

# **The influence of the private insurance industry on the UK welfare reforms.**

## ABSTRACT

The Work Capability Assessment (WCA) is the functional assessment used in the UK by the Department for Work and Pensions to assess eligibility for the Employment and Support Allowance. This is the most recent income replacement benefit for chronically sick and disabled claimants who are unfit to work. Despite five consecutive annual reviews of the assessment model, the UK government continues to disregard increasing evidence that the WCA is causing preventable harm, with all official reports overlooking the historic influence of an American insurance corporate giant on the UK welfare reforms.

Key words: work capability assessment (WCA); biopsychosocial model (BPS)

Much has been written about the Work Capability Assessment (WCA), including the fact that it was recently deemed as being fatally flawed by the Work and Pensions Select Committee<sup>1</sup> (WPSC): ‘The flaws in the Employment and Support Allowance (ESA) system are so grave that simply “rebranding” the assessment used to determine eligibility for ESA (the Work Capability Assessment WCA) by appointing a new contractor will not solve the problems, says the Work and Pensions Committee in a report published today.’<sup>1,2,3</sup>

The WCA was introduced by the New Labour government in 2008 and is exclusively conducted by Atos Healthcare. The assessment is mandatory for recipients of Incapacity Benefit being migrated to the Employment and Support Allowance (ESA) and for all new ESA applicants. Following much controversy, Atos Healthcare announced that they are to withdraw early from the Department for Work and Pensions (DWP) contract to conduct the WCA.

The plan to ‘dismantle the welfare state’ was first suggested by the 1982 Thatcher government<sup>4</sup> and has been relentlessly pursued by successive United Kingdom (UK) governments. Hence, in the Coalition government’s response to the select committee’s evidence,<sup>5</sup> the Minister for Disabled People, Mark Harper MP, disregarded the very detailed information provided by the WPSC report<sup>3</sup> that clearly listed the many serious problems still faced by those who must endure the WCA to access the ESA benefit.

Government resistance to funding long-term out of work disability benefits followed the 2005 publication of the monograph: *The Scientific and Conceptual Basis of Incapacity Benefits (SCBIB)* by Gordon Waddell and Mansel Aylward<sup>6</sup>, followed by the 2006 report: *Is work good for your health and well-being* by Gordon Waddell and Kim Burton.<sup>7</sup>

What is constantly overlooked is that both these influential reports were commissioned by the DWP. They were both produced when Aylward and Waddell were funded by Unum Provident Insurance at the Unum Provident Centre for Psychosocial and Disability Research (the Centre) at Cardiff University, with funding by the American corporate

insurance giant, UnumProvident<sub>TM</sub>, from 2003-2009. Aylward is listed as the DWP Chief Medical Officer until April 2005<sup>8</sup> and is identified as being appointed as the new Director of the Centre from 2004.<sup>9</sup>

The influence of Unum Provident Insurance is demonstrated in the memorandums provided for past WPSC reports<sup>9,10</sup> that clearly list the transformation of Incapacity Benefit to ESA. The requirement to ‘resist diagnosis’, ‘revise the ‘sick note’’, ‘encourage the Government to focus on ability and not disability’, ‘change the name of Incapacity Benefit’ and ‘benefits not to be given on the basis of a certain disability or illness but on capacity assessments’<sup>9</sup> have all come to pass as Unum Provident Insurance have influenced UK Government welfare policy since 1994.<sup>11</sup>

At UnumProvident we have a non-medical, enabling model of rehabilitation and we are working with our partners at the UnumProvident Centre for Psychosocial and Disability Research at Cardiff University to better understand what places people at risk of long-term or chronic illness.

