Compendium on Workmen's Compensation

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Relationship of Workmen's Compensation to Other Public and Private Economic Security Programs

Workmen's compensation is but one of a number of different social insurance systems through which workers are protected against loss of their wage. Some programs replace earnings lost by the disabled regardless of the cause of disability: viz (1) the disability benefits program under the Social Security Act, (2) the pensions available to veterans, and (3) public assistance for the blind and for the totally disabled. These programs suggest ways of improving workmen's compensation as they provide benefits for (1) the same contingencies that warrant workmen's compensation, or (2) contingencies that represent gaps in workmen's compensation.

Some public programs are complementary to workmen's compensation in the sense of offering protection against risks not covered by workmen's compensation, such as (1) the old age benefits provided under the Social Security Act, (2) the short-term nonoccupational disability benefit programs in several States, and (3) the unemployment insurance programs, especially as the latter two are State-operated with administrative, organizational, and benefit structures that may apply to workmen's compensation.

Many workers have group income-maintenance protection available through employer plans or labor-management agreements as well as through public programs. Sick leave, temporary disability insurance, accidental death and dismemberment insurance, and group life insurance are the main fringe benefits that bear on the issue of the income protection available to workers disabled or killed on the job. Also, many workers individually have purchased insurance policies which offer income to their families if they are disabled or killed on the job.

Some workers, though not protected by workmen's compensation, have recourse to legal action if their injury is caused by employer negligence. Legislation generally referred to as "employers' liability acts" enhances the likelihood of success of such suits against employers through limiting employer defenses under common law. This alternative means of providing some economic protection against occupational disability is employed chiefly by railroad workers and seamen.

Public and private income maintenance programs relevant to workmen's compensation also include major forms of medical care protection. Some of the public income-maintenance programs have a medical care component (e.g. veterans' hospital care, medicare under the Social Security Act). Hospital and medical care plans are widely available to workers under private auspices also.

PUBLIC PROGRAMS

Social Security (OASDHI)

The income maintenance program most often considered in relation to workmen's compensation is the Social Security old age, survivor's, disability, and health insurance program (OASDHI). This comprehensive national program provides income when workers retire or become disabled, benefits to their dependents and survivors, and health care insurance for retirees. Much more than 90 percent of those presently reaching age 65 are eligible to receive cash benefits upon retirement; a similarly high proportion of children and their mothers can receive survivor's benefits if the family worker dies. Because of the requirement of a specified amount of recent wage credits (in addition to the total amount of earnings needed to be eligible for other benefits), not as many workers are presently eligible for benefits in the event they are disabled. Nevertheless, four-fifths of adults of working age have had sufficient work experience to be eligible for disability benefits. All persons aged 65 and more who are receiving social security cash benefits or who would be receiving such benefits except for continued earnings receive hospital insurance and the opportunity to purchase subsidized medical insurance.

Social security may provide protection where workmen's compensation does not. In some circumstances, both systems may pay benefits for the same risk. In our system of income maintenance for disabled workers and their families, there are many gaps as well as overlaps between social security and workmen's compensation. A comparison with eligibility provisions, benefit formulas, and other aspects of programs such as social security gives perspective to the workings of workmen's compensation.

Coverage and eligibility.—A higher proportion of workers are covered under the social security program than under any other social insurance program, including the State workmen's compensation system. Over the years, mandatory coverage has been extended so that no major groups of workers are excluded except those under Federal civilian-staff retirement systems and State and local government employees. Two-thirds of the State employees are under social security through voluntary agreements. The only other groups not fully protected are farmworkers and household workers, some of whom have earnings that are not regular or high enough to meet coverage requirements.

For most types of benefits, a worker must be fully insured. To be fully insured, generally a man must have at least as many quarters of coverage as the number of years elapsing between age 21 and 65 (62 for women) or the date of death or disability, if earlier. Forty quarters is the maximum required for permanent protection. If a worker dies before acquiring fully insured status but is "currently insured" (i.e., has a least six quarters of coverage within the most recent 13-quarter period, including the quarter in which he died) survivor's benefits may be paid to his widow who has entitled children in her care.

To be insured for disability, a worker must be fully insured and have at least 20 quarters of covered work in the last 40, except that a worker under age 31 needs coverage only in at least half of the quarters since age 21 to the date of disability, with a minimum of six.

Disability is defined as inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to continue not less than 12 months. This condition must be so severe that the individual is unable to engage in any kind of substantial gainful work, whether or not he would be hired if he applied for work. From these requirements it can be seen that only a small proportion of workmen's compensation cases are likely to receive social security disability benefits also since only a small fraction of workmen's compensation cases are for permanent total disability. Even some of these would not qualify for social security benefits for lack of sufficient work credits or for being capable of some gainful activity. Workers receiving workmen's compensation for other than permanent total disability, however, may become entitled to social security benefits subsequently.

Benefits.—Benefits under the Social Security Act are related to workers' average earnings over a period of years; the higher the average, the higher the benefit. The monthly benefit amount payable at age 65 or upon disablement, the primary insurance amount, is computed from a weighted schedule which provides a higher benefit in relation to average monthly earnings for low-paid workers than for high-paid. At the present statu-

tory rates, a beneficiary eligible for the minimum primary insurance amount would be compensated at 93 percent of his average monthly earnings; a beneficiary at maximum would receive 39 percent of his average monthly (covered) earnings. The minimum primary insurance amount is $70.40; the possible maximum for a man retiring at age 65 in 1972 was $216.10. A worker entitled to benefits for permanent and total disability in 1972 might have a somewhat higher primary insurance amount if he was born after January 1, 1930; the amount depends on his age and earnings pattern. Similarly, a widow establishing benefit rights in 1972 on the basis of the death of a young husband may receive an amount based on a primary insurance amount somewhat higher than the current $216.10 maximum for retirees. Eventually, the maximum benefit will be $295.40, but that amount will not be payable until workers have had covered earnings for a number of years at the new maximum base of $9,000, effective in 1972.

Workers' dependents and dependent survivors are entitled to benefits calculated as a percentage of the insured person's primary insurance amount. For example, eligible wives and children of disabled workers receive 50 percent of the worker's primary insurance amount. Widows with children are paid 75 percent of the deceased worker's primary insurance amount, plus 50 percent for each child, subject to a maximum family benefit. The monthly family maximum for a worker whose primary insurance amount is $216.10 is $396.00.

Health insurance benefits are payable to all those aged 65 or more who are eligible for social security or railroad retirement benefits. This most recent addition to worker protection ("medicare") offers hospital benefits, paid by contributions from wages, and voluntary supplementary medical insurance, financed by premiums paid by the retirees plus a matching amount from Federal revenue. At present, this type of benefit relates to workmen's compensation minimally since the medical care provided by workmen's compensation to injured workers does not ordinarily apply to employees aged 65 or more. For workers aged 65 or more who do become entitled to medical care under workmen's compensation, benefits for the same services are not payable under the health insurance provisions of the Social Security Act. Further, if a worker does not receive medical care under a workmen's compensation program only because he did not file for such care, he would not be protected by medicare. Of a number of proposals to establish a national health insurance program for Americans of all ages, almost all exclude medical care for workmen's compensation cases, as medicare does.

Although medicare limits its liability in workmen's compensation cases, medicare does attempt in some respects to protect workers against gaps between the two programs. In particular, if medical care is required beyond that payable under workmen's compensation, because of limitations in the law or under compromise and release settlements, the medicare program does help to pay for the remaining medical needs.

