPORT

- *** Does not roll back the 24% increase in premiums or freeze current premium costs
- *** No cost-of-living adjustment for long-term injured workers, however, there is a COLA for health care providers.
- *** Does not pass on to business the savings realized from medical cost containment (113% of Medicare). Employers will pay higher premiums.
- *** Unfairly changes the standard of evidence, weighting it against injured workers.
- *** More than doubles the amount of time that an injured worker must obtain treatment from a company-listed health care provider.
- *** Change in minimum benefit provision erases protection for low income workers with long-term work-related disabilities.
- *** Inadequate workplace safety enforcement or protection from retaliation for workers who exercise their legal rights under the workmen's compensation.

TIMOTHY W. POTTS
PRESS SECRETARY TO H. WILLIAM DeWEESE
ROOM 527, MAIN CAPITOL BUILDING
HARRISBURG, PENNSYLVANIA 17120-0028
PHONE: (717) 783-4267



HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

December 21, 1992

Subject: **Workers' Compensation**
To: House Democrats
From: **Timothy Potts**
Press Secretary to the Speaker-Designate

A handwritten signature in black ink, appearing to be "T. Potts", written over the typed name and title.

On Wednesday the 16th, Rep. Bill Lloyd unveiled the comprehensive Workers' Compensation proposal that he will introduce at the beginning of the next session. I have enclosed a copy of the news release that was issued along with a summary of the legislation.

While this news received a good amount of radio coverage, it went largely unreported in the print media. This can only work to our disadvantage in trying to repeal the 24 percent increase forced upon businesses.

Our purpose in sending you this information, therefore, is to ask you to generate local newspaper coverage on this urgent issue. There are four things you may want to do:

1. Call your writer and have him or her prepare a news release similar to Rep. Lloyd's for your local media, concentrating on whatever aspect of this issue is most important in your district.
2. Meet with local reporters and editors and give them a copy of the summary. Our opponents continue to characterize Rep. Lloyd's efforts as a "Band-aid" approach. Broad distribution of the enclosed summary should dispel that myth.
3. Call your local radios, or work with Bob Kline, to get Rep. Lloyd's proposal more broadly understood among the public.
4. Send copies of the summary to local business leaders and business publications.

Thank you for your attention to this issue. We believe that a concerted effort now will improve our chances for legislative success when we convene the new session.

cc: Michael Edmiston
Elaine Smith

Hold

for possible
future
use

HOUSE OF REPRESENTATIVES
Office of Democratic Legislative Information
G-01, South Office Building
Harrisburg, PA 17120-0028

FOR IMMEDIATE RELEASE

CONTACT: Tom Boyle (717) 787-7895

HARRISBURG, Dec. 16 -- State Rep. Bill Lloyd, D-Somerset, has proposed legislation to overhaul the workers' compensation system and roll back the average rate increase of 24 percent which went into effect on Dec. 1.

The bill, to be formally introduced when the legislature reconvenes in early January, is substantially the same as the version which the state House of Representatives approved by a 110-81 vote on Nov. 25. The Senate did not vote on that proposal before the end of the legislative session Nov. 30.

The Somerset County lawmaker said the bill includes tentative compromises on a ceiling on payments to doctors and hospitals, incentives to improve workplace safety, a stepped-up effort to stop fraud, authorization of group self-insurance, and some benefit issues.

These tentative compromises are products of numerous negotiating sessions which Lloyd and House Labor Relations Committee Chairman Frank Pistella, D-Allegheny, held in November with state Sens. Robert Mellow, D-Lackawanna, and Roger Madigan, R-Bradford, who sponsored the Senate version of workers' compensation legislation, and with state Rep. Joseph Gladeck, R-Montgomery, the minority chairman of the House Labor Relations Committee.

"On those issues on which no tentative compromises were reached, the bill includes the language which Rep. Pistella and I advocated during the negotiations," Lloyd said.

