DYING ON THE JOB IN MISSISSIPPI:

Lack of Adequate Protection for Injured Workers Hurts Families and Communities

DECEMBER 2017

NELP NATIONAL EMPLOYMENT LAW PROJECT

THE MISSISSIPPI JUSTICE WORKERS' CENTER FOR HUMAN RIGHTS

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NELP NATIONAL EMPLOYMENT LAW PROJECT

National Employment Law Project

For more than 45 years, the National Employment Law Project (NELP) has sought to ensure that America upholds for all workers her promise of opportunity and economic security through work. NELP fights for policies to create good jobs, expand access to work, and strengthen protections and support for low-wage workers and the unemployed.

THE MISSISSIPPI WORKERS' CENTER FOR HUMAN RIGHTS JUSTICE

Mississippi Workers' Center for Human Rights

For more than 20 years, the Mississippi Workers' Center for Human Rights has joined with Mississippi workers and their families to heighten awareness about the plight of low-wage workers in the state of Mississippi and the southern region. Through popular education, which includes mass messaging (billboard and postcard mailers, radio and television ads, and door-to-door canvasses), the Center works with its members and supporters to gain visibility for the most vulnerable and marginalized in the State—low-wage African American and Latino workers and their families.

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1 Introduction

Mississippi workers face one of the highest on-the-job fatality rates of any state in the nation.

Every day, more than a million workers in Mississippi head to work to support their families and communities. They work in industries such as shipbuilding, catfish and poultry processing, steel mills, retail, construction, agriculture, healthcare, auto manufacturing, and furniture and wood products manufacturing. Many of these jobs can be dangerous—where job hazards cause serious injuries. In fact, **Mississippi workers face one of the highest on-the-job fatality rates of any state in the nation.** Furthermore, Mississippi workers suffer hundreds of severe injuries every year and face a workers' compensation system where benefits are so low that injured workers and their families are at risk of falling into poverty.

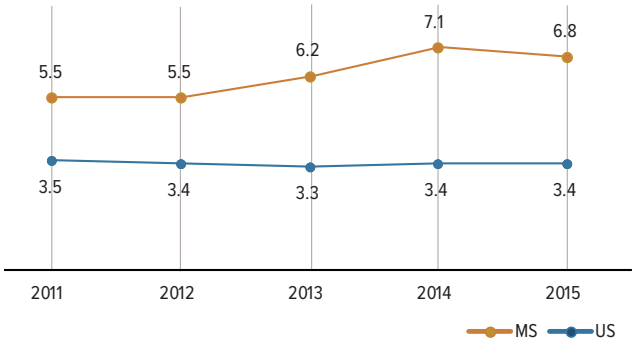
2 Death and Injury on the Job in Mississippi

Workplace injuries are preventable. Since the passage of the Occupational Safety and Health Act with bipartisan support in 1970, employers have had the responsibility to provide safe workplaces to prevent workers from getting injured on the job. Work can be dangerous, and the law requires companies to provide necessary safety training and safety gear and to make sure safeguards are in place on machines and other dangerous equipment to protect workers.

No workers should have to sacrifice their life or health for a paycheck. The evidence is clear that safety pays: safe workplaces save employers money, prevent injuries, and contribute to a more robust economy. It is estimated that workplace injuries cost the economy more than $198 billion annually. Yet, study after study clearly show that when employers provide safe equipment and implement basic safety measures, they save money.

But despite a law requiring safe workplaces being on the books for more than 40 years, workers in Mississippi are getting injured and killed on the job. In fact, **workers in Mississippi are killed on the job at a rate twice as high as the national average of all other states.** (See **Figure 1**.)