Overlap.—The extent to which benefits may be payable under both social security and workmen's compensation is the issue that historically has given the most concern to administrators, legislators, and the public. The most prominent overlap concerns workers who become entitled to disability benefits under the Social Security Act and to workmen's compensation benefits, ordinarily for permanent and total disablement. At present, the Social Security Act specifies that periodic workmen's compensation benefits, as well as lump sum benefits to the extent they are a commutation of or substitute for periodic payments, are to be deducted from the social security disability benefits otherwise payable. The deduction applies only to the combined amount of workmen's compensation and social security benefits in excess of 80 percent of the worker's average earnings. Average earnings for this purpose usually are based on the highest 5 consecutive years of total earnings (including amounts above the statutory covered earning base). The deduction is limited also to preclude the combined workmen's compensation and net social security benefit from falling below the amount of the original social security benefit. This limitation applies primarily to individuals with low benefits and those with family benefits in addition to their own.

Although a topic of considerable interest and concern, the overlap until now has been a small fraction of the social security program. Little more than three percent of recent social security awards for disability have been reduced (offset) as a consequence of workmen's compensation benefits. These workers represent an even smaller propor-

tion, about 1 percent, of new cases of workmen's compensation of all types. On the other hand, this proportion represented 10,600 awards in 1968, roughly 10 times the number of permanent total disability cases in that period under workmen's compensation. It is evident that many persons with workmen's compensation awards for impairments other than those classified as permanent total disability become sufficiently disabled at some point to qualify for social security disability benefits.

The Social Security Administration and workmen's compensation programs may each pay benefits to the same individuals also in the event of a work-related death. Young widows with children ordinarily are entitled to survivor's benefits under social security and to a survivor's award under workmen's compensation. Widows age 62 or more whether or not they have children, also can receive benefits from both programs. Substantial proportions of survivors with workmen's compensation benefits also receive social security payments.[1] Almost 50 percent of California's workmen's compensation survivors cases were reported also to have social security benefits in 1956. Further, workers who are still drawing permanent partial or even temporary total disability benefits when they are old enough to retire may be entitled also to old age benefits under Social Security.

Although no offsets or other explicit means of integrating benefits are applied in these circumstances, in some respects the workmen's compensation system may be said to adjust for social security. In particular, the limitations placed on benefit duration or dollar totals, or both, for survivor and other benefits necessarily decreases the extent of joint receipt of benefits. Questions may be raised as to the desirability of such restrictions in the workmen's compensation program from the point of view of the unequal treatment that may be afforded survivors differing in eligibility for social security and from the point of view of adequacy of benefits compared to economic loss. In addition, with respect to individuals jointly receiving workmen's compensation and retirement benefits under social security, some might hold that the two benefits are paid for different contingencies and so are not overlapping.

The question of how best to relate social security to workmen's compensation is far from resolved. The current Federal offset provision, established in 1965, relates only to disability benefits in the Social Security Act. It is the third attempt of the Congress to deal with the issue. An offset provision was included in the original 1956 legislation that authorized payment of disability benefits. In 1958, the law eliminated the offset, but 1965 amendments restored it.

The elimination of the offset in 1958 in large part reflected concern over the offset of veterans' non-service-connected disability benefits, which was a part of the 1956 law in addition to the offset of workmen's compensation. Beyond that objection, some criticisms have been raised about the merits of the offset in light of the modest benefit levels attained by most workers under both social security and workmen's compensation and the relatively small numbers of individuals benefiting.

The desirability of an offset at the Federal level is yet another matter of contention. One argument in favor of a Federal offset is that this is needed to balance the adverse effect that the social security program may have on providing adequate statutory benefits under workmen's compensation. In addition, it has been maintained that it is desirable for the Federal Government to be the agent to apply an offset because if the State workmen's compensation programs had to apply an offset, there would be a decrease in the cost of workmen's compensation to employers and a corresponding weakening of their incentive to minimize work acicdents. Also, from the point of view of the most efficient administrative procedure for integrating payments under both programs, a centralized operation in one jurisdiction seems desirable.

On the other side, it has been pointed out that social security is financed in part by workers who may be considered to have a vested right to receive social security benefits without regard to other programs. Also, the thought has been raised that if States control the type and amount of offset between workmen's compensation and social security, they will be able to adjust their workmen's compensation benefit provisions more effectively and equitably.

In a few States, workmen's compensation laws have provided for deducting social security benefits from the workmen's compensation benefit. Both Colorado and Montana reduce workmen's compensation by one-half the social security dis-

ability benefit. (Montana's provision applies only to temporary total disability.) Minnesota reduces workmen's compensation benefits after the first $25,000 paid on account of other public disability benefits including Social Security. Ohio takes into account the receipt of Social Security benefits in determining the increase to be made in workmen's compensation payments to those already on the rolls when such increases are legislated. The Federal law stipulates that if a State has an offset provision reducing workmen's compensation because of Social Security, it shall take precedence over the Federal requirements.

Temporary Disability Insurance

In five States, Puerto Rico, and in the railway industry, mandatory programs of income maintenance have been established for workers who are disabled through illness or nonoccupational injury. These social insurance plans pay partial compensation for short-term wage loss, usually up to 26 weeks. Their main interest for workmen's compensation is that (1) they are a complementary system designed to prevent wage loss for disability for workers not eligible for workmen's compensation and (2) they consist primarily of individual State programs. Their benefit formulas, eligibility provisions, and other features may be applicable to workmen's compensation.

Temporary disability (TDI) laws are in effect in California, Hawaii, New Jersey, New York, Puerto Rico, and Rhode Island. Federal legislation provides similar protection to railroad workers. The State laws resemble workmen's compensation in coverage except that none of the TDI programs exclude firms on the basis of size. More than four-fifths of the workers in jurisdictions with these compulsory programs are covered, as well as virtually all railroad workers. As few States have TDI programs, however, only about 15 million workers are covered throughout the Nation.

TDI laws are similar to workmen's compensation also in the administrative mechanisms utilized for providing benefits: a mix of private insurance, self-insurance, and public funds. Two jurisdictions operate an exclusive public fund; another uses commercial insurers and self-insurers only; and the others have both public and private agencies.

Again like workmen's compensation, State TDI laws use a wage-related benefit structure. Benefits are intended to replace wages at a rate ranging from 50 percent to 66⅔ percent. The weekly benefit is limited by a specified maximum, in most jurisdictions lower than that of the workmen's compensation benefit in the same State. One desirable feature incorporated in three of the TDI laws (Hawaii, New Jersey, Rhode Island) is the automatic increase in the maximum weekly benefit that accompanies rising wage levels. The maximum benefit amounts are kept current with changes in earning levels in the State at least once a year.

In order to limit benefits to individuals who have substantial attachment to the covered labor force, the laws require a claimant to have a prescribed amount of past employment or earnings to qualify for benefits. In New York this requirement is only 4 consecutive weeks of covered employment; in Rhode Island the minimum is 20 weeks.

Disability is generally defined as inability to perform regular or customary work owing to a physical or mental condition.

States differ in their approach to coordinating the TDI programs with workmen's compensation. In general, the philosophy expressed is to pay no TDI benefits when workmen's compensation is payable. California restricts TDI benefits only if benefits are payable also for temporary total disability under workmen's compensation. Hawaii and New Jersey disqualify TDI claimants for benefits unless the workmen's compensation benefit is for a permanent disability previously incurred.