"I hope that including the tentative compromises reached in November will limit the number of issues in dispute between the House and the Senate and make it easier to reach a final compromise early next year. My bill offers an opportunity to roll back the recent rate increase and impose meaningful controls on long-term costs," the Somerset County lawmaker commented. "My bill also addresses numerous procedural and benefit issues raised by business in a balanced way, without sacrificing the basic rights of injured workers."

Under the bill, the Insurance commissioner would have 60 days to issue a decision rolling back the rate increase to reflect the savings the bill would generate. The rollback would be retroactive to Dec. 1.

The major savings would come by limiting payments to doctors and hospitals for treating injured workers to 117 percent of what Medicare pays for primary care and to 120 percent of what Medicare pays for specialized care. Increases in the ceilings in future years would be limited to the percentage by which the statewide average weekly wage increases.

-more-

The bill also would establish a procedure for insurance companies and employers to challenge the appropriateness or necessity of any medical treatment through a utilization review process.

Insurance companies would be required to help employees identify and reduce dangerous working conditions. Employers also would receive a one-time 5 percent premium reduction as an incentive to establish a voluntary labor-management committee to improve workplace safety.

The bill would make clear that workers' compensation fraud by an employee, employer, insurer, health care provider or attorney constitutes criminal misconduct punishable by fines and imprisonment. The Insurance Department, employers and insurance companies would be required to provide records to, and cooperate with, law enforcement agencies.

Insurance companies also would be required to establish anti-fraud plans.

Employers in a similar line of work could self-insure on a group or "pooled" basis.

With limited exceptions, the insurance industry would not be allowed to raise workers' compensation rates without the prior approval of the state Insurance commissioner. The governor would appoint a "consumer advocate" to present expert witnesses and cross-examine insurance industry witnesses in future workers' compensation rate cases.

To speed up decisions on workers' compensation claims and on petitions to terminate benefits, the bill would increase the number of referees from 76 to 120 and authorize the use of informal conferences to attempt to settle disputed cases.

For the first six weeks of disability, a part-time worker whose pre-injury wage was less than one-half of the statewide average wage for all part-time and full-time workers would receive 90 percent of his pre-injury wage. Under current law, such a worker is entitled to a benefit at least equal to one-third of the statewide average wage even when that benefit is more than he was making when he was injured.

A worker receiving both unemployment compensation and workers' compensation would have his unemployment compensation benefit reduced by the dollar amount of his workers' compensation benefit.

An injured worker would not be entitled to workers' compensation benefits for any period of incarceration after a conviction or if his injury resulted from his illegal use of drugs or his intoxication.

###tpb/1992

r:wcomp12.069

EDITORS PLEASE NOTE: Bill summary attached.

DYNAMET INCORPORATED *Specialty Metal Products*

195 MUSEUM ROAD • WASHINGTON, PENNSYLVANIA 15301 • 412/228-1000 • FAX 412/228-2087

March 2, 1993

The Honorable Leo J. Trich, Jr.
Pennsylvania House of Representatives
25A, East Wing
P.O. Box 133
Harrisburg, PA 17120

Dear Representative Trich:

Dynamet Incorporated is a medium sized manufacturing company located in Western Pennsylvania, that processes advanced alloys for the aerospace and medical industries. We are writing you to request your assistance in urging the General Assembly to promptly complete workers' compensation reform. Pennsylvania's current workers' compensation system places Dynamet at a major disadvantage to competitors in other states.

In addition to the already proposed reform measures, we would like inform you of a specific serious problem in the workers' compensation hearing loss language.

The present law pays 260 or 270 weeks of benefits (up to \$123,500/\$125,250) for "complete" hearing loss, but it does not define "complete" loss of hearing. Also, the law does not delineate any objective standards for loss determination, even though hearing loss can be medically determined by approved standard tests. There is no guidance in the law to assist in making the determination of whether a particular level of loss amounts to a "complete" loss. This is a subjective decision of the workers' compensation referee. As a result, some employees with as little as five percent hearing loss, which is normal loss due to aging, collect the full benefit. On the other hand, some employees with much greater hearing loss, collect nothing.