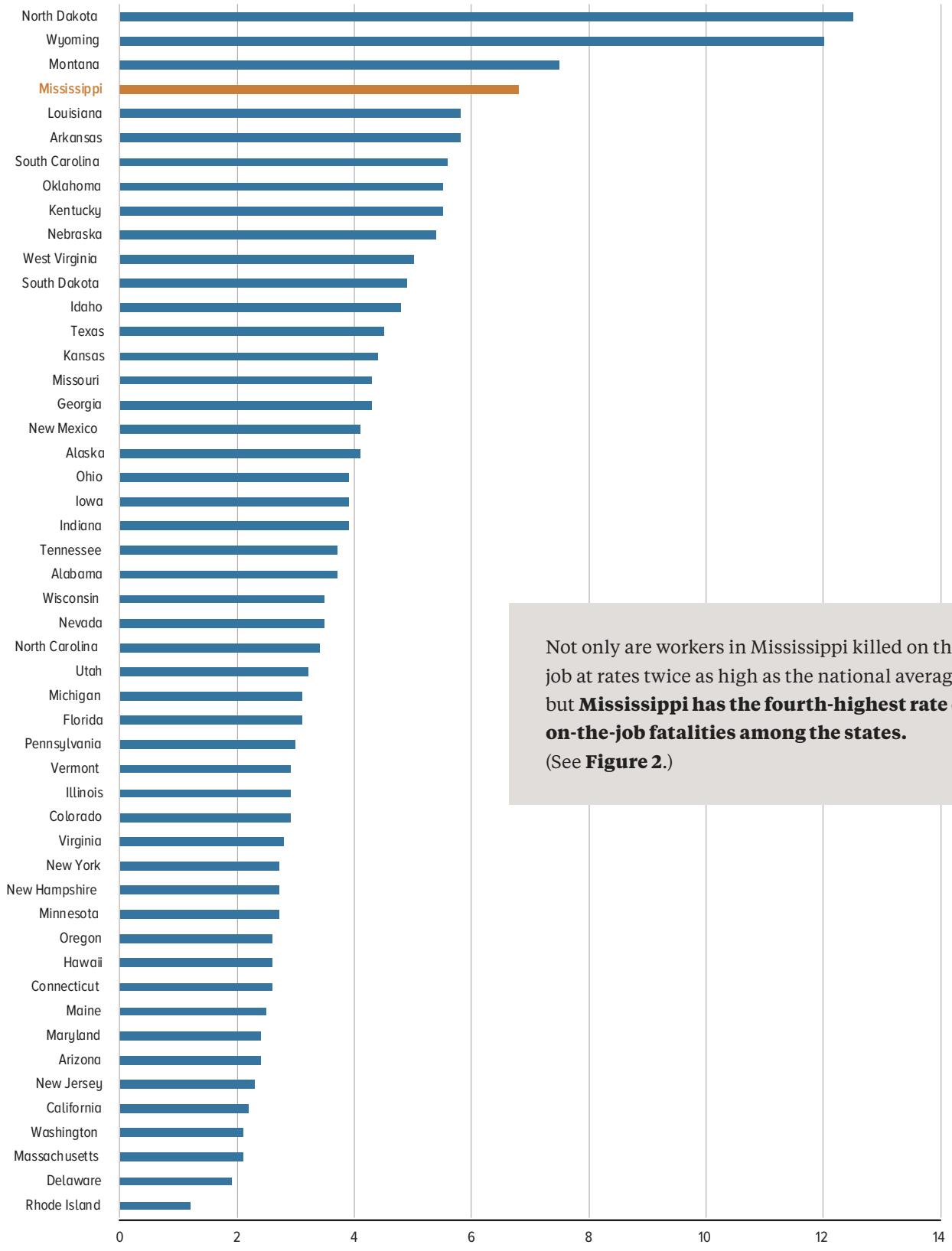
Figure 1:
Mississippi Workers Are Suffering Fatal Job-Injury Rates Twice as High as the National Average (2011 to 2015)



Source: Bureau of Labor Statistics

Workers in Mississippi are killed on the job at a rate twice as high as the national average of all other states.

