

The California Commission on Health and Safety and Workers' Compensation



CHSWC 2006 Annual Report

CHSWC Members

Angie Wei (2006 Chair)
Allen Davenport
Leonard C. McLeod
Alfonso Salazar
Kristen Schwenkmeyer
Robert B. Steinberg
Darrel "Shorty" Thacker
John C. Wilson

Executive Officer

Christine Baker

State of California
Labor and Workforce Development Agency

Department of Industrial Relations

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ABOUT CHSWC

The Commission on Health and Safety and Workers' Compensation (CHSWC) examines the health and safety and workers' compensation systems in California and makes recommendations to improve their operation.

Established in 1994, CHSWC has directed its efforts toward projects and studies to identify opportunities for improvement and to provide an empirical basis for recommendations and/or further investigations. CHSWC utilizes its own staff expertise combined with independent researchers with broad experience and highly respected qualifications.

CHSWC activities involve the entire health, safety and workers' compensation community. Many individuals and organizations participate in CHSWC meetings and fact-finding hearings and serve on advisory committees to assist CHSWC on projects and studies.

CHSWC projects address several major areas, including benefits, medical costs and quality, fraud and abuse, streamlining of administrative functions, informational services to injured workers, alternative workers' compensation systems, and injury prevention. CHSWC also continually examines the impact of workers' compensation reforms.

The most extensive and potentially far-reaching project undertaken by CHSWC is the ongoing study of workers' compensation permanent disability (PD) in California. Incorporating public fact-finding hearings with studies by RAND, the CHSWC PD project analyzes major policy issues regarding the way that California workers are compensated for PD incurred on the job.

In its oversight capacity, CHSWC focuses on various aspects of the health and safety and workers' compensation systems in response to concerns raised.

At the request of the Governor's Office, the Legislature and the Commission, CHSWC staff conducts research, issues reports and provides expert testimony on the health and safety and workers' compensation system. Topics include PD, State Disability Insurance (SDI), return to work, carve-outs and medical fee schedules.

CHSWC engages in a number of studies and projects in partnership with other state agencies and the workers' compensation community. These projects include the Medical Payment Accuracy Study (with the Fraud Assessment Commission), the Catastrophe Preparedness Forum (with the Labor and Workforce Development Agency, Cal/OSHA, the Service Employees International Union (SEIU), RAND, and other partners), and the Benefit Integration Pilot Project (with the

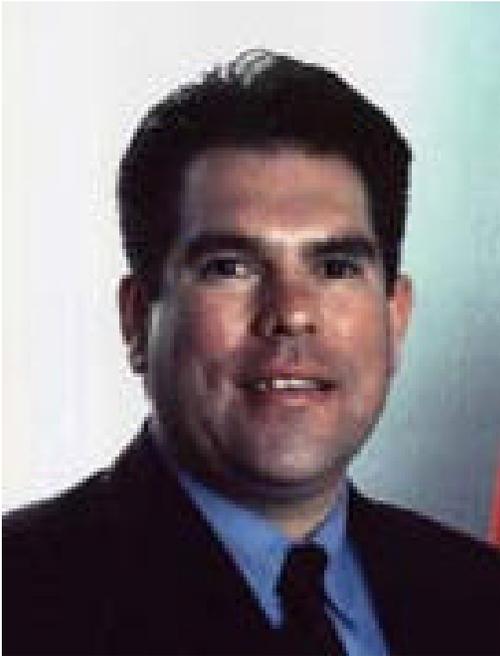
CHSWC *Serving all Californians*

- Created by the 1993 workers' compensation reform legislation.
- Composed of eight members appointed by the Governor, Senate and Assembly to represent employers and labor.
- Charged with examining the health and safety and workers' compensation systems in California and with recommending administrative or legislative modifications to improve their operation.
- Established to conduct a continuing examination of the workers' compensation system and of the State's activities to prevent industrial injuries and occupational diseases and to examine those programs in other states.
- Works with the entire health and safety and workers' compensation community – employees, employers, labor organizations, injured worker groups, insurers, attorneys, medical and rehabilitation providers, administrators, educators, researchers, government agencies, and members of the public.
- Brings together a wide variety of perspectives, knowledge, and concerns about various health and safety and workers' compensation programs critical to all Californians.
- Serves as a forum whereby the community may come together, raise issues, identify problems, and work together to develop solutions.
- Contracts with independent research organizations for projects and studies designed to evaluate critical areas of key programs. This is done to ensure objectivity and incorporate a balance of viewpoints and to produce the highest-quality analysis and evaluation.

ABOUT CHSWC

California HealthCare Foundation, the building maintenance industry, SEIU, Kaiser Permanente and the State Compensation Insurance Fund (SCIF).

CHSWC Members Representing Employers



Alfonso R. Salazar

Alfonso R. Salazar, founder of ARS Solutions, an information technology firm for government and public-sector projects, was appointed in 2000 to serve as acting undersecretary for the California Technology Trade and Commerce Agency. There he directed programs that stimulated economic activity for international trade and investment, commercialization of new technologies, small business, rural development, tourism, manufacturing, and other California-based industries.

Mr. Salazar is a member of the board of directors of the Latino Issues Forum. He received a Master of Public Policy degree from the University of Michigan and Bachelor of Arts in political science and ethnic studies from the University of California, Berkeley. He is a Woodrow Wilson National Fellow and has studied free trade policy at the Universidad de Michoacan in Mexico.

Appointed by: Governor



Kristen Schwenkmeyer

Kristen Schwenkmeyer is secretary-treasurer of Gordon & Schwenkmeyer, a telemarketing firm she started with Mike Gordon in March of 1985. Her primary responsibilities include overall administration of operations, budgeting and personnel for a staff of over 700.

Previously, Ms. Schwenkmeyer served as staff aide to Supervisor Ralph Clark of the Orange County Board of Supervisors and Senator John Glenn in Washington, D.C.

Ms. Schwenkmeyer received a Bachelor of Arts degree in political science from the University of California, Santa Barbara.

Appointed by: Senate Rules Committee

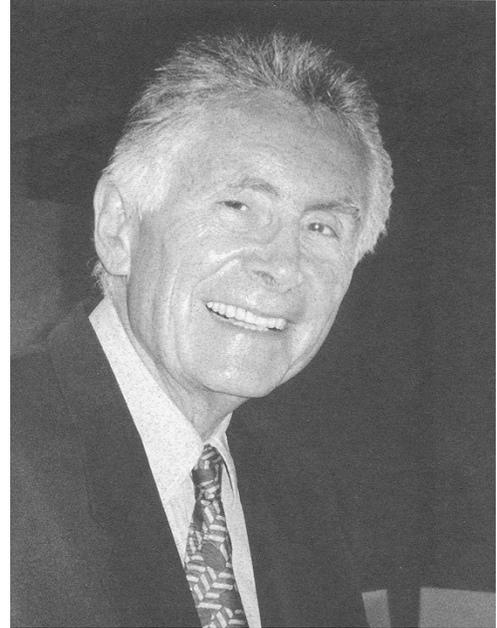
CHSWC Members Representing Employers

Robert B. Steinberg

Robert B. Steinberg is a partner in the law offices of Rose, Klein & Marias and specializes in employee injury, third-party civil damage construction, product liability, asbestos and toxic exposure litigation. He is a fellow of the American College of Trial Lawyers (ACTL), a member of the board of governors Association of Trial Lawyers of America (ATLA), an advocate of the American Board of Trial Advocates (ABOTA), and trustee of the Asbestos Litigation Group (ALG). He is a past president of the California Trial Lawyers (CTLA) (1985) and a past trustee of the Los Angeles County Bar Association (1987).

Mr. Steinberg received Law and Bachelor of Science degrees from the University of California, Los Angeles.

Appointed by: Speaker of the Assembly



John C. Wilson

John C. Wilson is a contract accreditation consultant to the California Association of Joint Powers Authorities. He retired as the Executive Director of the Schools Excess Liability Fund (SELF) in 2002. Mr. Wilson held positions with several organizations, including the California Chamber of Commerce and the California Coalition on Workers' Compensation. He is a former trustee of the Self-Insurers Security Fund and was a gubernatorial appointee to the Fraud Assessment Commission from 1993 to 1998. In previous employment positions, Mr. Wilson was assistant treasurer and risk manager for Di Giorgio Corporation in San Francisco, California. He was also an industrial hygiene, safety representative and administrator for Rockwell International, Space Division of the self-funded Workers' Compensation Program covering 30,000 employees involved in the Apollo and Saturn II space programs.

Mr. Wilson received his Bachelor of Science degree from the Anderson School of Management, University of California, Los Angeles.

Appointed by: Governor



CHSWC Members Representing Labor



Allen Davenport

Allen Davenport is the director of government relations for the Service Employees International Union (SEIU) California State Council. A union member since 1971, Mr. Davenport also was the chief consultant for the employment security program for unemployment insurance, disability insurance, and job training on the staff of the state Senate Industrial Relations Committee for seven years.

Mr. Davenport serves on the advisory committee for the Workers' Compensation Information System (WCIS) and was a member of the governing board of the Workers' Compensation Insurance Rating Bureau (WCIRB). He is a former Peace Corps volunteer and a graduate of San Francisco State University.

Appointed by: Speaker of the Assembly



Leonard McLeod

Leonard McLeod is a lieutenant at the California Correctional Training Facility at Soledad and has worked for the Department of Corrections since 1981. He also serves as the early intervention state coordinator/state finance chairman with the California Correctional Peace Officers Association. Previously, he was a police officer with the Watsonville Police Department and a U.S. Army military police sergeant from 1974 to 1978.

Mr. McLeod was a member of the governor's task force on workers' compensation in 1993. He also is a member of the Correctional Peace Officer Foundation and Corrections USA. He is currently a member of the governing board of the WCIRB.

Current community activities include serving as a member of the City of Salinas Police Community Advisory Committee, supporting the Salinas Police Activities League, and raising funds for prenatal and health care-related issues.

Appointed by: Governor

CHSWC Members Representing Labor

Darrel “Shorty” Thacker

Darrel “Shorty” Thacker is the Central District Manager for the Northern California Carpenters’ Regional Council. Mr. Thacker also served as the director of field support operations for the Bay Counties District Council of Carpenters and as the Senior Business Representative of Local 22, Carpenters.

Mr. Thacker joined the Millwrights in 1973, where he worked in construction as a journeyman, foreman, general foreman and superintendent from 1973 to 1978. He also worked as a Millwright business agent from 1978 to 1983.

Following his service as a United States Marine in the Vietnam War, Mr. Thacker earned an Associate's degree in mathematics from Fresno City College in 1970.

Appointed by: Governor



Angie Wei 2006 Chair

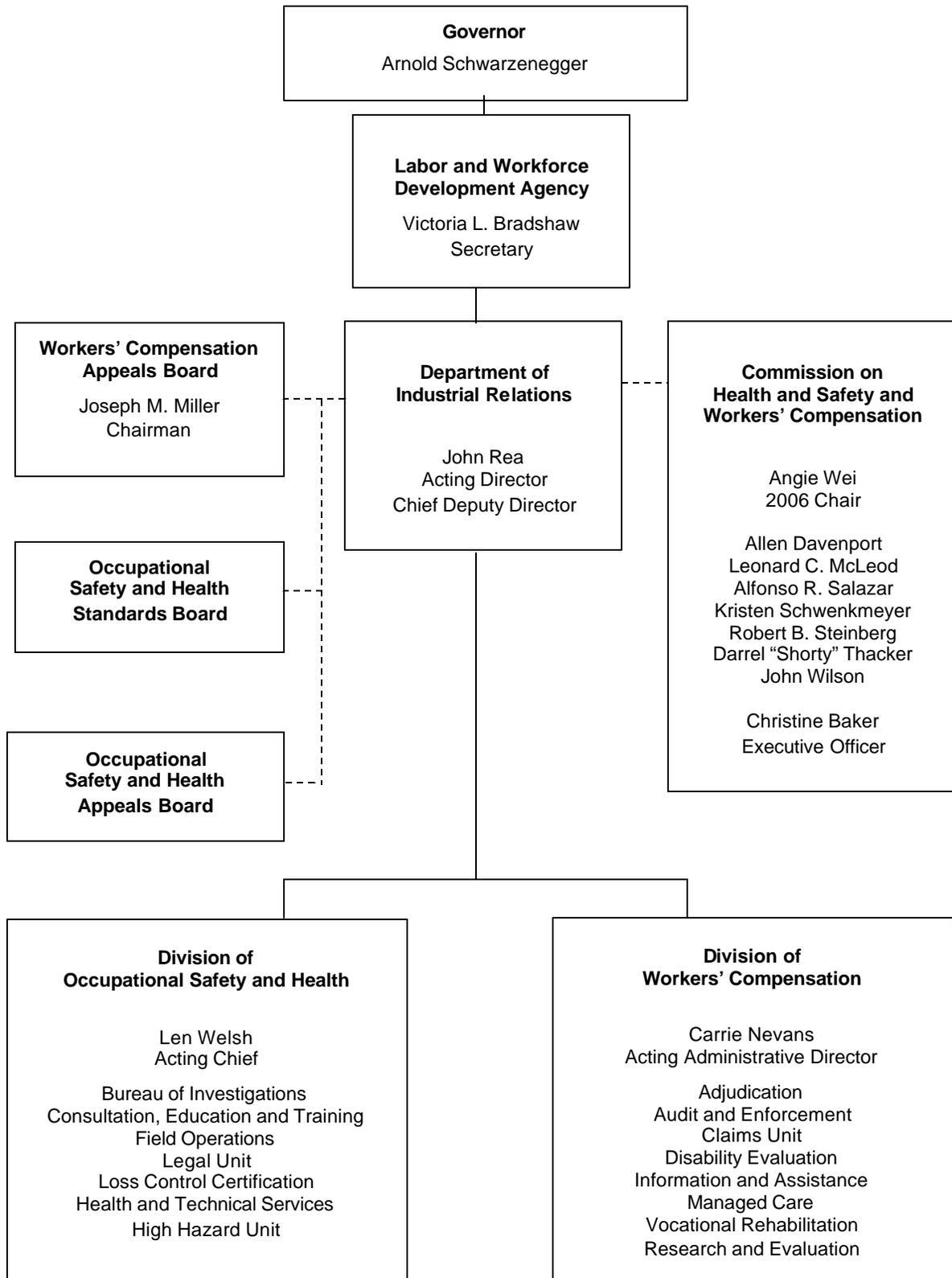
Angie Wei is the Legislative Director of the California Labor Federation, the state AFL-CIO federation. The state federation represents 1,200 affiliated unions and over two million workers covered by collective bargaining agreements. Previously, Ms. Wei was a Program Associate for PolicyLine of Oakland, California, and advocated for the California Immigrant Welfare Collaborative, a coalition of four immigrant rights organizations that came together to respond to cuts in public benefits for immigrants as a result of the 1996 federal welfare reform law.

Ms. Wei holds a Bachelor's degree in Political Science and Asian American Studies from the University of California, Berkeley, and a Master's of Public Policy from the Kennedy School of Government at Harvard University.

Appointed by: Senate Rules Committee



State of California Health and Safety and Workers' Compensation Functions



ABOUT CHSWC

CHSWC RECOMMENDATIONS

EVALUATION OF RECENT REFORMS

The Commission on Health and Safety and Workers' Compensation (CHSWC) was established to conduct an ongoing examination of the workers' compensation system and of the State's activities to prevent industrial injuries and occupational diseases and to make recommendations to the Governor and the Legislature for improvements. CHSWC has demonstrated through its research, findings, and recommendations that it is important for the Commission to continue to provide oversight and an independent review of the system.

CHSWC develops and implements comprehensive and appropriate evaluation measurements so that the impact of workers' compensation reforms may be tracked and analyzed. With the passage of the recent workers' compensation reforms, CHSWC recommends continuing evaluation and monitoring of the system to determine whether the goals of the reforms are being realized.

MEDICAL ISSUES

Many reform provisions address medical and medical-legal issues. These include establishing medical networks, using medical treatment utilization guidelines, moving to qualified medical evaluators/agreed medical evaluators (QMEs/AMEs) as sole suppliers of medical-legal reports, and providing early medical treatment for injured workers.

Medical Treatment Guidelines

Labor Code Section 77.5, enacted by Senate Bill (SB) 228 in 2003, required CHSWC to "conduct a survey and evaluation of evidence-based, peer-reviewed, nationally recognized standards of care, including existing medical treatment utilization standards, including independent medical review, as used in other states, at the national level, and in other medical benefit systems."

As Labor Code Section 77.5 required, CHSWC issued a report of its findings and recommendations to the Administrative Director (AD) of the Division of Workers' Compensation (DWC) for purposes of adopting a medical treatment utilization schedule. The report, "CHSWC Recommendations to DWC on Workers' Compensation Medical Treatment Guidelines," was issued in November 2004 and submitted to the AD of the DWC and revised April 6, 2006.

A CHSWC study by RAND made recommendations both on the implementation of medical treatment guidelines and on the need for the State to develop a consistent set of utilization criteria to be used by all payors.

CHSWC Recommendations

- CHSWC recommends that the AD of the DWC consider adopting an interim utilization schedule based on the American College of Occupational and Environmental Medicine (ACOEM) guidelines.
- CHSWC recommends that the AD consider adopting interim guidelines for specified therapies, including chiropractic, physical therapy, occupational therapy, acupuncture and biofeedback, consisting of a prior authorization process in which the indications for treatment and the expected progress shall be documented, and documentation of actual

CHSWC RECOMMENDATIONS

functional progress shall be required at specified intervals as a condition of continued authorization for the specified modalities.

- CHSWC recommends that the AD consider incorporating into the utilization schedule a process to be followed in determining appropriate treatment for conditions that are not addressed by the components of the schedule, so that at least minimum decision-making criteria will be applicable even to conditions that are not subject to any other components of the schedule.
- CHSWC recommends that, after the adoption of interim guidelines as described above, the AD consider adopting additional guidelines to supplement ACOEM guidelines on an ongoing basis as studies and evaluations of those additional guidelines are completed.
- CHSWC recommends that the DWC and CHSWC jointly establish an ad hoc advisory group to receive expert advice and stakeholder input on the many questions that need to be addressed in assembling a comprehensive set of guidelines.

Monitoring Medical Care

Issues of the quality of medical care being provided to California's injured workers continue to be raised. These issues include the timely and expedient access to medical care, restraints on unnecessary care, and understanding of medical errors in the provision of care. Studies have shown that the quality of medical care in the United States is not very high and that reporting quality-of-care information back to medical care providers can motivate them to improve.

