

Workplace Injuries and Receipt of Benefits from Workers Compensation and SSDI

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The research reported herein was performed pursuant to a grant from the U.S. Social Security Administration (SSA) funded as part of the Retirement and Disability Consortium. The opinions and conclusions expressed are solely those of the author(s) and do not represent the opinions or policy of SSA or any agency of the Federal Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of the contents of this report. Reference herein to any specific commercial product, process or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply endorsement, recommendation or favoring by the United States Government or any agency thereof.

A quick workers' comp primer

- Workers injured on the job can have injuries determined to be temporary or permanent
- Temporary injuries handled through indemnity benefits paid until worker returns to work (usually total, but can be partial if work limited)
- Permanent injuries can be rated as partial or total, up to 100%
 - Triggered by reaching duration of temporary benefits
 - Permanent injuries can be compensated by ongoing payments or lump-sum settlements (often from litigation)
 - Based on future earnings loss or impairment
 - “PPD” or “PTD” benefits
- Medical care and sometimes vocational rehab also provided
- Some complicated issues of what injuries/illnesses are compensable under WC

WC benefits

- PTD benefits most similar to SSDI
 - Based on inability to work (but permanent, not just > 12 months)
 - Paid until death or return to work in most states
 - Some states pay to maximum age or age of eligibility for Soc. Sec.
- PPD benefit determination is more complicated because of remaining work capacity
 - Can often lead to litigation and lump-sum settlements

Research questions

- Do workers who get PPD or PTD benefits subsequently go onto SSDI?
 - Potentially largest issue: if workers are relying on SSDI, experience ratings in WC may not be creating strong enough incentives for workplace safety
- Are offsets being calculated and applied, and do they appear to be applied appropriately? (Partial answer today)

In principle, there is coordination

- Most states: offset that reduces SSDI benefits because of WC indemnity benefits paid (not medical/atty)
- Some states: reverse offset that reduces WC benefits
- In general, either SSA or the state reduces benefits so that combined SSDI and WC benefits do not exceed 80% of prior earnings)

Easier said than done

- It's complicated:
 - “Calculating offsets requires an understanding of each workers' compensation law, agency, and rules; obtaining appropriate authorizations for release of information from the applicant or beneficiary; and obtaining the record of payments or settlement agreements from the workers' compensation agency or payor...But many of the records are in paper files and are not available electronically, ...”
 - “[SSA] also needs to know, when presented with a case, whether workers' compensation benefits are already being paid or have been paid for the disability they have accepted.” (Clayton, SSB, 2003/4)
- “[W]orkers' compensation benefits data maintained by SSA are self-reported, and there are no existing automated data matches with states.” (O'Leary et al., SSB, 2012)
- “Furnishing us this information is voluntary.” (SSA Form, OMB No. 0960-0247)
- Especially complicated with lump-sum settlements, which make it hard to calculate appropriate SSDI offset amount

Attorneys don't make it any easier

- “A little creativity can go a long way if you are expecting a workers’ comp settlement and you do not want it to affect your SSDI benefits.”
 - <https://jimglaserlaw.com/will-my-workers-comp-settlement-affect-my-disability-payments/>
- “Since a combined benefit that equals 80% or your former income represents a loss, you would naturally rather that your Workers’ Comp benefit didn’t have such an impact on your SSD payment. And, with a little planning, there are ways we can help you make that happen.”
 - <https://www.attorynec.com/blog/workers-compensation-and-ssd-benefits/>
- “When a person receives a lump-sum settlement from workers' compensation, an effective strategy for reducing the Social Security offset is to state in the settlement agreement that the lump sum is meant to be spread out over the rest of the individual's life. Often this method greatly decreases the offset or even eliminates it entirely.”
 - <https://www.nolo.com/legal-encyclopedia/minimize-how-much-workers-compensation-will-lower-social-security-payments.html>
- Attorneys seem to focus on using lump-sum payments and medical payments (“future medical”) to reduce the value of the WC payment to fall under 80% threshold when combined with SSDI

