



LAES has developed a series of immigrant issue instructional modules entitled "Tierra de Oportunidad" for orientation to our complex society.

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## **INSTRUCTIONAL AREA: *Advancing Work and Career***

### **Tierra de Oportunidad - Module 5**

#### **Support Systems for Injured Workers**

## **Overview**

The work in occupations employing many immigrants is often dangerous and likely to result in higher-than-average incidence of injuries and work-related illnesses, making support for workers who are injured an important immigrant issue. The U.S. legal system is structured differently than the Mexican system and is a complex one -- making it difficult for injured workers to know what, if any kind of help they can get to help pay for medical treatment and lost wages. In actuality several different programs provide different sorts of support for injured workers.

While many immigrant workers are young and in good health, older immigrant workers face special problems when they become disabled because it is more difficult for them, with a limited education and with limited English, to move into work that is less physically demanding. Farmworkers face special problems because some of the occupational health problems they face, particularly as they age, are hard to prove as being a result of work or hard to prove as being disabling.

The three main systems providing support for injured workers are: Workers' Compensation, State Disability Insurance, and the vocational rehabilitation services funded by the California Department of Rehabilitation. This system of support for injured or disabled workers provides services which are complementary. Workers' Compensation pays for medical and retraining stemming from on-the-job injuries, or occupationally-caused illnesses while California's Disability insurance program provides support to workers when they can't perform their usual work because of non-occupational illness or injury. Services from the California Department of Rehabilitation are most easily secured by workers who have been seriously injured.

The Workers' Compensation System (WC) was designed originally as a no-fault system to provide injured workers with rapid, fair support. Over the years it became an extremely unwieldy and adversarial system. It has been overhauled by the California legislature several times in recent years and it is too soon to tell how well the system reforms are working. Workers who experience trouble in having Workers' Compensation pay for the medical costs for an on-the-job injury or retraining costs after suffering a permanent disability should seek experienced and reputable legal assistance.

The State Disability Insurance system (SDI) is fairly straightforward but will not provide workers with support if their disability lasts for only a week or less. Support is also limited to 52 week (one year).

Workers can also receive Social Security benefits (SSI) if they have been disabled for a year or longer. However, the Social Security Administration rules make it difficult for persons who are not very seriously disabled to qualify.

## Basic Skills Development

This curriculum module serves to build several basic, generic skills. It will be useful for the instructor to emphasize to the class how the module and the class activities contribute to these skills.

<i>Reference skills:</i>	Seeking oral and written information, applying general information to one's specific situation.
<i>Communication skills:</i>	Interactions with agency staff.
<i>Survival skills:</i>	Awareness of key worker benefits programs, increased awareness of health issues.
<i>Analytic skills:</i>	Verifying information, interpreting regulations.

## Teaching Points

### On The Job Injuries -- Workers Compensation

1. Workers' Compensation insurance, paid for by employers, covers the costs of on-the-job injuries or illnesses caused by work. Services which can be paid for under Workers' Compensation include:
  - o medical treatment of on-the-job injuries
  - o rehabilitation services needed
  - o in the case of permanent disability, worker training in a job they can do
  - o in the case of death, benefits to workers' families

Workers have a right to Workers' Compensation whether or not they are employment-authorized. If their employer has not covered them with workers' compensation, he or she can be sued in a civil suit to collect damages for injuries suffered by a worker. Unfortunately, the Workers' Compensation system does not work very well and workers will need to expect to wait a long time to receive benefits if their employer contests their claim.

2. Workers who are injured on the job should get the medical help they need even if they are not sure about the process by which the bills will be paid. Workers cannot wait until all insurance company wranglings are resolved before getting good medical care. They also should take charge of their own care. Even if an employer offers to pay for a doctor's care, the worker must determine whether that care is adequate and refuse to have his or her medical care discontinued because the employer says he or she won't pay any more bills. Workers' Compensation Insurance carriers often contest workers' claims for benefits.
3. Workers' Compensation may pay for a vocational rehabilitation counselor to help a worker who cannot work in their usual job to develop the skills they need to find a different kind of work they can do. Again, an injured worker has the right to effective help in planning retraining, for example, to speak with a counselor who speaks Spanish, if the worker does not know English well, and who will discuss carefully with them the difficult issue of finding a new kind of work -- how long it will take, and how best to develop new skills.
4. There are often problems in getting Workers' Compensation insurance carriers to pay for benefits. If problems appear, workers will probably need to obtain legal help. Free legal services offices are prohibited from helping with Workers' Compensation claims but many private attorneys will represent Workers' Compensation claimants without charging up front. Workers should choose their attorney very carefully. The most difficulties are found when a worker suffers an illness or disability that may be job-related but which has other causes also, e.g., back problems and where medical experts may disagree about the causes or seriousness of the disability.