A CHSWC study by RAND is making recommendations on monitoring medical care in the California workers' compensation system with the aim of improving the quality of the medical benefit-delivery system.

CHSWC Recommendations

- Develop a conceptual framework for monitoring the California workers' compensation medical care system with feedback from stakeholders. The development of the framework would involve specifying the existing measures and data that might be used, as well as identifying where there are critical gaps in the measurement capabilities for priority components of the monitoring system.
- Conduct a demonstration project illustrating how quality monitoring might be used in the California workers' compensation system. This would involve testing the feasibility of developing and utilizing overuse and under use utilization criteria in measuring the appropriateness of medical care provided to injured workers.
- Studying and reviewing concerns regarding access to QMEs.

CHSWC recommends that the following studies be conducted jointly by CHSWC and the DWC:

- Evaluate additional guidelines for inclusion as supplements to the ACOEM guidelines.
- Assess the potential for developing a comprehensive set of guidelines or review criteria to identify overuse and under use.
- Monitor and evaluate the performance of the medical treatment utilization schedule as valid and comprehensive clinical practice guidelines that address the frequency, duration, intensity and appropriateness of all treatment procedures and modalities commonly performed in workers' compensation cases.

CHSWC RECOMMENDATIONS

- Monitor the effect of the statutory caps on chiropractic, physical therapy and occupational therapy visits and compare these caps to scientifically based, nationally recognized, peer-reviewed guidelines.
- Monitor and evaluate the implementation of the medical treatment utilization schedule in UR processes and practices, including denials of authorization, grants of deviations from the schedule, grants of exceptions to the caps on chiropractic, physical therapy and occupational therapy visits, and effects upon case outcomes.
- Evaluate the validity and appropriateness of disability-management guidelines addressing disability durations and return to work (RTW).

Fee Schedules – Resource-Based Relative Value Fee Schedule

The DWC uses an Official Medical Fee Schedule (OMFS) to set the maximum allowable amounts that may be paid to providers for medical services. The current fee schedule, based upon relative value units, has been characterized as problematic. CHSWC research by RAND has indicated the following:

- The relative value units in the current OMFS are derived primarily from charge data. This methodology does not relate payments to resources to provide the service and thus leads to inefficiencies in the delivery of appropriate services.
- There is no adjustment for geographic differences in the costs of maintaining a physician practice in California. These geographic adjustments align with the costs of providing services.
- The procedure codes are outdated. The OMFS primarily used 1997 current procedure terminology (CPT) codes with some California Workers' Compensation Program (CWCP) specific codes.

CHSWC Recommendations

CHSWC recommends implementation of the Medicare resource-based relative value fee schedule (RBRVS) for the following reasons:

- The Medicare RBRVS is based on actual resources used and thus is more fair and predictable than California's current fee schedule, which is based on physician charges.
- The RBRVS is regularly updated unlike the OMFS. Regular updating of the fee schedules will eliminate the need for providers and payors to maintain outdated procedure codes in their billing and claims-processing systems.
- The RBRVS schedule has a geographic adjustment for nine California payment areas that aligns payments with the costs of providing services.
- Most providers have relatively few workers' compensation patients but a substantial number of Medicare patients. The administrative burden of treating workers' compensation patients will be reduced if these providers no longer need to remain current on a separate set of OMFS payment rules.
- At least 17 states, the District of Columbia and the federal workers' compensation program have adopted the RBRVS relative values.

Repackaged Drugs

Some physicians dispense repackaged drugs to their patients. These are drugs that the repackagers who are approved by the Federal Drug Administration (FDA) have purchased in bulk and then repackaged into individual prescription sizes for physician-office dispensing.

The OMFS for pharmaceuticals is tied to the Medi-Cal pharmacy fee schedule. The Medi-Cal program does not pay for physician-dispensed drugs and, as a result, repackaged drugs are not in the Medi-Cal formulary. Because there is no Medi-Cal fee schedule amount for repackaged drugs, the higher pricing policies under the prior OMFS continue to apply.

CHSWC Recommendation

CHSWC recommends that the Legislature and/or the AD of the DWC consider restricting costs of repackaged drugs that are dispensed by physicians to be more in line with the Medi-Cal pharmacy fee schedule and what pharmacies are allowed to charge. As of October 31, 2006, the DWC is considering public comments received on a proposed regulation.

Burn DRGs

Before 2004, burn cases were exempt from the OMFS hospital inpatient fee schedule. They are now paid at 1.2 times the Medicare fee schedule. There are eight diagnostic-related groups (DRGs) for burn cases, each having a different rate of payment. The payment is fixed in advance and relies on an averaging concept. Some hospitals have had excessive losses on burn cases of injured workers, and there is concern that the exemption allowing additional payment for high-cost cases should be re-instituted for six of the eight DRGs.

The findings of the CHSWC RAND study are that workers' compensation burn cases are less costly on average than Medicare patients in six of the eight DRGs. The DRG for extensive third-degree burns with skin grafts is 4.5 times greater than the others. In addition, there is a difference in the volume of service between workers' compensation and Medicare patients and a difference in the mix of DRGs. OMFS rates may be inadequate for non-extensive burn cases, and those DRGs have not been proposed for exemption. There is variation in payment-to-cost ratios across hospitals.

CHSWC Recommendation

CHSWC suggests that there may not be a need for an exemption for burn DRGs. Further monitoring of the reimbursements for burn DRGs should be conducted.

Spinal Surgery Second-Opinion Process

Labor Code Section 4062 provides a procedure for a second opinion if the employer objects to the doctor's recommendation for spinal surgery in the workers' compensation system. The employer has ten days from the receipt of the report to object to the treating physician recommendation that spinal surgery be performed. Employees also may request the second-opinion process if the employer's UR does not approve the recommended surgery.

An uncodified provision of SB 228 (Alarcón) requires that CHSWC conduct a study on the spinal surgery second-opinion process (SSSOP) and issue a report concerning the findings of the study and recommendations for further legislation. Some of the findings of the draft study are that the SSSOP is a well-targeted approach to appropriate review, but that some workers face potentially substantial barriers in complying with the SSSOP that may be due to limited access to second-opinion providers. Statistical evidence does not show that the rate of spinal surgery is affected by

CHSWC RECOMMENDATIONS

the SSSOP. There have been conflicting interpretations of the employer's options to request a second opinion or conduct UR or do both at once.

CHSWC Recommendation

CHSWC suggests modifying the SSSOP so that employer objections on the ground of medical necessity are made solely through UR, and an employee can request SSSOP if the employee objects to a UR decision.

BENEFIT DELIVERY

Recent reforms made significant changes in workers' compensation benefit delivery, including temporary disability (TD) and permanent disability (PD) benefits and apportionment of PD.

Permanent Disability Rating Schedule

SB 899 required the AD to revise the Permanent Disability Rating Schedule (PDRS) for the California workers' compensation system. The new schedule defines the nature of the physical injury or disfigurement to incorporate the American Medical Association (AMA) *Guides* for both descriptions and percentage impairments. The schedule no longer considers diminished ability to compete in an open labor market. Instead, the schedule considers diminished future earning capacity (FEC), based on the findings from a RAND study conducted for CHSWC.

The AD adopted a new PDRS effective January 1, 2005. The new PDRS establishes adjustment factors for diminished FEC. These FEC factors are applied as multipliers on the impairment ratings that are determined according to the AMA *Guides*. CHSWC research subsequently found that the 2005 PDRS has the effect of reducing PD awards by more than 50 percent compared to the pre-2005 PDRS in cases without attorneys and by approximately 40 percent in the more serious cases that are usually handled by attorneys. This reduction is apart from all other changes in weekly benefit amounts, the number of weeks of benefits, zero-rated cases under the AMA *Guides*, apportionment, and return-to-work (RTW) adjustments. Previous RAND research had identified the inequities in compensation among different types of injuries, and CHSWC found that the 2005 schedule was unable to rectify those inequities.

CHSWC Recommendations

CHSWC recommends that the PDRS be revised by adopting new FEC adjustment factors to replace the FEC adjustment factors used in the calculation of PD ratings under the 2005 PDRS. The new adjustment factor for each type of injury would be based on the latest available empirical research showing the average proportion of earnings loss sustained by workers with that type of injury and the latest empirical research showing the average AMA impairment rating for that type of injury. The adjustment factor would be calculated as the average proportionate earnings loss divided by the average impairment rating and multiplied by a constant which would be selected to achieve public policy goals. This method would eliminate the disparity between ratings for different types of ratings calculated with these revised FEC adjustment factors which would bear the same average relationship to the workers' earnings losses regardless of what type of injury is involved. The full report may be found at <http://www.dir.ca.gov/CHSWC/Reports/CHSWC-PD-Report-Feb23-2006.pdf>.

CHSWC recommends continuing to evaluate the revised PDRS to assess the impact of the schedule on premium costs and injured-worker outcomes, such as wage loss and FEC. The evaluations would:

- Estimate the impact of schedule and payment changes on replacement rates and wage loss.

CHSWC RECOMMENDATIONS

- Analyze the impact of changes to psychiatric evaluations.
- Evaluate the impact of moving to the *AMA Guides*.
- Evaluate whether the PD ratings reflect the appropriate average wage losses for specified injuries of injured workers.

The DWC has undertaken studies intended to evaluate wage losses and trends from year to year.

Temporary Disability Benefits

SB 899 established a limitation on TD benefits at two years from the date of the first TD payment, with narrow exceptions. CHSWC has a study underway to evaluate the effect of this limitation.

CHSWC Recommendation:

CHSWC recommends an evaluation of the effect of the existing law and consideration of potential amendments if existing law does not achieve intended goals.

Apportionment

Apportionment is the process that separates disability attributed to other causes such as pre-existing conditions from disability attributed to an industrial injury or illness. Apportionment applies only to PD, not to TD or medical benefits. Prior to SB 899, the disability that could be apportioned was generally the disability that would have existed if there had been no industrial injury. SB 899 permits apportionment “based on causation.” This appears to mean that some disabilities that would not have been apportioned under the old law will be apportioned now if they were caused in part by pre-existing conditions or other non-compensable causes. The statute remains subject to interpretation by the courts. The change may also affect the way a finding of PD is converted into an award of indemnity benefits.

Ongoing research by CHSWC indicates that apportionment is being found in 11 percent of summary-rated cases. Where apportionment is found, an average of 42 percent of the disability is being apportioned. The overall average impact of apportionment in summary-rated cases is a 5 percent reduction in the amount of PD indemnity benefits in the population of summary-rated cases. Continuing judicial interpretations may change the final effect of the statutory changes. Due to conflicting rulings from the Courts of Appeal, the WCAB has put a hold on determinations of the dollar amount of apportioned awards as of September 2006. The conflict will have to be resolved by either the Supreme Court or the Legislature. A CHSWC recommendation for legislation is anticipated for early 2007.

CHSWC Recommendation

CHSWC recommends:

- Continuing evaluation of the impact of apportionment in summary-rated cases.
- Study of the impact of apportionment in the decisions of workers’ compensation judges in litigated cases.
- Evaluating the net effect of statutory changes and judicial interpretations upon the costs to employers and benefits to workers.

CHSWC RECOMMENDATIONS

ANTI-FRAUD EFFORTS

At the February 2005 joint CHSWC and Fraud Assessment Commission (FAC) meeting, CHSWC and the FAC established a working group to develop a proposal that would assist the FAC to identify, measure and focus anti-fraud efforts effectively.

CHSWC Recommendations

CHSWC recommends adopting the following recommendations of the FAC and CHSWC working group:

- Identify methods to detect and measure the extent of medical overpayments and underpayments of all types in the workers' compensation system based on data.
- Develop baselines for measuring the level of medical overpayments and underpayments of all types including fraud, waste, abuse, billing and processing errors.
- Specify the most effective methodology to identify illegally uninsured employers and determine the effectiveness, costs and benefits of a matching records program to identify illegally uninsured employers and bring them into compliance.
- Identify the extent of workers' compensation premium and classification of overpayments to help determine the extent of this type of fraud.
- Identify existing anti-fraud resources that could be used by agencies to detect and monitor fraud.
- Determine the extent of underreporting of workers' compensation claims.
- Determine the extent of premium and job-classification fraud.

CHSWC also recommends conducting a joint study with the Department of Health Services (DHS) to:

- Determine the cost to the Medi-Cal system as a result of providing treatment to injured workers that should be provided by employers and insurance carriers pursuant to workers' compensation law.

RETURN TO WORK

A CHSWC study by RAND found that California's permanent partial disability (PPD) system, when compared to other states, has the lowest RTW rate.

SB 899 and Assembly Bill (AB) 227 provide incentives and support for returning injured workers back to the workplace. For the first time, California has a tiered system of compensating PPD, with a 15 percent increase or a 15 percent decrease in the weekly PD benefit depending on whether the employer offers appropriate RTW. The differential does not apply to small employers but small employers may be eligible for reimbursement for workplace modifications that are necessary to bring an injured employee back to work. These provisions offer savings for employers in their workers' compensation costs and benefits for employees in reduced earnings losses. Workers who cannot return to their former employers may be eligible for a supplemental job displacement benefit (SJDB), which is training vouchers based on the percentage of PPD awarded.

CHSWC is conducting research into RTW rates and earnings losses of injured workers and is examining the relationships among the various incentives and supports for RTW.

CHSWC RECOMMENDATIONS

CHSWC Recommendations

CHSWC recommends an evaluation of the current state of RTW , including:

- The effect of the incentives for RTW.
- The availability and utilization of the financial supports for RTW.
- The effect on employer costs.
- The effect on long-term earnings losses for injured workers.
- The potential for improved coordination of SJDB with tiered PPD benefits and with the requirements of the Fair Employment and Housing Act (FEHA) and the Americans with Disabilities Act (ADA).

CHSWC is holding round-table meetings for stakeholders to share concerns and suggestions for improvement in California's RTW performance and coordination among the several programs dealing with RTW.

INFORMATION FOR WORKERS AND EMPLOYERS

Injured workers and employers need up-to-date and easily accessible information about the workers' compensation system.

CHSWC Recommendation

CHSWC recommends that information about the workers' compensation system be made available in several languages in addition to English and Spanish, such as Chinese, Vietnamese, Tagalog and Korean.

California Insurance Industry

The cost of workers' compensation insurance in California has undergone dramatic changes in the past ten years due to a combination of factors.

When the workers' compensation insurance industry was deregulated beginning in 1995, insurers competed by lowering premium rates, in many instances lower than their actual costs. Many insurers drew on their reserves to make up the difference and several insurers went bankrupt. Subsequently, the surviving insurers charged higher premium rates to meet costs and begin to replenish reserves.

The California workers' compensation legislative reforms in the early 2000s, which were developed to control medical costs, update indemnity benefits and improve the assessment of PD, also had significant impact on insurance costs. As a result of recent workers' compensation legislative reforms and the subsequent decisions by the Insurance Commissioner on advisory premium rates, workers' compensation insurers have reduced their filed rates and there have been some new insurers that have entered into the workers' compensation market in 2004 and 2005.

CHSWC Recommendations

To stabilize the workers' compensation insurance market and reduce workers' compensation costs and premium rates to employers, CHSWC recommends ongoing monitoring to ensure that the cost of workers' compensation insurance to employers accurately reflects the effects of the recent reforms.

EXPLORING FUTURE DIRECTIONS

Integration of Medical and Indemnity Benefits

Employers in California experience higher costs for workers' compensation claim medical care than employers in most other states, and California ranks highest in workers' compensation claim premium rates. Both group health and workers' compensation are affected by medical inflation. Suggestions have been made to more closely coordinate or combine workers' compensation medical care with the general medical care provided to patients by group health insurers in order to reduce overall administrative costs and derive other efficiencies.

CHSWC is currently conducting a pilot project on 24-hour care in California.

CHSWC Recommendation

CHSWC recommends:

- Evaluation of the performance and outcomes of the 24-hour care pilot program currently underway.
- Exploration of other opportunities for 24-hour care in the California workers' compensation system.

Carve-Outs

Recent reforms have provided that an employer and a union may negotiate any aspect of benefit delivery if employees are eligible for group health benefits and non-occupational disability benefits through the employer.

CHSWC Recommendations

CHSWC recommends the following:

- Evaluate and disseminate best practices of carve-out programs.
- Update the evaluation of the performance of carve-outs.
- Promote carve-outs to the workers' compensation community with identified incentives.
- Consider establishing performance measurements for parties in the carve-outs.
- Explore the feasibility of permitting the State of California and its unions to enter into carve-out agreements.

Plan for Older Workforce

The changing demographics of the workforce may require employers to hire older workers. Older adults may need to consider working longer to ensure their financial security.

CHSWC recommends the development of:

- A research agenda to address the impact of older workers on the health, safety, and workers' compensation systems.
- Policies that emphasize health, workplace safety and injury prevention for older workers.
- Policies for the workers' compensation system that assist employers and aid older workers.

CHSWC RECOMMENDATIONS

INJURY PREVENTION

WOSHTEP

Labor Code Section 6354.7 specifies that CHSWC establish a Worker Occupational Safety and Health Training and Education Program (WOSHTEP). Pursuant to this mandate, CHSWC established WOSHTEP in 2002. WOSHTEP includes: the Worker Occupational Safety and Health (WOSH) Specialist training; the Small Business Resources Program; Young Worker Health and Safety Programs; and Resource Centers in Northern and Southern California.

CHSWC Recommendations

CHSWC recommends the continuation of the program to:

- Develop a statewide network of trainers to offer the WOSHTEP curriculum.
- Conduct outreach and dissemination of the Multilingual Health and Safety Resource Guide and the WOSH Specialist course.
- Conduct outreach to small employers through the Small Business Resources Program.
- Conduct dissemination of the WOSH Specialist curriculum to carve-outs.
- Incorporate a health-promotion “wellness” module into the WOSH Specialist curriculum.

Young Workers

CHSWC Recommendations

CHSWC recommends providing ongoing outreach for young workers through statewide activities including:

- The Young Worker Leadership Academy. The goals of this Academy, held for the first time in February 2005 and then twice in 2006, are to teach youth about workplace health and safety and their rights on the job; to help youth start thinking about ways to ensure that young people do not get hurt on the job; and to provide a forum for these youth to plan for specific actions they can take in the own communities to promote young worker safety.
- Health and safety information and outreach during Safe Jobs for Youth Month which is the month of May of each year. The objective is to protect young workers from injury by raising community awareness about child labor and workplace health and safety issues.

Workers’ Compensation and Public Safety Officer Retirement

The media and some public employers have expressed concern regarding disability and retirement package benefits for public safety officers.