Prior evidence on dual use of SSDI and WC

- Victor (2019) claims cost shifting from WC to SSDI has been minor, but this is based on whether *changes* in WC benefits explain *growth* in SSDI
 - McInerney and Simon (2012) concur – offsetting trends in the two do not appear within states
- Estimates based on SSA data
 - Parent et al. (2012, Table 2) – 6.9% (WC only)
 - SSA (2019, Table 31) – 5.2% (WC or PDB)
 - Murphy et al. (2020, Table 19) – 5.2% of workers currently receiving both (WC or PDB)
- Estimates based on matching NM WC data with SSA data – 7% (O'Leary et al., 2012)
 - More about whether any workplace injury with WC benefits (lost work time) predicts SSDI receipt, than about double-dipping/offsets

What do we do that's different?

- Except for O'Leary et al., past work is based on SSA data only, doesn't account for potential difficulty of SSA determining WC receipt
- We begin with HRS data, identify those who report receiving WC and SSDI
 - Contains information on permanent vs. temporary disability, and rating for permanent disability
 - Do we detect SSDI recipients getting WC who are not detected by SSA (as best we can tell)?
- Use SSA data (various files) to identify cases:
 - Additional WC cases
 - WC offset
 - SSA knowledge of WC but case in reverse offset state
 - Based on HRS WC receipt, SSA appears to have no knowledge of WC receipt

HRS reporting seems accurate or at least consistent

	HRS/SSA data	Disabled at Entry
Total Individuals	19,949	2,784
Receive either WC or SSDI	3,337	2,362
Receive both WC and SSDI at some time	237	195
Perm Disability	52	47
Temp Disability	58	40
Avg Rating (Perm), Sample Size	85.6% N=47	N=42

1st column from HRS but with SSA data
2nd column from SSA

82% who say they received both enter SSA data as disabled (rest are retired or other); suggests we are tracking behavior fairly well in self-reports

(Only 7% entered as retirees; remainder other/unknown)

Even higher % (90%) for those with permanent disabilities under WC, and high disability ratings

HRS: Substantial share of WC recipients receive SSDI (I)

	HRS data
Total Individuals	40,169
Receive either WC or SSDI	4,770
Receive SSDI	4,152
Receive WC	901
Perm Disability	185
Temp Disability	363
Avg Rating (Perm), Sample Size	79.0% , N = 161
Receive both WC and SSDI at some time	283
Perm Disability	75
Temp Disability	96
Avg Rating (Perm), Sample Size	88.3% , N = 68

31% of WC recipients also receive SSDI

Higher % (41%) of those with permanent disability (who have high ratings on average)

WC recipients with permanent disabilities who also receive SSDI have higher ratings

6.8% of SSDI recipients also get WC, so dual use is much larger relative to WC. Close to numbers from other work (especially Parent et al. (2012) which is closer to midpoint of HRS years).

Based on this calculation, no clear evidence that SSA is missing many dual use recipients.

HRS: Substantial share of WC recipients receive SSDI (II)

	HRS data	HRS/SSA data
Total Individuals	40,169	19,949
Receive either WC or SSDI	4,770	3,337
Receive SSDI	4,152	3,102
Receive WC	901	472
Perm Disability	185	97
Temp Disability	363	157
Avg Rating (Perm), Sample Size	79.0% , N = 161	77.3% , N=83
Receive both WC and SSDI at some time	283	237
Perm Disability	75	52
Temp Disability	96	68
Avg Rating (Perm), Sample Size	88.3% , N = 68	85.6% , N=47

Conclusion similar for subsample with SSA data

50% of WC recipients also receive SSDI

Higher % (54%) of those with permanent disability (who have high ratings on average)

WC recipients with permanent disabilities who also receive SSDI have higher ratings

7.6% of SSDI recipients also get WC.