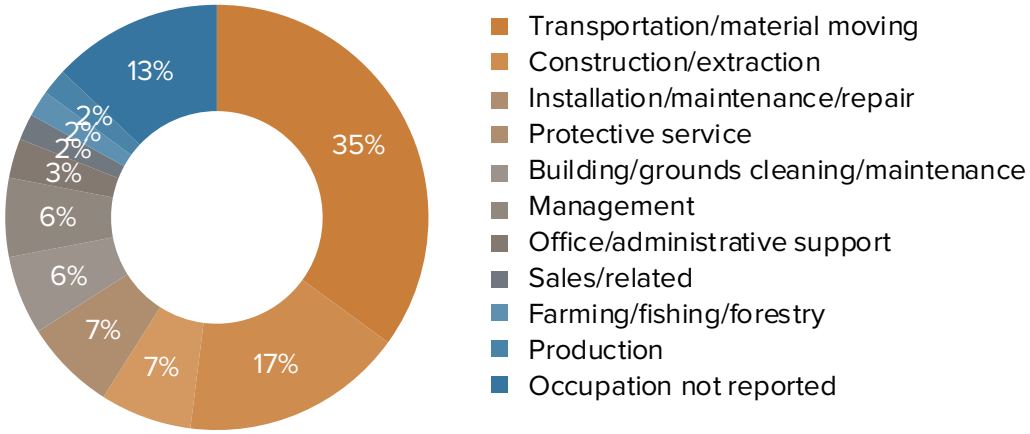
Figure 2:
Mississippi Workers Face the Fourth-Highest Rate of Fatal Work Injuries in the Nation (Per 100,000 Workers, 2015)



Not only are workers in Mississippi killed on the job at rates twice as high as the national average, but **Mississippi has the fourth-highest rate of on-the-job fatalities among the states.** (See **Figure 2**.)

Source: Bureau of Labor Statistics CFOI

Figure 3:
Fatal Work Injuries in Mississippi by Occupation (2014 to 2015)



Source: Bureau of Labor Statistics CFOI

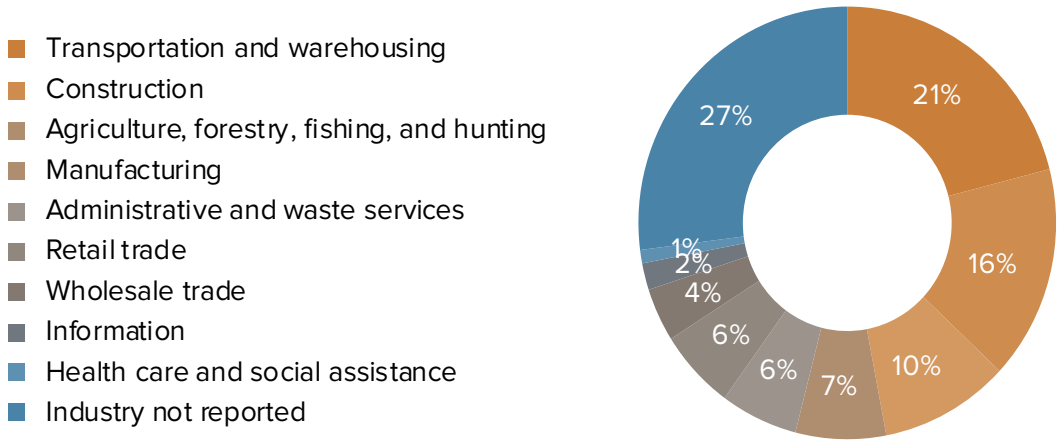
Two occupations saw more than half of Mississippi's worker fatalities: transportation and material handling (35 percent) and construction and extraction (17 percent). (See **Figure 3**.)

As shown in **Figure 4**, the three industrial sectors with the highest workplace fatalities in Mississippi are:

- **Transportation and utilities**;
- **Agriculture, forestry, fishing, and hunting;** and
- **Construction**.