CHSWC has received a bi-partisan request to conduct a comprehensive study on this issue.

CHSWC Recommendation

CHSWC recommends an ongoing review and evaluation of this issue.

Combined Occupational Injury-Reduction Efforts with Health-Promotion Programs

Occupational health and safety professionals have traditionally focused attention on the control or elimination of work hazards to protect all exposed workers. Health-promotion professionals have often found that improved individual health behaviors can be encouraged in the workplace. There is some evidence that occupational injury-prevention programs are more effective in combination with programs that promote overall worker health.

CHSWC Recommendation

CHSWC recommends examining the effectiveness of combining occupational injury-reduction efforts with health-promotion “wellness” programs.

Improve Efficiency of Administration

CHSWC recommends:

- Improving administrative efficiency and reducing the transaction costs of processing paper checks for the payment of unemployment and disability benefits in the State of California. Up to \$2.8 billion in administrative savings for workers’ compensation and state disability benefits could be achieved over a five-year period by utilizing:
 - Electronic deposit by mandating that it be offered by payors to payees in lieu of paper check disbursements.
 - Electronic benefit transfer (EBT) cards for un-banked recipients.
 - Electronic payment of medical bills.
- Requiring that the DWC report on the promptness of first payment by insurance carriers on a regular basis.
- Revising the reporting system for filing information on workers’ compensation claims. Currently, employers and insurers are required to file the employer’s report (DLSR Form 5020, Employer’s Report of Occupational Injury or Illness) and the doctor’s first report (DLSR Form 5021, Doctor’s First Report of Occupational Injury or Illness). Now that the Workers’ Compensation Information System (WCIS) has been implemented and this reporting could be done electronically, the manual-filing process could be eliminated for a savings of about \$20 million per year to avoid duplicate reporting.
- Developing a system for the Workers’ Compensation Appeals Board (WCAB) to accept electronic medical reports from insurance carriers.
- Conducting a review of WCIS to ensure that it meets the goals of the workers’ compensation system and stakeholders for ongoing monitoring.
- Developing a framework and research agenda with stakeholders for ongoing monitoring of the workers’ compensation system.
- Taking steps in the interim to ensure systematic collection of summary data from insurers, self-insured employers, and public agencies.

CHSWC RECOMMENDATIONS

SYSTEMS OVERVIEW

BACKGROUND

California Workers' Compensation System

Workers' compensation in California was created in 1913 as a bargain between employers and labor. Workers received the assurance that if they were injured on the job, they would receive prompt medical care and compensation without having to prove in court that the employer is at fault. Employers received protection from potentially high tort damages awarded by juries so that they could have predictable, manageable injury compensation and treatment costs. This bargain between employers and labor was historic, maintaining the incentives for employers to create a safe workplace and allowing workers to remain productive and healthy.

Today, workers' compensation, a \$21 billion system, which is the first and largest social insurance program, delivers benefits to claimants in the form of temporary disability (TD) and permanent disability (PD), medical benefits (both evaluation and treatment), vocational rehabilitation (VR) or supplemental job displacement benefits (SJDB), and death benefits.

Workers' Compensation Reforms: Recent Changes to the California System

California has undergone significant legislative reforms in the workers' compensation system in 2002, 2003, and 2004. The recent reforms in Assembly Bill (AB) 749 and AB 227, Senate Bill (SB) 228, and SB 899 were intended to:

- Control Medical Costs
 - Utilization review of medical treatment
 - Standardized and transparent medical fee schedules
 - Evidence-based medical-treatment guidelines
 - Qualified medical evaluator (QME), agreed medical evaluator (AME) and medical dispute resolution
 - Employer control of medical care through medical provider networks (MPNs)
- Update Indemnity Benefits
 - Indemnity benefit increases in 2002 reforms
 - Indemnity benefit reductions in 2004 reforms
 - Caps on TD benefits after two years
- Improve the Delivery of Permanent Disability
 - Permanent Disability Rating Schedule (PDRS) revision
 - Apportionment
 - Incentives for return to work
 - American Medical Association (AMA) *Guides* adopted for both descriptions and percentage of impairments

SYSTEMS OVERVIEW

COSTS OF WORKERS' COMPENSATION IN CALIFORNIA

Costs Paid by Insured Employers

The cost of workers' compensation insurance in California has undergone dramatic changes in the past ten years due to a combination of factors.

When the workers' compensation insurance industry was deregulated beginning in 1995, insurers competed by lowering premium rates, in many instances lower than their actual costs. Many insurers drew on their reserves to make up the difference and several insurers went bankrupt. Subsequently, the surviving insurers charged higher premium rates to meet costs and begin to replenish reserves.

The California workers' compensation legislative reforms in the early 2000s, which were developed to control medical costs, update indemnity benefits and improve the assessment of PD, also had significant impact on insurance costs.

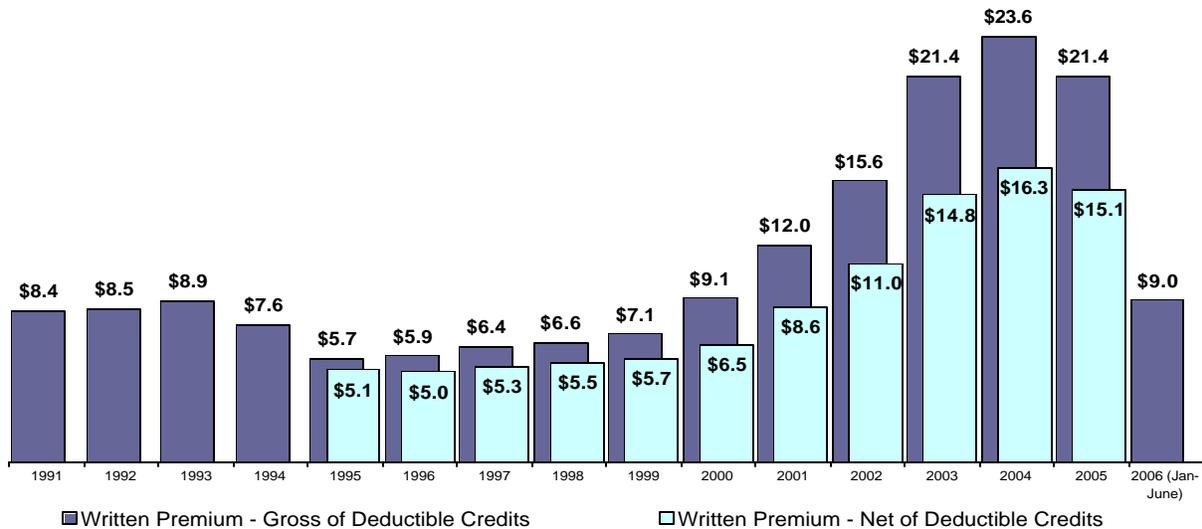
As intended by the most recent reforms, workers' compensation costs in California have begun to decline. The charts below illustrate the impact of those factors.

Workers' Compensation Written Premium

The Workers' Compensation Insurance Rating Bureau (WCIRB) defines written premium as the premium an insurer expects to earn over the policy period.

As shown in the following chart, workers' compensation written premium has undergone dramatic changes since 1990. Written premium held steady from 1990, decreased from 1993 to 1995, increased slightly in the latter part of the 1990s, more than tripled from 1999 through 2004, and began a significant decline in 2005 which appears to be continuing in 2006.

Workers' Compensation Written Premium (in billion\$, as of June 30, 2006)



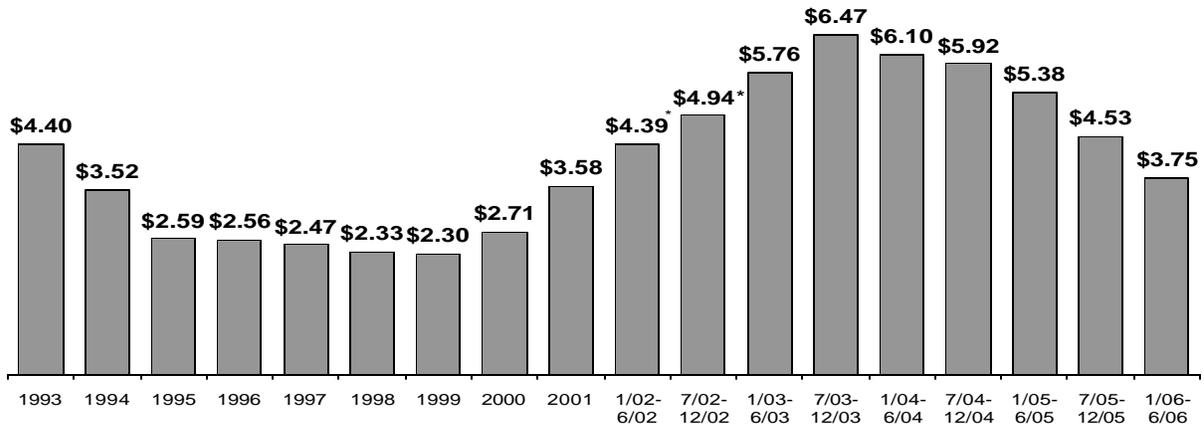
Data Source: WCIRB

SYSTEMS OVERVIEW

Workers' Compensation Average Premium Rate

The following chart shows the average workers' compensation premium rate per \$100 of payroll. The average dropped during the early-to-mid 1990s, stabilized during the mid-to-late 1990s, and then rose significantly beginning in 2000 up to the second half of 2003. However, the average rate has dropped every year since that time. In the first half of 2006, the average rate was lower than in 1993.

Average Workers' Compensation Insurer Rate Per \$100 of Payroll as of June 30, 2006



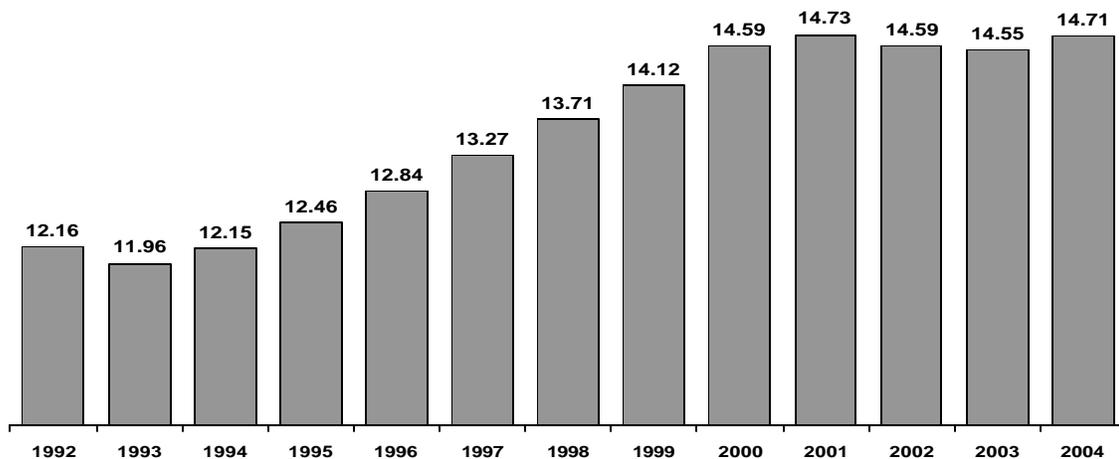
Data Source: WCIRB

* Excludes the impact of the adopted changes to outstanding policy year 2002 pure premium rates effective January 1, 2003

Workers Covered by Workers' Compensation Insurance

The estimated number of California workers covered by workers' compensation insurance grew by about 20 percent from 12.16 million in 1992 to 14.59 million in 2000. From 2000 through 2004, the number of covered workers in California stabilized, averaging about 14.63 million per year.

**Workers Covered by WC Insurance in California
(Estimate in Millions)**

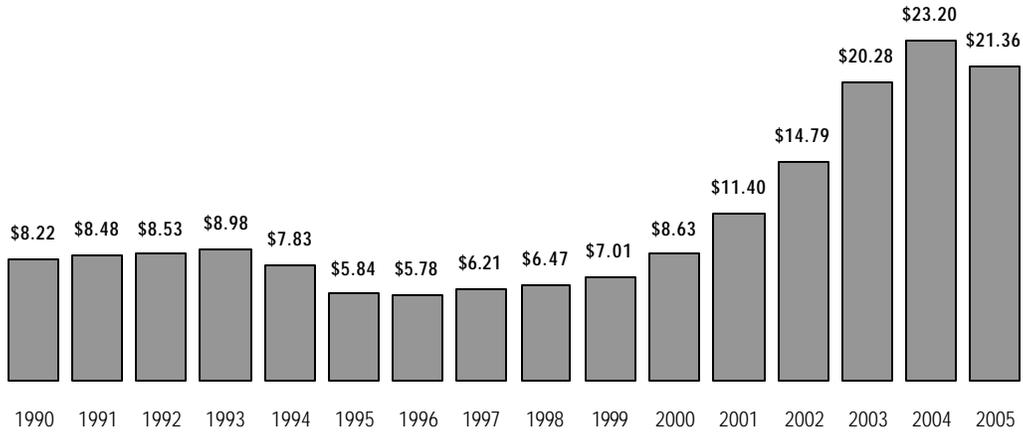


Data Source: US Department of Labor
Methodology: National Academy of Social Insurance (NASI)

SYSTEMS OVERVIEW

Total Earned Premium

Workers' Compensation Earned Premium (In Billion\$, as of June 2006)

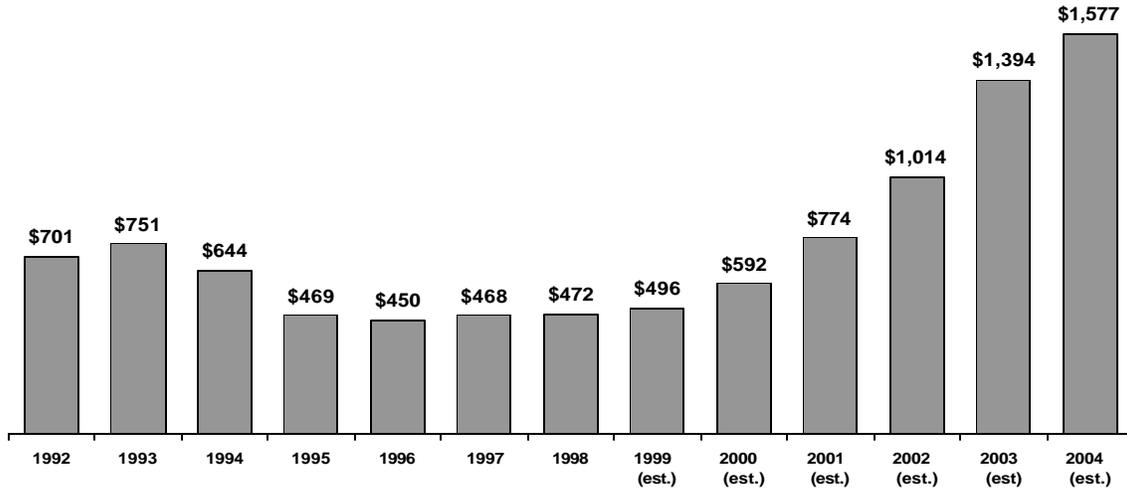


Source: WCIRB

Average Earned Premium per Covered Worker

As shown in the graph below, the average earned premium per covered worker dropped during the early-to-mid 1990s, leveled off for a few years, and then more than tripled between 1999 and 2004.

Average Premium per Covered Worker



Data Source: WCIRB and NASI
Calculations: CHSWC

SYSTEMS OVERVIEW

Costs Paid by Self-Insured Private and Public Employers

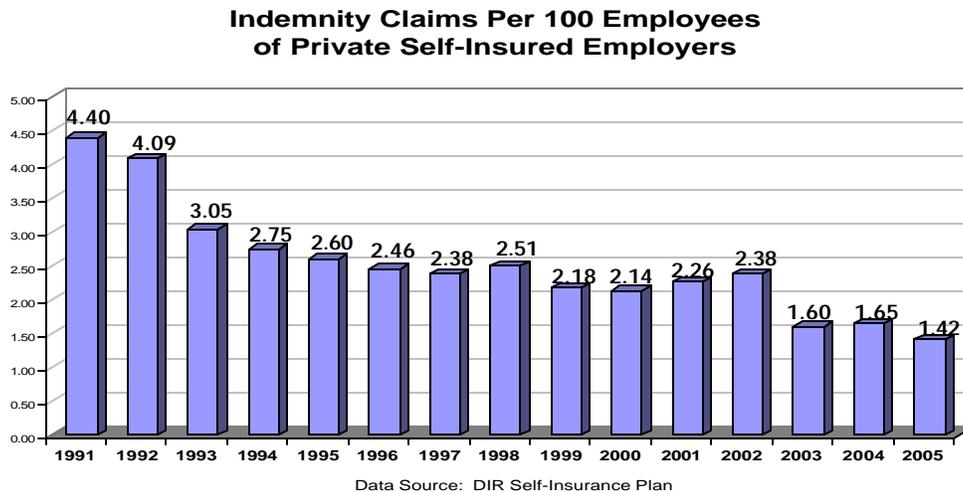
Private Self-Insured Employers

The following chart shows the number of employees working for private self-insured employers between 1991 and 2005. The number of employees declined slightly between 1991 and 1992, increasing by 25 percent between 1992 and 1993. Between 1993 and 1997, the number of employees working for private self-insured employers remained fairly stable, declining by 14 percent between 1997 and 1998. Between 1998 and 2001, the number of employees remained fairly stable, then, between 2002 and 2003, it increased sharply by 43 percent, then decreased by about 7 percent between 2003 and 2004, and increased again by almost 9% from 2004 to 2005.



Indemnity Claims

The number of indemnity claims of employees working for private self-insured employers declined between 1991 and 1997 by 46 percent, followed by a slight increase of 5 percent from 1997 to 1998. From 1998 to 2000, the number of indemnity claims decreased by 14.7 percent and remained stable until 2002, then decreased by 33 percent in 2003. Between 2003 and 2004, the number of indemnity claims per 100 employees slightly increased from 1.60 to 1.65, an increase of 3 percent, and decreased by 13.9 percent between 2004 and 2005.