Maybe a little more evidence that SSA is missing some dual use recipients (because % higher than reported just from SSA data).

HRS: Substantial share of WC recipients do not appear to have offsets (I)

	HRS data	HRS/ SSA data	Non-zero SSA offsets	SSA does some offset calculation but no offset recorded	“Unknown” to SSA, ever in reverse offset state	“Unknown” to SSA, never in reverse offset state
Receive both WC and SSDI at some time	283	237	62	25	84	66
Perm Disability	75	52	14	6	21	11
Temp Disability	96	68	17 (merged; min cell size is 3)		27	24
Avg Rating (Perm), Sample Size	88.3%, N = 68	85.6%, N=47	82.3%, N=12	95%, N=6	82.8%, N=20	90%, N=9

- Of the 52 with permanent disability who receive WC and SSDI (49% of WC recipients with permanent disability)
 - 38% appear to be known to SSA, with either 0 or non-zero offset
 - 62% are *not* offset, and appear to be unknown to SSA
 - Suggests fairly high failure to identify recipients with permanent disabilities compensated by WC – but we remain skeptical and are still working on more definitive answers from data

HRS: Substantial share of WC recipients do not appear to have offsets (II)

	HRS data	HRS/ SSA data	Non-zero SSA offsets	SSA does some offset calculation but no offset recorded	“Unknown” to SSA, ever in reverse offset state	“Unknown” to SSA, never in reverse offset state
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- But our “unknown” classification is based on many flags for WC offset calculations, not necessarily a definitive flag for whether SSA knows about past WC
 - SSA has a data set with that information (Workers’ Compensation and Disability Benefit file) not matched to HRS

HRS: Substantial share of WC recipients do not appear to have offsets (III)

	HRS data	HRS/SSA data	Non-zero SSA offsets	SSA does some offset calculation but no offset recorded	“Unknown” to SSA, ever in reverse offset state	“Unknown” to SSA, never in reverse offset state
Receive both WC and SSDI at some time	283	237	62	25	84	66
Perm Disability	75	52	14	6	21	11
Temp Disability	96	68		17 (merged; min cell size is 3)	27	24
Avg Rating (Perm), Sample Size	88.3%, N = 68	85.6%, N=47	82.3%, N=12	95%, N=6	82.8%, N=20	90%, N=9

- Note (small cells) rating is higher for those with “calculation but no offset,” whereas we would expect higher WC benefits and hence more offsets with higher rating
 - Data for this column also indicate complicated offset calculation
- SSA (2019, Table 31) reports 67% of joint SSDI and WC(PDB) recipients have no offset because of 80% rule (low benefits/high earnings), which we find surprising given that low earners are injured more and benefits are progressive
- This, plus, what we see attorneys saying, suggests that there may be manipulation of WC benefit calculations to avoid offsets for the permanently disabled (especially lump-sum cases)

Next Steps

- Pin down timing of WC settlements/payments in HRS to better identify whether reserve offset state rules apply or or not
- Future (proposed) research: use SS earnings records and information on benefit rules for WC and SSDI to refine estimates of when offsets should and shouldn't be applied, and compare to what we see on actual offsets in SSA data

Proof of concept for “Holy Grail”

- Trying to get insurance companies to let us bring claims data (from WCRI) to SSA to merge
- Near universe of WC claims, with all the detail on injuries, settlements, attorney involvement, etc.
- Can give us much more precise estimates of WC cases missed by SSA, and evidence on whether and how offsets are being avoided (e.g., classifying benefits as future medical)
- Concerns about confidentiality, and “what’s in it for them?”
 - Might be most interested in whether there are “missing” offsets in state WC systems in reverse offset states
 - Can also, with Soc Sec earnings records...
 - Assess benefits adequacy – by comparing to prior earnings
 - More comprehensive analysis of work and earnings post permanent disability determinations to “test” disability ratings