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The Miami Herald 

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McCLATCHY
EXCLUSIVE

Injured workers denied care

■ Injured undocumented workers often find themselves abandoned by their employers and without workers compensation because of their illegal status.

BY LIZ CHANDLER
McClatchy News Service

José Hernandez was good with a machete. So he was the top choice when his boss needed someone to chop down young trees that were choking parts of Florida's Everglades.

On one trip to the swamps, the workers flew in by helicopter and quickly cut a stand of sprouting trees. But when they took off again, something went wrong: The chopper lurched left, then plunged into murky water in Coral Springs.

A broken rotor blade slashed through Hernandez's left thigh.

Doctors saved his life but couldn't save his leg.

To pay for his costly medical care, Hernandez filed a workers' compensation claim, which covered some of his bills.

Then, the insurance carrier, Florida Citrus, Business & Industries Fund, discovered that Hernandez was in America illegally, without work papers or permission from federal immigration

*TURN TO WORKERS, 4E



TOM ERVIN/MCT
DISMISSED: Juan Palacios, 27, was denied workers comp.

COURTS

Immigrant struggles for rights

■ An immigrant man's struggle to win compensation for a workplace accident that left him partly disabled takes six years to settle in court.

BY LIZ CHANDLER
McClatchy News Service

TAMPICO, Mexico — People throughout this Mexican port city tell stories of fathers, sons and husbands who went to America to make their fortunes.

The stories vary, but their essence is the same: There's a shadowy border crossing, the purchase of phony work papers, then gritty, grueling jobs that pay glorioius amounts of money that almost immediately begins flowing back to this industrial region of 600,000 people.

But darker tales are also common: stories of men who came home battered and broken from doing America's dirty work. Men with no money, unable to work as they once did. Men who are burdens to the families they set out to support.

Hispanic and foreign-born workers are hurt and killed in the American workplace at rates higher than other groups largely because so many of them work in

*TURN TO COMPENSATION, 4E



10 WAYS TO TRIM YOUR INSURANCE BILL

BY BEATRICE E. GARCIA
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Debbie Roth Arthur was fuming when she got her State Farm renewal notice. Her annual premium tripled to nearly \$5,800 from \$1,900.

After the initial shock wore off, Arthur worked with her agent to reduce the premium to about \$3,500. Among the ways was raising her windstorm deductible from 2 percent to 5 percent and her property/casualty deductible from \$1,000 to \$5,000. She already had credits for shutters and fire alarms for her 1998 home in Kendall.

"Now the premium has just doubled, rather than tripled," says Arthur.

In recent weeks, South Florida insurance agents have been fielding desperate pleas from clients like Arthur who can't afford the huge bills arriving in their mailboxes.

There are steps homeowners can take to reduce their annual premiums, possibly by \$2,000 to \$3,000 if they qualify for all the credits offered by an insurer. Savings will vary greatly depending on the insurance company, policy type and insured value.

Besides raising deductibles, shedding riders for jewelry, fancy stereo equipment or detached structures such as fences and sheds can save substantial bucks. You could even part with replacement-cost coverage.

However, there is a price: Reduced coverage and much higher out-of-pocket expenses if your home is damaged in a catastrophe.

"Insurance is an individual thing. What's important to me may not be important to you. That's why you need to sit with your agent and review your policy," says Manny Miranda, a State Farm Florida agent in West Kendall.

Miranda adds homeowners should be sure they have access to savings or a home equity line of credit to cover such expenses.

"Basically, what we're doing is stripping away all the extra coverages from a policy," says Gaby Dominguez, an agent with Avante Insurance in West Miami-Dade. "We got used to all these bells and whistles when premiums were low."

If you are willing to take the risk by cutting back your protection, turn to Page 2E for 10 ways to trim your insurance bill.

THE INSURANCE CRISIS

- Click on Today's Extras on [MiamiHerald.com](#) for useful links, past coverage, letters from readers and businesses and much more about the insurance crisis.
- Keep us posted on your insurance problems. E-mail Nancy Dahlberg at ndahlberg@MiamiHerald.com.



PHIL BROOKER/
MIAMI HERALD ILLUSTRATION

HEALTHCARE

Seniors call for action against fraud

■ Many South Florida seniors complain they too have witnessed Medicare fraud and demand something be done.