New York and Puerto Rico disqualify workers from TDI benefits if any workmen's compensation is payable except permanent partial disability benefits. The railroad program restricts payment of TDI if the claimant is entitled to receive workmen's compensation for total disability covering the same period. (The railroad workers' law pertains to workmen's compensation under other jurisdictions. There is no railroad workmen's compensation law.) In Rhode Island, if there is doubt as to eligibility for workmen's compensation, the worker may be paid TDI subject to later repayment if the worker subsequently does receive workmen's compensation. Other jurisdictions also will pay TDI subject to subsequent repayment if workmen's compensation is received. Two of the jurisdictions,

California and the railroad worker's law, provide a TDI supplement to workmen's compensation by entitling the worker to payment of the difference between the weekly TDI and workmen's compensation benefit where the TDI amount is higher.

Unemployment Insurance

Unemployment insurance is primarily a State-operated social insurance program. The coverage, eligibility, benefits, and other provisions of unemployment insurance are comparable to the workmen's compensation system, but far from identical. One major feature of unemployment insurance, wholly absent in workmen's compensation, is the direct working relationship between the States and the Federal Government.

Coverage.—Unemployment insurance protects workers in industry and commerce primarily but has excluded many if not most agricultural workers, domestic workers, State and Government employees, and employees of nonprofit organizations. (An estimated 3 million employees of nonprofit firms and of State-operated hospitals and institutions were added to coverage pursuant to 1970 Federal legislation.) Until recently, the Federal law allowed the State programs to exclude from coverage establishments with fewer than a specified number of workers, although some States voluntarily protected workers in small firms. The Social Security Act of 1935 called for a uniform Federal unemployment tax on payrolls of firms employing eight or more workers in 20 weeks of a year. Coverage was later extended to firms with four or more workers and in 1970 to employers of one or more.

Benefits.—Under all State laws, the weekly benefit payable for unemployment varies with the worker's past wages within certain minimum and maximum limits. In most States, the formula is designed to compensate for a fraction of the usual wage, usually about 50 percent, noticeably lower than the benefit rates of 60 to 66.67 percent most common in workmen's compensation.

The reason for the difference in liberality of the wage replacement rate in the respective programs is not readily apparent from historical records. One explanation is associated with the fact that unemployment insurance was controversial in the mid-1930's. Proponents of the legislation may have agreed that it would be easier to get public support for an unemployment insurance program if lower benefits were provided to those unemployed but able to work than to the occupationally injured.

Underlying this explanation may be the practical implications of differences in the respective risks. Usually a tangible physical sign demonstrates the injured worker's disability that entitles him to compensation, but the evidence that an uninjured worker is truly unemployed often is not clear since being unemployed can be, or is partly, a state of mind and motivation. Public acceptance of unemployment insurance may have been contingent upon applying a policy of partial earnings replacement stringently to discourage fraudulent claims.

The benefit-wage replacement rate is limited further by a specified maximum weekly benefit in virtually all unemployment insurance programs. Workers with high earning levels, because they may receive no more than the maximum benefit, thereby have less than half of their earnings replaced. The maximum weekly benefits tend to be somewhat lower in unemployment insurance than in workmen's compensation, although in about one-third of the States the contrary tendency prevails.

In order to help benefits keep pace with the gains in average earnings, a number of unemployment insurance programs established flexible maximum benefits. The flexible maximum refers to statutory provisions for the maximum to be a constant proportion of changing wage levels. The maximum is most commonly defined as 50 percent of the statewide average wage in covered employment. Flexible maximums in the unemployment insurance system are provided by about 25 States but by only 14 of the State workmen's compensation laws with respect to temporary total disability benefits. Three States with flexible maximums in their workmen's compensation laws do not have such provisions for unemployment insurance.

A number of State unemployment insurance laws build an element into the benefit formula that may give some recognition of the different income needs of workers. About one-third of the States provide a weighted formula whereby the benefit is a higher fraction of the worker's wage for low-wage workers than for high-wage workers. (An alternative rationale for this type of provision is that it attempts to compensate for a low level of wages recorded for some workers whose

recent work was less than full time.) Workmen's compensation programs do not employ this concept. The statutory minimum and maximum amounts established throughout both the unemployment insurance and workmen's compensation laws introduce an important form of weighting of benefit-wage rates in favor of low-paid workers, although the minimums and maximums are not provided for this purpose.

Another way of modifying the effective benefit-wage rate is through dependents' allowances. The allowances are generally specified dollar amounts for children and usually wives of beneficiaries added to the basic benefit. Of the 11 States with these allowances in unemployment insurance, six also have such provisions in workmen's compensation; five do not; and 11 have dependents' allowance in workmen's compensation only. A rationale for this lack of consistency is not discernible.

Federal-State relationships.—The unemployment insurance system was created as a Federal-State partnership in which each State established its own program, subject to certain broad standards and requirements in the Social Security Act. Like workmen's compensation, unemployment insurance is a completely employer-financed program except in a few States in which there is also an employee contribution. Funds to pay benefits are derived through a tax assessed on covered payrolls. Although this tax is adjusted by the employer's experience, i.e., the stability of the employment he provides, experience rating in unemployment compensation differs in many significant respects from the procedures used in workmen's compensation. In addition, a small Federal unemployment tax is levied on all employers, the proceeds of which are used for adminisitering the State programs, for paying the Federal half of extended benefits, and for providing interest-free advances to States which run out of funds for State benefits. All the State programs are operated by public agencies. No self-insurance or private insurance is allowed.

Although each State sets its own claim filing and other operating procedures, as well as eligibility requirements and benefit formula, certain Federal requirements influence all State programs. As noted, the Employment Security Amendments of 1970 extended protection in all States to workers in small firms and to a large number of employees of nonprofit organizations; they created an extended benefits program (extra duration of benefits) under specified economic conditions; and they established the requirement that a worker may not be denied unemployment insurance benefits if he is in a training course (to learn new occupational skills) approved by the State agency.

Further, the U. S. Secretary of Labor is authorized by the original act establishing unemployment insurance to obtain information from the States about their operations. As a result, a degree of uniformity has been achieved in terminology and continuous statistical series are available on administration of the program. The national office publishes statistics on promptness of payment, number of workers covered, benefits paid, number of workers denied benefits, and number of beneficiaries who use up all their benefit entitlement, nationally and for individual States.

Overlaps.—Unemployment insurance benefits are available to workers who have had a specified amount of work in covered employment, who are involuntarily out of work, and who are able and available to accept employment. On this basis, there are no grounds ordinarily to receive both unemployment and workmen's compensation benefits. Where both benefits are received concurrently, as in the case of a currently unemployed worker receiving workmen's compensation for permanent partial disability incurred in the past, both payments may be justified as awards for different incidents and different risks. However, almost half the States do have statutory provisions that either (1) disqualify a claimant from unemployment compensation for weeks in which he receives workmen's compensation or (2) reduce his unemployment benefit by the amount of the workmen's compensation benefit. The second type of provision, found in the majority of States that deal with the issue, in a sense constitutes a supplement to workmen's compensation to the extent that the unemployment compensation amount is higher.

The most common offset provision applies to temporary partial workmen's compensation benefits, the type of workmen's compensation payment that a claimant for unemployment insurance most likely could receive while certifying that he is able to work. In addition, seven States disqualify for unemployment insurance or reduce the unemployment benefit of those workers who are entitled

to workmen's compensation for permanent total disability. This type of disqualifying requirement may deny unemployment benefits to a worker despite his having demonstrated his attachment to the labor force and ability to work by having been employed subsequent to a disabling injury.

Public Assistance

Under the Social Security Act, matching Federal grants are provided to the States for money payments, medical care, and social services for needy people who are aged, blind, or totally disabled and for certain needy families with dependent children. Cash benefits are available to low-income people under the four categorical public assistance programs: old age assistance (OAA), aid to the blind (AB), aid to the permanently and totally disabled (APTD), and aid to families with dependent children (AFDC).

