Miners' compensation

Who cares?

Dr Alistair Calver has long experience of working in a mine medical service. He clearly understands the requirements of the Occupational Diseases in Mines and Works Act, yet it still takes miners years to access compensation. He looks at why this is the case.

I have spent 21 years providing specialist health care in a mine medical service so I bring a wealth of experience with problems that exist for patients and their families, with their understanding of the issues, and with bureaucracy and laws that surround occupational lung disease and compensation.

Firstly, there are two Acts dealing with occupational lung disease in the mines namely: The Occupational Diseases in Mines and Works Act (ODWMA) and the Compensation for Occupational Injuries and Diseases Act (COIDA).

ODMWA covers the mines that are classified as Controlled Mines and Works, and Coida covers all other mines. There are important differences in the Acts, but the assessments for both are carried out by the committee that sits at the Medical Bureau for Occupational Diseases (MBOD) in Johannesburg. The decisions of the committee are then sent to the respective compensation commissioners. The MBOD falls under the Department of Health, and the Department of Labour oversees the COIDA offices.

Having worked in a 'controlled' mine my experience rests with patients who fall under ODWMA, presided over by MBOD. Prior to March 1994 ODWMA compensated mine employees who were diagnosed with occupational tuberculosis whether they suffered permanent damage to their lungs or not. This was grossly unfair as the patient who suffered damaged lungs would get the same compensation as a patient who had no lung damage after TB treatment. This was corrected with the amendment of 1993 and from that time compensation payment is based on the degree of permanent disability resulting from the tuberculosis.

Disability under ODWMA is assessed by the MBOD who decide whether the damage to the miner's lungs falls into first or second degree disability, or no disability for which no compensation is payable.

MBOD also make an assessment as to whether compensation for loss of earnings is payable to the employee. Disability compensation is based on a Benefit Medical Examination (BME) document provided by a medical practitioner accompanied by supportive information such as the results of lung function tests and chest x-rays.

In addition, employee identification has to be complete and accurate with the provision of copies of identity documents or passports and the employee's finger prints. These must be accompanied by documents from the employer certifying the occupational history of the employee. Benefit examinations can also be performed at the MBOD by their staff.

