



The Dilemma and Exploration of the Work-Related Injury Insurance System Model for Employees in New Business Models in China

Yunpeng Guo^(✉)

School of Government, East China University of Political Science and Law, Shanghai, China
gyp13616729308@163.com

Abstract. With the development of today's economy and society, a large number of new employment models on the Internet platforms have brought about new flexible employees who have difficulties in identifying labor relations and work-related injuries and applying for traditional employment injury insurance. This paper seeks to analyze the new employment injury insurance models being piloted in various places to explore the difficulties and challenges faced by the models and provide suggestions for improvement.

Keywords: new business models of the Internet · flexible employees · socialized reform of employment injury insurance

1 Introduction

The development of the modern Internet economy has led to new employment models based on the Internet platform, which has made great contributions to promoting employment and economic and social development. The new economic models have brought about new business types including the Internet platform economy, sharing economy, and crowdsourcing economy, as well as new professions including online taxi drivers, takeaway riders, online housekeepers, delivery couriers, and network anchors. These new employment models, compared with the traditional ones, are more flexible but risky. However, with the rise of the new employment models, accidents occur frequently in the new industry, and the existing traditional employment injury insurance system fails to effectively protect such employees, which urgently requires attention and solutions in society.

2 Characteristics of Labor of Employees in New Business Models

2.1 Vague Labor Relations Between Employees and Employers in the New Business Models

Most network platforms do not directly sign labor contracts with employees to determine labor relations. The takeout business is taken as an example. First, the takeout system of Meituan and Ele.me only requires users to be at least 18 years old, physically and

mentally healthy, and master the use of platform software to become delivery men. Then, both platforms are more used to provide information for users to receive orders, which means delivery men complete their work independently and pay according to the orders. This renders both platforms more similar to an intermediary tool, and its relationship with the riders is more like the party issuing contract and the contractor. Delivery drivers are not directly constrained by the platforms, while the latter does not forcibly arrange jobs, which means no direct labor affiliation between the two sides. Suffice it to say, the online food delivery platform and its riders do not have a labor relationship.

2.2 Flexible Working Time and Place for the New Business Types

The work of the new industry employees is mainly based on the irregular and fixed-point transportation business, which not only gives them a freer working style, but also breaks through the time and space limitations of the traditional industry, and makes it hard to determine their working places and hours.

2.3 High Risks of Occupational Injuries in New Industries

Workers in new industries are mainly young workers, and they usually work irregularly for a long time, so they are more vulnerable to occupational diseases due to fatigue and long-term overtime. For example, new industry participants including online car-hailing drivers, takeaway riders, and delivery men are mainly engaged in the transportation industry. Because they often work in a traffic environment for a long time, which increases the possibility of traffic accidents due to distractions, and are exposed to a greater risk of accidental injury.¹ According to the information released by the Shanghai Municipal Public Security Bureau, in the first half of 2019, a total of 3325 traffic incidents were recorded in the field of fast takeout in Shanghai, resulting in five deaths and 324 serious injuries. Therefore, food delivery is undoubtedly a traffic accident-prone industry.

2.4 Multi-subject Relationship in the Employment of Network Platforms

Because emerging industries such as takeout and express delivery do not impose strict restrictions and requirements on participants, and the network platforms essentially only play the role of an intermediary, it is very common for employees in emerging industries to connect with multiple network platforms. A takeaway rider may work on multiple delivery platforms such as Meituan and Ele.me at the same time, but he does not have labor relations with these network platforms in the legal sense, which reveals the multiple and ambiguous bodies of social security responsibility in emerging industries.

2.5 Complex Structure of Employees in the New Business Models

Compared with traditional industries, the emerging online platforms have loose organization, low access threshold, a complex structure of unscreened and managed employees,

¹ Gao Y., Research on Occupational Injury Protection System for Employees in New Business: Taking Employees in High-risk Platforms as an Example [D], Hebei University, 2021.

and incomplete information records of participants' age, physical condition, experience, and part-time and non-part-time work, which adds difficulties to the overall information management.

3 The Dilemma of Employees in the New Industry in Seeking Help from the Traditional Employment Injury Insurance

3.1 Difficulty in Identifying Labor Relations

The coverage of traditional employment injury insurance is based on workers as the main body, that is, the existence of labor relations (or the formation of de facto labor relations) as the premise. However, many new industries adopt the business model of registration-crowdsourcing-receiving orders, and there is no strict subordinate relationship between the network platforms and workers, which makes it difficult for employees to be included in the traditional employment injury insurance system.