Of key concern, each of the above industrial sectors in Mississippi has a fatal occupational injury rate (number of fatalities per 100,000 full-time-equivalent workers) **higher than the national average.**

Figure 4:
Fatal Work Injuries in Mississippi by Industry (2014 to 2015)



Source: Bureau of Labor Statistics CFOI

A *Suffering Severe Injuries at Work in Mississippi*

While the data from the Bureau of Labor Statistics includes all the workplace-related fatalities in Mississippi, it does not include information on total serious injuries in Mississippi. That is because Mississippi is one of only nine states that chose not to participate in this data collection. Mississippi is therefore lacking data on where injuries are occurring, how big the problem is, and what can be done to protect workers. Without this injury-related monitoring, it is difficult to develop effective solutions to truly protect workers from workplace injuries in Mississippi.

SEVERE INJURIES

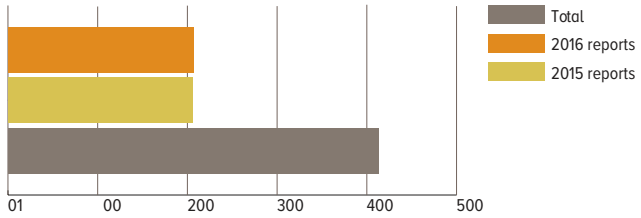
Although there is no complete data on all serious work-related injuries in the state, there is data available on a certain category of serious injuries in Mississippi. Since 2015, employers in Mississippi have had to report to federal OSHA all severe injuries resulting in an amputation or loss of an eye, and injuries that required a worker to be hospitalized for treatment. This clearly does not include all work-related serious injuries—since injuries and illnesses such as broken bones, some lacerations, carpal tunnel syndrome, and other workplace illnesses may not lead to an overnight stay in a hospital or an amputation. But a close analysis of the employer reports of severe injuries do begin to paint a picture of the dangers Mississippi workers face on the job.

Catherine Bacon's Story

"I was injured on the job after 15 years of hand-filleting, four years as a scale operator and trimmer. My hands gave out. I underwent carpal tunnel relief surgery. I returned back to work on light duty. Two months later, I was fired. The reason they gave me was I could no longer do the job anymore. But I ***was*** doing my job. They still fired me. With the help of my union, I returned back to work. There are many other workers who face similar challenges every day."

Over the past two years in Mississippi, employers report that more than 200 workers each year suffered a work injury so severe that it resulted in an amputation, loss of an eye, or hospitalization. Between 2015 and 2016, Mississippi employers made 413 reports to the Occupational Safety and Health Administration (OSHA) of workers suffering the most severe injuries. (See **Figure 5**.)

Figure 5:
Total Number of Severe Injury Reports in Mississippi (2015 to 2016)



Source: Bureau of Labor Statistics

That is approximately four workers a week in Mississippi suffering an amputation or an injury that put them in the hospital. These are injuries where workers suffered horrible and potentially life-changing damage, such as the devastating injuries suffered by a Mississippi shipyard worker in October 2017.

Approximately four workers a week in Mississippi suffer an amputation or an injury that put them in the hospital.

Left thumb amputated at last knuckle after getting caught in clamp . . . .

Worker's right hand crushed in a punch press . . . .

Fingertip amputated while cutting bone-in ham on band saw . . . .

Index and middle fingers amputated while operating table saw . . . .

Employee lost left knuckle after hand crushed in fillet machine; operator restarted machine while worker's hand still inside; machine not locked out . . . .

Explosion at Mississippi Shipyard Leaves Employee Critical

October 21, 2017

PASCAGOULA — An employee at a Mississippi shipyard has been hurt after an explosion at the facility. . . .

WLOX-TV reports the incident at Ingalls in Pascagoula happened Friday morning.

Ingalls spokesman Bill Glenn says a shipfitter was performing hot work in a unit when the incident happened about 8:30 a.m. Family members tell the television station the employee suffered wounds over 78 percent of his body. Glenn says the employee has been transported to USA Medical Center in Mobile, Alabama, for further care.

