

Injuries at ASHA Housing--

Injured Have Workmen's Compensation Rights?

During the summer of 1970, David Frankson of Point Hope broke his leg while working on his new ASHA house. Eight months later, he was still partially laid up. In Tooksook Bay last year, another native participant in an Alaska State Housing Authority self-help project was injured. He spent an extended time in the hospital.

If either of these men had been injured on a construction job for which they were paid, they would have been eligible for Workmen's Compensation.

This form of employee insurance provides medical benefits for injured workers, support payments for them and their families for as long as they are unable to work, compensation for their families if they should die as a result of the accident.

However, people working on their own ASHA homes do not receive any of these benefits—as David Frankson found out when he tried to file a claim last spring.

"Claimant is not an employee as no contract of employment existed," replied Continental Insurance Company via Department of Labor form ADL 150. "Claimant participant in mutual self-help program for natives wherein ASHA provides all material and instructions for home building. . . . Participants do the actual labor involved in the construction which gives them a "sweat equity" in the homes when they are finished. If participant does not finish home, he receives nothing for his labor."

Why not Workmen's Compensation asked Don Dorsey of Ala-

ska Native Industries?

"A man's time has value to him and to his family. Sweat or no sweat. He cannot be gainfully employed if he MUST work on a mutual self help housing project to get a new house. In essence, he is employed."

An accident on an ASHA construction site, like any other accident, could conceivably incapacitate a man so that he could not work for the rest of his life. Yet, people are not aware that they will not be insured, Dorsey reported.

Also, according to the Department of Labor form, if a man does not finish the project he will not get his house.

It hasn't worked that way, replied Ken Gain, Deputy Exe-

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Injuries at ASHA Housing Projects . . .

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cutive Director of the Alaska State Housing Authority in Anchorage.

There have been several on site injuries at ASHA projects, Gain admitted, but since the village council has the say on who will be kicked out of the program, construction crews formed of other villagers have continued to finish the injured person's house.

Also, since the accidents so far have been to native participants, each has been eligible for Alaska Native Health Service care, so hospital bills have not been in question.

"We weren't able to get Workmen's Compensation Insurance," Gain reported that his office had looked into such insurance in 1969. At that time they were informed that premiums are based on a percentage of the payroll. Since nobody on the project is an employee—no wage percentage can be determined.

"We do have blanket liability coverage if the project superintendent or ASHA for example, is at fault. We're covered due to negligence and our superintendents are covered, but nobody from the village is an employee."

What about contracts? Doesn't ASHA contract with individuals for so much work in order to participate in the project?

No, Gain replied. The only contract a person signs is for payments for materials—which start after the house is complete.

During the construction phase, Gain explained, ASHA has a cooperative agreement with the village council. The council determines who will participate in the project and there can be no termination without village council approval, though a project superintendent can make recommendations.

Thus, and it has happened to some native participants already, a man can be disabled for months and receive no compensation.

"Our projects are set up during non-productive months," said Gain "usually fall, winter, spring when there's little employment. If somebody is laid up for the winter nobody's losing income."

So far ASHA has been lucky. Nobody has been permanently injured. Nobody has been killed and all of the injured people have had adequate "medical insurance" (ANHS eligibility). However, what about jobs they might have had, or the hunting and fishing they must do to feed their families.

Consider the case of David Frankson, who wrote a letter

to Don Dorsey in December of this year—almost a year and a half since he was originally injured.

"Still I wanted to mention the parts for my Chaparral . . . I need it every day with my broken leg to go around and get some drinking ice and to hunt little, but it out there helpless."

When Frankson was originally injured, the PHS hospital in Kotzebue filed no report of his accident. When he tried to file

a claim for compensation there was no hospital report on file, no project superintendent's report of the accident.

Thus, if he wishes to contest his status as a non-employee, he must search for records, reconstruct reports from people who may now have only a dim memory of the circumstances surrounding his injury.

What about him, and the hundreds of other native Alaskans who will participate in ASHA projects?