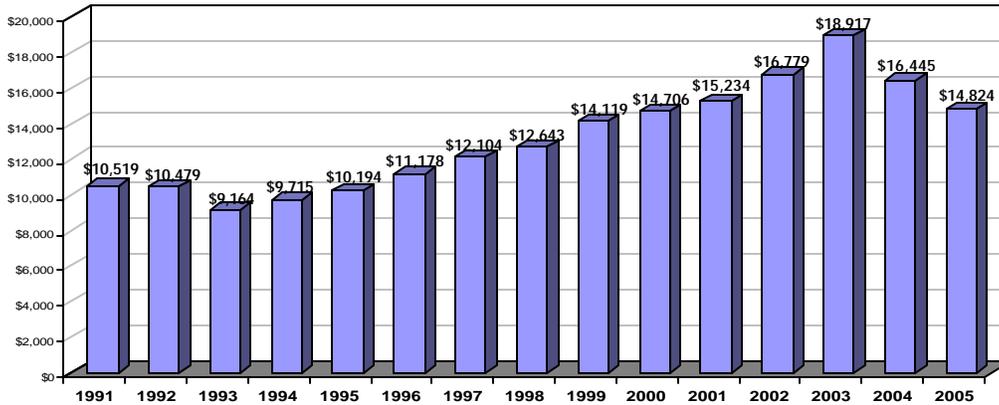


SYSTEMS OVERVIEW

Incurred Cost per Indemnity Claim

The following chart shows the incurred cost per indemnity claim for private self-insured employers. During 1991 and 1992, the incurred cost per indemnity claim was stable. It dropped by 13 percent from 1992 to 1993, and between 1993 and 2003, the incurred cost per indemnity claim doubled, then decreased by about 21.6 percent between 2003 and 2005.

**Incurred Cost Per Indemnity
Claim of Private Self-Insured Employers**

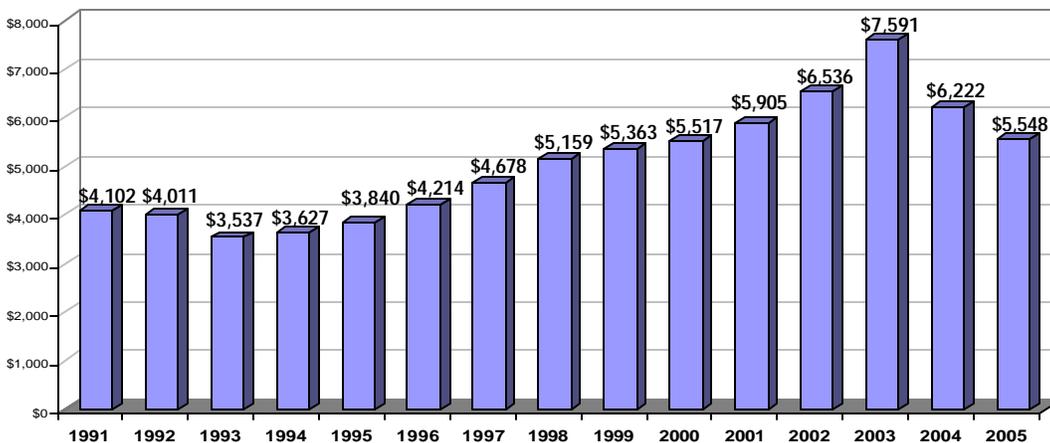


Data Source: DIR Self-Insurance Plans

Average Incurred Cost per Indemnity and Medical Claim

The average incurred cost per indemnity and medical claim for the private sector was stable during 1991 and 1992, followed by a decline of 13 percent in 1993. It levelled off from 1993 to 1995, then increased by almost double by 2002. From 2002 to 2003, the incurred cost per indemnity and medical claim grew by 16 percent and then decreased by 27 percent between 2003 and 2005.

**Incurred Cost Per Claim-Indemnity and Medical
Private Self-Insurers**



Data Source: DIR Self-Insurance Plan

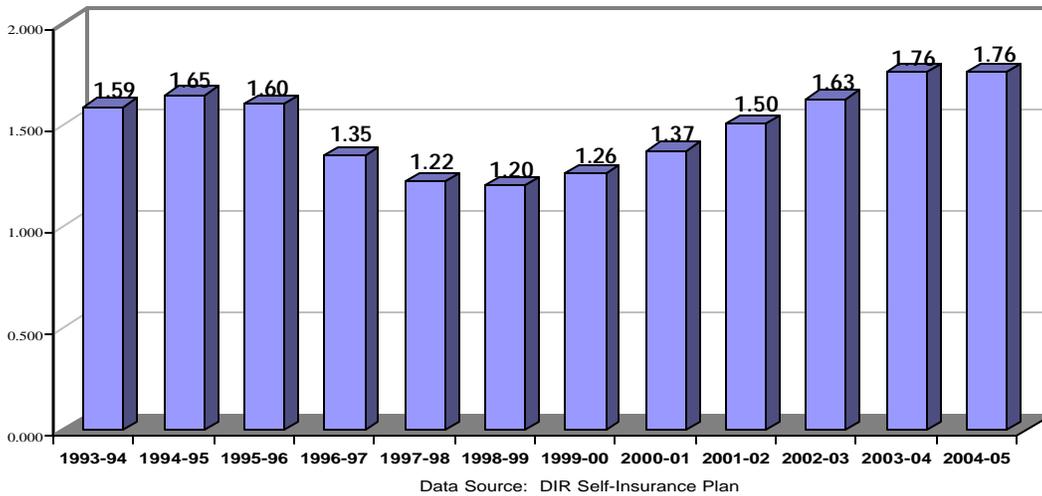
SYSTEMS OVERVIEW

Public Self-Insured Employers

Number of Employees

The following chart shows the number of public self-insured employers between fiscal years 1993-94 and 2004-05. The number of public self-insured employers declined between 1994-1994 and 1998-1999. Between 1998-1999 and 2003-2004, the number of employees working for public self-insured employers grew by 44 percent, then leveling off between 2003-2004 and 2004-2005.

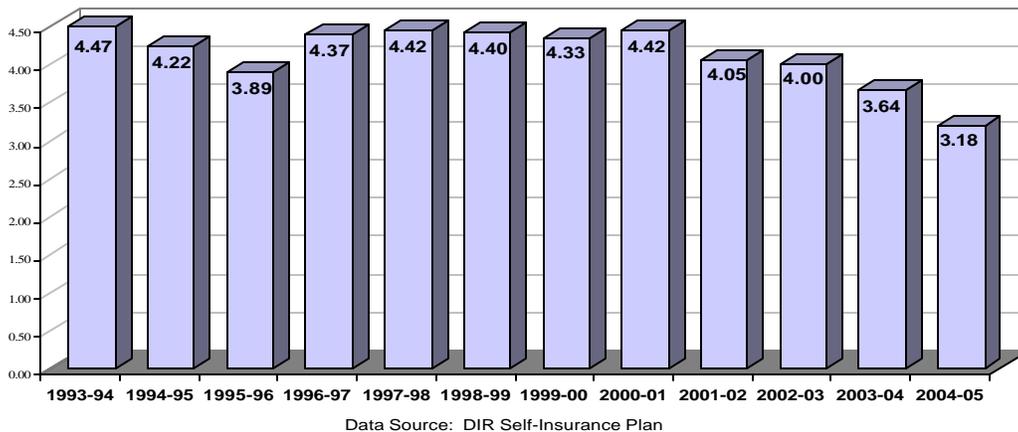
**Number of Employees of Public Self-Insured Employers
(in Millions)**



Indemnity Claims

The number of indemnity claims of employees working for public self-insured employers remained steady between 1996-1997 to 2000-2001. Between 2000-2001 and 2004-2005, the number of indemnity claims decreased steadily to the lowest in the past 12 years.

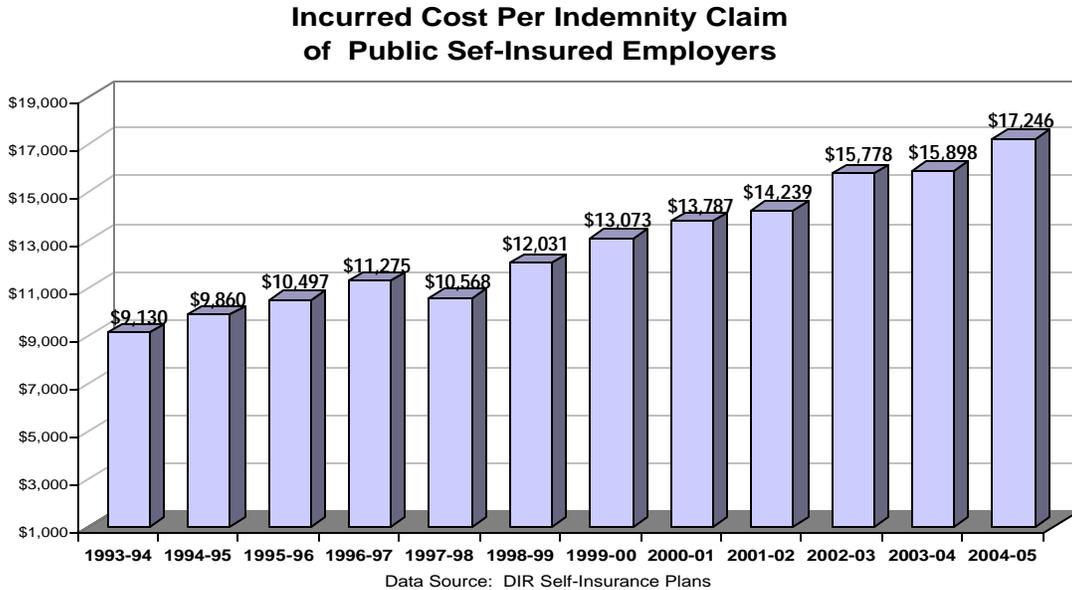
**Indemnity Claims per 100 Employees
of Public Self-Insured Employers**



SYSTEMS OVERVIEW

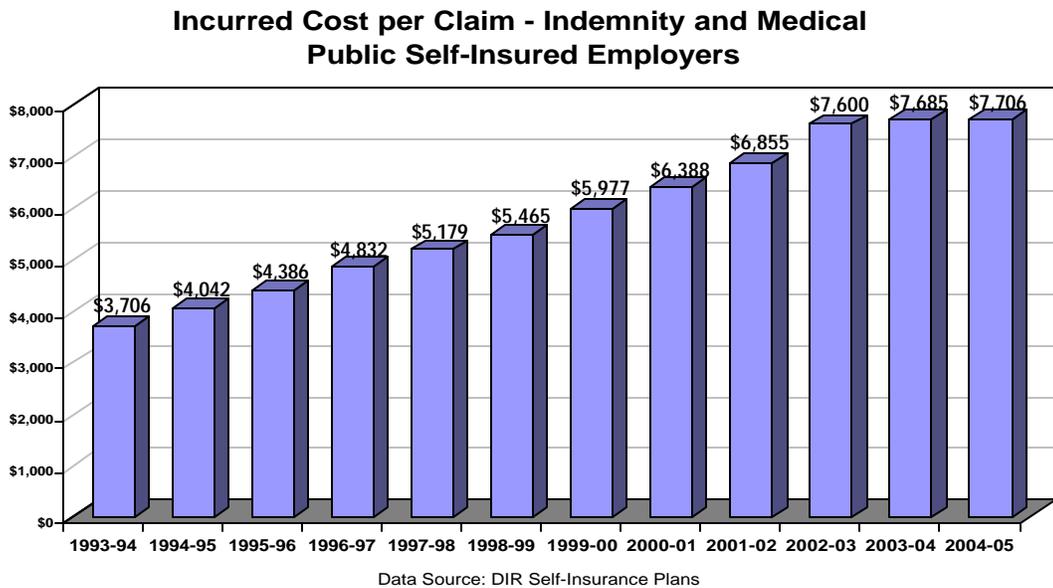
Incurred Cost per Claim

The following chart shows the incurred cost per indemnity claim for public self-insured employers. Between 1993-1994 and 2004-2005, the incurred cost per indemnity claim nearly doubled from \$9,130 to \$17,246.



Incurred Cost per Indemnity and Medical Claim

The following chart shows the incurred cost per indemnity and medical claim for public self-insured employers. Between 1993-1994 and 2002-2003, the incurred cost per indemnity and medical claim doubled, then leveled off between 2003-2004 and 2004-2005.



SYSTEMS OVERVIEW

Vocational Rehabilitation Costs

Vocational Rehabilitation Settlements

The Workers' Compensation Insurance Rating Bureau (WCIRB) has compiled information from the most current WCIRB Permanent Disability Claim Survey. In total, 9.6 percent of accident year 2003 permanent disability claim costs involved vocational rehabilitation settlements as of, on average, 28 months. The average settlement in these cases was \$6,046. For accident-year 2003 (the first year in which such settlements were allowed), settlements comprised 11 percent of total vocational rehabilitation costs.

Vocational Rehabilitation Incurred Costs

The WCIRB has summarized initial first unit report level statistical submissions with respect to accident year 2005 claims on 2004 policies and accident-year 2004 claims on 2003 policies. The tables below show preliminary summaries of this information at first unit report level for partial accident years and at a combination of first and second unit report levels for complete accident years. This preliminary unit statistical information suggests that vocational rehabilitation cost per claim has declined by approximately 75 percent subsequent to the reforms.

Table: Vocational Rehabilitation Incurred Costs At First Report Level

Policy Year / Accident Year	% of Indemnity Claims with VR	Change from Average of AY 2001-03	VR. Cost Per VR Claim	Change from Average of AY 2001-03	VR Cost Per Indemnity Claim	VR Cost Level Change From Average of AY 2001-03
2000/2001	19.6%	—	\$6,115	—	\$1,196	—
2001/2002	19.5%	—	\$5,945	—	\$1,158	—
2002/2003	18.3%	—	\$6,333	—	\$1,158	—
2003/2004	8.8%	-54%	\$3,774	-38%	\$330	-72%
2004/2004	7.9%	-58%	\$3,326	-46%	\$264	-74%

Table: Vocational Rehabilitation Incurred Costs At First/Second Report Levels

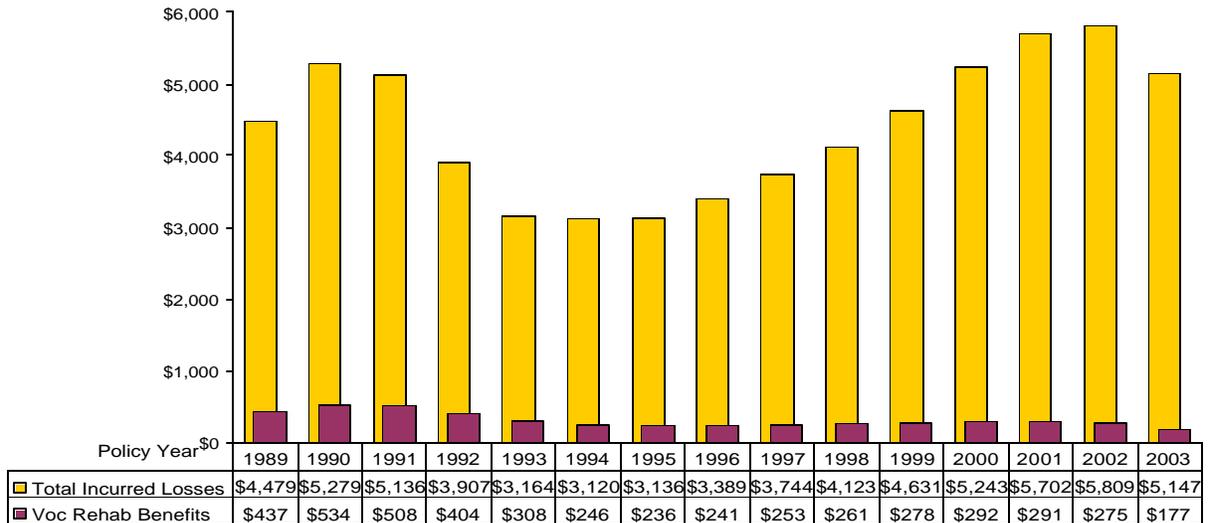
Accident Year	% of Indemnity Claims with VR	Change from Average of AY 2001-03	VR. Cost Per VR Claim	Change from Average of AY 2001-03	VR Cost Per Indemnity Claim	VR Cost Level Change From Average of AY 2001-03
2001	22.8%	—	\$8,008	—	\$1,828	—
2002	22.9%	—	\$8,248	—	\$1,888	—
2003	21.4%	—	\$7,972	—	\$1,704	—
2004	10.4%	-53%	\$4,349	-46%	\$454	-75%

Data Source: WCIRB

SYSTEMS OVERVIEW

AB 749 repealed the workers' compensation vocational rehabilitation benefit for dates of injury on or after January 1, 2004. SB 899 provided that vocational rehabilitation benefits are available only to eligible workers who were injured before 2004 and will be available only through December 31, 2008.

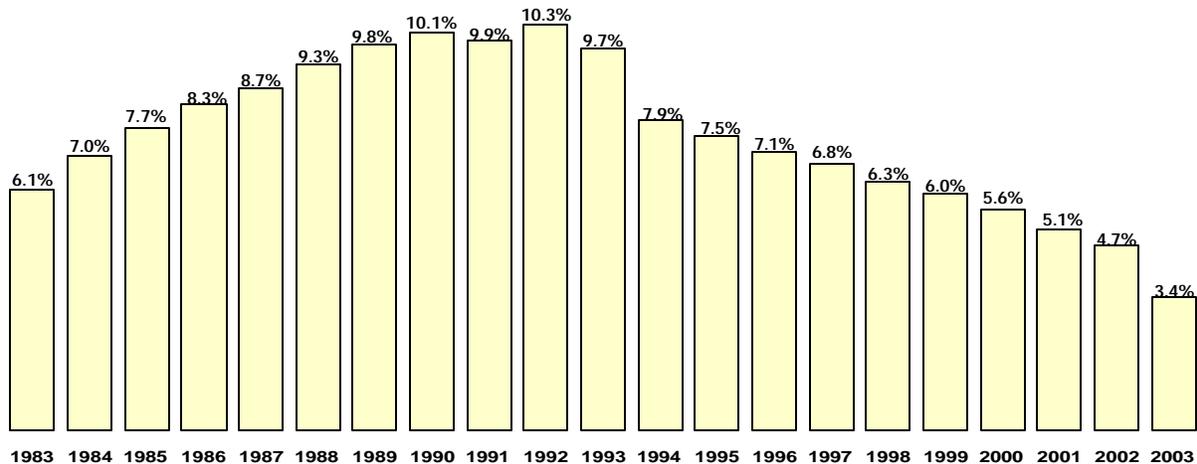
Vocational Rehabilitation Benefits Compared with Total Incurred Losses, WCIRB 1st Report Level (in Millions\$)



Data Source: WCIRB

The chart below shows the vocational rehabilitation costs as a percentage of total incurred losses. The vocational rehabilitation costs as a percentage of losses reached their peak in 1992 and have been declining since then.