Further information about this model can be made available

to the committee.<sup>9</sup> (item 24)

Supplementary memorandum submitted by UnumProvident<sub>(TM)</sub> - 2006<sup>9</sup>

The SCBIB<sup>6</sup> was, essentially, the blue print for the future introduction of the WCA, using a discredited bio-psychosocial (BPS) model of assessment as planned following the New Labour conference in November 2001: Malingering and Illness Deception,<sup>12</sup> with Aylward as a contributor and ‘malingering’ very firmly planted as being the motivation for claimants of disability benefits. Guilty until proven innocent was the mind-set that continues to this day. ‘And the methodology used by Waddell and Aylward is the same one that informs the work of UnumProvident.’<sub>(TM)</sub><sup>12</sup>

The 2001 New Labour conference, together with the 2005<sup>6</sup> and 2006<sup>7</sup> reports commissioned by the DWP, led to the 2006 Green Paper: A New Deal for Welfare: empowering people to work – an independent assessment of the arguments for the proposed Incapacity Benefit reform.<sup>13</sup> The SCBIB was the main reference used to justify future drastic welfare reforms in the Green Paper, which was exposed by Emeritus Professor Alison Ravetz as being seriously flawed.<sup>14</sup>

On closer examination, it appears that this entire body of work [SCBIB] is largely self-referential – that is, it appeals for validation to itself and is framed within the same political and policy agenda... p6

It is not research undertaken in the spirit of open enquiry. It is commissioned research and, as such, pre-disposed towards ideologically determined outcomes. p7

Critique: DWP 2006 Green Paper:  
A New Deal for Welfare: empowering people to work  
Professor Alison Ravetz<sup>14</sup>

Not to be confused with a medical assessment, the WCA is described as a ‘functional assessment’<sup>15</sup> using an IT tick-box questionnaire and totally disregarding diagnosis.

The influential 2007 report by the unelected Lord Freud,<sup>16</sup> promoted the use of the private sector in welfare reforms when adviser to the New Labour Party and before being appointed as the Minister for Welfare Reforms in 2010 by the Coalition government. Subsequently, the WCA was sub-contracted to Atos Healthcare in 2008 and according to the General Medical Council, Atos Healthcare 'have total immunity from all medical regulation.'<sup>17,18</sup>

The WCA uses a manipulated bio-psychosocial (BPS) model of assessment, designed in consultation with Unum Provident Insurance<sup>17,18,19,20</sup> and is a replica of the discredited healthcare insurance assessment model historically used by Unum Provident Insurance to resist funding insurance claims.<sup>21</sup> The LiMA IT programme used for the WCA was designed by Atos Origin IT Ltd, the parent company of Atos Healthcare, for exclusive use for DWP assessments.<sup>22</sup>

The original 1977 BPS model of assessment was attributed to psychiatrist George Engel.<sup>23</sup> Engel's BPS hypothesis was to consider the social and psychological factors, together with the biological factors impacting on illness. It was an unproven theory that needed research. Ten years ago Professor Christopher Butler and colleagues produced a paper demonstrating that the BPS model of assessment was 'found wanting' and inadequate.

'Medically unexplained symptoms: the biopsychosocial model found wanting'<sup>24</sup> was referring to the original Engel BPS hypothesis. Yet, a manipulated version of the Engel BPS assessment model, emphasising the possible psychological factors of disability and disregarding the biomedical factors, is used by Unum Provident Insurance and by the DWP as a method of removing as many chronically sick and disabled people as possible from funding, or preventing access to it.<sup>17,18,19,20,21</sup>

Unum Provident Insurance were fined \$31.7 million in 2003 in a class action law suit in California for running 'disability denial factories'<sup>18</sup> and \$15 million in 2005 by the California Department of Insurance Commissioner, John Garamendi, who stated that 'Unum Provident is an outlaw company. It is a company that has operated in an illegal fashion for years...'<sup>25,26</sup>

By 2006 the State insurance commissioners of 48 American States approved a settlement in an investigation of the Unum Provident Corporation that required the healthcare insurance giant to reconsider 200,000 claims and to pay \$15million in fines<sup>27</sup> whilst not forgetting, at the same time as these fines in America for malpractice, the company were funding Aylward and Waddell at the Centre at Cardiff University.