BY JOHN DORSCHNER
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When Muriel Sherman, 81, decided to go to war against Medicare fraud, she found a lot of seniors who wanted to join her.

Her story, reported in The Miami Herald last month, has sparked a wave of responses from seniors with similar stories about their identities being used for widespread fraud that FBI officials estimate runs \$1 billion a year in South Florida alone.

Because their comments were so numerous and so intense, The Miami Herald has decided to open a forum on its website dedicated to healthcare fraud. (Go to [MiamiHerald.com](#) and click on Health).

The forum will consist of comments of seniors and others whose identities have been used, announcements from law enforcement and news reports. It will be updated frequently as developments occur.

"After I read this wonderful article, I went immediately to my summary notices, and I saw I too was a victim," wrote A. Friedman of North Dade in one of several dozen responses. "I'm very irate. I've already called Medicare... I got the phone number of the service that did the billing and I called. I got a recording in Spanish. I told them: 'I'm reporting you to the FBI and the Herald! You better stop this.'"

Phil Wall of Kendall had a suggestion: "Has anyone yet realized that Muriel Sherman, and thousands more seniors who are just as irked by what's going on, repre-

*TURN TO FRAUD, 8E

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McCLATCHY EXCLUSIVE

Lack of care 'an ugly secret'

*WORKERS, FROM 1E

officials. It halted all payments and left Hernandez to languish in a low-income nursing home in LaBelle, unable to work to support his wife and four children in Mexico.

Thousands of undocumented workers like Hernandez are hurt on the job every year in America, but don't get the compensation that's promised by law in every state.

Bosses often fire them, threaten them with deportation and commit an array of other misdeeds to avoid responsibility for workers' injuries. Some insurers refuse to pay their claims, citing reasons related to their illegal status.

As a result, injured workers often go without medical care or go to emergency rooms for treatment; taxpayers get stuck with the bills.

'A VIOLATION'

"It's a violation of the American spirit," said West Palm Beach lawyer Gerry Rosenthal, who represents Hernandez. "Employers are hiring these people and pushing them hard to make a profit for the company, but when a worker gets hurt, they abandon him."

From field hands to garment workers to construction crews, injuries abound in industries that rely on an estimated 7 million undocumented workers, often to do dirty and dangerous jobs. Yet those who are undocumented are frequently cheated out of benefits that American workers have taken for granted, a McClatchy News Service investigation has found.

Federal labor officials haven't studied whether undocumented workers are wrongfully being denied compensation. But the exploitation is rampant, according to interviews with scores of undocumented workers, employers, workers' comp lawyers, health-care providers and workplace experts and a review of lawsuits and workers' comp claims.

In one national study, university researchers surveyed 2,660 day laborers, most of them working illegally. One in five said he'd suffered a work injury. Among those who were hurt in the last year, 54 percent said they didn't receive the medical care they needed, and only 6 percent got workers' comp benefits.

FEW BATTLES WON

Employers in at least 20 states, arguing that their employees shouldn't receive injury benefits because they're undocumented immigrants, have fought and lost in courts and review boards. Among those employees were a California laborer who hurt his back lifting sacks of coffee, an Arizona auto mechanic who was hit in the eye by flying debris and a North Carolina construction worker who suffered a brain injury when he fell 30 feet onto a concrete floor.

Juan Palacios, a 27-year-old husband and father from Guatemala, was working on the roof of a home outside West Palm Beach in March when a co-worker accidentally splashed hot tar on him. Palacios fell 12 feet and smashed through a glass table and onto a tile floor. He was hospitalized for a week.

During that time, he heard nothing from his boss at Sunrise Roofing, in West Palm Beach.

"They don't care about me," Palacios said. "I feel bad because I can't work... That's why I'm here."

Sunrise confirmed that it had employed Palacios, but its insurance carrier, the Insurance Company of the Americas of Bradenton has refused to pay. It won't dis-



TOM ERVIN/MCT

LEFT BEHIND: While working in the Everglades, Jose Hernandez, 36, above, lost his leg in a helicopter accident. He filed for workers compensation but was denied when the insurance company discovered his illegal status. Mario, right, also working illegally, was burned by a commercial steam press and did not receive workers comp.



