HEALTH ACCESS
California's Health Consumer Advocacy Coalition

Health Access Analysis - VOTE NO ON PROP 22: App Companies' Attempt to Buy a Special Exception from Worker

Promises Illusory Health Benefits with Tons of Loopholes

App companies like Uber, Lyft, Instacart and Doordash wrote and funded Proposition 22 to exempt themselves from basic protections, including a minimum wage, paid sick leave, and safety protections.

Prop 22 is the most expensive ballot measure in US History, as these tech companies spend $180 million, to boost their profits by denying their drivers' rights. These companies are trying to confuse votes by saying that Prop 22 will offer new health benefits—but those provisions are so full of loopholes, that any benefit is largely illusory.

The Minimum Wage Loophole:

SB 977 Prop. 22 theoretically offers 120% of the minimum wage, but an analysis done by the UC Berkeley Labor Center finds that after taking into account time the driver spends waiting for rides or driving to pick up the ride as well as other costs, the wage "guarantee" is not $15.60 per hour but more like $5.64 per hour—a level that would go back 60 years.[1]

Prop 22 seeks to undermine the existing minimum wage, whether the California minimum wage of $12 an hour or the federal minimum wage of $7.25 an hour. The California minimum wage of $12 an hour still is not enough, forcing workers to live in substandard housing, spending too much on housing and not enough on food or health care to live a healthy life.[2] Cutting that in half forces app drivers into poverty.

The Health Care Loopholes:

- Prop 22 allows app companies to **shift the cost of medical care for on-the-job injuries onto workers rather than providing workers' compensation.**
- Prop. 22 also **takes away workers' legal rights as employees, including sick time, family leave, and other basic protections.**
- Prop 22 offers a health care "stipend"—but one that is much less than it appears.

[1] Jacobs and Reich, "The Uber/Lyft Ballot Initiative guarantees only $5.64 an hour" October 2019: http://laborcenter.berkeley.edu/the-uber-lyft-ballot-initiative-guarantees-only-5-64-an-hour/
[2] Bindman, Andrew, "A Healthy Minimum Wage", https://jamanetwork.com/journals/jama/fullarticle/2473476

- This health care **“stipend” is pegged to 82% of the “average” premium for “bronze” coverage—the most bare-bones coverage allowed by law.**

- **The typical Bronze plan has a deductible of almost $7,000,** with the only coverage before the deductible is three doctor visits at $65 a visit. The patient must spend $6,800 for other care, including lab tests, hospital stays and any additional doctor visits, before coverage kicks back in.

- That is because “Bronze” coverage covers on average only 60% of the cost of care—and the consumer pays the other 40%.

- In contrast, most employer coverage pays more than 80% or 90% of the cost of care.

Since “bronze” coverage is so minimal, the “average” bronze premium is also relatively low. So a stipend pegged as a percentage of a bronze premium could be not very much at

- Premiums vary based on age and region. For some younger folks, especially in Southern California, a Bronze premium could even be just $1—and the stipend could be a percentage off of that single dollar.

- Premiums vary by age and region. People over age 40 pay more than younger workers. Premiums in Northern California are two or three times as much as in Southern California. “Average” premium is not defined: is it weighted by enrollment? Is it the midpoint of the age range? What about regional variation?

- For a hypothetical 40-year old worker in Riverside, the “stipend” might be 82% of around $300[3] or $386[4], depending on how the “average” premium is calculated.

- If the average includes premiums for younger people and lower cost regions as well as older people and higher cost regions, then result means the stipend is even less for those who are older or who live in higher cost regions like Northern California.

- When taking into account taxes, the stipend is closer to 50%-60% of the Bronze premium.

[3] 2020 Bronze premium for 40-year-old in Riverside zip code, no state or federal subsidies.
[4] Jacobs and Reich.

The worker would owe state and federal income taxes on the stipend, so it is actually worth less than if provided as an employee benefit

- Drivers would owe state and federal personal income taxes, as well as both the employer and employee side of Social Security (12.4% of income) and Medicare taxes (1.25% of income). That means the "82%" is more like 60% of the cost of the premium or maybe closer to 50%, depending on income.
- When an employer provides health benefits, these taxes do not apply.
- Prop 22 forces drivers to work more than 39 hours a week just to qualify for the health stipend. Because of this, many workers would never qualify for the stiped at all.
- In conclusion: For the subset who qualify, the health stipend would like end up being just a couple hundred dollars—and could be just tens of dollars for younger workers. It may not even be enough to buy Bronze coverage, which requires a $7,000 deductible before most coverage kicks in.

Conclusion:

In short, Prop 22 exempts gig workers from key employee protections, from minimum wage to paid sick days, while promising health benefits that are not worth much of anything, especially compared to health coverage which typically costs $10,000/individual and $20,000/family.

As an initiative, Prop 22 also limits the opportunity to change the law and improve conditions. It is a "compromise" imposed by and for the app companies, not negotiated with workers. Gig workers are better off retaining their rights as employees, and thus their ability to negotiate for a better deal for themselves and their health.