Vocational Rehabilitation Costs as Percent of Total Incurred Losses

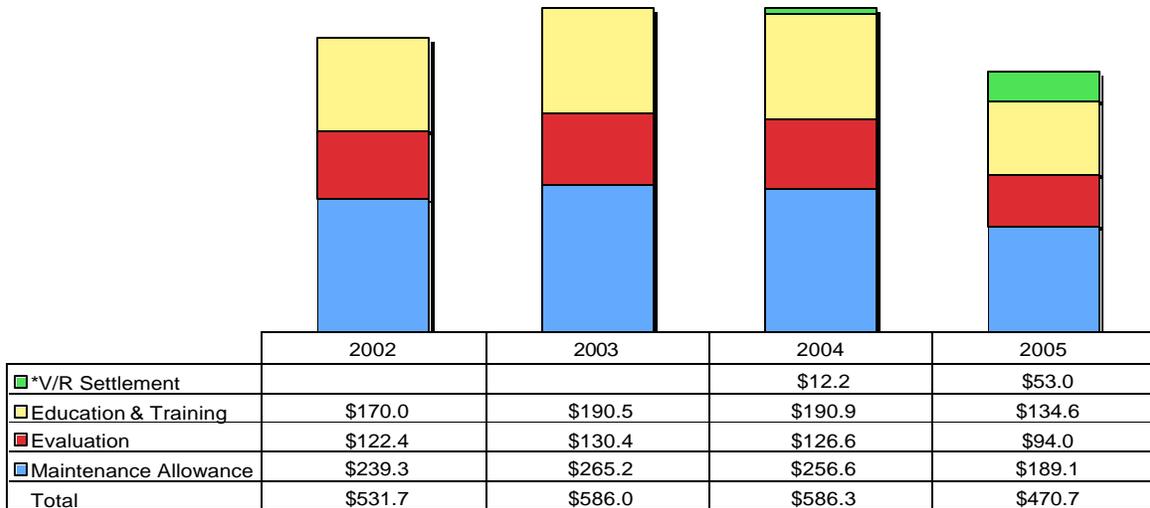


Source: WCIRB (1st Level Reports for Each Policy Year)

The following chart shows the amount paid for each component of the vocational rehabilitation benefit each year from 2002 through 2005

SYSTEMS OVERVIEW

Paid Vocational Rehabilitation (Million\$)

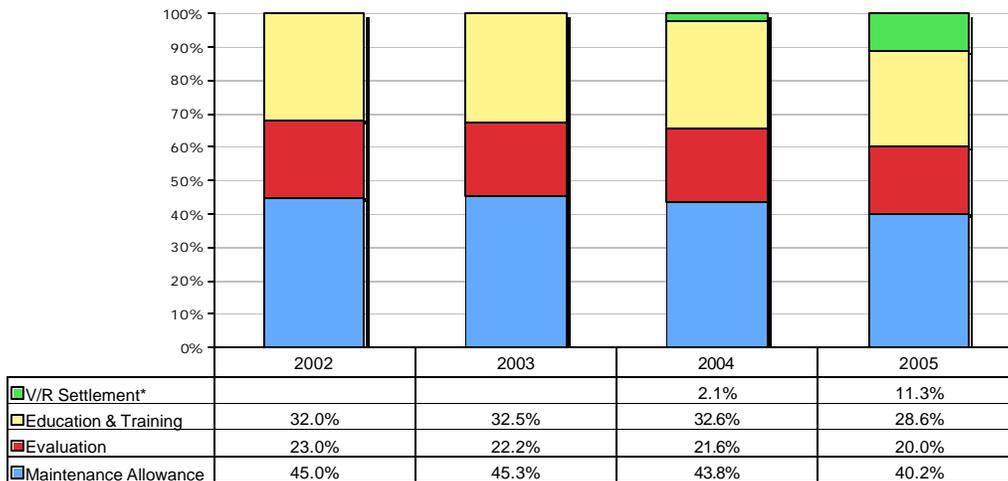


* Vocational rehabilitation settlements were allowed on injuries occurring on or after January 1, 2003 pursuant to Assembly Bill No. 749.

Source: WCIRB

The graph below depicts the proportion that each component of the vocational rehabilitation benefit contributes to the total. Since AB 749 allowed vocational rehabilitation settlements for injuries on or after January 1, 2003, such settlements have grown to more than 11 percent of the total paid costs. .

Distribution of Paid Vocational Rehabilitation



* Vocational rehabilitation settlements were allowed on injuries occurring on or after January 1, 2003 pursuant to Assembly Bill No. 749.

Source: WCIRB

SYSTEMS OVERVIEW

Medical-Legal Expenses

Reform-legislation changes to the medical-legal process were intended to reduce both the cost and the frequency of litigation. Starting in 1989, legislative reforms restricted the number and lowered the cost of medical-legal evaluations needed to determine the extent of PD. The reform legislation also limited workers' compensation judges to approving the PD rating proposed by one side or the other ("baseball arbitration"). In addition, the Legislature created the QME designation and increased the importance of the treating physician's reports in the PD-determination process.

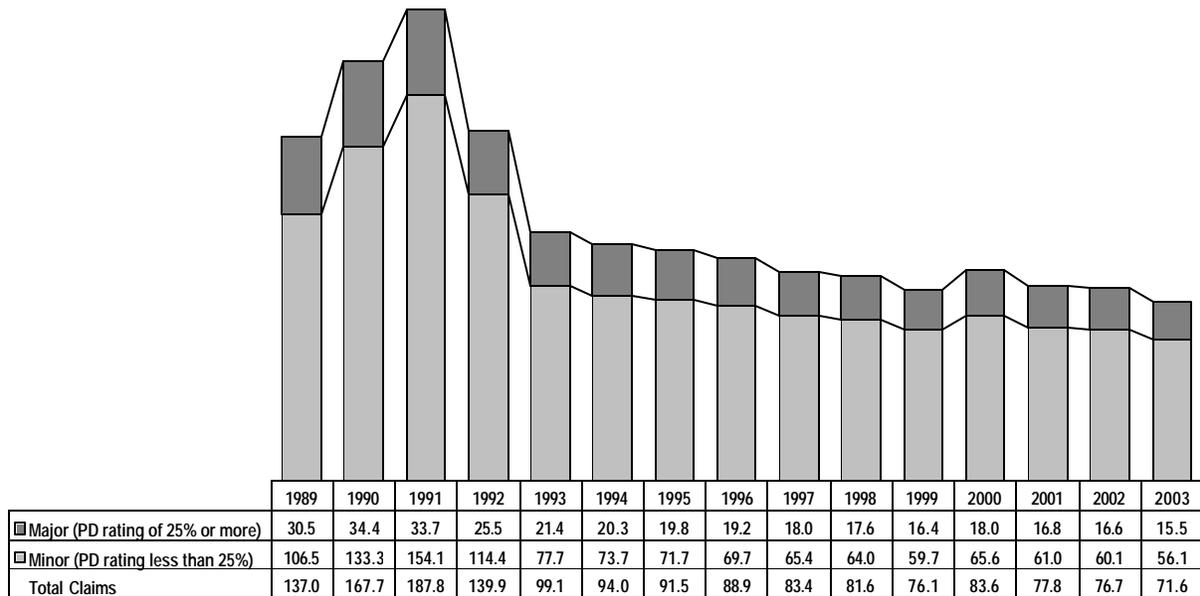
In 1995, the Commission on Health and Safety and Workers' Compensation (CHSWC) contracted with the Survey Research Center at University of California, Berkeley, to assess the impact of workers' compensation reform legislation on the workers' compensation medical-legal evaluation process.

This ongoing study has determined that during the 1990s, the cost of medical-legal examinations has dramatically improved. As shown in the following discussions, this is due to reductions in all the factors that contribute to the total cost.

Permanent Disability Claims

The following chart displays the number of permanent partial disability (PPD) claims during each calendar year since 1989. Through 1993, the WCIRB created these data series from Individual Case Report Records submitted as part of the Unit Statistical Report. Since that time, the series has been discontinued, and estimates for 1994 and subsequent years are based on policy-year data adjusted to the calendar year and information on the frequency of all claims, including medical-only claims, that are still available on a calendar-year basis.

**PPD Claims at Insured Employers
(In thousands, by year of injury)**



Data Source: WCIRB

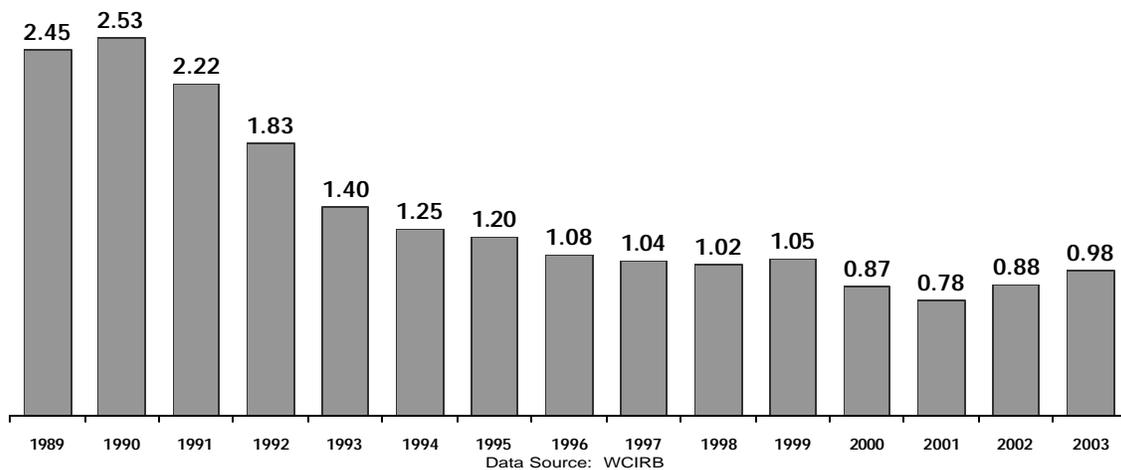
SYSTEMS OVERVIEW

Medical-Legal Examinations per Claim

The following chart illustrates the decline in the average number of medical-legal examinations per claim. An average of 2.45 claims in 1989 declined to 0.98 claims in 2003, representing a 60 percent decline. This decline is attributed to a series of reforms since 1989 and the impact of efforts against medical mills.

Reforms instituted in 1993 that advanced the role of the treating physician in the medical-legal process and granted the opinions of the treating physician a presumption of correctness were expected to reduce the average number of reports even further. Earlier CHSWC reports evaluating the treating physician presumption did not find that these reforms had significant effect on the average number of reports per claim.

**Medical-Legal Exams per Workers' Compensation Claim
(At 40 months from the beginning of the accident year)**



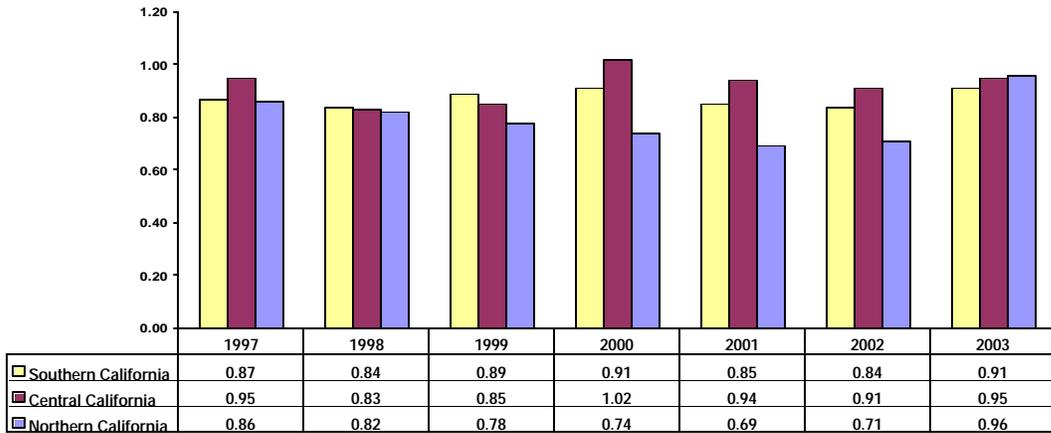
The change in the average number of examinations between 1993 and 1994 was almost entirely the result of improvements that occurred during the course of 1993 calendar-year claims. These results were based on smaller surveys done by the WCIRB when the claims were less mature. These later data involving a larger sample of surveyed claims suggest that the number of examinations per claim has continued to decline after leveling off between 1993 and 1995. The number of reports seems to have stabilized at just slightly more than an average of one report per PPD claim between 1996 and 1999.

It is interesting to note that different regions of California are often thought to have different patterns of medical-legal reporting. The revisions to the WCIRB Permanent Disability Survey, undertaken at the recommendation of CHSWC and instituted for the 1997 accident year, explored new issues. A zip code field was added to analyze patterns in different regions.

The following chart demonstrates that the frequency with which medical-legal reports were used between 1997 and 1999 was not, in fact, different across the State's major regions. However, as the number of reports has continued to decline between 2000 and 2002, the differences between regions have become more pronounced. It should be noted that to compare across all four available years, the period 1997 to 2003 which values claims at shorter maturity than the 40 months used in the above chart, is used. As a result, the frequency is somewhat less.

SYSTEMS OVERVIEW

**Average Number of Medical-Legal Exams per Claim by Region
(at 34 months after beginning of accident year)**



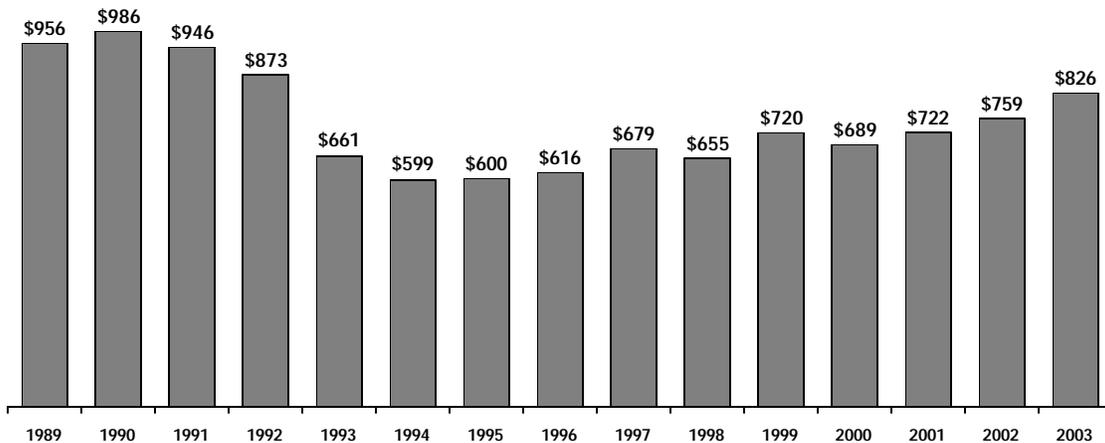
Data Source: WCIRB

Cost per Medical-Legal Examination

There are two reasons why the average cost per medical examination has declined by 16 percent since its peak in 1990. First, substantial changes were made to the structure of the Medical-Legal Fee Schedule that reduced the rates at which medical examinations are reimbursed. These restrictions were introduced in early 1993 and enforced after the start of August 1993.

Second, during this period, the average cost of medical examinations was also being affected by the frequency of psychiatric examinations. On average, psychiatric examinations are the most expensive examinations by specialty of provider. The relative portion of all examinations that is made up of psychiatric examinations has declined since hitting a high in 1990-1991, leading to a substantial improvement in the overall average cost per examination.

**Average Cost of Medical-Legal Exam
(Evaluated at 40 months of accident year)**

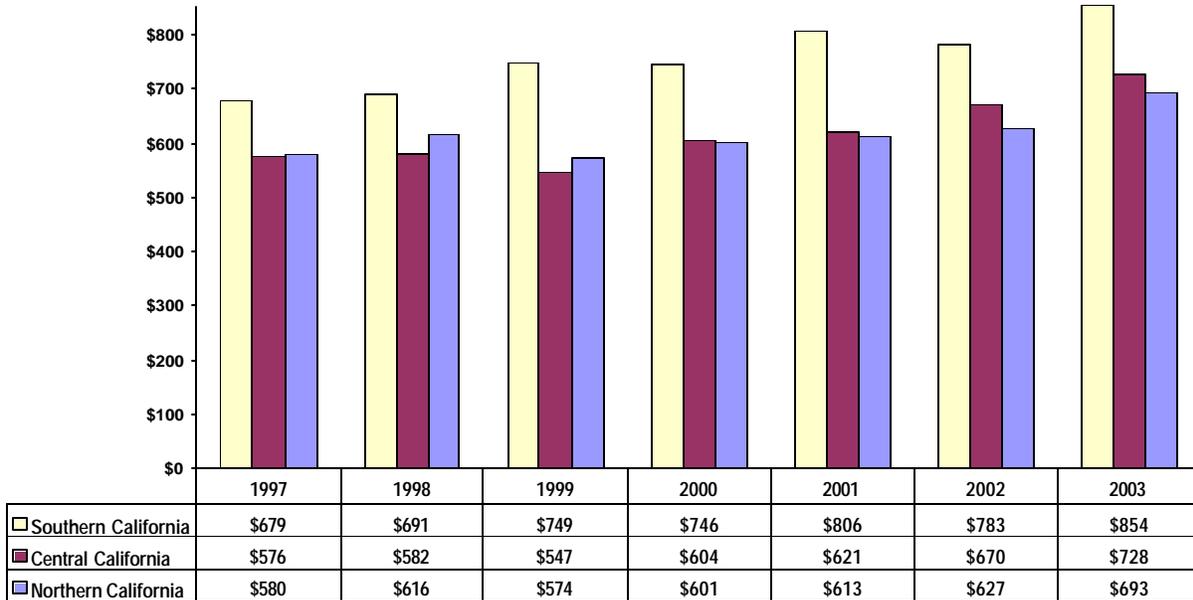


Data Source: WCIRB

SYSTEMS OVERVIEW

Since the mid-1990s, the average cost of a medical-legal report has increased by 38 percent, even though the reimbursement under the Official Medical Fee Schedule (OMFS) has remained unchanged since 1993. The revised PD Survey by the WCIRB includes additional questions that reveal some of the potential causes of this increase in costs. The changes indicate various types of fee schedule classifications as well as geography. However, issues for injury-years before 1997 cannot be examined because the WCIRB survey revision of that year prevents comparisons.