ABEL URIBE/MCT

cuss the denial but said in documents that "there is no employee/employer" relationship.

Palacios remains out of work. He's scarred and in need of skin grafts, he said. He relies on his roommates to feed and care for him, and he's received nothing from Sunrise.

DEATH RATES

The U.S. Department of Labor tracks workplace deaths and injuries, but officials haven't assessed how undocumented workers fare. The only hint is the climbing and disproportionate number of workplace deaths among Hispanic and foreign-born workers, which includes many of those who are working illegally.

Workplace safety programs also are failing these workers, as the number of inspections and the staffers to do them has declined. The nation's 2,300 inspectors check 1 percent of 7 million employers each year, and critics say fines are so low that risky operators consider them a cost of doing business.

"The regulators are rooted in paralysis," said insurance analyst Peter Rousmaniere, who has studied abuses of undocumented workers in a dozen states. "They don't want to acknowledge these workers exist — so, in effect, they are allowing them to be abused."

Workers' compensation is regulated by the states, but most simply offer review boards to settle disputes. Few states look for abuses of undocumented workers, and some adopt regulations that freeze undocumented workers out of injury benefits.

Florida recently rejected hundreds of workers' comp claims because they didn't include Social Security numbers, a procedure the state Supreme Court halted last year because the requirement violated privacy laws.

A few states — Florida, Michigan and Kansas — allow employers to limit benefits or fine injured workers who use phony Social Security numbers.

"What you have is 20th-century legal principles trying to catch up with the 21st-

century reality of a global workforce," said Bill Bear-dall, a lawyer and professor at the University of Texas at Austin.

"It takes time — and persistent injustice — for us to figure out that the old rules don't fit."

Workers' compensation is intended to protect labor and management. The deal is employers pay for injured workers' medical treatment, partial wages, disabilities and deaths, and employees can't sue if they get hurt.

STATE REQUIREMENTS

Every state requires such benefits, except Texas, which last year passed California to lead the country in workplace deaths of Hispanics. Workers' comp is optional in Texas, but companies must cover all employees — legal and illegal — if they opt for the insurance.

While some states exempt tiny businesses and certain agricultural and domestic workers, almost all other workers are promised protection.

But employers have incentives to cover up injuries. Accidents drive up insurance costs and can attract investigators. And intimidation tactics work best against employees who speak little English, don't know their rights and fear the threat of deportation.

"They are terrified of getting fired or being deported," said Nan Lashay, an assistant clinical professor and occupational health expert at the University of California, San Francisco. "There's a lot of pressure. Some of them have families who are literally on the verge of starvation ... You can make here in a day what you make in a week in Mexico. And if you're deported, it can be extremely difficult to get back into the U.S."

Examples of abuse are widespread:

- In Boston, when a Brazilian restaurant worker stabbed his hand with a knife, his supervisor, acting as translator, told doctors the injury happened at home, legal advocates said.
- At a Mississippi poultry plant, bosses questioned

Some companies — particularly in competitive and dangerous industries — seek to gain an edge by hiring undocumented workers and then cheating them on pay and injury benefits.

"It's a toxic cocktail," said insurance analyst Rousmaniere. "You have employers who have great incentive to cheat workers, and you have large numbers of illegal workers who will accept lower labor standards. It's causing our safety standards to erode — and that hurts

legal workers, too."

One employers' trick is to go without workers' comp insurance.

Investigators say that kind of fraud is far more common than the much-publicized cases of workers who fake injuries. Offenders typically are small companies in high-risk pursuits, in which annual insurance premiums can cost 50 percent or more of a company's payroll. On average, companies pay about 1 percent of payroll toward premiums.

INSURANCE COSTS

Employers also lie on payroll records about their size and job risks to keep insurance costs down, which can leave workers without injury coverage.

It was the insurance company, not the boss, that blocked benefits for Jose Hernandez. Adjusters for Florida Citrus, Business & Industries Fund began digging into his background on the day he lost his leg to the helicopter blade.

They quizzed his employer, Linda Rojas.

What's his history? What documents had he provided when he was hired?

"They kind of bounded me to say things about him that weren't up to par," Rojas recalled. But "I wasn't going to say anything bad... He was an excellent employee."