3.2 Difficulties in Identifying and Obtaining Evidence of Work-Related Injuries

First, because the employer shoulders the burden of proof for the identification of work-related injuries, and there is no clear labor relationship and no clear employer in the new industry, it is difficult to clarify the subject of responsibility for the identification of work-related injuries, and impossible to prove the injury. Second, due to the free working hours and places in the new industry, it is hard to identify the "three principles" stipulated in Article 14 of the original Regulation on Work-Related Injury Insurance. The "three principles" contains certain conditions for the determination of work-related injuries. First, accidents are caused by work-related injuries during working hours and in the workplace. Second, the employee is injured by an accident while engaged in preparatory or finishing work related to work in the workplace before and after working hours. Third, the employee is injured by violence or other accidents in the line of duty. Especially for some participants who work alone, whether they are injured due to work reasons or not, it is difficult to identify the work-related injury. Moreover, the working hours and places of the employees in the new format are flexible. For example, whether the takeaway delivery men's working places, the rest period of receiving orders, and the route from home to the place of orders can be identified as work-related injuries remains controversial.

3.3 Lack of Insurance Path

In the traditional work-related injury insurance system, the employer has the necessary obligations to participate in the insurance payment, apply for work-related injury identification, and pay the treatment of injury insurance, but in the new industry, due to the multiple bodies of responsibility and the vague labor relations, most of the new industry employees do not have a clear employer to insure themselves for work-related injuries. In other words, the existing practice in the new industries is excluded from the employment injury insurance system.

3.4 Insurance Uncertainty Due to Flexible Work

Because most of the employees in the new industry do not work for a clear employer, it is difficult to determine the way they participate in insurance, or because they frequently change from one employee to another, their social security contributions are not stable. At the same time, for employees such as takeaway riders, their monthly wages are uncertain and vary greatly with the orders they receive. Even if they are insured for work-related injury insurance, their payment standards and corresponding payment treatment are difficult to determine.

4 Attempts at a New Model of Socialized Reform of Work-Related Injury Insurance

According to the Opinions of the *Central Committee of the Communist Party of China and the State Council on Accelerating the Improvement of the Socialist Market Economic System in the New Era* issued by the State Council in 2020, the pilot reform of work-related injury insurance for employees in new business models should be carried out. At present, some regions in China have attempted to reform the original social insurance model and develop work-related injury insurance to adapt to the new development mode of the Internet platform, creating some models that can be used for reference.²

4.1 Incorporate Employees into Traditional Work-Related Injury Insurance and Make Improvements (Representatives: Nantong Jiangsu Model, Weifang Shandong Model)

Weifang Shandong Model

According to the Notice on the *Participation of Flexible Employees in Work-related Injury Insurance* issued by the former Labor and Social Security Bureau of Weifang City, Shandong Province in 2009, flexible employees can participate in work-related injury insurance, but only for those who have registered labor relations with local labor and personnel agencies.³ Flexible employees bear the obligation of payment, with the payment benchmark standing at 1% of the monthly payment base of the local social insurance premium, and the insurance must be bound with the basic old-age insurance and basic medical insurance for employees. Based on not changing the original recognition and payment standards of work-related injury insurance, this model enables flexible employees to undertake the payment obligations as both an individual and employers to join the traditional work-related injury insurance.

Jiangsu Nantong Model

The Human Resources and Social Security Bureau of Nantong City, Jiangsu Province,

² Su W. J., Occupational Injury Insurance System for Employees in China's New Industry: Mode Selection and Construction Ideas [J], China Human Resources Development, 2021.