**Average Cost of Medical-Legal Exam by Region
(at 34 months after beginning of accident year)**



Data Source: WCIRB

The survey data show that, on average, reports done in Southern California have always been substantially more expensive. Increases in the average cost are being driven by claims in Southern California.

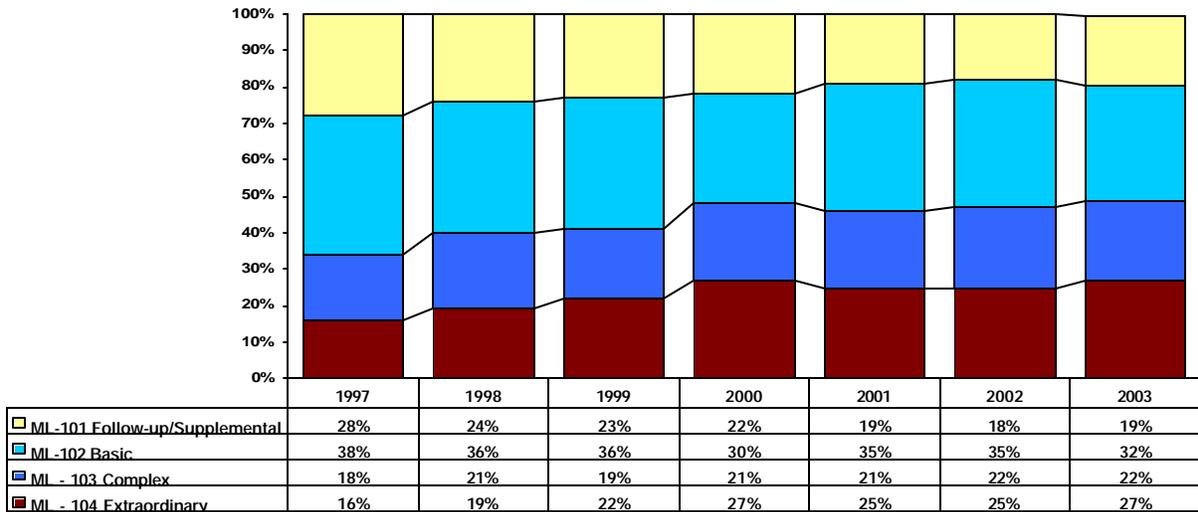
Further analysis indicates that the cost driver for California and its Southern region trends is not the price paid for specific types of examinations. Rather, the mix of codes under which the reports are billed has changed to include a higher percentage of the most complex and expensive examinations and fewer of the least expensive type. The following table shows the cost and description from the Medical-Legal Fee Schedule.

Evaluation Type	Amount Presumed Reasonable
ML-101 Follow-up/ Supplemental	\$250
ML-102 Basic	\$500
ML-103 Complex	\$750
ML-104 Extraordinary	\$200/hour

SYSTEMS OVERVIEW

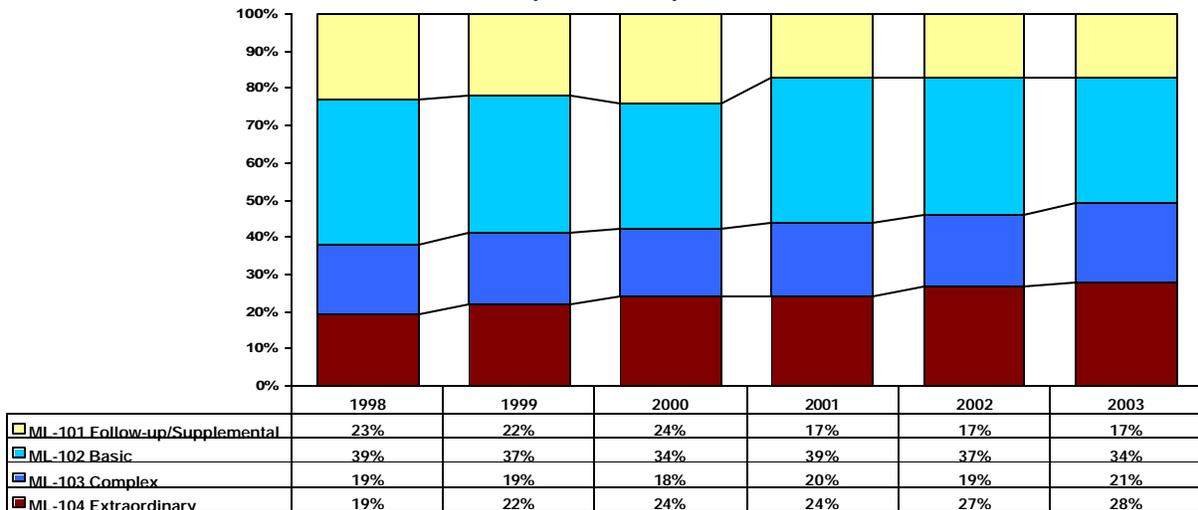
The following two charts indicate that the distribution of examinations both in Southern California and California as a whole has shifted away from ML-101 examinations to include a higher percentage of ML-104 examinations with “Extraordinary” complexity. At the same time, the average cost within each examination type did not exhibit a trend.

Distribution of Medical-Legal Exam by Type (Southern California)



Data Source: WCIRB

Distribution of Medical-Legal Exam by Type (California)

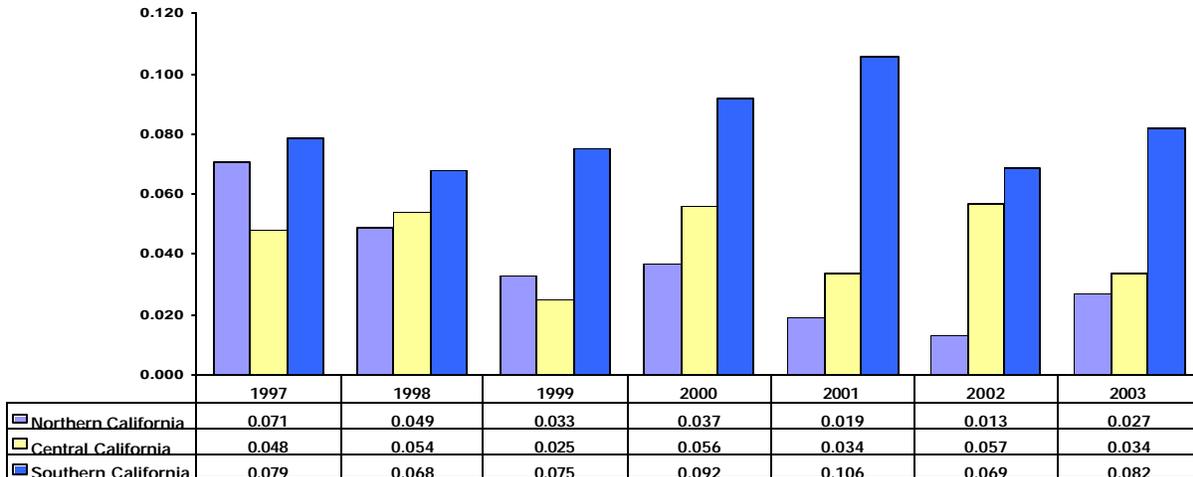


Data Source: WCIRB

SYSTEMS OVERVIEW

Another possible explanation for the differing trends in the average cost per report and the increasing frequency of the most complex examinations in Southern California is that psychiatric evaluations are more common in Southern California, although there has been a decrease in frequency for this region of 23 percent between 2001 and 2003. Psychiatric examinations are nearly always billed under the ML-104 code that is the most expensive.

Average Number of Psychiatric Exams per PPD Claim by Region



Data Source: WCIRB

Medical-Legal Cost Calculation

Total medical-legal costs are calculated by multiplying the number of PPD claims by the average number of medical-legal examinations per claim and by the average cost per medical-legal examination.

Total Medical-Legal Cost

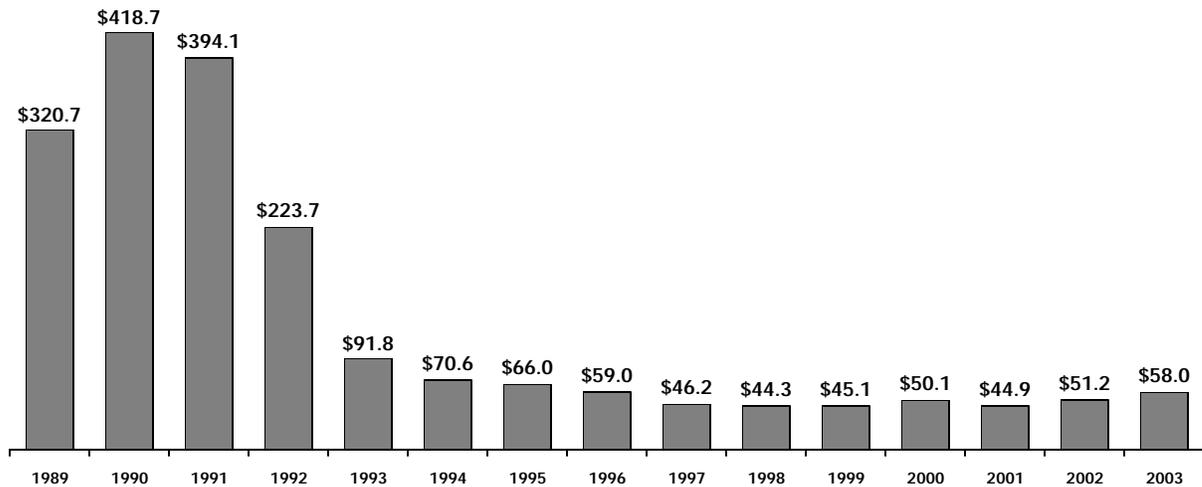
$$\text{Number of PPD Claims} * \text{Average Number of Exams/Claim} * \text{Average Cost/Exam}$$

Medical-Legal Costs

During the 1990s, the cost of medical-legal examinations improved dramatically. For the insured community, the total cost of medical-legal examinations performed on PPD claims by 40 months after the beginning of the accident year has declined from a high of \$419 million in 1990 to an estimated \$58.0 million for injuries occurring in 2003. This is an 86 percent decline since the beginning of the decade.

SYSTEMS OVERVIEW

Medical-Legal Costs on PPD Claims at Insured Employers (In Million\$, 40 months after beginning of accident year)



Data Source: WCIRB

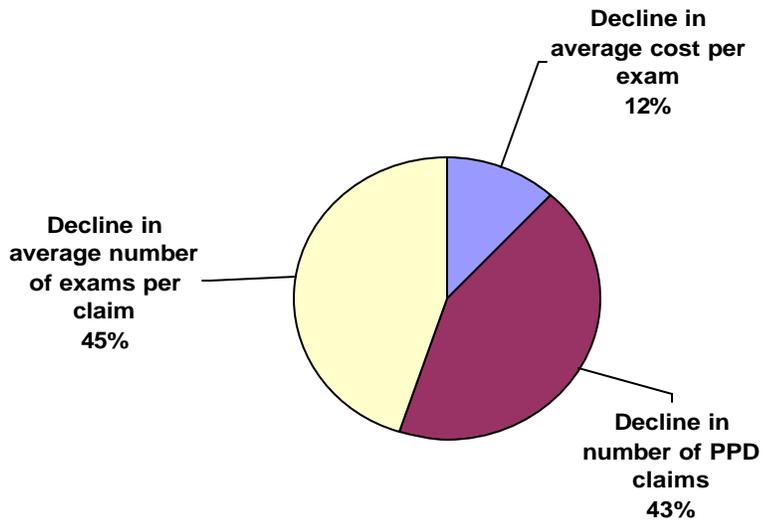
Sources of Improvement in Medical-Legal Costs

The decline in total medical-legal costs for insurers reflects improvements in all components of the cost structure during the 1990s. As discussed in the previous sections, this substantial decline in total medical-legal costs for insurers results from significant decreases in all of the components of the cost structure. The following chart shows how the cost savings break down by component since the beginning of the decade:

- About half (45 percent) of the cost savings is due to improvements in the medical-legal process that reduced the number of examinations performed per claim.
- Twelve percent of the improvement is due to changes to the medical-legal fee schedule and treatment of psychiatric claims that reduced the average cost of examinations per claim.
- Forty-three percent of the improvement is a result of the overall decline in the frequency of reported PPD claims.

SYSTEMS OVERVIEW

Sources of Savings. Medical-Legal Costs on PPD Claims 1990-2003



Data Source: WCIRB

SYSTEMS OVERVIEW

Workers' Compensation System Expenditures: Indemnity and Medical Benefits

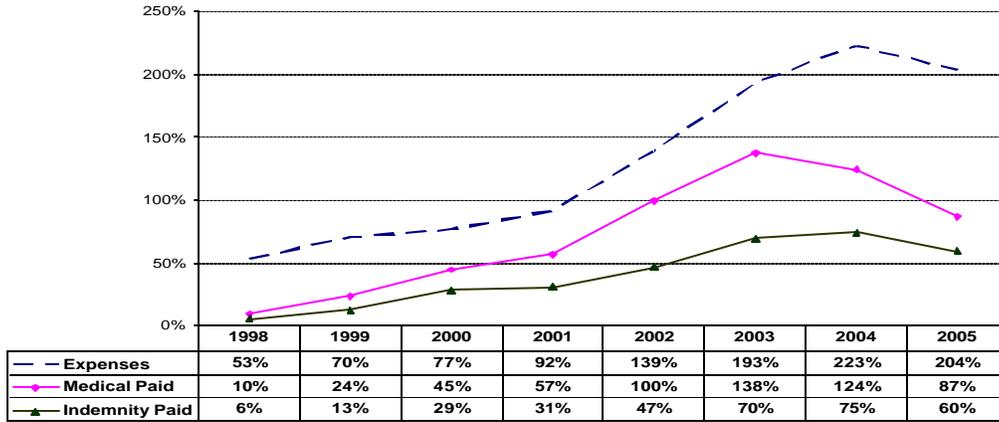
Overall Costs

Methodology for Estimating

The estimated percentages of total system costs are based on insured employer costs from the WCIRB. The assumption is that these data apply also to self-insureds. Since self-insured employers are estimated to be 20 percent of all employers, the total system costs are calculated by increasing WCIRB data for insured employers to reflect that proportion.

Growth of Workers' Compensation Costs

**Workers' Compensation Costs Percent Growth by Year
Compared With 1997**

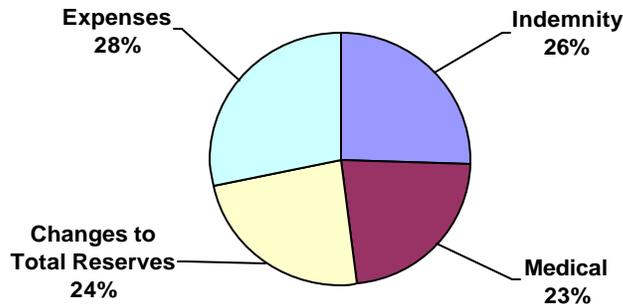


Data Source: WCIRB

Distribution of Workers' Compensation Costs by Type

The following chart shows the distribution of workers' compensation costs.

**Estimated Distribution of
Workers Compensation Costs, 2005**



Data Source: WCIRB

SYSTEMS OVERVIEW

Indemnity Benefits

The WCIRB provided the cost of indemnity benefits paid by insured employers. Assuming that insured employers comprise approximately 80 percent of all employers, estimated indemnity benefits are shown on the following chart for the total system and for self-insured employers.

System-wide Estimated Costs of Paid Indemnity Benefits

Indemnity Benefit(Thousand\$)	2004	2005	Change
Temporary Disability	\$2,449,301	\$2,084,649	-\$364,652
Permanent Total Disability	\$108,528	\$140,963	\$32,436
Permanent Partial Disability	\$2,555,420	\$2,502,040	-\$53,380
Death	\$63,361	\$74,460	\$11,099
Funeral Expenses	\$1,819	\$1,744	-\$75
Life Pensions	\$39,775	\$52,351	\$12,576
Vocational Rehabilitation	\$732,825	\$588,395	-\$144,430
Total	\$5,951,029	\$5,444,602	-\$506,427

Paid by Insured Employers

Indemnity Benefit(Thousand\$)	2004	2005	Change
Temporary Disability	\$1,959,441	\$1,667,719	-\$291,722
Permanent Total Disability	\$86,822	\$112,770	\$25,948
Permanent Partial Disability	\$2,044,336	\$2,001,632	-\$42,704
Death	\$50,689	\$59,568	\$8,879
Funeral Expenses	\$1,455	\$1,395	-\$60
Life Pensions	\$31,820	\$41,881	\$10,061
Vocational Rehabilitation	\$586,260	\$470,716	-\$115,544
Total	\$4,760,823	\$4,355,681	-\$405,142

Paid by Self-Insured Employers*

Indemnity Benefit(Thousand\$)	2004	2005	Change
Temporary Disability	\$489,860	\$416,930	-\$72,930
Permanent Total Disability	\$21,706	\$28,193	\$6,487
Permanent Partial Disability	\$511,084	\$500,408	-\$10,676
Death	\$12,672	\$14,892	\$2,220
Funeral Expenses	\$364	\$349	-\$15
Life Pensions	\$7,955	\$10,470	\$2,515
Vocational Rehabilitation	\$146,565	\$117,679	-\$28,886
Total	\$1,190,206	\$1,088,921	-\$101,285

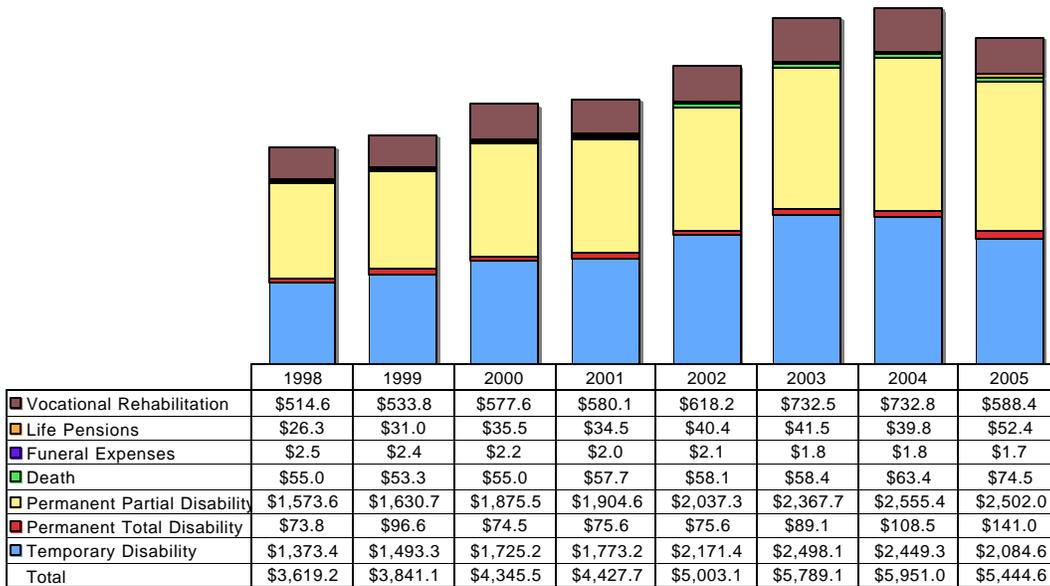
* Figures estimated based on insured employers' cost. Self-insured employers are estimated to comprise 20 percent of all California employers.