In addition, other workers' compensation claims must be filed within a specified time from the date of injury, yet claimants' counsel have successfully argued that in hearing cases the statute of limitations begins when the employee, former employee or retiree is informed by a doctor that he or she has work-related hearing loss. As a result, aggressive attorneys appeal in advertisements to long-time retirees, many in their 70s and 80s, to take free tests to determine if they have a hearing loss. The odds are that the aging process has diminished hearing, but the argument will still be made that the loss is work-related.

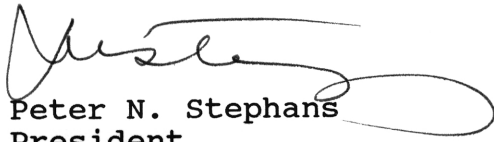
The law must be changed (1) to provide a clear definition based on medical evidence, (2) to require referees to base their hearing loss determinations on the results of

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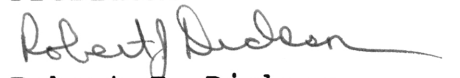
impartially administered, AMA-approved, standard hearing tests, and (3) to limit claims to a reasonable time period following the last exposure to worksite conditions.

We need your help in developing an equitable alternative to the current hearing loss language. We are requesting your assistance in finding a solution, your sponsorship of remedial language and your commitment to urging the leadership of the General Assembly to address workers' compensation reform!!!

Sincerely,



Peter N. Stephans
President



Robert J. Dickson
Chief Financial Officer

RJD/crc
31.61

THE BOARD OF SUPERVISORS
DONEGAL TOWNSHIP
WASHINGTON COUNTY, PENNSYLVANIA

*more
WC
letters*

P. O. Box J, Claysville, Pa., 15323
(412) 663-5800

HONorable Leo Trich
c/o House Post Office
Main Capitol Building
Harrisburg, Pa., 17120

March 2, 1993

Dear Representative Trich

I am writing to you in my capacity as an elected official of Donegal Township. Having experienced a twenty-four percent (24%) increase in workers' compensation premiums, effective December 1, 1992, I as well as many other public officials and leaders in the business community are very much concerned about the plight of Workers' Compensation Reform in Pennsylvania. Over the past eighteen (18) months, we have experienced a tremendous level of frustration as a result of the General Assembly's failure to achieve the workers' compensation reform that is so necessary for a healthy Pennsylvania. Last year's lost opportunities were certainly a disappointment. We can not afford to allow another year to pass without the enactment of legislation that will provide meaningful worker's compensation reform.

I support a labor-business coalition for Workers' Compensation Reform. We need a bipartisan compromise that offers meaningful reform of those areas that are responsible for the spiraling costs under our current out-of-control system. As a public official I must emphasize the need for legislation enabling municipalities to pool their resources in order to self-insure for worker's compensation risks.

Recent budgetary constraints make it imperative that every expenditure at the local government level afford taxpayers the maximum benefit attainable. I urge you to support a fair labor-business proposal for Workers' Compensation Reform as it is essential to the health of Pennsylvania.

Very truly yours,

James R. Gaskel

Supervisor

William H. Pusman

Supervisor

MAR 12 1993

Mon Valley Foods, Inc.