Figure 6:
Mississippi Industries with the Highest Reported Number of Severe Injuries: Amputations and Injuries Resulting in Hospitalization (2015 to 2016):

Number of Severe Injuries Reported	Industry in Mississippi
37	Food Manufacturing (cat fish processing, poultry processing, and other food processing)
34	Wood Product Manufacturing
31	Specialty Trade Contractors
30	Transportation Equipment Manufacturing (motor vehicle manufacturing and ship building)
19	Furniture and Related Product Manufacturing
18	Fabricated Metal Product Manufacturing
16	Heavy and Civil Engineering Construction
15	Machinery Manufacturing
15	Administrative and Support Services
13	Construction of Buildings
13	Primary Metal Manufacturing

Figure 7:
Mississippi Employers with Largest Number of Severe Injury Reports (2015 to 2016)

Mississippi Employer	Number of Severe Injury Reports
Huntington Ingalls Industries, Inc.	14
Koch Foods	8
Southern Hens	6
Georgia-Pacific	6
Kroger	6
Howard Industries	5
Mississippi Steel Processing, Llc	4
Walmart	4
Ashley Furniture Industries, Inc.	4
Nissan	4
Mississippi Polymers	4

Although workers in Mississippi are dying on the job at rates twice as high as the national average, and workers suffer hundreds of severe workplace injuries every year—there were only 11 OSHA inspectors in the entire state of Mississippi in 2016. At that level, it would take OSHA more than 130 years to inspect every workplace under its jurisdiction in Mississippi just once.

Adding insult to injury, since the Trump administration took office, the number of OSHA inspectors in Mississippi has been further reduced from 2016 levels. As a result, the number of OSHA inspections conducted in Mississippi from January 25th to October 1st of this year has fallen by one-third when compared with the same time period from the previous year. This decline of over 100 inspections by OSHA in 2017 represents a significant reduction in safety and health protection for the workers of Mississippi.

With only 11 OSHA inspectors for the state of Mississippi, it would take more than 130 years to inspect every workplace just once.

The number of OSHA inspectors in Mississippi has been further reduced to fewer than 11.

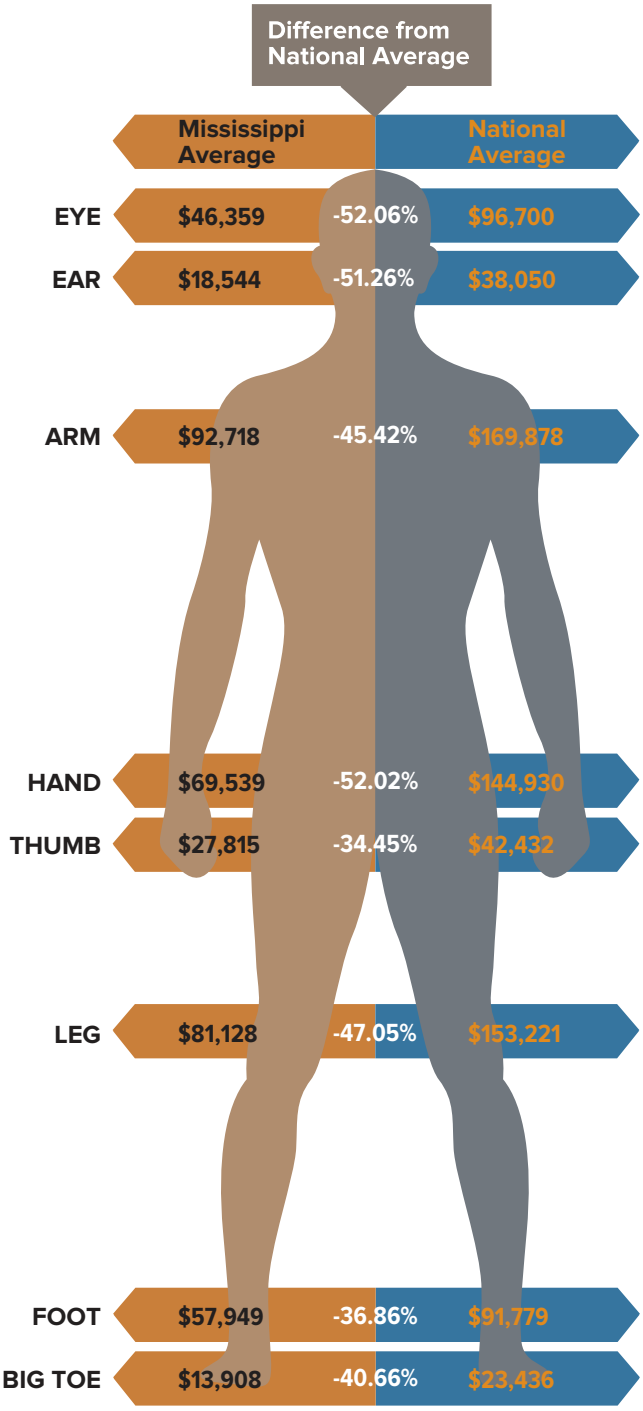
Figure 8:
Top 15 OSHA Penalties in Mississippi (2015 and 2016)