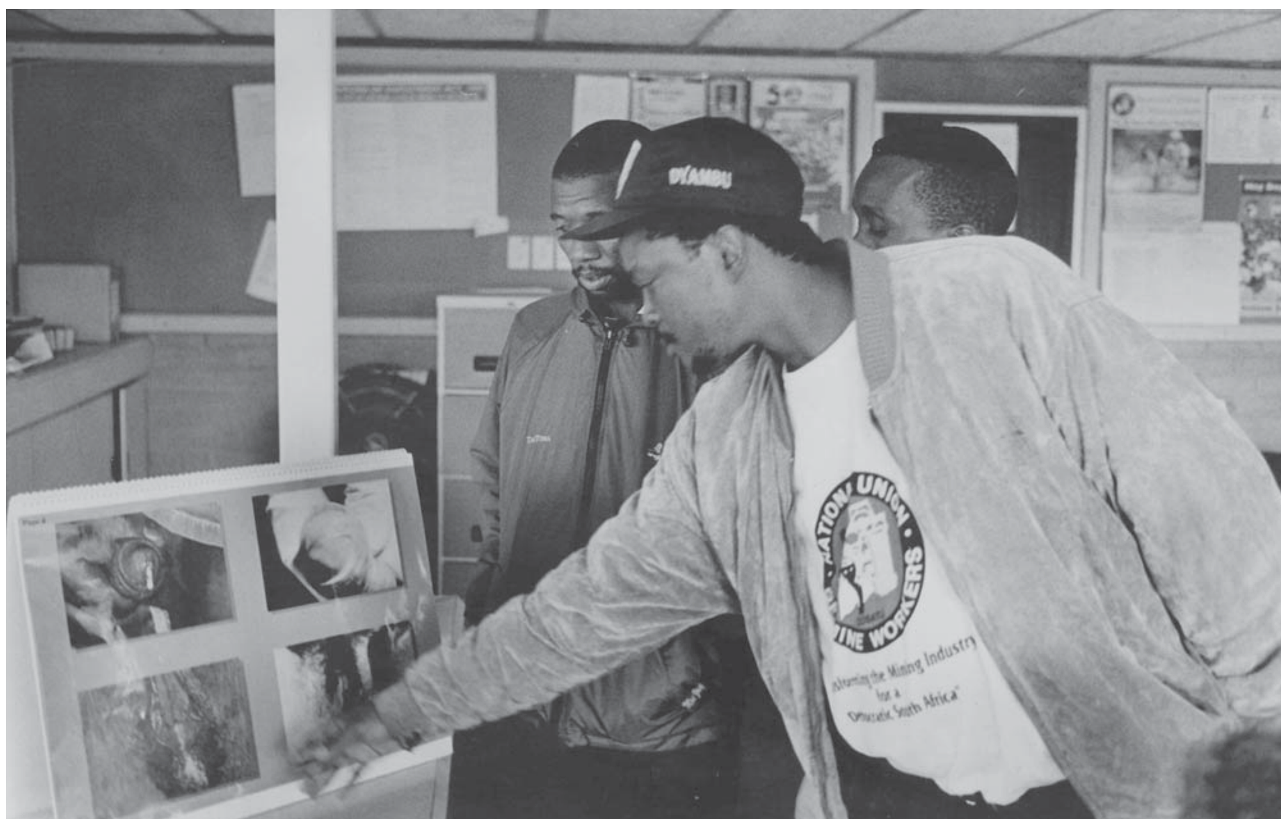
PROBLEMS FACED BY DOCTORS

As a doctor beginning a career in the mining industry, it took me some years before I fully understood the mining industry, the employees, their various categories of work and the importance of completing the benefit examination forms correctly with the detail that would allow the MBOD to assess cases correctly.

The topic of form completion for compensation examinations was not handled at university, so I feel sorry for private practitioners who have to complete the documentation under ODWMA, but who have no idea about the workings of mines, what mine employees do at work, and no knowledge of the Acts or consequences of the benefit examination. Incorrectly or incompletely prepared documents are referred back by the MBOD which unnecessarily delays the process. A handbook from the MBOD educating the medical fraternity would be of significant value.

PROBLEMS FACED BY PATIENTS

Many employees have little or no understanding of the processes that lead to occupational lung disease,



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their consequences, how to protect themselves from the conditions, the mechanisms of compensation, the Acts that apply, and what their rights and responsibilities are. This coupled with a high level of misinformation and complicated by low education levels amongst miners is a recipe for confusion and frustration.

The biggest source of frustration for the employee is the extreme delay with payments for loss of earnings and compensation where due. Delays can vary from two to five years. Many employees leave the industry due to second degree occupational lung disease and end up at home with no income, and compensation some years away. The delays lead to socio-economic hardship for miners and their dependants. This turns into frustration and anger when the ex-employee arrives on our doorstep seeking his compensation.

Over the last ten years an unacceptable delay has developed between the notification of the MBOD, to certification, to final compensation payout. The severity of delays is so great that we inform employees and counsel them that there is little point in making enquiries within the first 18 months.

Where do these delays occur? Collation of all documents should be completed within a month. Often documents did not arrive at the MBOD, so our company stopped relying on the postal service and used a courier service. We know the date and time of arrival and who signed for them at the MBOD.

However there are still instances, all too frequent, where a phone call enquiry results in the answer that they do not have the documents. On arrival at the MBOD a clerk goes through the documents and decides whether to prepare and forward the documents to the next stage. Only recently we realised that this person was incorrectly discarding some submissions due to a lack of understanding of the two-year rule that applies to the frequency of benefit examinations under ODMWA. This has resulted in duplication of document preparation and medical examinations.

For ex-miners this means they return some time after leaving the mine to check on their compensation, that we both think is in process, only to find we have had to start from the beginning again. This is not good news for an ex-miner with no income. Happily, I am assured by a senior member of the MBOD that this is a thing of the past and their clerical staff have been educated. But I wonder how many other ex-miners this applies to who are waiting for compensation?