SYSTEMS OVERVIEW

Trends in Paid Indemnity Benefits

The estimated system-wide paid indemnity costs for the past several years are displayed in the chart below. The cost of the total indemnity benefit increased 64 percent from 1998 to 2004, then decreased by 8.5 percent from 2004 to 2005. The costs of TD, PPD, and vocational rehabilitation also declined from 2004 to 2005 after years of growth. Costs of life pensions, death benefits and permanent total disability increased from 1998 through 2005.

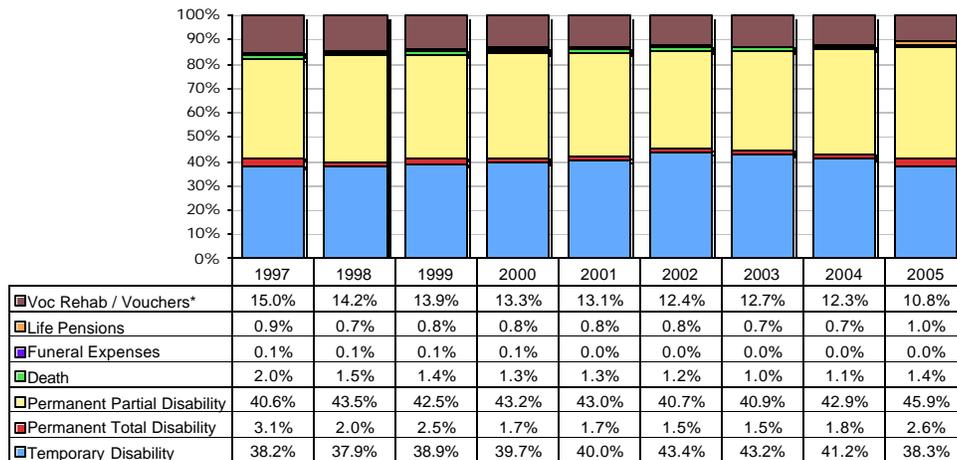
Workers' Compensation Paid Indemnity Benefit System-Wide Estimated Costs in Million\$



Source: WCIRB Calculations: CHSWC

The following chart depicts the proportion of the total cost of paid indemnity contributed by each component.

Distribution of Paid Indemnity Benefits



* Vocational Rehabilitation / Non-transferable Educational Vouchers

Source: WCIRB

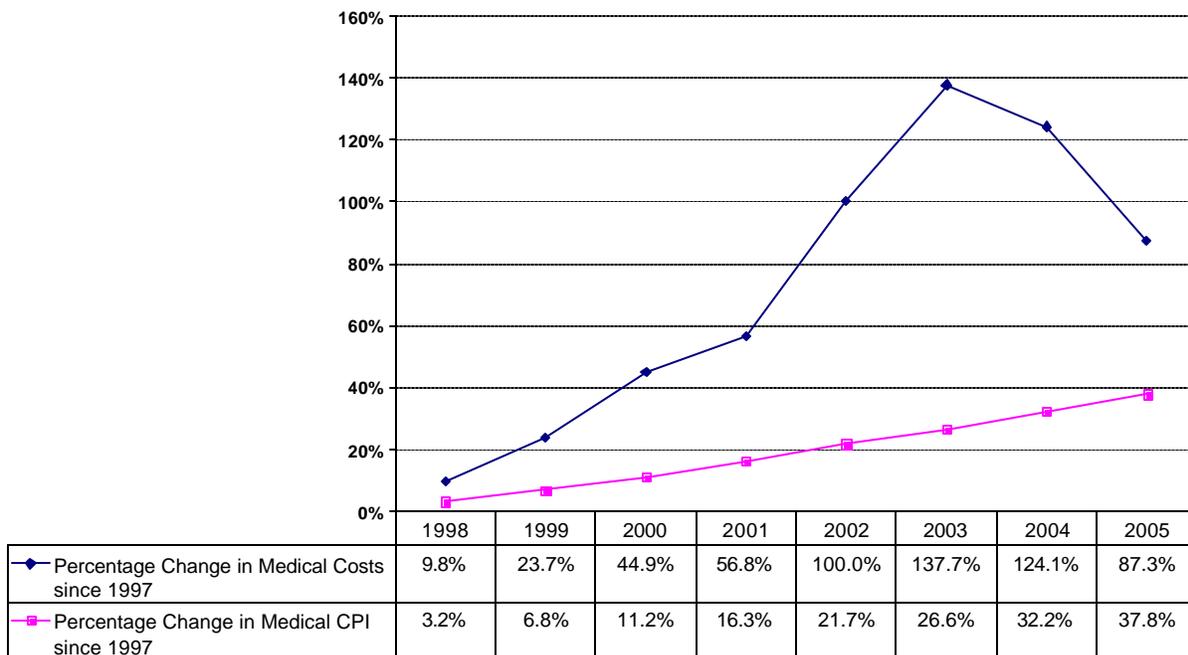
SYSTEMS OVERVIEW

Medical Benefits

Workers' Compensation Medical Costs vs. Medical Inflation

The following chart compares the growth rates of California's workers' compensation medical costs paid by insurers and self-insured employers with the medical component of the Consumer Price Index (CPI), also known as the "Medical CPI," a term used by economists to describe price increases in health care services.

**Growth of Workers' Compensation Medical Costs Compared to Medical Inflation
Rate-Percent Change since 1997**



Data Source: WCIRB; Bureau of Labor Statistics

SYSTEMS OVERVIEW

Distribution of Medical Benefits: Where Does the Workers' Compensation Dollar Go?

System-Wide Estimated Costs - Medical Benefits Paid

Medical Benefits (Thousand\$)	2004	2005	Change
Physicians	\$2,984,963	\$2,380,874	-\$604,089
Capitated Medical	\$13,255	\$35,405	\$22,150
Hospital	\$1,571,848	\$1,311,136	-\$260,712
Pharmacy	\$597,528	\$545,493	-\$52,035
Payments Made Directly to Patient	\$181,526	\$186,348	\$4,822
Medical-Legal Evaluation	\$200,509	\$229,748	\$29,239
Medical Cost Containment Programs*	\$194,713	\$111,369	-\$83,344
Total	\$5,744,342	\$4,800,373	-\$943,969

Paid by Insured Employers

Medical Benefits (Thousand\$)	2004	2005	Change
Physicians	\$2,387,970	\$1,904,699	-\$483,271
Capitated Medical	\$10,604	\$28,324	\$17,720
Hospital	\$1,257,478	\$1,048,909	-\$208,569
Pharmacy	\$478,022	\$436,394	-\$41,628
Payments Made Directly to Patient	\$145,221	\$149,078	\$3,857
Medical-Legal Evaluation	\$160,407	\$183,798	\$23,391
Medical Cost-Containment Programs*	\$155,770	\$89,095	-\$66,675
Total	\$4,595,472	\$3,840,297	-\$755,175

Paid by Self-Insured Employers**

Medical Benefits (Thousand\$)	2004	2005	Change
Physicians	\$596,993	\$476,175	-\$120,818
Capitated Medical	\$2,651	\$7,081	\$4,430
Hospital	\$314,370	\$262,227	-\$52,143
Pharmacy	\$119,506	\$109,099	-\$10,407
Payments Made Directly to Patient	\$36,305	\$37,270	\$965
Medical-Legal Evaluation	\$40,102	\$45,950	\$5,848
Medical Cost-Containment Programs*	\$38,943	\$22,274	-\$16,669
Total	\$1,148,870	\$960,076	-\$188,794

* Figures for medical cost-containment programs are based on a sample of insurers who reported medical cost-containment expenses to the WCIRB.

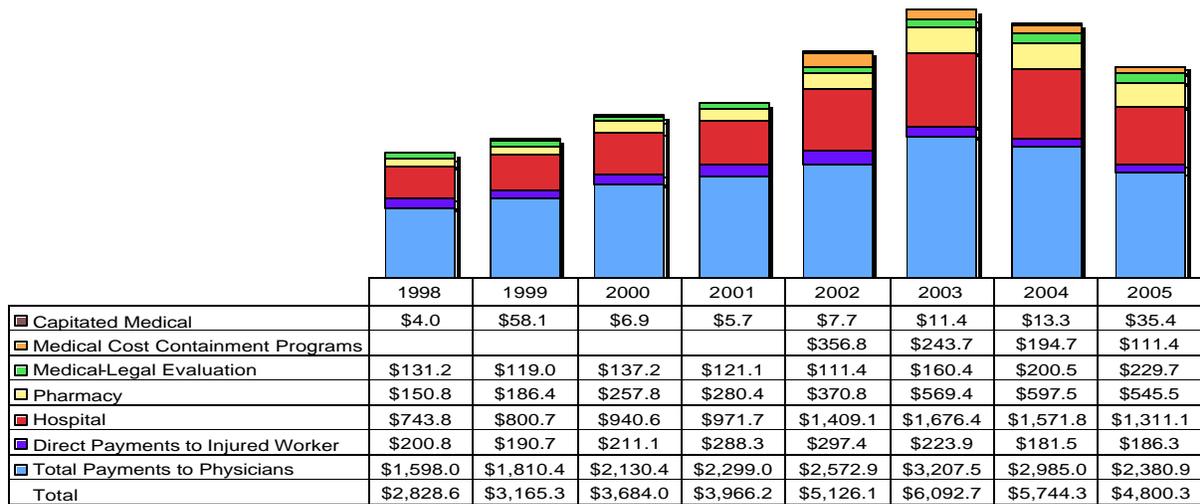
** Figures estimated based on insured employers' costs.
Self-insured employers are estimated to comprise 20 percent of all California employers.

SYSTEMS OVERVIEW

Trends in Paid Medical Benefits

The estimated system-wide paid medical costs for the past several years are displayed in the chart below. The following trends may result from the impact of the recent workers' compensation reforms. The cost of the total medical benefit doubled from 1998 to 2003, then decreased by 21 percent from 2003 to 2005. Pharmacy costs nearly quadrupled from 1998 through 2004, before declining slightly from 2004 to 2005. Expenditures on medical cost-containment programs in 2005 were less than a third of what they were in 2002. Hospital costs more than doubled from 1998 to 2003, then declined by 22 percent from 2003 to 2005. Medical-legal evaluation costs fluctuated from 1998 to 2002, then doubled between 2002 and 2005. Payments to physicians doubled from 1998 to 2003, then dropped by 26 percent from 2003 to 2005.

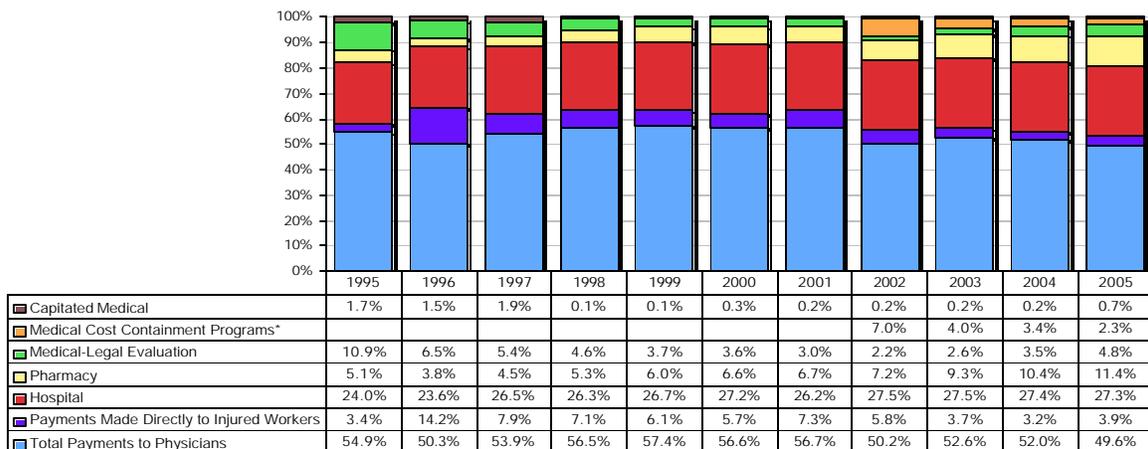
**Workers' Compensation Paid Medical Benefits
System-Wide Estimated Costs in Million\$**



Source: WCIRB Calculations: CHSWC

The following chart depicts the proportion of the total cost of paid medical contributed by each component.

Distribution of Paid Medical Costs



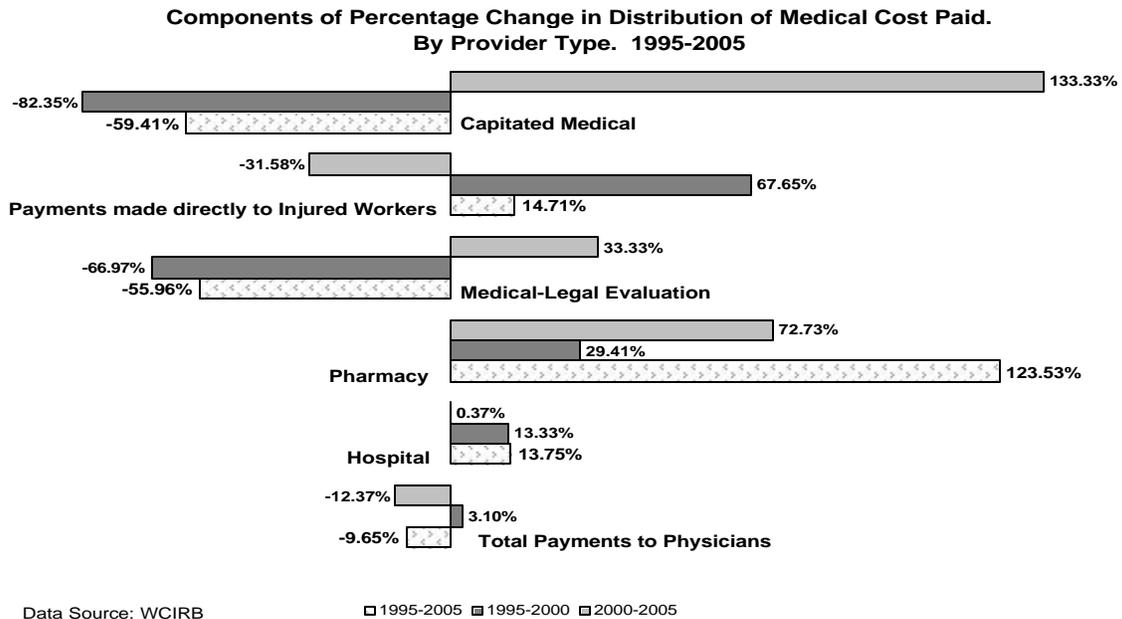
* Figures for medical cost containment programs are based on a sample of insurers who reported medical cost containment expenses to the WCIRB. The reporting of this data was voluntary for calendar year 2002 but mandatory beginning with calendar year 2003 payments.

Source: WCIRB

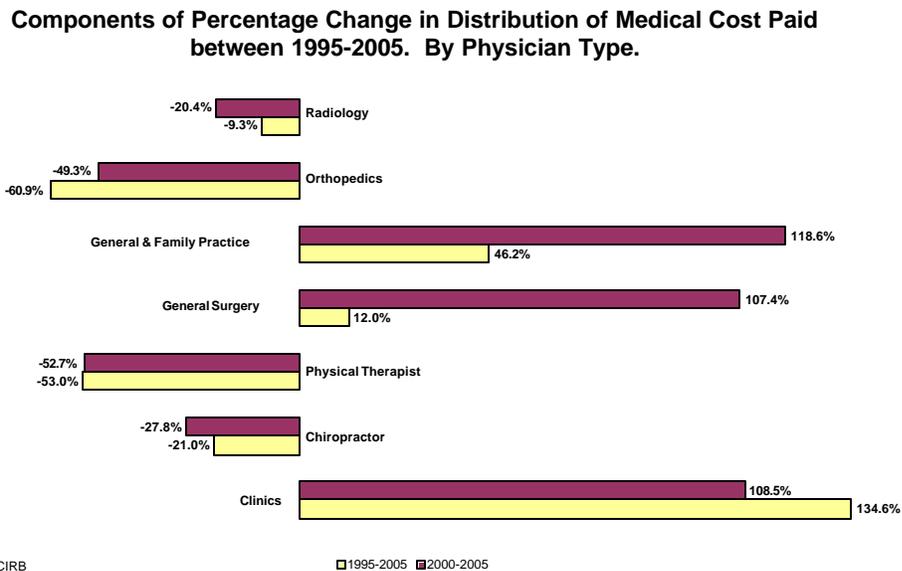
SYSTEMS OVERVIEW

Changes in Medical Payments by Type of Provider

The chart below shows the increase in the distribution of medical payments to categories of providers. The biggest increase in the distribution of medical payments for the period of 1995 to 2005 was for pharmacies followed by hospitals. For the period of 2000 to 2005, the biggest increase was for capitated medical followed by pharmacies. In the period of 2000 to 2005, there were either less increases or greater decreases than in the period of 1995 to 2000 for the following categories of medical costs: payments to physicians; hospitals; and payments made directly to injured workers.



The chart below shows the change in distribution of medical costs paid by provider type. The biggest increase in the years between 2000 and 2005 was in general and family practice, general surgery and the clinics. The biggest decreases were in physical therapists, orthopedics and chiropractors.