³ Shi X., Research on Industrial Injury Insurance for Online Distributors under Platform Economy [D], East China University of Political Science and Law, 2021.

issued the *Interim Measures for Work-related Injury Insurance for Flexible Employees* in 2015. The Nantong model resembles the Weifang model, in which the premium of employment injury insurance is paid by the individual, and the work-related injury is recognized and paid according to the original work-related injury insurance system. At the same time, the Nantong model has made some adjustments. First, the premium rate of occupational injury insurance has been reduced to 0.5% to reduce the payment obligation of flexible employees; Second, the work-related injury insurance of flexible employees cannot take effect at the same time as that of formal labor relations. If the flexible employees have formal fixed labor relations with the employer after participating in the work-related injury insurance, the original insurance will be terminated.⁴

Both two models bring improved work-related injury insurance into the original system and only provide a path for employees to participate in insurance. Limited by the release time and other reasons, the models are applied to a small group of people and only protect flexible employees such as local housekeepers. In addition, work-related injury insurance is bound to basic medical insurance and basic old-age insurance, which becomes a heavier economic burden on flexible employees with lower income and easily leads to low enthusiasm for payment; the Nantong model requires that the work-related injury insurance and labor relations cannot coexist, which is difficult to fully cover part-time employees and does not meet the characteristics of platform employment. At the same time, because the models lack support from the superior law, they are not comprehensive at the legal level.

4.2 Single Work-Related Injury Insurance Model (Representatives: Zhejiang Model, Guangdong Model)

Zhejiang Model

In 2019, the Department of Human Resources and Social Security in Zhejiang province issued the *Guiding Opinions on Optimizing Labor Employment Services in New Business Models* which points out that it is necessary to actively explore the occupational injury protection mechanism for employees in new business types, and has launched extensive pilot projects in various parts of the Province. Guided by this model, new employees can individually participate in work-related injury insurance which is not bound to other social insurance such as basic old-age insurance and medical insurance and can be insured separately. Participation in work-related injury insurance is not based on the existence of labor relations, and the network platform is recognized as the main body of the employer's responsibility which should bear the obligation of paying premiums and identifying the occupational injury. Meanwhile, the work-related injury insurance is allowed to coexist with the original one with formal labor relations, so that employees

⁴ Guo X. J., *Research on Industrial Injury Insurance for Flexible Employees on Internet Platform [D]*, Liaoning University, 2020.

with multiple labor relations can be protected by multiple injury insurance in different fields of work.⁵

Guangdong Model

In 2020, the Department of Human Resources and Social Security in Guangdong issued *the Measures for the Service Management of Flexible Employees in Guangdong Province (Trial Implementation)*, aiming at carrying out a trial new model of work-related injury insurance for employees in new business types. The policy of Guangdong Province is similar to that of Zhejiang Province to a great extent. The new work-related injury insurance is separated from labor relations and is not bound to other social insurance. The new work-related injury insurance coexists with the original insurance based on labor relations and is inclusive in terms of the main body of work.⁶ In addition to the emerging technology and service employees who register and receive orders through the platform and provide services such as online car-hailing, takeout, or express delivery without establishing labor relations with the platform, it also includes the main categories involved in fixed labor relations such as employees who have reached the legal retirement age and university internship graduates.

The single work-related injury insurance model determines the parties who protect employees in the new business types and guarantees the occupational injury risk they will face. It cuts off the inevitable connection between work-related injury insurance and labor relations, and the network platform as the employer bears the responsibility of paying fees and identifying work-related injuries. The model also stipulates that the new work-related injury insurance can coexist with previous work-related injury insurance based on labor relations, which solves the incompatibility of the Nantong model. However, this model still has some problems with identifying work-related injuries and voluntary insurance.

Government-Led Commercial Insurance Model

In 2018, the People's and Social Bureau of Wujiang District of Suzhou issued the *Measures for Occupational Injury Insurance for Flexible Employees in Wujiang District (Trial)*. This measure stipulates that local flexible employees can participate in the new model of work-related injury insurance led by the government. Under this model, the insurance is purchased by the government purchase and entrusted by the commercial insurance companies to undertake the operation. Flexible employees voluntarily participate in the insurance, and the cost is borne by the insured person, with a fixed fee of 180 yuan per year. Guided by the model, the working hours and workplaces of the three principles are not emphasized to identify work-related injuries, and any accidental injuries can be identified due to work reasons in the positions they are engaged in. But at the same time, due to the profitability of commercial insurance and the limitation of funds, the medical expenses of the work-related injury insurance are limited to 30000

⁵ Wang T. Y., The Value of the Pilot: Institutional Constraints on Occupational Injury Protection for Flexible Employees on the Platform [J], *China Law Review*, 2021.