Employer	Issuance	Sum of Current Penalty
Tyson Foods Inc.*	12/19/2016	$102,625.00
Omega Protein, Inc.	1/21/2015	$83,900.00
Great Southern Building Systems, L.l.c.*	3/2/2016	$79,800.00
Koch Foods Of Mississippi, Llc*	9/16/2016	$76,161.00
Dollar General	4/8/2016	$72,000.00
Noah Construction Inc.	9/30/2016	$50,952.00
Dollar General	7/11/2016	$47,500.00
Hankins Lumber Company, Inc.	10/18/2016	$44,805.00
Nautic Star, Llc	6/1/2016	$41,880.00
Tallahatchie Lumber, Llc	8/28/2015	$40,100.00
Thomas Matthews	4/15/2015	$36,000
Stellar Management Group, Inc.*	12/19/2016	$35,987.00
Jose Mata Masonry Inc	2/26/2016	$33,880.00
H.m. Richards, Inc.	2/27/2015	$33,100.00
Nissan North America	6/7/2016	$32,000.00

*Under contest by the employer

3 Meager Benefits to Injured Workers in Mississippi

Figure 9:
How Much Is Your Limb Worth?
Maximum Available Compensation for the Loss of a Body Part in Mississippi Compared to the National Average



Source: *"Workers' Comp Benefits: How Much is a Limb Worth?"* by ProPublica"

When a worker gets injured on the job, the Mississippi Workers' Compensation system is supposed to be there to help. (Workers' compensation is a state-run system, with every state passing its own laws and own rules.) The Mississippi Workers' Compensation system was set up almost 70 years ago as part of the country's social safety net to provide critical support to workers who are injured or made sick on the job. Workers gave up their right to sue employers, for a no-fault system where they would be assured protection against disruption of income and sufficient medical care and rehabilitation services. This is often referred to as the "grand bargain." But it is not really a bargain for the workers of Mississippi.

In addition, Mississippi is one of a handful of states where the workers' compensation law does not contain protections for workers from employer retaliation for filing a workers' compensation claim. The lack of such necessary protections results in many workers opting not to file workers' compensation claims for fear they will lose their job. The result is that workers, their families, and their communities shoulder the cost of the work-related injury—not the employer.

