

These claims managers have the authority to respond to protests, and provide medical care and benefits in accordance with L&I policy and the law.

7. Even with the Bilingual Claims Unit, Spanish-speaking farm workers had substantially greater problems than most workers did in receiving the compensation to which they were entitled. But we were able to resolve many problems for those workers who were able to reach us and provide many people with information on how to navigate the workers' compensation system.
8. I am informed that L&I has decided to eliminate two Bilingual Unit claims manager positions and one supervisor position in the Unit. In addition, Kennewick no longer has a Bilingual Claims Unit claims manager, and the bilingual claims manager in Wenatchee is no longer taking new claims. This is very unfortunate given that the rapidly growing Hispanic population in our area is generating an even greater need for Bilingual Claims Unit services.
9. I am also informed that the Bilingual Claims Unit now does very little outreach to the farm worker community. Unit members who had performed outreach have now been given other duties; and the manager of the Unit is no longer bilingual.
10. Since 1999, L&I has had a goal of cutting workers' compensation time loss payments by 7 ½% because of budgetary concerns. This policy has had a disproportionate negative impact on Spanish-speaking farm workers who are less aware of their rights and have difficulty with the protest and appeals process. My experience with the policy is that it has resulted in many claims being closed prematurely and that protests of claims have increased dramatically. Dealing with protests has not been a priority

for L&I, and workers with legitimate claims have gone for six months or longer without funds for medical care and without needed compensation.

11. Farm workers who have workers' compensation claims related to pesticide exposure have had particularly serious problems with their claims. L&I rejects a very high percentage of these claims. The Bilingual Claims Unit does not handle these claims; a special unit in Olympia called the Chemically Related Illness Unit handles them. It would be helpful to farm workers if the Bilingual Claims Unit could help them with pesticide claims.
12. In my experience, farm workers have had a great deal of difficulty enforcing their rights to return to work under the "light duty" provisions. Workers often told me that employers ignore the light duty restrictions imposed by the doctors, and that the workers are afraid to try to enforce their rights for fear of losing their jobs.
13. L&I needs to do a better job educating employers, doctors and workers about the light duty system and other rights and responsibilities under the workers' compensation system.
14. L&I also needs to do a better job of enforcing workers' right to be free from retaliation for asserting their rights under the law. These retaliation cases are difficult to prove because it is easy for an employer to give another reason that the employee was fired. Unless L&I invests the resources to pursue retaliation cases and sees this as a priority for making the system work, retaliation will continue to be a serious problem.
15. L&I has provided unclear guidance on implementing state law on determining benefits for exclusively seasonal and intermittent workers. As a result, a substantial

number of workers have not received the compensation to which they are entitled.

L&I should provide specific rules and guidelines to help claims managers calculate wages and benefits according to the law.

16. The difficulties faced by Spanish-speaking workers in dealing with the workers' compensation system are further aggravated because they receive most notices only in English and they do not understand their rights and responsibilities. The workers' compensation claim form should have a place where the worker's primary language is identified. Given the many workers who speak Spanish in our state, L&I should be able to translate the orders and notices into Spanish.

17. I hope that L&I seizes the opportunity that this forum presents to understand the problems that farm workers face with the workers' compensation system and improve their access to the system. Even though there are budgetary constraints, L&I should restructure the duties of existing staff to meet the needs of the community.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.



Nelda Gastelum

Date: 7/30/01

City and State: Seagraves, WA