Those Who Don't Return: Improving Efforts to Address Tuberculosis Among Former Miners in Southern Africa

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Appendix A: Brief review of ODIMWA and COIDA

This brief overview highlights several main issues surrounding compensation, although it is not intended to provide an in-depth evaluation of compensation mechanisms. The South African legal framework for compensating occupational lung disease among current and former miners is outlined in the Occupational Diseases in Mines and Works Act (ODIMWA). The current ODIMWA legislation was written in 1973 and amended in 2002; it focuses solely on the compensation for occupational lung diseases among miners. Meanwhile, compensation for occupational lung diseases among all other, non-mining occupations are covered under the Compensation for Occupational Injuries and Diseases Act (COIDA). Miners are also covered under COIDA for injuries and occupational diseases other than lung diseases. Although ODIMWA is the primary focus of this paper, it is important to note that several key inequalities exist when seeking compensation for occupational lung disease through the two legal frameworks.

Differences between ODIMWA and COIDA are summarized in Table S1, which highlights the various definitions of lung function impairment among living current and former miners and mechanisms for payment among workers covered under the two schemes (as of October 2018).[1] In addition to varying definitions of lung disease, COIDA largely works through a pension system, whereas ODIMWA pays in a lump sum regardless of experience, salary, or position.

Lump sum payments, however, are discouraged by the International Labor Organization (ILO), as they generally fail to result in long-term support of families of disabled workers and entrench poverty among the former mining population. Thus, as opposed to COIDA, ODIMWA is non-compliant with international norms and standards.[2]

Table S1: COIDA and ODIMWA definitions relative to lung functionimpairment[2, 10, 11]

	ODIMWA	**COIDA**
No functional impairment*	N/A (No compensation)	Impairment in the absence of lung function test changes (up to 30% permanent disability paid in lump sum equal to 15x monthly earnings)
Mild Impairment	<10% impairment (No Compensation)	10-25% impairment (40% permanent disability paid as pension, depending on salary)
Moderate Impairment	10-40% impairment (First degree compensation paid as lump sum of R63,100, does not depend on salary)	26-50% impairment (70% permanent disability paid as pension, depending on salary)
Severe Impairment	>40% impairment requiring radiological confirmation (Second degree compensation paid as lump sum of R140,506, does not depend on salary)	51-100% impairment, no radiological confirmation required (100% of permanent disability paid as pension, depending on salary)

*COIDA guidelines include compensation for presence of disease with no lung function impairment; ODIMWA does not.

One of the largest challenges regarding ODIMWA is the complicated certification and claim process for miners suffering from compensable lung disease. The full claimant process is described in detail in Figure 1. Even with the addition of "One-Stop Service Centers" aimed at facilitating the claims, the process is still so arduous that many miners are simply unable to

navigate it. Many miners and their families lack the financial means to complete the process, nor have they been thoroughly educated on their rights to compensation. As a result, very few miners initiate this process, and those who do rarely receive the full funds to which they are entitled. A 2010 study by Maiphetlho and Ehrlich[3] traced the claims of ninety former gold mineworkers reporting to the Occupational Disease Clinic at Groote Schuur Hospital from 1992 to 2005. Even though these claims were reported to a specialist clinic within South Africa with resources dedicated specifically to both radiological confirmation and ODIMWA compensation claims, only seventeen of the ninety clinically eligible cases of occupational lung disease were paid compensation, and those who were paid had a median time of four years spent waiting to receive their compensation—far too long to provide any relevant support for a current case of TB. Moreover, this study went on to show that the inefficiency in the compensation process was worsening: between the time periods of 1993 to 2000 and 2001 to 2005, success rates decreased while delays in responses from the Medical Bureau for Occupational Disease (MBOD) and the Compensation Commissioner for Occupational Diseases (CCOD) increased. Given the specialization of the clinic in this study, these results likely overestimate the overall success rate; indeed, a 2005 Deloitte audit estimated that only four hundred of the 28,161 miners (1.4 percent) seeking funds actually received their compensation and concluded that the compensation fund was insolvent.[4]

From 2017 to 2018, there was a decrease in Medical Benefit Examinations (MBEs) for claiming compensation, and only 9,769 claims were filed (of which 6,156 were deemed compensable).[5] One-Stop Service Centers in Mthatha and Carletonville submitted a total of only 524 and 752 claims, respectively.[5] While exact statistics are difficult to determine, in 2006 the South African mining company AngloGold Ashanti estimated that approximately one million

people have left the gold mining industry over the past twenty years and that former miners, "may not have been diagnosed as suffering from the disease at the time that they left the industry or later, in retirement, and they may not have received due compensation from the Compensation Commissioner."[6] Older research suggests that roughly half a million former mineworkers needed evaluation.[7-9]

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