⁶ Hu Y. X., Research on Legal Issues of Occupational Injury Insurance for Flexible Employees [D], Southwest University, 2021.

yuan per year, and⁷ the level of work-related injury payment is about half of the payment standard of traditional one.

The Social Compensation Model of Occupational Injury Insurance

In 2015, the Taicang Municipal Government issued the *Interim Measures for Occupational Injury Insurance for Flexible Employees in Taicang City*. Under this model, employees engaged in the form of platforms and flexible employees do not need to pay fees and are compensated by the special social security fund after the occurrence of occupational injuries. But at the same time, the conditions for such insurance are strict, and the main body must have the local household registration and normally pay the local basic old-age insurance. This model is not based on traditional labor relations, but only guarantees the payment of employees' disabilities caused by work-related injuries, and if they die of work-related injuries, they will receive funeral expenses and pensions following local pension insurance regulations. Compared with occupational injury insurance, the social security provided⁸ by the Taicang model is rather a social compensation relief for local flexible employees in the case of occupational injury, which effectively solves the problems of employers and the lack of labor relations, but in fact, it is based on the local financial conditions, which is difficult to widely replicate.

5 Existing Problems Under the New Model

- (1) After the work-related injury insurance and labor relations are completely untied, there lacks a subordination between the platform enterprises as the main body of responsibility and the employees. If the platform enterprises assume the responsibility of the original employer, how to identify the responsibility of the new industry employees who are connected with multiple network platforms? Problems such as how the network platform independently assumes responsibility to pay work-related injury insurance when it is not closely connected with employees have not been solved in practice. At the same time, under the scheme, some network platforms may need to assume full responsibility for employees working on multiple platforms, which will place an excessive burden on the platform. If the responsibility is assumed by the individual employees in the new business types, it will lead to problems such as excessive personal burden or lack of enterprise payment.
- (2) The identification of work-related injuries in most modes has not yet broken through the original "three principles of work". Compared with traditional industries, the working hours and places of employees in new industries are extremely flexible. In the identification of work-related injuries, new identification principles should be formulated according to the characteristics of the industry to solve the controversial issues of work-related injury identification.

⁷ Wang F. Y., Construction of Occupational Injury Security System for Flexible Employees on Platform [J], Journal of Anhui Agricultural University (Social Science Edition), 2021.

⁸ Liu Y. L., Research on Occupational Injury Protection of "Internet + " Platform Employees-Taking Suzhou as an Example [D], Suzhou University, 2019.

- (3) Payment base. Work-related injury payment and disability allowance are still difficult problems. The work of employees in the new format is flexible, and their income level is also quite uncertain and unstable.⁹ Even if they pay social insurance according to the regulations, it is still difficult to determine how to determine the payment base and how to pay the benefits.
- (4) Most of the new models, as pilot models, require employees to participate in insurance or set a higher entry threshold, which is still unable to fully guarantee the scope of personnel. As a voluntary insurance system, due to the weak willingness of most network platform enterprises to participate in insurance and the lack of risk awareness of employees themselves, the participation rate of work-related injury insurance is still not high enough even if it opens up a voluntary path for new forms of employment.
- (5) Under the new mode, the scope of the main body of work-related injury insurance has increased, the standard of work-related injury identification may be further relaxed, and the payment of the insured personnel is unstable, based on further implementation of comprehensive security, there may be a shortage of work-related injury insurance funds. It is not uncommon for the system to be difficult to maintain due to the shortage of funds caused by the expansion of the scope of payment of work-related injury benefits after the operation of some models. How to solve the problem of fund source and operation under the condition of further expanding the scope of protection is also a difficult problem that cannot be ignored.

6 The Reform Path of Perfecting the Work-Related Injury Insurance System in China's New Business Models

- (1) It's important to break the original work-related injury insurance system based on labor relations, and change from the responsibility unit identified by personality subordination to the platform obligation subject identified by economic subordination which should pay work-related injury insurance for employees. Employees in¹⁰ new business types often do not establish strict labor relations with network platform enterprises, and often work on multiple network platforms. If they simply break away from labor relations, they still judge the responsible units for undertaking work-related injury insurance obligations based on identifying the characteristics of labor relations-personality subordination. This will inevitably lead to confusion of the main body of responsibility, unclear employers, low willingness to pay, and shirking obligations of various platforms. Although the employees in the new business types are not directly subject to the restraint and management of the platform enterprises and do not have strict personality subordination, economically, they still take the salary allowance paid by the platform as their working income, with weak personality subordination and strong economic subordination. Therefore, they can abandon the personality subordination to identify the subject of responsibility who should bear the obligation of work-related injury insurance for employees but to identify

⁹ Zhou G. L., The Acceptance Dilemma of Social Insurance Disputes [J], China Labor, 2013.