"Your No Problem Stores"

BARTOLOTTA'S
Fisher Heights Shop N' Save
1300 Country Club Road
Monongahela, Pennsylvania 15063
(412) 258-5011

BARTOLOTTA'S
Finleyville Shop N' Save
State Route 88
Finleyville, PA 15332
(412) 348-4116

BARTOLOTTA'S
Charleroi Shop N' Save
100 Chamber Plaza
Charleroi, Pennsylvania 15022
(412) 489-4449

March 6, 1993

The Honorable Leo J. Trish, Jr.
House P.O. Box 75 - 25A E. Wing
Harrisburg, PA 17120-0028

RE: Worker's Compensation Reform

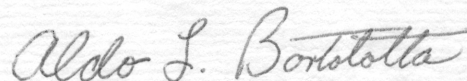
Dear Sir:

This letter is to bring to your attention the level of concern within our Company and Pennsylvania's business community on the subject of Worker's Compensation.

Recognizing that a crisis exists, I am asking for your support of Senate Bill 1 (PN-447) which will initiate true reform to the worker's compensation law. This amendment addresses the issue in a manner that is not only fair to the business community but also extremely fair to the injured employee.

I understand that the amendment has been passed in the Senate. It is my hope that you will support this legislation aimed at true reform of the system.

Very truly yours,



Aldo L. Bartolotta,
President

MAR 11 1993



AccuTrex Products, Inc.

2198 N. Main St.—Bldg. #1 North Pointe Industrial Park • Washington, PA 15301
412-228-5460 • Pgh. 412-343-5661

Office of the President
ALVIN C. JANOVICH

March 11, 1993

Honorable Leo Trich
Room 25 East Wing
Main Capitol Building
Harrisburg, PA 17120-0028

Dear Representative Trich,

As the President of a small Pennsylvania business, I am hopeful that the Workers' Compensation Reform will be readily completed this year by the General Assembly. Companies in our fine state have a greater competitive disadvantage over businesses in other states because of our present Workers' Compensation system.

Even though I understand there are reform measures under consideration, I would like to make you aware of the vague language regarding hearing loss as set forth by our current Workers' Compensation.

While the Pennsylvania Workers' Compensation Act pays 260 or 270 weeks of benefits (which means up to \$123,500/\$128,250) for "complete" loss of hearing, it has no definition for "complete" hearing loss. And, even though approved standard hearing tests can certainly determine hearing loss, the present law does not outline any unbiased standards for determining loss. Therefore, no guidance is forthcoming from the Act in deciding which specific level of hearing loss equates to "complete" loss. This is a subjective determination by the Workers' Compensation referee. Without definite guidelines, employees with a minor degree of hearing loss, such as loss due to aging, can receive the full benefit while other employees with more substantial loss receive nothing.

Another problem regarding hearing loss cases is that there is no clarification of the time limitation for filing claims. Other Workers' Compensation injury claims must be filed within a specific time period but hearing cases have been successfully argued that the statute of limitations begins when a doctor

MAR 17 1993

informs the employee (present, former or retired) that a work-related hearing loss exists. Therefore, a long-time retiree's hearing loss could still be determined as work-related even if odds are that hearing was diminished due to the aging process.

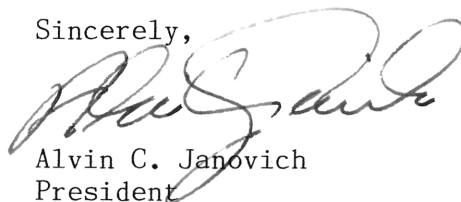
I would like to strongly suggest that the Workers' Compensation Act be changed to:

- 1) Establish a precise definition of hearing loss based on medical evidence
- 2) Require referees to base their hearing loss determination on results of AMA-approved standard hearing tests by impartial administrators
- 3) Limit claims to a fixed time period following the last exposure to conditions of worksite

Enclosed is a proposal with suggested language that more clearly defines hearing loss. It also sets forth benefits based on percentage of loss and clarifies the statute of limitations for claims.

Your help is needed in drafting hearing loss language that is a fair alternative to our present language. Can we count on your commitment in urging your leadership to address this problem and your assistance in finding a solution? I am hopeful for a favorable response and look forward to hearing from you.

Sincerely,



Alvin C. Janovich
President

ACJ/ss

Enclosure