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## Empowerment of injured claimants

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# Summary

Each year in the Netherlands, 50.000 people lodge a compensation claim arising from an accident. Previous research showed that claimants involved in a compensation process recover less well than those who do not lodge a claim. This means that the well-being of thousands of people is at stake. However, not much is known about this problem. The aim of this thesis is to (1) learn more about the effect of the compensation process on health, (2) investigate the causes of the negative effect on claimants' health and (3) examine whether claimants' well-being can be improved.

In the first chapter, an overview is presented of the empirical literature investigating the effect of compensation processes on claimants' health. The majority of studies report that injured claimants have poorer health than injured non-claimants. However, the design of these studies is subject to criticism. The overview also demonstrates which claim and non-claim factors are investigated in relation to this poorer health. These factors include e.g. fault versus no-fault based compensation schemes, the duration of the process, pending versus settled claims, and the impact of lawyers, insurance companies and medical experts. Other researchers suggest that the bigger health problems could be explained by, for example, greater severity of the injuries or more traumatic accidents. However, the research generally reports conflicting or insufficient evidence, making it difficult to draw a conclusion about the causes. Finally, it seems possible to improve the health of claimants by making the handling of compensation claims more efficient and client-friendly, as was shown by an Australian insurance company and a Dutch loss adjuster.

Chapter 2 describes a meta-analysis investigating whether the compensation process has a negative effect on mental health. Ten prospective cohort studies were

included. The first finding is that the compensation group already had more mental health complaints at baseline compared to the non-compensation group. A possible explanation could be that claimants have more severe injuries, experienced more traumatic accidents, or have a greater sense of blame towards the wrongdoer than injured people who do *not* claim compensation. However, the demographic variables described in the included studies did not provide strong support for any differences in demographic, accident or injury characteristics. Accordingly, the reason for the mental health difference between groups remains unclear. The second finding is that mental health between baseline and post measurement showed less improvement in the compensation group compared to the non-compensation group. Two possible explanations for this are that: 1) the claimants unconsciously do not recover from their injury as long as the compensation claim has not been settled, as the compensation amount is dependent on the severity of injury (secondary gain), or 2) recovery is hampered by the stress of the compensation process and the attitude of legal professionals (secondary victimisation). Based on this meta-analysis, no conclusion can be drawn about which explanation is right. The findings from the meta-analysis should be interpreted with caution because the overall quality of the ten included studies is limited.

In chapter 3, it was investigated whether claim factors can explain the negative effect of being involved in a compensation process on claimants' health. The sample consisted of 68,911 claimants who lodged a compensation claim at the Transport Accident Commission (TAC) in Victoria, Australia, between 2000 and 2005. The claim factors that were examined were (1) no-fault versus fault-based compensation schemes, (2) the number of independent medical assessments, and (3) legal disputes. Claimants involved in fault-based claims made greater use of health care services than those involved in no-fault claims, which could mean that fault-based schemes are more burdensome because the onus is on claimants to prove liability and negotiate (lump sum) damages. However, the association was too small to be clinically relevant. Claimants who were medically assessed numerous times used more health care services in the five years post-accident than those who were assessed less often. Therefore, it can be cautiously concluded that

undergoing medical assessments has a negative effect on claimants' health. Finally, claimants involved in legal disputes used less health care than those not involved in legal disputes, which could suggest that being involved in a court procedure is somewhat beneficial for health, but again the standardised beta was too small to be clinically relevant. Further research is needed to determine the causal relationship between claim factors and health.

Chapter 4 concerns the association between lawyer engagement and poorer claimant well-being. In order to learn more about lawyer-client interaction, 21 traffic accident victims were interviewed about their lawyer. Most claimants wanted to be involved in the decision-making process (although some explicitly did *not* want to be involved). They expressed a preference for information about what was happening in the compensation process and what would happen in the future, face-to-face communication once in a while (at least at the start and subsequently once a year), and frequent updates (preferably once every two months). Claimants wanted to be treated with dignity and respect, to be acknowledged, understood and taken seriously. Clients indicated that lawyers should be pro-active and decisive: some people were burdened by having to keep their lawyer on his toes or call him to get things done. Lawyers should behave independently toward the insurance company, i.e. they should not give the impression that they do not want to rub the insurance company up the wrong way. Interviewees appreciated being informed about the types of damages eligible for compensation and how such compensation was assessed. Good lawyers also had a lot of professional experience, specialist knowledge about personal injury and good organizational skills. To summarize: lawyers ideally should communicate directly and frequently, be empathic and decisive, act independently from the insurer and demonstrate expertise. Communication skills and empathy correspond with aspects already discussed in the literature, whereas decisiveness, independence and expertise have previously been addressed only marginally. Quantitative research is necessary to establish whether these preferred lawyer characteristics also emerge in a generalizable population and to investigate whether the attitude of lawyers indeed has an effect on the well-being of personal injury victims.

