

THE EFFECT OF ELIMINATING COMPENSATION

After the introduction of a no-fault insurance system in Saskatchewan, there was a 28 percent reduction in the incidence of whiplash claims, and the median time to the closure of claims was reduced by more than 200 days. This decrease occurred despite increases in the number of vehicle-damage claims and the number of kilometers driven. Large reductions in whiplash claims also occurred in the State of Victoria, Australia, after introduction of legislation limiting court actions and compensation for whiplash. The explanations are not clear, but the decision to make a claim for whiplash could involve many factors beyond medical need, including financial gain and the desire for retribution. There is some evidence that whiplash injury is less of a problem in jurisdictions where there is little expectation of symptoms, disability, or compensation and where the involvement of health care providers is minimal.

We also found that claims were closed faster under the no-fault system than under the tort system, even though both the distribution and the severity of baseline symptoms were similar under the two systems. There was a strong and consistent association between the time to the closure of claims and the indicators of recovery from the injury. A lower level of pain, a higher level of physical functioning, and the absence of depression were strongly associated with a shorter time to closure under both the tort and the no-fault systems. Not only did fewer persons file claims for whiplash injury under the no-fault system, but those who did recovered faster than similar claimants under the tort system.

Our findings confirm that providing compensation for pain and suffering after a whiplash injury increases the frequency of claims for compensation and delays the closure of claims and recovery. Under a tort system, claims are filed in a potentially adversarial environment that can promote the persistence of symptoms in claimants. In the course of proving that their pain is real, claimants may encounter conflicting medical opinions, unsuccessful therapies, and legal advice to document their suffering and disability. In the United States, excess use of medical services for traffic injuries (mostly strains and sprains) in response to incentives under a tort system is estimated to have accounted for about \$4 billion of health care resources in 1993. Under the no-fault system, there is no financial incentive to delay recovery, since claimants have immediate access to medical care and other benefits without being required to substantiate their injuries.

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