Unum Provident Insurance changed its name to Unum Insurance in 2007 to distance itself from increasing negative publicity for identified malpractice. Yet, the only opinions considered by the DWP regarding the benefits of work and the assessment model used to assess disability benefit claimants are those of Aylward and Waddell, whose research was sponsored until 2009 by UnumProvident™ Insurance; identified by the American Association of Insurance in 2008 as the second most discredited insurance company in America.<sup>28</sup>

In January 2007 Professor John Langbein of the Yale School of Law produced a paper identified as 'The Unum Provident Scandal'<sup>29</sup> that exposed Unum's practice of disability denial, and in November 2007 BBC News reported that the British government were being advised by an American insurance company with a reputation for 'racketeering'.<sup>30</sup>

Employees interviewed on the Dateline program disclosed that the claims that were “the most vulnerable” to pressures for bad faith termination were those involving “so-called subjective illnesses, illnesses that don’t show up on x-rays or MRIs, like mental illness, chronic pain, migraines, or even Parkinson’s.” The Dateline story pointed to an internal company email cautioning a group of claims staff that they had one week remaining to “close,” that is, deny, eighteen more claims in order to meet desired targets.

Trust Law as Regulatory Law: The Unum/Provident Scandal  
and Judicial Review of Benefit Denials under ERISA  
Professor John Langbein: Yale Law School 2007 p1318 <sup>29</sup>

Concerns have been expressed in a government inquiry regarding Aylward’s long association with Unum (Provident) Insurance, including links with the American corporate insurance giant when Chief Medical Adviser at the DWP from 1996 – 2005.<sup>9</sup> To date there has been no formal investigation following the evidence by Professor Malcolm Hooper to the 2005 Gibson Parliamentary Inquiry<sup>31</sup>: ‘There would also appear to have been a clear financial conflict of interest and possible breach of Civil Service protocol, in that a senior Civil Servant such as Aylward could not have been unaware while he was in post at the DWP that Unum Provident was already financing his next employment, which would allow him to indulge in his existing conviction that syndromes such as ME/CFS are affected by ‘cultural’ factors and are ‘behavioural’ in nature. It is also a matter of concern that a senior Civil Servant accepted sponsorship from a company with Unum’s track record.’<sup>31</sup>

After various freedom of information requests, the DWP published the mortality figures of the claimants who had died in 11 months in 2011 whilst claiming ESA,<sup>32</sup> with 10,600 people dying in total and 1300 people dying after being removed from the guaranteed monthly benefit, placed into the work related activity group regardless of diagnosis, forced to look for work and then died trying. Following the public outrage once the figures were published, the DWP have consistently refused to publish updated death totals.

Unum (Provident) Insurance exposed their significant influence in the memorandum following the publication of the Welfare Reform Green Paper.<sup>9</sup> Their influence has also been exposed since 2011 by the Disability News Service,<sup>33</sup> with reports by the BMA<sup>34</sup> and the RCN<sup>35</sup> that confirmed that the WCA was causing preventable harm as chronically sick and disabled people now starve to death in the UK.<sup>36</sup>

Constant toxic rhetoric by the Secretary of State and various DWP Ministers from the Coalition government, supported by the national press quoting their often extreme comments, have successfully convinced the British public that vast numbers of chronically sick and disabled people are ‘*shirkers and scroungers*’ and disability hate crimes are the highest ever recorded, as identified in a 2014 bulletin by the Home Office team: ‘Hate Crimes, England and Wales, 2013/14’<sup>37</sup>

Fifteen years ago Unum (Provident) Insurance was exposed in Parliament in the 1999 Permanent Health Insurance debate,<sup>38</sup> where MPs identified the suffering of constituents as Unum (Provident) Insurance refused to pay out on income protection insurance policies. Given this company’s proven record of sustained misconduct and recorded malpractice over many years, one must surely enquire as to why this company were invited to be advisers to the UK government on welfare funding?

The constant reference to ‘disabled people’ by DWP Ministers, whilst disregarding those with catastrophic illnesses, adds to the ongoing human suffering of the most vulnerable people in the UK. They are far too ill to consider working<sup>39</sup> but they now live in fear of claiming the income related benefit needed for their very survival, as the Coalition government consider all ESA applicants as potential malingerers, regardless of what can be a devastating diagnosis.<sup>40</sup>

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