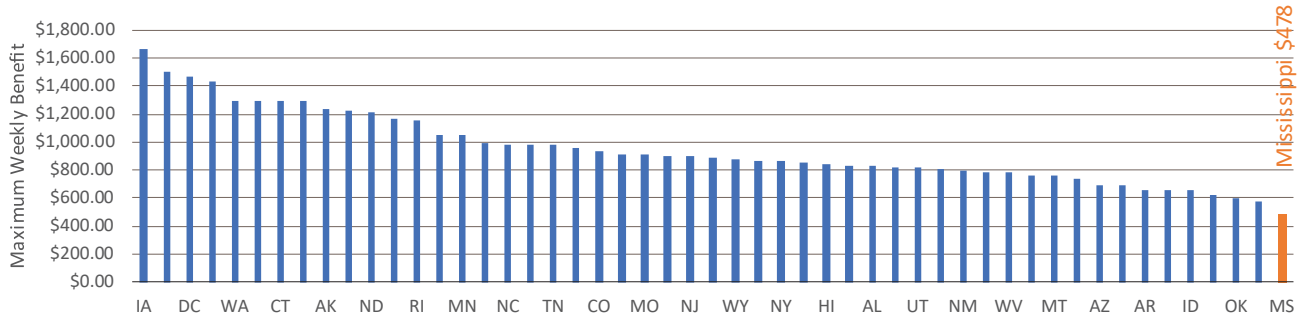
Workers, their families, and their communities shoulder the cost of the work-related injury—not the employer.

A The Lowest Benefits for the Most Severely Injured

The most vulnerable of all injured workers are those who suffer temporary and/or permanent total disability due to an injury at work. They went to work in the morning able to do their job, and then their lives were permanently transformed by a completely disabling work-related injury. For these workers, Mississippi Workers' Compensation provides benefits that are the lowest weekly dollar amount of any state, and furthermore, Mississippi limits payment of these benefits to the lowest number of weeks of any state in the nation.

Figure10 shows that Mississippi has the lowest maximum weekly compensation in the nation for workers suffering an on-the-job injury that resulted in temporary total disability.

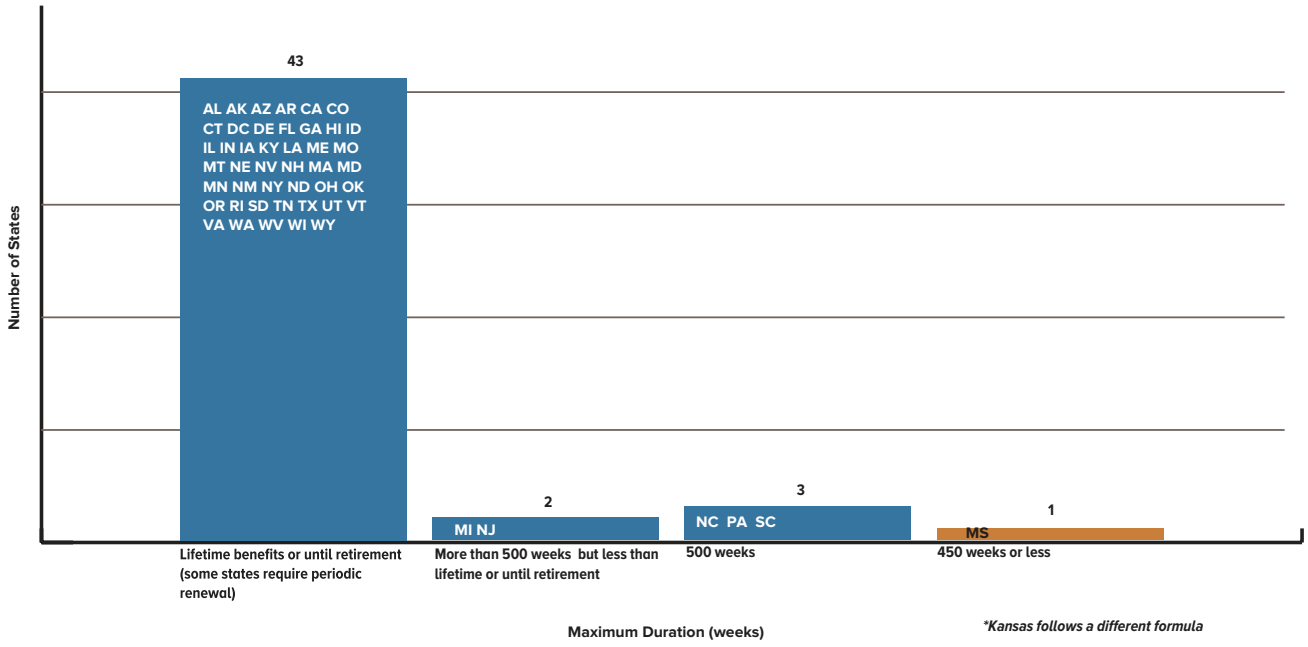
Figure 10:
Maximum Workers' Compensation Weekly Benefit for Temporary Total Disability in All 50 States and D.C.