Under ODMWA compensation for loss of earnings is paid to employees suffering from occupational lung disease, provided they have not been certified as second degree. The Act states that 75% of lost pay will be paid to the employee to a maximum of six months.

What the Act doesn't say is that you can't apply for loss of earnings until the MBOD committee has certified the employee to be suffering from a compensable

disease. This can take two years or more from the time the doctor reports the condition to the MBOD. *Why so long? Of what help is* this *for the employee who has lost earnings?*

The employee needs this money at the time he is suffering from the disease. I have patients coming to say their children have to leave school as he is unable to pay fees, furniture has been repossessed because people can't meet monthly payments, families have no food, they are unable to buy clothes. The stories of hardship go on and on.

Twenty years ago we received certification documents from the MBOD within three to four months of submission. What is the cause of the delay? It is computers we are often told, but rather is it inefficiency and lack of accountability.

A possible source of delay is the assessment of fingerprints to confirm identity and ensure that submissions are not processed more than once under different names. This is important to prevent fraudulent claims and takes time to complete. Resourcing this aspect of the process would definitely improve turn around time.

PROBLEMS FACED BY RELATIVES

Relatives face significant problems in the event of the death of an ex-miner at home.

For a proper assessment of compensation the heart and lungs of the deceased miner should be removed soon after death, and sent to the National Institute for Occupational Health in Johannesburg, where they are examined to determine the presence or absence of occupational lung disease. The facilities to perform this function do not exist in rural South Africa, Lesotho, Swaziland, Mozambique, and Botswana from where the majority of miners come. As a result miners' families may miss out on compensation money.

Some relatives make the long journey to the MBOD in Johannesburg where they get a letter and are told to go to the deceased relative's mine and obtain a Medical Report, copies of the last chest x-ray and employment histories. These we supply and send to the MBOD to make a decision on whether compensation is due to the family.

I remember a 15-year-old school girl who arrived from Lesotho seeking compensation for her father who had died at home. Her mother had died a year earlier, she was the oldest member of the family and was trying to support her two younger brothers and a sister.

Someone at MBOD provided her with the letter and sent her to the mine to get information. But if the MBOD staff had taken time to look up the details of the deceased miner they would have seen that he was awarded second degree disability before he left the mine and long before his death, but had not been paid. They could have helped the daughter who was carrying the required documentation to complete the papers for compensation payment but instead she was sent on a wild goose chase.

We placed her in the care of a reliable NUM shop steward who took her back to the Compensation Commissioner's office and the process was put in place. A little effort by MBOD to check the information would have saved her travel costs to South Africa using her last few cents for no reason.

There needs to be a proper enquiry facility at MBOD where staff check for already available information.

PROBLEMS FACED BY EMPLOYERS AND ADMINISTRATORS

At the mine where I work we have a department dealing with administrative and documentation issues around compensation for occupational injuries and diseases. We have duplicate copies of all reporting that goes to MBOD. Daily we refer to the copies to make and answer queries. Thanks to computerisation we have the details of employees reported to the MBOD back to 1982.

Nowadays with the extreme backlog of MBOD cases, some going back four to five years, it is difficult to maintain accurate information. When employees arrive to check, a phone call to the MBOD can be very frustrating. If the person is at enquiries, then the computer system might be down. I wish I had a rand for every time we have heard that in the last ten years. Sometimes the enquiry person is in a meeting, at tea, or having lunch and we get told to phone after 2pm. MBOD does not understand the necessity of having someone on the enquiry desk at all times during working hours.

The MBOD and Compensation Commissioner for Occupational Diseases (CCOD) are service departments and they need to provide the best service to beneficiaries. Delays of two to four years for processing compensation is not acceptable in this modern era.

We are told that they are doing their best to catch up the backlog, but it is difficult to believe. I would like to see a management driven target for the MBOD and CCOD to eliminate backlogs within 12 months and action taken if the target is not met. Employees and their dependants are suffering financial hardship that no one at the MBOD seems to care about. LB