In all States, but Alaska and Arizona, all persons receiving or eligible to receive cash assistance under the OAA, AB, APTD, and AFDC are covered by medicaid, the medical care program that provides direct payments to hospitals and doctors. And at the option of each State, persons in these four categories who are self-supporting but without sufficient resources to meet all their medical care expenses plus all medically needy children under age 21 may be covered. People in this group of medically indigent are covered in 27 States. To be eligible, their family income may not exceed 133.33 percent of the amount a family of similar size would receive from AFDC. Seventeen States cover all financially eligible children regardless of family status.

For individuals not qualified under the four categorical programs noted above, States conduct programs of general assistance. In some States, only short-term emergency assistance is available. In others, limitations are set sometimes in order for the welfare agency to operate within available funds. In some States, general assistance also finances medical services for the people covered.

Cash assistance.—As in the unemployment insurance system, States must follow certain national guidelines to qualify for financial grants under the categorical aid programs: OAA, AB, APTD, and AFDC. One of the Federal requirements is that the State must consider a person's available income and resources in determining the amount of assistance. If the State elects, income from any source, including workmen's compensation, may be disregarded up to $7.50 a month in OA, AB, and APTD. In AFDC, $5 per person may be disregarded monthly. For all practical purposes, this requirement insures that most of any workmen's compensation benefit would be offset against a person's public assistance payment.

The benefits provided by public assistance are determined according to formula. All formulas begin with a "need standard," an amount a State deems necessary for an individual in given circumstances to meet a specified level of consumption. If an individual receives workmen's compensation, that benefit is subtracted from the need standard to determine the amount payable under public assistance. This practice is followed by about half the States for aid to the permanently and totally disabled. In other States a more limited benefit is computed; for example, by first applying a preestablished percentage of need met by the State to the need standard. In this type of benefit provision, if a disabled worker's need standard is set at $130 a month and the percentage of need met in the given State is 50 percent, he would be allowed $65 a month minus the amount of any workmen's compensation benefit he receives.

With such formulas, monthly amounts paid by public assistance are quite low. In 1971, the national average monthly cash payment to permanently and totally disabled beneficiaries was roughly $100. It might be expected, because of the low levels of public assistance benefits and the subtraction of workmen's compensation or other income from such assistance, that relatively few workers would receive income from two or more programs at the same time. It is estimated, for example, that about one and a half percent of the beneficiaries of the APTD program have employment-related disabilities. This percentage currently numbers approximately 16,000 beneficiaries. Of course, not all these are beneficiaries of workmen's compensation programs.

On the other hand, beneficiaries who are not disabled may draw both workmen's compensation and aid from one of the public assistance programs. It is estimated that substantial proportions of survivor beneficiaries under workmen's compensation receive public assistance also. Still another category of persons for whom the two

programs have an interrelated role, is the group who turn to public assistance when their workmen's compensation benefits are terminated. The number in this category would be one measure of the inadequacy of workmen's compensation benefits were the data available.

All States but Nevada currently have an APTD program for income maintenance for the disabled. The Federal law requires that to be eligible for aid under this program a person must be at least 18 years old and permanently and totally disabled. Although the definition of disability varies by State, generally the candidate must have (1) a physical or mental impairment, (2) verifiable by medical findings, (3) expected to continue indefinitely, and (4) substantially preventing performance in any useful occupation either as a wage-earner or homemaker. About 1 million persons receive aid under this program although, as indicated, relatively few also receive workmen's compensation.

The formula for APTD beneficiaries in many States calls for subtraction from the APTD benefit of any earnings received by the disabled person, although some States disregard small amounts (most commonly $20 of the first $80 of monthly earned income plus one-half of the remaining $60). Also, under Federal option, other income and resources needed for fulfillment of an approved plan for self-support in the process of vocational rehabilitation may be disregarded for a period not to exceed 36 months.

Medicaid.—The medical assistance program for needy persons, medicaid, provides in all participating jurisdictions for inpatient and outpatient hospital services; laboratory and X-ray services; nursing home care for adults; physicians' services; home health care for those eligible for skilled nursing home care; and screening, diagnosis, and treatment for eligibles under 21. Federal support is available also for other types of medical services, including dental services, drugs, eyeglasses, services in intermediate-care facilities, and prosthetic devices, if States opt to provide them.

In addition to covering all those eligible for cash assistance under the categorical aid programs and, at the State's option, certain medically needy persons, medicaid complements the Federal health insurance program for the aged (medicare) by paying the medicare deductible and coinsurance for the needy aged, their premiums for medicare's supplementary medical insurance program, and charges for services such as long-term nursing care not covered by medicare. Like medicare, the medicaid program does not pay for services for which third parties, i.e., another person, institution, corporation, or public or private agency, are liable. The cost of services arising out of occupational injury will not be covered by medicaid if they are chargeable to workmen's compensation. If third party liability has not been established, the Federal law requires the State public assistance agency to pay for medical care for an eligible individual; the State agency is entitled to reimbursement if third party liability is established subsequently.

Veteran's Compensation and Pensions

Almost half (47 percent) of the U.S. population are veterans and their families. Gainfully employed veterans number 27 million, more than half the total of employed men and more than one-third of the national labor force. Benefits paid to disabled veterans and their survivors are clearly an important element in the economic security of American workers. Two major programs administered by the Veterans' Administration provide income maintenance to disabled veterans and their dependents: (1) veterans compensation pays cash benefits based upon economic loss due to service-connected disability, and (2) veterans' pensions pay cash benefits based upon permanent and total non-service-connected disability to certain eligible wartime veterans. Both provide survivor benefits also.

Compensation benefits.—The compensation payments to veterans are graduated according to degree of disability and number of dependents. Current monthly war-time disability compensation benefits range from $25 for 10 percent disability to $450 for 100 percent disability, exclusive of dependents and other special allowances. Peacetime disability rates are 80 percent of war-time rates and, for survivors of veterans whose death on or after January 1, 1957 was service-connected, benefits are graduated by service grade of the deceased. The maximum monthly dependent and indemnity compensation to a widow varies from $184 to $503, exclusive of allowances for children. Two million disabled veterans currently receive compensation for partial disability; 125,000 for total

disability. Around 400,000 survivors receive service-connected death benefits.

Because veterans' compensation, as distinct from pensions, applies only to service-connected injury, there is no direct relationship between this program and workmen's compensation. Indirectly, though, the injury establishing the eligibility of a veteran for compensation relates to workmen's compensation through second-injury funds. Second-injury funds generally cover injuries incurred in military service in the same way that they cover preexisting injuries in other settings. If an injured veteran is subsequently injured on a civilian job, his workmen's compensation for any added degree of disability that may result from the combined effect of two injuries will be charged to the second-injury fund rather than to his current employer. In a few States, the second-injury fund covers a broader group of disabilities originating in military service than in a civil occupation. Many second-injury fund laws, however, limit their protection, even, in some States, to loss of bodily members or eyes, regardless of origin of the injury. As many veterans have major service-connected disabilities not of that type, they are not covered by second-injury funds.

The veterans' compensation program may be compared to workmen's compensation also in the system used for determining the degree of disability. In determining the schedule of disability for an average individual, loss of earning capacity is the primary factor considered by the Veterans' Administration (VA) along with such noneconomic factors as loss of physical integrity and social adaptability. The VA schedule is adjusted from time to time to keep current with social, economic, and medical progress. These principles and procedures are described in the 1971 study by the Veterans' Administration entitled "Economic Validation of the Rating Schedule."