She didn't argue. Rojas said she had mixed feelings. Hernandez deserved compensation because he was maimed for life, but she wasn't sure that an illegal worker should be entitled to benefits. So she left things to her insurer.

Florida Citrus declined to discuss the case, but in its denial, the insurer charged that Hernandez violated state law by making "false" or "fraudulent" statements about his identity.

When Rojas hired him, Hernandez presented a Social Security card he bought in North Carolina. He'd picked strawberries there, and before that, he'd planted shrubs in Kansas City, cut pines in Washington state and picked grapes in California, living and working in the United States periodically for more than a decade.

"The 'false' statements Jose Hernandez made to get a job have nothing to do with his injury," said lawyer Rosenthal, of West Palm Beach.

"This man was almost killed working for an American company. Isn't it right to compensate him?"

Florida Citrus settled the case for an undisclosed amount, but Hernandez remains in the Florida nursing home getting treatment, waiting to return to Mexico.

His girls are 3 and 6, the boys 10 and 12. He hasn't seen them in three years.

"The important thing is that some money is there to take care of us," said Hernandez, 36. "I can't walk, but I'll keep trying to go forward. Thank God it didn't get my arm — with my hands I can do anything."

Rojas said she wasn't surprised when her insurer "dropped us like a hot rock" after Hernandez's injury. She paid double for a new policy and expects a price increase again this year.

She's not sure whether her company, Rojas Brothers Grove Service, can afford to stay open or find workers willing to wade into swamps to chop trees.

"Not everybody wants to do this kind of work," she said. "They're going into swampy areas where you've got snakes and alligators... It's rough work."

COURTS

Immigrant fights for his rights



JANET SCHWARTZ/MCT

INJURED: Francisco Ruiz shows a tracheotomy scar from the accident he suffered on the job.

*COMPENSATION, FROM 1E

dangerous industries that are hungry for cheap labor.

U.S. workers' compensation laws require most American companies to pay for injured workers' medical treatment, lost wages, disabilities and deaths, even if the employees are working illegally. But some unprincipled employers abandon their immigrant laborers. And many of their workers, unaware of their rights and unwilling to fight for benefits for fear of being deported, go home to their families to heal their injuries.

Francisco Ruiz is a Tam-pico native who decided to stay in America and fight.

He was partially paralyzed and brain damaged when he fell 30 feet at a construction site near Charlotte, N.C. His employer, the Belk Masonry Co., and its insurer refused to pay injury benefits because Ruiz was an "illegal alien."

But Ruiz wouldn't go home disabled, with no money and no way to earn it, to a wife and three children who depended on him.

RAISING A FAMILY

Francisco Ruiz never expected to leave Tampico.

The son of a tailor, he quit school in the eighth grade to drive a taxi, sell tacos and keep the grounds at a cemetery.

At 19, he married and did well enough driving a truck to build a home for his family.

But when the Mexican economy stalled in the mid-1990s, Ruiz lost his job.

He was 36 on the day in July 1997 when he woke up thinking: "There isn't enough for the children."

When he got to North Carolina, Ruiz bought a Social Security card for \$10. Soon, he was washing dishes at a sports bar, living with a friend and wiring money home.

Ruiz also sent home photos of himself looking thin but fit. On the back of one, he wrote to his 8-year-old daughter, Laura: "To my little girl, the most tiny and beautiful and pretty and exquisite and cute and endearing and darling baby... I love you so much."

On Aug. 21, 1997, Ruiz got a second job. The Belk Masonry Co. offered him \$300 a week to work as a laborer for a masonry crew. The boss checked his work papers but didn't call Social Security to verify his number.

Ruiz worked 12 hours a day, from 8 to 5 in construction, then from 7 to 11 washing dishes and cooking.

The routine lasted six weeks.

Ruiz still remembers nothing about Oct. 7, 1997.

30-FOOT FALL

The insurer said a crane hoisting Ruiz along with a load of bricks collapsed. He plunged at least 30 feet onto a concrete floor and was pelted with falling bricks.

He broke a rib and injured a kidney, and his right lung collapsed. He also hit his head on the floor, severely injuring his brain's frontal lobe, which controls language, memory and motor function.

Ruiz was in a coma, able to

*TURN TO COMPENSATION, 5E

(BLACK/TA)