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VOLUNTEER ADVOCACY: THE NEED FOR NATIONAL WORKERS' COMPENSATION

To the Editor:

Early in 2009, Congress introduced HR 635, the National Commission on State Workers' Compensation Laws Act. The first examination of workers' compensation since 1972, this act has significance not only for Americans injured while on the job but also for emergency workers and volunteers who put themselves at risk when responding to the call of duty.

Tens of thousands of volunteers from nearly every state in the country answered that call in New York City after September 11, 2001. Most had no better or worse insurance coverage than any other American: unemployed volunteers and lower-skilled workers had little or no coverage, whereas unionized workers had insurance from federal and state jurisdictions or private plans. Those with any insurance were subject to the same constraints—high deductibles, copays, and lifetime caps. Neither public nor private health insurance plans cover work or volunteer-related injuries or illnesses. Responders apply for workers' compensation simply hoping that their medical costs and lost wages will be covered. Reimbursement has been especially difficult for World Trade Center responders because evidence that illness or injury is a direct result of working at the emergency site is still evolving, and this has been known to contribute to both private and public employers' denial of claims. Of particular significance are application deadlines: Workers must apply within specified time periods that were established in the past for typical, long-term injury claims. Only recently have some states added provisions for chronic illnesses such as bronchial disease or cancers that emerge over time. HR 847, the 9/11 Health and Compensation Act, was reintroduced to Congress in February 2009. Even if enacted, it does no more than move along the same continuum of fragmented, inequitable, and inconsistent health care (both short- and long-term) for volunteer rescuers involved in large- and small-scale incidents.

The system of state control over workers' compensation established in the progressive era has not been significantly altered. The most serious threat to state domination occurred when the National Commission on State Workmen's Compensation Laws submitted its report to the President and Congress in 1972.¹ The report contained 84 recommendations to improve the programs and it recommended that Congress enact 19 mandatory standards for state programs. Although full compliance with the standards was never achieved, no federal mandates have ever been enacted by Congress.² HR 635, introduced to evaluate the effectiveness of state workers' compensation laws, is the first examination since the 1972 commission report.

Widespread attention to universal health insurance in the United States brings the possibility that concerns of emergency workers and volunteer responders will be addressed. For some, there is an argument that fundamental reform of the health care system will "absorb the health care component of workers' compensation."² However, even in a country like Canada, which provides universal health insurance via a single-payer model, a separate federal workers' compensation program exists.

In the present age of instant communications and global technology, volunteers come from a wide geographic area. Additionally, the major initiatives since September 11, 2001 aimed at recruiting, training, and maintaining a disaster volunteer workforce necessitate a consistently equitable national workers' compensation program. Since the terrorist attacks, insurers have been taking a closer look at their exposure to disasters, both natural and manmade. Some forecasts indicate that workers' compensation claims for terrorism could cost an insurer anywhere from \$300,000 to \$1 million per employee, depending on the state.³ This has caused many areas to be classified as high risk which, in turn, has led to steep increases in the cost of insurance and added to more inconsistency in coverage across states.

HR 635 is only a first step. An additional but significant policy consideration is how workers' compensation in the United States should be structured to support universality of access and high-quality care for both workers and volunteers. As the country moves toward a national system of universal health care, the needs of emergency workers and volunteers must not be forgotten.

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