Pension benefits.—Pensions for veterans are based on need as measured by income. They are payable for any disability however incurred. The disability must be permanent and total, sufficient to render it impossible, probably for life, for the average person to follow a substantially gainful occupation. The pension is $130 monthly for a single veteran with income of $300 or less and $140 for a veteran with one dependent plus additional amounts for up to three dependents, less deductions based upon other income received, including workmen's compensation, up to established limits.

About three-fourths of the current 1.1 million pensioners on the VA roles are over age 65, mostly World War I veterans. It is not known how many pensioners also receive workmen's compensation. Because veterans' pensions are payable only for complete disability, it would seem that only the relatively small number awarded workmen's compensation for permanent total disability would possibly be receiving veterans' pensions. Nevertheless, as observed with respect to the social security and public assistance, there may be workers whose initial partial or temporary disability under workmen's compensation became total and eligible for a veteran's pension, especially as the VA program provides that a veteran aged 65 or above is presumed to be totally and permanently disabled and must only demonstrate need to be eligible for a pension.

Medical care.—Veterans are entitled to complete medical care in VA hospitals and sometimes in other hospitals, but only on a priority basis according to facilities available. Veterans needing hospitalization in connection with a service-connected disability or disease have highest priority. Second priority is given veterans with service-connected disability who need hospital care for some other condition. Third priority is received by veterans without service-connected disability who need hospital services and cannot afford to pay for such care. Other types of institutional care offered include nursing-home care and care in VA homes.

As much as 85 percent of VA hospital discharges are veterans who have received medical care for non-service-connected conditions. A fraction of 1 percent of these are eligible also for workmen's compensation. In general, VA hospitals will not accept workmen's compensation beneficiaries. If, after VA provides care, it is determined that a patient is eligible for workmen's compensation, VA bills workmen's compensation for all charges.

Federal Employers Liability Acts

Before the workmen's compensation laws were enacted, the primary means by which a worker sought recompense for wage loss and medical expenses arising from occupational injury and disease was through common law. As noted elsewhere,

employees under common law had extreme difficulty in proving employer fault in court. To relieve some of these difficulties, 25 States between 1855 and 1911 passed employers' liability laws. Although since passage of workmen's compensation programs these laws are used rarely, for some employees compensation for work-related injury is obtained primarily through actions brought under Federal employer liability acts, which contrast markedly with workmen's compensation.

Federal Employers' Liability Act.—The Federal Employers' Liability Act of 1908 (FELA) was passed to facilitate the recovery of damages by interstate railroad workers disabled on the job. The law curtailed employers' common law defenses if any degree of employer negligence was found, regardless of worker fault or fault of others. Considerable evidence has shown that railroad workers can and do receive substantial awards under FELA. In one-fifth of a sample of recent death cases in which awards were granted, beneficiaries received $90,000 or more, according to the American Railroad Association. Even though these awards include lawyers' fees as well as the net amount to the worker's family, they are higher by far than awards in similar cases under workmen's compensation.

Railroad workers are in the unusual position of being able to sue for negligence in industrial accidents and to receive benefits also under statutory programs administered by the Railroad Retirement Board. Railroad workers experiencing temporary disability are entitled to periodic cash benefits under the temporary disability insurance law (TDI) for railroad workers. The benefit is related to a worker's wage. Most beneficiaries are paid the maximum rate of $12.70 a day or $63.50 weekly. Benefits are payable for 26 weeks plus 13 to 26 additional weeks for workers with 10 to 15 years or more service. Unlike all the other TDI laws, which primarily apply only to nonoccupational disability, the railroad program pays benefits for any temporary total disability. However, if the worker also recovers damages by legal action against the employer or receives benefits from some other public program, the TDI fund is to be reimbursed.

If the worker suffers an accident that renders him: (1) Totally disabled after 10 or more years of railroad employment, (2) disabled for his regular railroad job after 10 years or more railroad employment at age 60 or more, or (3) disabled for his regular railroad job after 20 years of railroad employment, he is entitled to a disability retirement benefit. Such benefits do not require any offset of awards that may be received under FELA. Similarly, survivor annuities are payable usually for the death of workers who have had at least 10 years service.

The disability retirement and survivor benefits are based upon years of service and earnings. All such benefits are higher than social security benefits. A special guarantee insures a railroad benefit of not less than 110 percent of the amount the family would have received under the social security benefit provisions based on combined railroad and social security employment, minus the benefits actually payable to family members directly by the social security system.

Workers retiring under the disability plan are allowed to earn wages on another job up to $2,500 annually without reduction in benefits, unless the benefit is paid under the special guarantee. In the latter event, their earnings are restricted as if they were under the social security program (i.e., benefits reduced after earning $1,680 annually).

For workers who incur short-term disability and for workers with sufficient years of railroad work to qualify for permanent total disability benefits (and for death benefits to survivors), the present system offers the considerable advantage of assured income maintenance under statutory programs plus the right to sue employers for negligence in work-connected disability cases (with the strongest common law defenses forbidden to employers). Thus, for the least and most serious types of disability, many railroad workers may be in a better position to achieve adequate income replacement than workers under workmen's compensation laws.

But these advantages are not universal. Younger workers, who have higher accident rates than older ones are least likely to meet the years-of-service requirement for permanent disability and death benefits under the Railroad Retirement Act. More than half the workers employed by railroads in a year span have had less than 20 years of railroad service; more than a third have less than 10 years.

Also, as a major portion of permanent disabilities of railroad workers are partial, they do not quality for railroad retirement. Moreover, some

temporary disabilities exceed the period for which temporary benefits are payable, especially for workers without long service records. Under these circumstances, with no assured safeguard in the law against income loss due to work-related injury, many railroad workers have no recourse but to file suit under the Federal Employers Liability Act.

Although some judgments under FELA may be high compared with workmen's compensation payments, FELA suits against employers have notable drawbacks. First, some injuries are not compensated. Although courts tend to favor workers' claims, the injured worker receives no award for disability if the court finds no employer fault.

Second, awards won are, in a large proportion, rather low compared to the moderate benefits usual under workmen's compensation.

Third, come the disadvantages inherent in adversary proceedings. The partially disabled railroad worker who files a suit may find it difficult to continue at work for the employer. Employees asked to give evidence in the action might be reluctant to testify against the employer.

Fourth, unless an injured worker is eligible for statutory benefits for temporary sickness or retirement, employers, by delaying actions, can exert pressure on the claimant to settle for a smaller amount than might be won in court. Substantial timelags between injury and settlement are common in liability suits.

Finally, two major features of workmen's compensation apply to railroad workers quite differently. Medical care for injuries is a basic part of workmen's compensation. Railroads have had an excellent voluntary medical care program for on-the-job injuries. Some railroads operate their own hospitals and medical departments; others use contract doctors and local hospital facilities. Whether or not they have a claim under FELA, in general workers receive the medical care needed for a work-related injury. Nevertheless, since they have no statutory basis for medical benefits, railroad workers have no assurance of such benefits in the future.

Similarly, in contrast to workmen's compensation, railroad workers have no rehabilitation services. Under the FELA system, the employer, having paid for the injury, has no economic incentive or responsibility for the worker's future employability. Further, as much of a worker's claim is based upon his income loss expected because of disability, his claim might be weakened by early rehabilitative measures Under FELA, neither employer nor employee have an incentive to cooperate with rehabilitation services. To the contrary, the system has built-in disincentives.