## **Off-The-Job Injuries Or Illness**

5. State Disability Insurance provides workers with benefits to help them if they cannot work due to an off-the-job illness or injury. Unlike workers' compensation, workers who are not employment-authorized cannot receive disability benefits. There is a waiting period of one week before State Disability Insurance begins to pay benefits. So short-term illness is not covered. However, if a worker's illness or injury leaves them disabled for more than 14 days, the waiting period is waived. Also, if the illness or injury was serious enough that the person needed to be hospitalized, the first week may be covered (if the disability lasts at least seven days). At the other end, disability insurance coverage cannot provide a worker with support for more than one year. To apply for disability insurance, a worker must file a claim with the Employment Development Department. The claim application requires a doctor's statement about the illness or injury.
6. State Disability Insurance provides benefits even for pregnancy or childbirth-related conditions which keep a worker from working. As with illnesses and injuries, a pregnant woman or recent mother must provide a doctor's statement.

## **Serious Or Permanent Disability**

7. Vocational Rehabilitation is available from the California Department of Rehabilitation. If a worker is permanently disabled by an off-the-job health problem or if they cannot collect Workers' Compensation insurance, there is a free state program providing rehabilitation -- both treatment for medical conditions and worker retraining. Getting service from the program is difficult, as it is not well-funded.
8. Social Security provides ongoing support for seriously disabled workers. Qualifying for Social Security Administration disability benefits is not easy and workers should be prepared to deal patiently with the process. However, Social Security payments, once received, can provide crucial income support for disabled workers.

## **Sample Learning Activities**

1. Discuss the costs of treating different kinds of on the job injury, e.g. injured back, smashed finger.
2. Discuss ambiguous cases of on-the-job injuries or off-the-job injuries, e.g. carpenters delivering a ladder back to the main office after work is done at a construction site.
3. Invite a Workers' Compensation claimant's attorney to discuss the main reasons why worker claims are denied and how the process works.
4. Survey the class to see how many class members would have qualified for Disability Insurance to cover periods of disability during the previous year. Did those who were eligible apply for benefits? If so, did they receive them. What was the process? If not, why didn't they receive benefits?
5. Invite a representative from the local Employment Development Department to talk with the class about Disability Insurance or a representative from the Department of Rehabilitation to talk about vocational rehabilitation services. Be sure the representatives cover the main problems experienced by people seeking assistance.

## **Resources List**

California Disability Insurance Pamphlet and Application

### **Commercial ESL Textbooks**

- ESL for Action, Addison-Wesley  
Unit 6, Acting for Health and Safety
- More Than a Job, Readings on Work and Society, New Readers Press

- The Battle for Farmworkers' Rights  
Book, Audiotape and Teacher's Guide
- Speaking Up at Work, Oxford University Press  
Unit 7, Section 3, Understanding Benefits  
Unit 8, Section 3, Understanding Health Insurance
  - The Working Culture, Career Development for New Americans, Book 2, Prentice Hall Regents  
Part 3, Economic and Legal Awareness: Chapter 11, Work Hours, Pay, Deductions, and Benefits  
Part 3, Economic and Legal Awareness: Chapter 12, Laws That Protect Workers
  - Workplace Dynamics, SLRC Library  
Unit 15, Job Safety
  - Writing for the World of Work, Educational Design, Inc.  
Unit 2, Starting the Job  
LAES
  - Ed Kissam "Tierra de Oportunidad" - Module 5p.  
Support Systems For Injured Workers
  - Pais Desconocido Curriculum - Work and Career Planning Module 1
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