Since the economic crisis of 2008, I have been predicting that North Carolina politicians would declare a 'crisis' over the cost of workers' compensation claims for State employees, teachers, and school-bus drivers. (Currently, the State is responsible for the workplace injury claims of all these groups.) I have also predicted that these same politicians would blame 'fraud' and 'greedy personal injury lawyers' for the so-called crisis.

Based on recent comments from Governor McCrory it looks like my predictions will, unfortunately, prove accurate. Governor McCrory cited the 'budget-straining' costs of workers' compensation claims as the reason for his plan to shift the responsibility for teachers’ and bus drivers’ claims from the State to the counties. From the website WITN.com:

> The governor was in Greenville on Wednesday and defended the proposed changes. He says worker's compensation is straining budgets statewide.
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> McCrory contends that placing worker's comp in the hands of local districts will allow for better supervision of the program.
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> 'We've got to have local control of workman's comp, so we get control of those costs that are busting all budgets at this point in time,' says McCrory. 'The dilemma I have is that at the local level, the governor has no authority to enforce fraud of workmen's comp.'

The clear implication of the governor's comments is that State workers' compensation costs are high because of fraudulent claims. This is nonsense. If there is a crisis in the cost of State workers' compensation claims, the State alone is to blame. Because of short-sighted and ineffective risk management practices, the State is unable to control costs by closing cases.

In the private arena, insurance companies eliminate the future cost of claims by settling them on a compromise basis. Typically, if an injured worker is hurt so badly that she cannot return to her pre-injury job, the insurance company will settle the claim by paying a lump sum that includes some money for future lost wages, future medical expenses, and permanent injury. These settlements are always on a compromise basis, and they allow the insurance company to avoid long-term and costly liability for the claim.

In managing its workers' compensation claims, the State does not follow this model. Rather than being concerned about the long-term costs of a claim, agency risk managers focus only on their annual budgets. Under this "annual budget" model, a State agency can afford to pay weekly disability checks, but often cannot afford to pay the lump sum necessary to settle the claim. As a result, the claims stay open – sometimes for years – and ultimately cost the State more money than settlement would have. Until the State reforms these abysmal risk management practices, it will not be able to control its workers' compensation costs.

Before drafting this post, I checked my case list, and I currently have seventeen open claims for State employees. One of them dates back to 2005, another to 2006, two more to 2008. These claims involve serious injuries, and the State is paying weekly benefits in all of them. I have tried many times to settle these cases, but without success. On more than one occasion, my client and I have attended a settlement conference with the State, only to be told by the State's attorney that they would offer no money at all toward settlement. None. So instead of closing claims on a compromise basis, and thereby reducing costs, the State continues to pay these claims for years. The State's failure to settle these claims costs taxpayers more in the long run.

My hope is that Governor McCrory and the politicians on Jones Street will save taxpayers money by addressing the real problem of the State's poor risk management policies. State agencies have to get away from the 'annual budget' outlook and instead consider the long-term costs to the State of leaving claims open. This reform won't happen if the governor insists on wrongly scape-goating injured workers.