Jones Act.—The other employer liability act which still has current application to work-incurred injuries is the Jones Act of 1920, which allows a merchant seaman to make a claim against his employer, the shipowner, with the employer's common law defenses removed, except that the seaman must prove employer negligence, the same provisions as in the FELA. Like the railroad worker, the merchant seaman has other remedies as well. Under rights long preceding the Jones Act, seamen have had full hospital care for injuries received on ship through Public Health Service facilities. The seaman is entitled also to receive any additional needed medical care not provided by the Public Health Service from his employer as well as wages lost while on the ship plus a certain maintenance allowance for convalescence. Another right of seamen is to sue if the injury is due to a vessel's unseaworthiness. In all, the seaman probably has better protection than the railroad worker for occupational injury.

Still, the seaman is subject to the same principal disadvantage as the railroad worker. The opportunity to bring an action against an employer under any employer liability act in effect makes economic recovery from the income loss associated with work injury a gamble. Although some may gain large awards, others may receive little or nothing. In addition, these workers are all subject to the disadvantages associated with adversary proceedings and the disincentives to rehabilitation.

Automobile Compensation Plans

In most States, a worker who is injured because some person other than his employer or a fellow worker is negligent can elect to sue the party responsible. The tort feasor may be, say, the manufacturer of a defective machine or the driver of an automobile causing a collision. If the injury is work-related, the employee can either forego his workmen's compensation benefits or accept them and have the workmen's compensation insurer join him in the suit. In the latter event, the insurer is

entitled to recover the workmen's compensation benefits out of any tort recovery.

Automobile compensation plans, popularly known as "no-fault" plans, could change this situation with respect to highway accidents. Such plans have already been enacted in several States and are being seriously considered in many others. Bills have been introduced in Congress that would establish a Federal program for no-fault auto insurance. In 1971, following a 2-year study by the Department of Transportation, the Secretary of Transportation urged all States to move toward a no-fault system. Next year the Department of Transportation is expected to assess the action taken by the States and determine whether further Federal action is desirable.

Even as workmen's compensation abolished the tort system with respect to occupational injuries, no-fault automobile insurance in its purest form, would almost eliminate tort liability in highway accidents. No State currently has a pure no-fault plan but several such bills have been introduced. All victims of automobile accidents would receive compensation benefits equal to their medical expenses, net loss of wages up to some specified amount per month, the cost of substitute services, and other tangible economic losses. No payments would be made for intangible losses such as pain and suffering or inconvenience. Each owner of an automobile would be required to purchase insurance that would protect occupants of his car plus pedestrians. Although the plans could be written to provide duplicate benefits, workmen's compensation benefits would probably be deducted from no-fault highway accident benefits. The tort option currently available to injured workers would virtually disappear.

All laws enacted up to January 1972 are partial no-fault laws. The no-fault benefits are limited to a specified amount such as $2,000 or $10,000. In some States, the victim may still sue a negligent driver, despite the no-fault benefits, but the insurance company has rights to recover no-fault payments from damages won. In other States, the victim can sue a negligent driver only if his economic losses exceed a certain amount or if he has suffered certain physical impairments. In these States, he can sue only for damages in excess of his no-fault recovery.

Workmen's compensation benefits would probably be deducted from any no-fault benefits paid under partial no-fault laws. Injured workers would be entitled to sue a third party under the same conditions as other automobile accident victims (see ch. 12).

PRIVATE PROGRAMS

Income Protection for Short-Term Disability

Except in the seven jurisdictions with mandatory protection through temporary disability insurance laws, only about 22 million of the workers in private industry are protected against wage loss through group plans in the event of short-term nonoccupational disability. (This calculation excludes group credit insurance, which is not an employment-related plan, but is intended primarily to protect creditors against default of loans.) This voluntary protection comes through unilateral employer-sponsored plans, through labor-management agreements, and to a limited extent through benefits provided by mutual benefit associations. Although primarily intended to offer protection for income-loss associated with sickness or nonwork-connected injury, some plans, especially some sick leave plans, also pay benefits under certain conditions for work-related disability.

Accident and sickness benefit plans generally are established by purchase of group policies from commercial insurance companies. Some accident and sickness benefit plans are self-insured by employers. Union, union-management trust funds, and mutual benefit associations also provide such benefits.

Besides group insurance policies and self-insurance benefit programs, the other major job-related plan for maintaining a disabled worker's wage is sick leave. Although sickness insurance and sick leave have the same objectives of preventing the stoppage of income during temporary periods of incapacity, they operate differently. Sick leave usually is paid in full replacement of earnings from the first day of illness for a specified number of days, usually between 5 and 15 a year; in some systems, unused leave can be accumulated from year to year. In contrast, sickness insurance after a waiting period of a week may pay up to 26 weeks of benefits at some fraction of weekly wages—between one-half and two-thirds—subject to a speci-

fied maximum amount, or at some flat rate for all workers.

Sick leave is available to administrative, executive, and other salaried employees to a greater extent than to wage workers. From 70 to 80 percent of office workers in metropolitan areas but less than half as many plant workers have sick-leave rights.

Workers excluded from statutory programs for income support for short term disability are often those who presumably are most in need: domestic workers, farm workers, or low-paid employees in nonprofit industry. This lack of income maintenance protection is most probable in States without temporary disability insurance laws. Low-paid workers generally, nonunion workers, seasonal industry employees, farm workers, and day-labor workers are among those least likely to be protected from short term disability under private voluntary auspices.

A small minority of accident and sickness insurance plans pay benefits as a supplement to workmen's compensation benefits as well as for nonoccupational disability. Such supplements usually are computed as the excess of the sickness insurance benefit over applicable workmen's compensation benefit. This type of benefit has effect only where the sickness insurance benefit is computed at a higher proportion of wages lost or provides a higher maximum amount than workmen's compensation.

A somewhat more common workmen's compensation supplement occurs under sick leave provisions. Some plans pay sick leave for work-connected disability during the waiting period before workmen's compensation is payable, but not thereafter. Still more plans pay sick leave as a supplement during the period that workmen's compensation is received; usually the difference between the workmen's compensation benefit and the employee's full pay.

One other short term periodic workmen's compensation supplement is an occasional fringe benefit in private employment: a direct noninsured supplement designed specifically to complement workmen's compensation benefits. This plan may be a means of giving workers in a company operating in different States equal treatment despite interstate differences in statutory benefits. Such plans have been negotiated by unions for workers in a metropolitan area that encompasses more than one workmen's compensation jurisdiction. Where the direct supplement has been established to make up for differences in workmen's compensation benefits paid to disabled workers with the same wage, the supplement might provide for a specified wage replacement rate.

Permanent Disability Benefits

Pensions.—About 30 million workers, 48 percent of private industry wage and salary workers, were in establishments with private pension plans in 1970. Such plans often provide benefits to workers who become disabled. These plans are intended to pay pensions to permanently and totally disabled workers. Often such a plan follows the definition of disability used by the Social Security Administration in its disability benefits program.

The establishment of disability benefits under the Social Security Act in 1956 increased awareness of the need for such protection and probably stimulated private benefits. Today three-fourth or more of workers are protected by pension plans with benefits for permanent and total disability. Union-negotiated pension plans are more likely to contain such disability provisions than those granted unilaterally by employers. In part reflecting differences in degree of unionization, the prevalence of such plans varies by industry. Most manufacturing workers but perhaps only one-third of retail trade workers are so protected.

Salaried workers are less likely than wage workers to be in pension plans with disability provisions, possibly in part because salaried workers give this type of protection a low priority. In addition, salary workers are more likely to have income maintenance protection through long-term disability insurance, discussed below.

The extent of protection from major disability is less through pensions than it appears. Many plans impose important restrictions through age and service requirements for eligibility. Millions of young workers are denied protection by provisions requiring eligible workers to be at least age 40 or 50 or to have worked for the one employer for 10 or 15 years or both.