¹⁰ Li Y. W., Analysis on the Inclusion of Shared Economy Employees in Industrial Injury Insurance [J], Times Finance, 2021.

it according to the source of income of employees on the platform. The platform enterprise that accounts for the employees' main source of income is the employer responsible for the obligation of work-related injury insurance, which makes the subject of responsibility clear and more operable. This also makes the employers' right to obtain economic benefits through employees compatible with the obligation to assume insurance liability to a certain extent and balances employers' rights and obligations.

In addition, for the employees who have a stable working relationship with a single network platform for a long time, the network platform should actively establish labor relations with them and incorporate them into the social insurance system of the original work-related injury insurance, to provide more effective and orderly protection.

- (2) It is necessary to break through the original "three principles" of work-related injury identification, and create more flexible and diverse ways of identification for employees in new business types. Because they aren't restricted to time and space restrictions of traditional industries, the principle and standard of work-related injury identification for them should be moderately relaxed. As most of the network platforms can monitor the order-receiving time and action path of employees in real-time, the working hours can be extended to the time of continuous order receiving and driving, the preparation time before work, and the time of going home after driving, while the location range can be extended to the route of order receiving, destination and rest area. To a greater extent, the causal relationship caused by work should be used to identify work-related injuries, to better protect the rights and interests of employees.
- (3) It is necessary to conduct classified management of employees. If employees work stably and receive monthly wages, the amount of payment and the payment of work-related injury benefits should be determined by their income. If some employees work more flexibly and obtain income according to orders because the workload of receiving orders is proportional to the risk of work-related injuries, the payment base and the standard of work-related injury treatment can be established on the number of orders they receive, or their historical income on the platform can be used as the standard of payment. Thus, the scheme can be innovated to better solve the problem of payment and payment base.
- (4) It is important to implement the security treatment in line with the level of financing. According to the payment level, the treatment of work-related injury security for employees in the new business types will be reduced appropriately compared with the existing treatment of work-related injury security, which is manifested in the scope of compensation and the main body of compensation.¹¹ The level of compensation scope mainly focuses on the subsidy of medical treatment which is undertaken by work-related injury insurance institutions according to the existing standards of work-related injury insurance. Because the treatment is mainly paid by employers during the period of suspension of work and salary retention caused by a work-related injury, the large number of new platform employees may bring greater economic pressure to the platform and third-party companies, thus adversely affecting the

¹¹ Mao Y. J., Dilemma and Path Optimization of Industrial Injury Insurance System for Platform Practitioners [J], Journal of Insurance Vocational College, 2022.

development of new industries. Therefore, it may be necessary to moderately reduce the corresponding payment standard. To achieve this end, Japan's experience can be learned that employers only need to pay the wages that workers should receive during the waiting period of insurance, rather than the wages for the whole period of suspension of work, and other benefits such as disability benefits can be paid by the fund at the local minimum wage level.¹²

At the same time, commercial occupational injury insurance led by the government can also be established as a supplementary guarantee which can be purchased by employees in accordance with the principle of voluntariness. This can further relax the criteria for identifying work-related injuries in new industries, and directly obtain work-related injury benefits while the obligation of payment is assumed by employees, thus solving the problem of insufficient protection caused by work-related injury insurance under the new model.

- (5) After the current problems concerning the model are resolved, the stable model is improved, and the legal basis of the system is laid down, a mandatory principle should be adopted, requiring all new business platform enterprises to participate in insurance for their employees. The legal system should be put in place to strengthen supervision, enhance the awareness of participating in insurance for platform enterprises and employees, and ensure that employees in the new business types can be protected by the new model of work-related injury insurance. Aside from that, the system should be implemented and spread to cover more employees and expand the scope of protection in a powerful way to solve the drawbacks of insufficient coverage and protection of voluntary insurance mode.

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