Source: National Academy of Social Insurance

B The Least Number of Weeks for the Most Severely Injured

Figure 11:
Mississippi Workers' Compensation Provides the Least Number of Weeks of Benefits for the Permanently Disabled of 49 States and D.C.



Source: National Academy of Social Insurance

Mississippi holds the dubious distinction of being the state that provides the least number of weeks of benefits when a worker suffers a permanent total disability—an injury so severe that the person cannot work again. Mississippi is the only state with a maximum benefit cap of only 450 weeks following a permanently disabling injury. (See **Figure 11**.) More than 40 states provide benefits for life or until a worker reaches retirement age for Social Security. All others cap the maximum duration of benefits above 450 weeks. Mississippi is far behind every other state; ***450 weeks is simply not enough.***

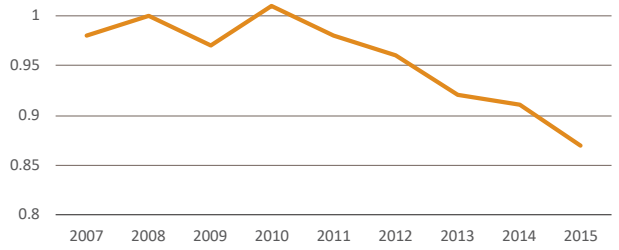
Mississippi provides the least number of weeks of permanent total disability benefits—450 weeks is simply not enough.

Is this how we take care of Mississippi workers and their families?

Workers' compensation benefits provided to Mississippi workers suffering serious injuries on the job have been steadily declining for years, further disadvantaging the state's workers. (See **Figure 12**.)

That means working people in Mississippi are at great risk of falling into poverty as a result of workplace injuries and the failure of state workers' compensation system to provide them with adequate benefits. The Workers' Compensation system is clearly failing the most severely injured workers in Mississippi—providing less than minimal compensation for workers who sacrifice their life and limbs for Mississippi's economy. Workers, their families, and their communities are bearing more of the costs of work-related injuries and illnesses than workers and families in all other states. We must stand up for the hardworking families in Mississippi, invest in preventing work-related injuries, and improve workers' compensation benefits so we are not adding injury to inequality.

Figure 12:
Workers' Compensation Total Benefits Paid Per $100 of Covered Wages in Mississippi (2007 to 2015)



Source: National Academy of Social Insurance

The Workers' Compensation system is clearly failing the most severely injured workers in Mississippi—providing less than minimal compensation for workers who sacrifice their life and limbs for Mississippi's economy.

4 Key Policy Recommendations

1. **Amend the Mississippi Workers' Compensation law to raise the cap on the maximum number of weeks for temporary totally disabled workers from 450 to 520 weeks of benefits. Remove the cap on maximum workers' compensation benefits for permanently disabled workers.**

2. **Amend the Mississippi Workers' Compensation law to include common-sense anti-retaliation language that prohibits retaliating, discharging or threatening to discharge an employee for seeking workers' compensation benefits or in any manner intentionally obstructing an employee seeking workers' compensation benefits.** The majority of state workers' compensation laws already include these protections.

3. To gain a better understanding of the nature and numbers of serious work-related injuries and illnesses in Mississippi, **the state should participate in the collection of nonfatal injury and illness data for the Bureau of Labor Statistics' Survey of Occupational Injuries and Illnesses.** Forty-one other states already participate.

4. **The Occupational Safety and Health Administration office in Mississippi should be fully staffed with a minimum of 11 inspectors** (2016-2017 levels) to assure that workers and employers are provided assistance and protection.

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