Still more restrictive has been the traditional lack of vesting rights: when workers change employers, benefit rights under private pension plans in previous employment are lost. Further, the time worked on a previous job does not count toward the service requirement in the current position. In

this way, many employees with long steady work records still have little or no disability or pension protection even though employed in companies with pension plans.

Benefits for disability pensions are usually integrated with the short-term income benefits available to the worker. A few have no waiting period but generally plans do not provide a pension until the worker's disability has persisted at least 6 months.

Probably less than a third of all those under disability pension plans are subject to offsets for workmen's compensation. For plans that have deductions, the full amount of workmen's compensation is almost always subtracted from the pension. Because this deduction may entirely offset the pensions due many workers, some plans have alternate benefit formulas not subject to deductions for benefits authorized by law.

The relationship of pension plans to social security is more variable than to workmen's compensation. Some plans deduct all social security disability benefits; some only half. Others deduct a flat amount, such as $80 a month. Private pension plans for most workers require no deductions for either social security or workmen's compensation.

The existence of an offset and the extent of the offset can be expected to relate directly to the monthly pension amount provided. Plans not providing offsets for public benefits pay lower benefits than the others. The lesser amounts deducted for social security than for workmen's compensation may reflect the fact that social security benefits are paid for in part by the worker, whereas workmen's compensation is almost exclusively employer-financed. The modest pensions provided by private plan formulas, with or without deductions for statutory benefits, often leave disabled workers with inadequate income from these private plans. A nationwide survey in 1970 found that 73 percent of all disability plans were currently paying less than $100 per month on average. The medical payment was less than $50.[2]

Group long-term disability insurance.—The second major private form of benefits for permanent disability to compare with the workmen's compensation system is long-term disability insurance (LTD). LTD plans covered only about 7 million workers, 12 percent of employed workers in private industry in 1970. Nevertheless, these private group plans for long-term disability are growing rapidly. In 1964, only 1 million workers were covered by these policies.

This insurance, to compensate for disability for substantial periods or for life, first was offered only to high-level executives; later to salaried workers generally; and in some policies written since 1960 to wage (hourly rated) workers.

Characteristically, LTD plans are geared to mesh with established short term disability plans. A 6-month waiting period is most commonly required before LTD benefits are payable, although waiting periods range from 30 days to a full year. This feature eliminates all but the most serious disabilities and precludes overlap with the period during which sick leave or other benefits for short term sickness may be paid. Payments are almost always set as a percentage of the worker's most recent wage levels, usually 50 percent or more. The replacement proportion may vary by length of service or wage level.

LTD fulfills a significant function in supplementing public programs, especially social security and workmen's compensation, to the extent that it provides benefits to workers unable to work at their regular job but not necessarily disabled for other work. Even so, many LTD plans restrict continued eligibility after 2 years to those totally disabled. LTD plans also pay benefits for serious disability not covered by workmen's compensation; notably nonoccupational injury.

The amount of protection offered under LTD varies. Most commonly, LTD benefits are payable until age 65, when private pensions and social security retirement benefits normally become available for workers not previously entitled by law to disability benefits.

In general, the LTD benefit is reduced, dollar for dollar, by the workmen's compensation benefit. This feature of LTD helps reduce the premium costs but may present some inequity because, unlike other fringe benefits, most LTD plans are paid for jointly or completely by workers. Disabled workers whose workmen's compensation is enough to reduce their LTD benefits substantially or to eliminate them altogether may feel deprived of benefits they paid for.

Other plans. Several other fringe benefit plans have either a major feature or incidental features that benefit permanently disabled workers. The

type covering the largest number of workers pays for accidental deaths and lump sums for specified major injuries. Such policies may apply to total permanent disabilities or partially disabling conditions but, in all cases, to loss of specified-body parts only: An eye, a finger, a foot, and so on. Accidental death and dismemberment insurance adds to the income protection of workmen's compensation, although not all policies cover work-related impairments.

Group life insurance, the most important type of privately sponsored death benefit also may pay benefits for permanent disability. Some policies pay for a stated period, usually 5 years, the face value to an employee who becomes totally and permanently disabled before age 60. More than one-third of the workers have this feature in their group life insurance.

Where workers participate in deferred profit sharing or employee savings plans and where employers offer severance pay upon termination of employment, totally disabled workers will receive payments which generally include contributions by employers to the profit sharing or savings plan. The proportion of workers participating in these plans is small and the level of benefits is limited.

Death Benefits

Group life insurance.—Among fringe benefits of employment, the most widespread form of income protection in the event of the worker's death is group life insurance. About 52 million Government and private industry workers, 70 percent of all wage and salary workers, had such insurance in 1970. As life insurance is payable for work-related deaths as well as for others, it provides an important supplement to workmen's compensation. In addition, many policies pay double indemnity for accidental death. Some group life insurance plans continue after retirement, although at decreased value.

Life insurance coverage is more prevalent among office workers than among plant workers and higher in transportation, communication, and public utilities than in other industries. The large majority of group life insurance plans are paid for entirely by employers.

Benefits under group life policies are set ordinarily either as a flat amount for all employees covered or graduated in accordance with individual earnings. The latter method provides substantially higher benefits on the average.

The benefits are much more modest than those paid survivors under workmen's compensation but are nevertheless a valuable supplement, especially in view of the wide scope of risk and the high proportion of workers covered.

The trend in life insurance benefit levels can be illustrated for salary workers, for whom benefits are generally geared to individual earnings. In 1969 most companies provided protection ranging from an amount equal to annual salary to four times annual salary. In 1963, a benefit of less than a year's salary was not uncommon. Few plans exceeded three times annual pay.[3] These levels of benefits are of course higher than the life insurance benefits available to wage workers; their benefits are more likely to be a flat amount irrespective of individual earnings, though the trend is to provide benefits as a multiple of earnings for all workers.

Accidental death insurance.—The second most common type of death benefit available through employment is the accidental death and dismemberment policy. Around 40 million, half of all wage and salary workers, had group insurance of this type in 1970. In 1960, 21 million employees, a little over one-third of wage and salary workers, had this protection.

Although a majority of these pay for accidental death regardless of cause, a sizable number still apply only to nonoccupational deaths or, if they cover occupational death, they limit coverage by certain restrictions, usually excluding deaths from occupational disease.

These benefits are not offset by workmen's compensation. In amount, benefits for accidental death and dismemberment are almost invariably the same or less than the life insurance benefits available to the same worker.

Pensions and deferred profit-sharing plans.—Besides group life insurance and accidental death and dismemberment insurance, survivors of workers under retirement pension plans often are entitled to pre-retirement benefits. Pension plans in considerable numbers added this feature through the 1960's. Among leading companies, especially manufacturing firms, and through collective bargaining, survivor benefits have been

added to perhaps one-half of the pension plans. Usually survivor benefits are paid monthly.

Typically, the death benefit under a pension plan pays the widow or widower the amount determined by pension rights accrued to the employee at the time of death. The plan is intended to supplement life insurance and to fill the gap in pension plans for the employee who dies within 10 to 15 years of retirement age after acquiring a substantial pension. Benefits most often are payable either for life or until the earlier of death or remarriage of the spouse. Some plans pay for a specified number of years, 5 or 10, and a few offer only lump sum payments. The survivor receives these benefits in addition to any workmen's compensation.

These benefits are limited, as are other benefits under pension plans. Many younger workers, or workers without sufficient years of service, 10 to 15 years, with the same employer, are ineligible.

