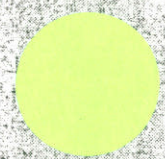


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# The Effects of Removing a Statutory Barrier to Workers' Compensation for Farm Workers

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## ABSTRACT

In 1983 the Washington State Supreme Court ruled unconstitutional a unique exemption that excluded farm workers from workers' compensation if they had not earned \$150 in continuous work with the same employer. In order to examine the effect of removing this restriction, workers' compensation data were analyzed to examine the number of farm workers covered, the number of claims submitted, and claim acceptance rates before and after the ruling. Although the 1983 ruling appears to have had a significant impact on the treatment of claims, no increase in utilization of the workers' compensation system was observed. Further intervention is required if the objective of treating farm workers equitably is to be realized. (*Am J Public Health*. 1991;81:1659-1660)

### Introduction

Differential treatment by government regulatory agencies has contributed to the plight of farm workers.<sup>1-3</sup> Even in cases where agencies have been mandated to treat farm workers equitably, enforcement is hampered by the lack of staff with training in farm hazards and fluency in Spanish, the seasonal nature of agriculture, and the difficulty in reaching widely scattered and often remote work places. Farm workers have also received differential treatment in regard to workers compensation, and many states still do not cover farm workers.<sup>4</sup> In Washington State prior to 1984, agricultural workers were exempted from coverage if they had not earned \$150 in continuous employment with the same employer. Because of this exclusion, farm worker advocates estimate that at any time 20% to 40% of farm workers were ineligible for compensation because of the pattern of frequently changing and intermittent employment and the employers' awareness of this liability caveat. In September of 1983, 7 years after it was legally challenged, the Washington State Supreme Court ruled that the exemption was unconstitutional because it denied equal protection to farm workers by infringing on their right to travel. In October of that same year the state complied with this ruling and began universal coverage for farm workers.

The objective of this study was to explore the effect of the 1983 Washington State Supreme Court ruling expanding farm worker coverage under the state's compensation system.

### Methods

The Washington (State) Department of Labor and Industries supplied the investigators with computer tapes containing data on all claims filed in Washington between January 1, 1982, and December 31, 1986. Workers' compensation coverage, utilization of the system, and treatment of farm worker claims were examined before and after the Washington State Supreme Court ruling. Using hours sub-

mitted to the state by agricultural employers for billing purposes, the number of full-time equivalent (FTE) agricultural workers was estimated in order to evaluate trends in the number of workers theoretically covered. Two occupational groups were used for comparison: farmers and farm managers (1980 US Census codes 473-477) and unskilled or semi-skilled blue collar workers (703-889).

### Results

The number of FTE agricultural workers covered by the system based on premiums paid remained relatively stable during the 5-year period (Table 1). Approximately 2000 more agricultural workers were covered in 1984 than in 1983, a 7% increase. The number of both submitted and accepted farm worker claims peaked in 1983 and declined in each succeeding year. There were fewer claims filed in the last quarter of 1983 (1487) than in the same quarter of either the preceding (1604) or following (1644) years, indicating that the 1983 figures were not distorted by a flood of claims submitted following the Washington State Supreme Court ruling.

Table 2 presents the rejection rates for claims made by farm workers, farmers and farm supervisors, and unskilled blue collar workers insured by the workers' compensation state fund during the study period. The claim rejection rate for farm workers relative to unskilled blue collar workers was 1.69 in 1982 (95% confidence interval [CI] = 1.49-1.92) and 1.47 in 1983 (CI = 1.28-1.68), while the relative rate was 1.06 in 1984 (CI = 0.92-1.22) and

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**TABLE 1—Farm Worker Claims and Estimates of Population at Risk: Washington State, 1982 to 1986**

	1982	1983	1984	1985	1986
Claims submitted	6261	6435	6361	5356	5038
rate/1000 person-years	221.7	225.4	208.1	186.4	161.6
Claims accepted	5795	6063	6065	5108	4671
rate/1000 person-years	205.2	212.4	198.5	177.7	149.8
Agricultural workers <sup>a</sup>	28 238	28 544	30 560	28 738	31 185

<sup>a</sup>Total hours submitted for billing purposes divided by 2000 for farms, orchards, nurseries, cultivating florists, dairy farms, and livestock and poultry raising.

**TABLE 2—Rejection Rates for Farm Workers and Other Occupational Groups: Washington State, 1982 to 1986<sup>a</sup>**

Occupational Group	1982	1983	1984	1985	1986
Farm workers	7.4	5.7	4.6	4.6	7.2
Farmers and farm supervisors	4.7	3.9	3.9	3.5	6.3
Unskilled blue collar workers	4.4	4.0	4.4	4.7	7.5

<sup>a</sup>All figures are percentages.

similar in succeeding years. Of note, the rejection rate for all groups increased dramatically in 1986.

### Discussion

We found a substantial increase in the acceptance of claims filed by farm workers following a judicial ruling that resulted in the removal of a statutory restriction unique to workers in this sector. This increase suggests that the compensation caveat had been a critical factor in rejecting otherwise compensable claims. While this change in the administrative management of farm worker claims is likely the result, and certainly one of the intended benefits, of the Washington State Supreme Court ruling, the limited impact of the ruling on other aspects of workers' compensation is surprising. Unfortunately, although there are indications that coverage of farm workers—in the form of premiums paid by agricultural employers—may have increased slightly after the ruling, utilization of the system

does not appear to have increased and indeed claim rates actually decreased in subsequent years.

These trends occurred in spite of the fact that after the ruling the Department of Labor and Industries issued press releases statewide informing all employers then paying premiums. In addition, substantial fines continue to be levied against an employer if a claim is filed and no workers' compensation premiums have been paid. It is possible that farm worker advocates overestimated the effect of the \$150 exclusion in inhibiting the filing of claims, but there are many other potential barriers to workers' compensation that were not addressed by the ruling. These include the lack of knowledge of legal rights, of access to health care, of US citizenship, and fluency in the English language.

An inherent limitation of this study is the absence of reliable estimates of the number of farm workers in the state during the study period. Because the number of farm workers may fluctuate from year to year based on weather and market condi-

tions, an independent indicator of the true number of farm workers would have been a useful benchmark against which to measure coverage based on premiums paid. Unfortunately, there is no agency that regularly collects this information. The state OSHA agency (WISHA) does make estimates of the workers in agricultural production on farms with 11 or more employees based on surveys of random samples of employers.<sup>5,6</sup> Using these data as a relative indicator of the true number of farm workers in the state, the ratio of workers' compensation to WISHA estimates was calculated. The ratio was 1.06 in 1982 vs 1.08 in 1986. These figures indicate that there was little difference between the two years in the way employers submitted hours for billing purposes.

If the state is to fulfill its commitment to treat farm workers in the same way as other workers, additional interventions are needed, including informing farm workers directly of their rights and protection under the law. □

### Acknowledgments

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