Chapter 5 investigates the claimants' perceived fairness of the compensation process, the information provided, and the interaction with lawyers and insurance companies, in relation to the claimants' quality of life. The sample consisted of 176 participants who were injured in traffic accidents and who were involved in a Dutch compensation process. The participants were recruited via three claims settlement offices. They perceived the interaction with insurance companies to be less fair than the interaction with lawyers. A likely explanation for this is that lawyers are seen as allies, whereas insurance companies, with their critical questioning, can make the claimants feel being mistrusted. Furthermore, insurers generally communicate in writing only, which also creates interactional distance. Claimants with mild injuries considered the compensation process to be less fair than those with severe injuries. Claimants with mild injuries are probably more focused on the compensation process, whereas seriously injured claimants are predominantly focused on recovering. Moreover, the damages arising from severe injuries are often more clear-cut. Claimants with trunk/back injuries considered the compensation process to be less fair than those with other injuries, which could be explained by the fact that 80% of the general population suffers from back injury at some point in life, so it may be difficult for some claimants to prove that their back injury was caused by the accident. Whiplash injuries and duration of the compensation process were *not* associated with procedural justice. Finally, procedural justice was found to be positively correlated with quality of life, which could imply that it is possible to improve claimants' health in compensation processes by enhancing procedural justice, for example, by enabling claimants to express their views and feelings or involving them in the decision-making process.

Chapter 6 presents the protocol design of the study that aims to empower claimants in a compensation process by means of an internet intervention. The study is a randomized controlled trial (RCT), in which participants 0 to 2 years post-accident are randomized to either the intervention or a control group. The intervention group received access to the intervention website, which consisted of (1) an information module with information about definitions, steps, duration and bottlenecks in the different phases in the compensation procedure, and also information about lawyers, insurance companies, social security and dispute resolution, and (2)

an e-coach module, which was an evidence-based, therapist-assisted problem solving therapy of five lessons to cope with problems that can be experienced with the accident, the injury or the claims settlement process. The control group received access to the control website with hyperlinks to commonly available information only. The website was evaluated by a focus group involving lawyers and insurers and by a pilot test with claimants. The focus group expected that the intervention would meet the needs of claimants and would improve lawyer-client interaction. The claimants in the pilot test graded the website well. All 8 indicated they would use the information module, and 3 said they would use the e-coach module. The outcome measures were empowerment, self-efficacy, perceived justice, extent of burden, well-being, capacity to work, knowledge, amount of damages. Upon completion of the study, the lawyer was asked to grade the communication with the participant. Outcomes were measured through self-reported, online questionnaires at the start of the research, and subsequently after 3, 6 and 12 months.

The aim of chapter 7 was to examine whether the web-based intervention described in chapter 6 could improve the well-being of injured claimants in compensation processes. A total of 176 participants completed the baseline questionnaire and were randomized into the intervention or the control group. After a follow-up of one year, the data analysis revealed that those who had access to the intervention website and whose claim was settled during the study considered their compensation amount to be fairer than those who had access to the control website (and whose claim was settled). However, the internet intervention did not improve the health of injured claimants in compensation processes. The most logical explanation for the fact that there was no effect on health seems to be the low (e-coach) website usage: only 63% of participants logged in, and most of them did so only once or twice. Only one participant attempted the e-coach course and completed only one lesson. Low usage could not be explained by any dissatisfaction with the website, but participants indicated on average that they did not need an e-coach. Lower than expected e-coach usage may have been caused by the fact that participants in the study were somewhat older than average. Making the information generally accessible could be worth

considering. It is worthwhile investigating whether the intervention may yield an effect on health in a another sample, for example in people who are seeking mental health support.

Chapter 8 discusses the results of this thesis. The first aim of the thesis was to learn investigate whether being involved in a compensation process has a negative effect on health. This was confirmed in a meta-analysis. The second objective was to gain knowledge about the likely causes for the negative effect. This thesis demonstrated that medical assessments were associated with health care utilization. Furthermore, insurance companies can improve their interaction with claimants, and claimants with mild or trunk/back injuries seemed to perceive the compensation process to be less fair than those with severe injuries or injuries to other body parts. The third goal was to improve claimants' well-being and empowerment via an interactive website. However, we did not succeed in this, probably because not enough use was made of the intervention (particularly the e-coach module). The overall limitation of this thesis is that most studies do not permit conclusions to be drawn about the causality of an association. An important strength is that the effect of compensation processes on health was investigated both qualitatively and quantitatively, that both a meta-analysis and a randomized controlled trial were conducted, and that a variety of physical, mental, knowledge and justice outcome measures were applied. Legal professionals could learn from this thesis that certain methods of claims settlement can cause distress, and that their services and communication should be as client-centred as possible. Psychologists could pay more attention to the anti-therapeutic aspects of the compensation process and, for example, offer problem solving techniques to address this. In general, research and practice should pay more attention to the negative effect of compensation processes on health, because people should not be hampered by a process that is actually designed to promote recovery.