Other forms of income protection for suvivors, sometimes supplementing workmen's compensation, are employee-savings plans and deferred profit-sharing plans. Not many workers are in such plans. The total benefits payable are not large. Still, for individual workers, such plans may be valuable. For the most part, employer contributions to these plans are payable in the event of death, work-related or not.

Medical Expense Benefits

Medical care is the most widespread type of voluntary fringe benefits provided workers by employers. Most workers, perhaps four out of five wage and salary workers, are covered by group hospitalization and surgical plans; two-thirds by regular medical care (i.e., primarily doctor's care) plans; and one-third by major medical or catastrophic medical plans. The main groups of workers in private industry without even group hospital and surgical benefits are workers in small companies and workers in certain industries like agriculture and construction. Some of these, of course, are protected through individual insurance or service contracts.

Plans with limited coverage also are growing more rapidly than others. Specific types of services included under medical insurance plans (X-ray and laboratory examinations, out-of-hospital prescribed drug expenses, private-duty nurse and visiting-nurse services) have become widespread in recent years. Coverage of out-of-hospital prescribed drug care expenses increased between 1965 and 1969 from 21 million workers to 33 million.[4]

For a majority of workers, hospital, surgical, and medical insurance plans are financed by employers exclusively, but office workers are more likely than plant workers to have higher benefits and are more likely to contribute to such plans.

The benefits provided generally are either (1) cash payments to workers for medical expenses, with hospital bills paid directly by the plan (commercial insurance plans) up to set limits; (2) service benefits calling for direct payment to hospitals and doctors by the plan (Blue Cross-Blue Shield) for specified services; or, (3) direct service benefits through group practice plans.

Because many workers do not have policies furnishing physicians' care for serious illness, and because coinsurance, benefits maximums, and exclusions are prevalent in the widely held hospital and surgical insurance programs, the actual health insurance benefits paid to or on behalf of workers are not as substantial as one might expect. About two-fifths of all consumer expenditures for health care are met by private health insurance.[5] (This estimate would be a few percentage points higher if certain medical costs were excluded, such as charges for private as opposed to semiprivate hospital rooms not medically required and similar fringe uses of medical facilities.)

The various private medical benefit plans restrict payment according to the origin of the injury or condition requiring services. These group insurance policies and Blue Cross and Blue Shield plans generally will not pay for medical services chargeable to workmen's compensation. Private plans may deny benefits if the worker has not applied for workmen's compensation where it might be due. On the other hand, some medical care policies cover disability arising from occupational disease or injury for groups not covered by workmen's compensation.

Private plans may or may not pay medical costs (1) for needed medical care after benefits under workmen's compensation have been exhausted, or (2) for any part of medical services in compro-

mise and release settlements which may include a prorating of medical costs under workmen's compensation. One common wording in these policies excludes such benefits by specifying that charges for medical expenses are not allowable if they are a result of an occupational disease or injury for which any benefit is payable under workmen's compensation.

Individual Insurance

Workers who purchase insurance individually for protection against loss of family income accompanying disability or death usually buy life insurance, which also pays for occupationally-related deaths. Excluding group policies, there are currently about 40 million individual ordinary life insurance policies in force. It is not certain how many persons carry more than one policy.

Specialized types of life insurance in 1970 included about 77 million "industrial" policies, usually offering benefits of less than $1,000 and usually paid for by weekly or monthly premiums. Credit life insurance, primarily a form of guarantee to leaders for repayment of a loan upon death of the insured, was in effect for about 8 million debtors.

Like group life policies, individual life policies may have double indemnity provisions for specified types of accidental death or may provide income in the event of permanent disability. The annual amount of disability payments for holders of individual life insurance policies is close to $200 million, in addition to more than $50 million in the form of premiums waived.

Another category of insurance that offers income protection from disability is health insurance purchased individually. Accident and sickness insurance policies may provide income to replace wages during disability regardless of cause; others pay no benefits if workmen's compensation is available.

Almost 14 million people have income-loss protection through individual insurance for short term disability and another 3.6 million for long term disability. The periodic benefit varies with the premium paid, usually with the buyer's earnings as a maximum benefit. These policies almost always require a specified waiting period before benefits are paid. They base benefits usually on the inability to work rather than on the extent of income loss. Sick leave payments by employers and workmen's compensation benefits (if occupational disability is covered) may be received with no loss of these benefits from the individual insurance policies.

Some policies pay lump sums for specified dismemberment or partial impairments. If the disability insurance covers occupational risks, premiums will be based in part upon the nature of the occupation to reflect differences in risk.

Except for policies with noncancellable guarantees, most individual accident and sickness insurance can be cancelled if the worker changes to a relatively hazardous job or if, by virtue of age or other reasons, he is deemed by the company to have become a poor risk.

A variety of health insurance policies are available to help pay for hospital, physician, and other medical costs. These policies pay cash for medical expenses, sometimes irrespective of other insurance such as workmen's compensation. Generally, individual insurance policies, like group policies, attempt to avoid duplication of coverage.

Life, disability income, medical, and other forms of individual insurance are not comparable to any great degree with social insurance such as workmen's compensation. The types of protection available under individual insurance and the numbers and kinds of people protected are varied.

One obvious limitation in comparing individual insurance with workmen's compensation is that individual policies may be written for housewives, children, retirees, and others not in the labor force, as well as for workers. Also, insurance is only one protective device available to the individual who is seeking economic security through various forms of savings and investments. The benefits of individual insurance for work-related disability and death are discussed here primarily to place in context the various governmental and voluntary forms of group protection relating to workmen's compensation.

SUMMARY

A variety of public and private programs offer income and medical care protection to workers when they are occupationally disabled. Although much information is available on the extent of overlap between workmen's compensation and other public programs, indications are that the overlap is not large. Because other public programs deal with limited types of disability (e.g., per-

manent total disability under social security) or primarily are organized to pay benefits for risks other than occupational disability (unemployment insurance and temporary disability insurance), the number of job-disabled workers eligible for public benefits in addition to workmen's compensation appears to be small. Another factor limiting overlap is the premise of need as a condition for receipt of public assistance and veterans' pensions. Income such as that received from workmen's compensation serves to reduce or eliminate these other benefits.

Under some conditions, benefits come simultaneously from workmen's compensation and other programs as protection against different risks and so do not represent an overlap. For example, workmen's compensation benefits for permanent partial disability may coincide with subsequent unemployment benefits.

To the extent workmen's compensation fails to provide or continue benefits throughout the period of disability, other public programs such as public assistance fill a need, e.g. for survivors whose work-related death benefits are likely to be limited in time or total amount.

Occupationally disabled members of private group plans may receive income benefits that are offset by or paid in addition to workmen's compensation. Medical benefits available through the job and public program medical benefits almost always exclude workmen's compensation cases.

Several public programs considered here, including workmen's compensation, relate benefits to earnings levels of the individual worker. Some replace all wages at a uniform rate, subject to minimum-maximum benefit amounts, and others provide a relatively high replacement rate for workers with earnings well below average.

In contrast, most parts of the programs for veterans and public assistance predicate benefits on factors other than past earnings.

Variety predominates in types of structure, whether State, State-Federal, or Federal in form; in mechanisms for paying benefits, through private or public insurance or directly by employers; and in most other comparisons between workmen's compensation and other public programs.

Similarly, private forms of income-maintenance available to workers through their jobs provide a number of different types of benefits that relate to workmen's compensation in different ways. The most extensive type of voluntary plan that almost always supplements workmen's compensation is group life insurance; this pays the policy amount to survivors of workers killed on the job, regardless of whether workmen's compensation is received. Other benefits are available to a smaller number, or even to substantial numbers, but often with serious eligibility limitations, especially for disability pensions.

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