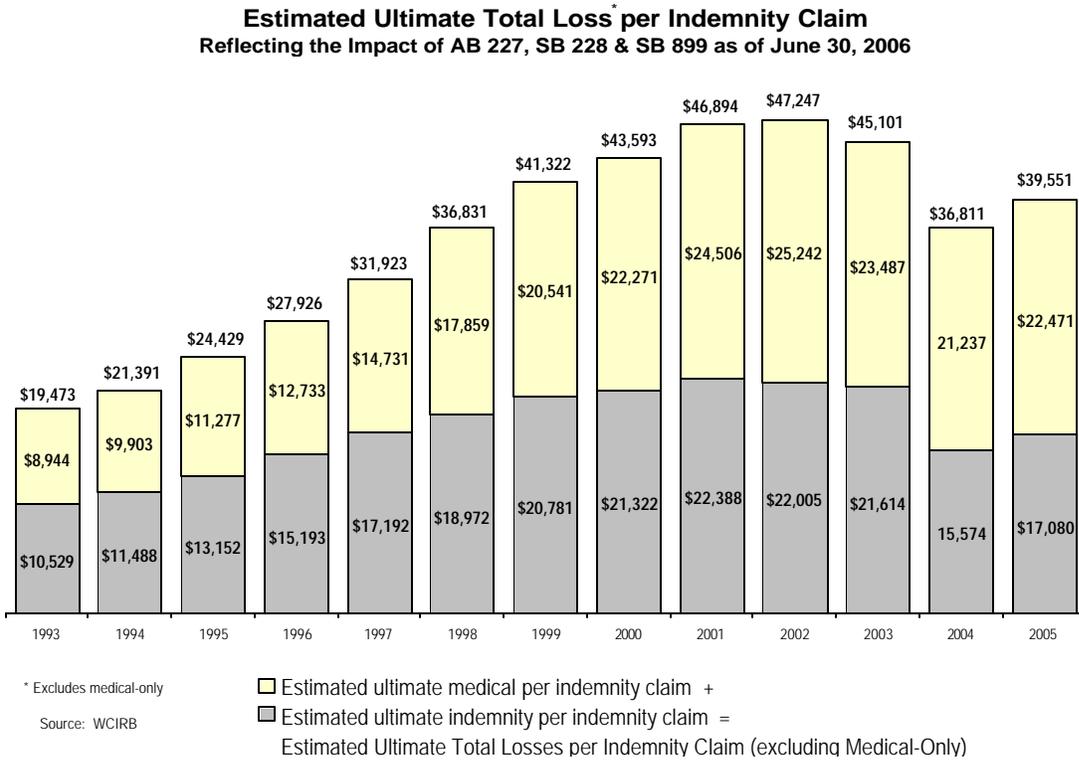


SYSTEMS OVERVIEW

Average Claim Costs

At the same time that premiums and claim frequency were declining, the total amount insurers paid on indemnity claims jumped sharply due to increases in the average cost of an indemnity claim, which rose dramatically during the late 1990s

The total average cost of indemnity claims has decreased by 16 percent from 2002 to 2005 reflecting the impact of AB 227, SB 228 and SB 899. However, the total, indemnity and medical average costs per claim increased between 2004 and 2005.



Please note that WCIRB's estimates of average indemnity claim costs have not been indexed to take into account wage increase and medical inflation.

SYSTEMS OVERVIEW

Average Cost per Claim by Type of Injury

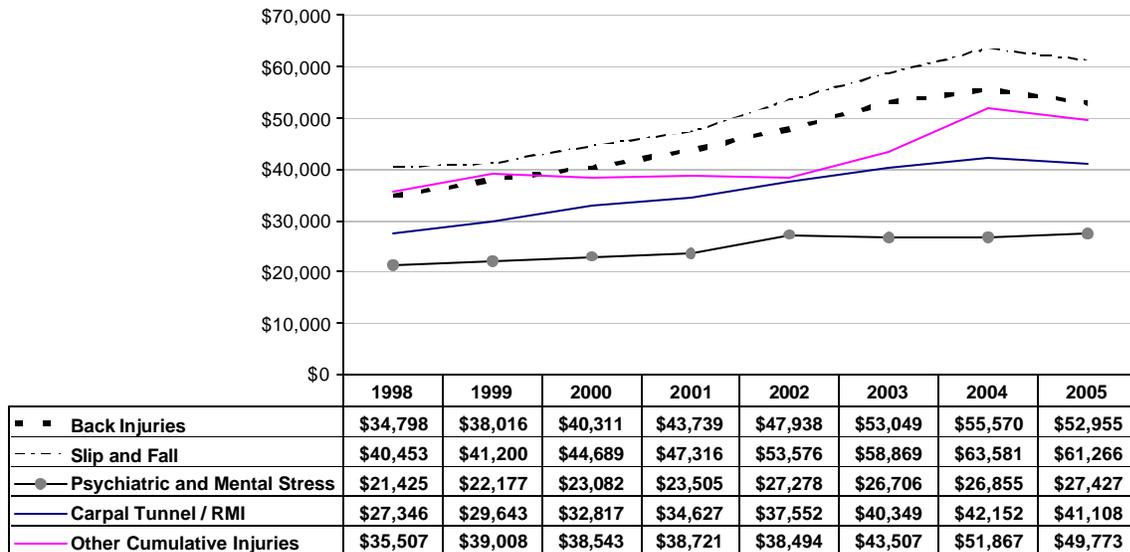
As shown in the following chart, there have been significant increases in average cost per claim for several types of injuries. From 1997 to 2003, slips and falls increased by 61 percent, back injuries by 59 percent, followed by carpal tunnel/repetitive motion injuries (RMI) by 56 percent.

On the other hand, average costs of psychiatric and mental stress claims appeared to have levelled off through 2001, increased slightly in 2002, and have been mostly stable since then.

From 2003 to 2004, the average cost for some types of injuries, such as back injuries and carpal tunnel/RMI, increased only slightly and appeared to be leveling off.

From 2004 to 2005, the average costs for all of the types of injuries shown below, with the exception of psychiatric and mental stress, have begun to decline.

Average Cost per WC Claim by Type of Injury*



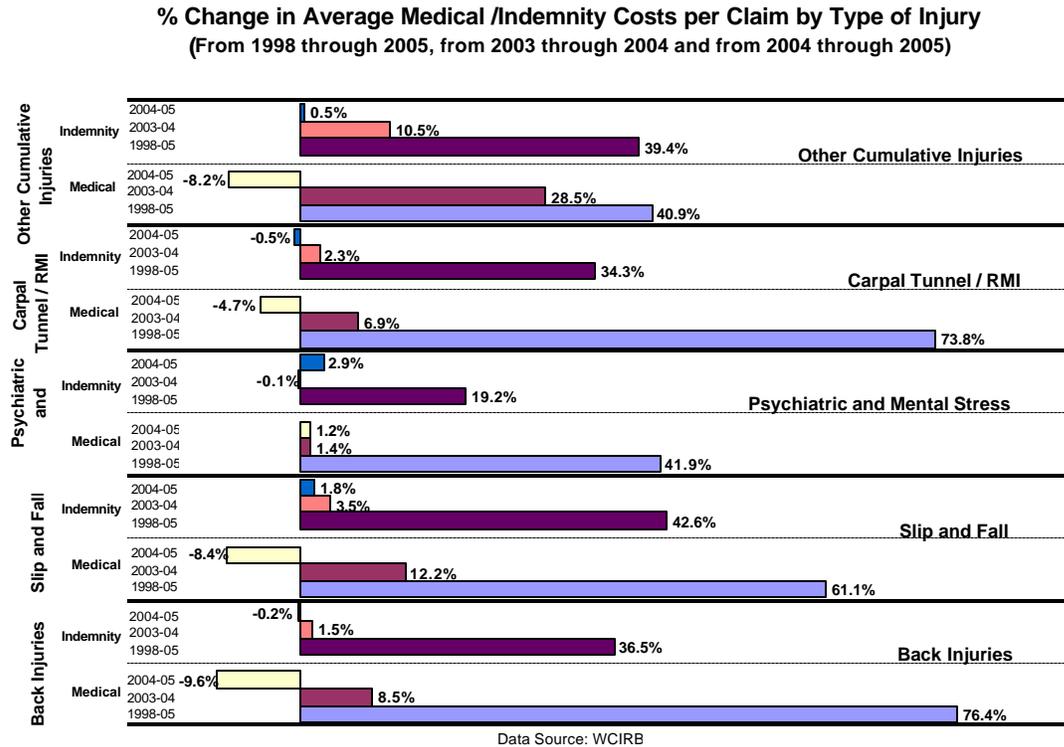
* These categories are not mutually exclusive. For example, some back injuries result from slips and falls.

Source: WCIRB

SYSTEMS OVERVIEW

Changes in Average Medical and Indemnity Costs per Claim by Type of Injury

As shown in the chart below, the average medical cost per claim has decreased between 2004 and 2005 for every injury category, with the exception of psychiatric and mental stress. The biggest decrease in 2004 to 2005 has been in the back-injury category.



SYSTEMS OVERVIEW

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

The regulatory activities of the Division of Workers' Compensation (DWC) to implement the provisions of the recent workers' compensation reform legislation are outlined below. Formal rulemaking is often preceded by the release of a draft rule and the opening of a forum for interested parties to post comments. Information about these preliminary activities is available at <http://www.dir.ca.gov/Wcjudicial.htm>. The latest formal rulemaking updates are available at www.dir.ca.gov/DWC/DWCrulemaking.html

Senate Bill 899

SB 899 Mandates/Tasks	Status of Regulations
<p>Labor Code Section (LC §) 139.48</p> <p>Return-to-Work Reimbursement Program for Workplace Modifications</p> <p><i>Sunsets*:</i> January 1, 2009</p> <p>*Senate Bill (SB) 899 repeals this provision effective January 1, 2009, unless a new statute is enacted before January 1, 2009, deletes or extends that date.</p>	<p><i>Status:</i> Regulations Complete</p> <p>The final rulemaking (Sections 10004 and 10005) was approved by Office of Administrative Law (OAL) on July 19, 2006, and was effective on August 18, 2006.</p> <p>http://www.dir.ca.gov/DWC/DWCPropRegs/ReturnToWork_regulations/ReturnToWork_regulations.htm</p> <p><i>Title 8, California Code of Regulations (8 CCR) Section 10004</i></p> <p>For employers with 50 or fewer employees, provides for reimbursement of \$1,250 to accommodate each temporarily disabled employee and \$2,500 to accommodate each permanently disabled employee for expenses incurred in returning such employee to sustained modified or alternative work within physician-imposed work restrictions.</p> <p>The maximum combined reimbursement per employee is \$2,500.</p> <p>"Sustained modified or alternative work" is work anticipated to last at least 12 months.</p> <p>NOTE: Reimbursement program for injuries after July 1, 2004, is subject to funding from §5814.6 penalties or funds transferred from the Workers' Compensation Administration Revolving Fund (WCARF) by the Administrative Director (AD) in accordance with rules to be adopted.</p>
<p>LC §4062.1</p> <p>Qualified Medical Evaluator Procedures for Unrepresented Workers</p>	<p><i>Status:</i> Regulations in Process</p> <p>DWC advises that draft regulations are being developed. Rulemaking process to begin in mid-2006.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

<p>SB 899 Mandates/Tasks</p>	<p>Status of Regulations</p>
<p>LC §4062.2 Qualified Medical Evaluator Procedures for Represented Injured Workers</p>	<p><i>Status:</i> Regulations in Process</p> <p>DWC advises that draft regulations are being developed. Rulemaking process to begin in mid-2006.</p>
<p>LC §4600 Pre-Designation of Physician</p> <p><i>Sunsets:</i> April 30, 2007</p> <p>This has been amended by AB 2068.</p>	<p><i>Status:</i> Regulations Complete</p> <p>http://www.dir.ca.gov/DWC/DWCPropRegs/predesignation_Regulations/Predesignation_regulations.htm</p> <p><i>8 CCR Sections 9725 et seq., particularly 9805 and 9805.1</i></p> <p>If the worker fails to properly pre-designate a personal physician prior to injury, he or she will not be able to do so after the injury occurs.</p> <p>If an injured worker does not properly pre-designate his or her personal physician, the employer will have the control over the employee's medical treatment for the first 30 days from the date the injury is reported.</p> <p>Alternatively, if the employee whose employer has a medical provider network (MPN) fails to properly designate his or her personal physician, the employee will be required to get treatment within the MPN for the course of the injury.</p> <p>If the employee has properly pre-designated a personal physician, referrals made by that physician need not be within an MPN.</p>
<p>LC §4616 Medical Provider Networks</p>	<p><i>Status:</i> Regulations Complete</p> <p>http://www.dir.ca.gov/dwc/dwcpropregs/MPNReg.htm</p> <p><i>8 CCR Sections 9767.1 et seq.</i></p> <p>Regulations specify the requirements for an MPN, the MPN application process, access standards, and the second- and third-opinion process, the procedure to modify an MPN, the process to transfer ongoing care into and within the MPN, the employer-notification requirements, and the procedures concerning the denial of an MPN plan or the suspension or revocation of an MPN plan.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

<p>SB 899 Mandates/Tasks</p>	<p>Status of Regulations</p>
<p>LC §4616.4 Independent Medical Review For employees' disputes with diagnosis or treatment provided by an MPN, after exhaustion of second and third opinions within the MPN.</p>	<p><i>Status:</i> Regulations Complete http://www.dir.ca.gov/dwc/dwcpropregs/IMRRegs.htm <i>8 CCR Section 9768.1 et seq.</i> Regulations specify the qualifications to: serve as an independent medical reviewer (IMR); clarify the contract-application procedure; provide the required forms for the IMR contract application and the injured employee's application to request independent medical review; clarify the procedure to request an independent medical review; provide the procedures for an in-person examination or record review; set forth the required contents of the independent medical review reports; set forth the fees for the IMR services; and provide the procedure concerning the adoption of the IMR determination.</p>
<p>LC §4658, 4658.1 Offer of Regular, Modified, or Alternate Work in relation to a 15 percent increase or decrease of permanent disability indemnity</p>	<p><i>Status:</i> Regulations Complete Sections 10133.53 and 10133.55 have an effective date of August 18, 2006. Sections 10001 - 10003 have an effective date of October 21, 2006. http://www.dir.ca.gov/DWC/DWCPropRegs/ReturnToWork_regulations/ReturnToWork_regulations.htm <i>8 CCR Sections 10001 - 10005, 10133.53, and 10133.55</i> Regulations specify for injuries after January 1, 2005, and for employers who have 50 or more employees: If an employer offers the employee regular, modified or alternative work for a period of at least 12 months, permanent disability (PD) payments are decreased by 15 percent, regardless of whether the employee accepts or rejects the offer. If employer does not make such an offer, PD payments to the employee are increased by 15 percent.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

<p>SB 899 Mandates/Tasks</p>	<p>Status of Regulations</p>
<p>LC §4660 Permanent Disability Rating Schedule Revision</p>	<p><i>Status:</i> Regulations Complete</p> <p>http://www.dir.ca.gov/dwc/dwcpropregs/PDRSRegs.htm</p> <p><i>8 CCR? Section 9725 et seq.</i></p> <p>The Permanent Disability Rating Schedule (PDRS) adopts and incorporates the American Medical Association (AMA) <i>Guides to the Evaluation of Permanent Impairment 5th Edition</i>. The PDRS includes multipliers ranging from 1.1 to 1.4, depending on type of injury, to adjust AMA impairment to reflect diminished future earning capacity.</p> <p>The PDRS is effective for dates of injury on or after January 1, 2005, and for dates of injury prior to January 1, 2005, in accordance with subdivision (d) of Labor Code section 4660.</p> <p>The PDRS shall be amended at least once every five years.</p> <p>The AD shall (1) collect 2005 PDRS ratings for 18 months, (2) evaluate the data to determine the aggregate effect of the diminished future earning capacity adjustment on the permanent partial disability ratings under the 2005 PDRS, and (3) revise, if necessary, the diminished future earning capacity adjustment to reflect consideration of an employee's diminished future earning capacity for injuries based on the data collected.</p>
<p>LC §5402(c) Requirement for Employer to Provide up to \$10,000 in Medical Treatment Until Claim is Accepted or Rejected</p>	<p><i>Status:</i> Regulations Complete</p> <p>http://www.dir.ca.gov/dwc/DWCPropRegs/DWCClaimFormReg.htm</p> <p><i>8 CCR Section 9881.1</i></p> <p>The AD's approved Workers' Compensation Notice to Employee Poster provided in 8 CCR Section 9881.1 includes the following language (in English and Spanish) after the last sentence in the section entitled "2. Report Your Injury":</p> <p>"Within one working day after an employee files a claim form, the employer shall authorize the provision of all treatment, consistent with the applicable treating guidelines, for the alleged injury and shall continue to provide treatment until the date that liability for the claim is accepted or rejected. Until the date the claim is accepted or rejected, liability for medical treatment shall be limited to ten thousand dollars (\$10,000)."</p> <p>NOTE: The statutory requirement for the provision of medical treatment pending a decision on a claim is self-effectuating without further regulations, but its administration and enforcement will be enhanced by administrative rulemaking.</p>

<p>SB 899 Mandates/Tasks</p>	<p>Status of Regulations</p>
<p>LC §5814.6 Penalty for Business Practice of Unreasonable Delay in Payment of Compensation</p>	<p><i>Status:</i> Regulations in Formal Rulemaking Process</p> <p>The notice of regulations was published and the public comment period closed after the public hearing on Thursday, June 29, 2006. The revised regulations were circulated for a 15-day comment period. The comment period ended on September 27, 2006. DWC will be issuing a revised draft of the regulations for a second 15-day comment period. It is anticipated that the rulemaking will be completed by November 2006.</p> <p>http://www.dir.ca.gov/DWC/DWCPropRegs/AdminPenalties_LC5814_6Regulations/LC5814_6Regulations.htm</p> <p><i>Proposed 8 CCR Sections 10225 – 10225.2</i></p> <p>The Administrative Director (AD) may charge penalties under both Labor Code §§129.5 (including failure to pay undisputed portion of indemnity or medical treatment) and 5814 (unreasonable delay in payment of compensation); however, only one penalty may be imposed following the hearing on such charges.</p> <p>Penalties are specified for the following particular violations of Labor Code §5814:</p> <ol style="list-style-type: none"> 1. \$100,000 for a finding of knowing violation with a frequency indicating a general business practice; 2. \$30,000 for each finding by a workers' compensation judge of failure to comply with an existing award; 3. \$5,000 to \$15,000, depending on duration, for delay in payment of temporary disability benefits; 4. \$1,000 to \$15,000, depending on severity, for each penalty award by a workers' compensation judge for unreasonably denying authorization for treatment or failing to reimburse an employee for self-procured treatment; 5. \$2,500 for each penalty award by a workers' compensation judge for failure to provide a notice or training voucher regarding a supplemental job displacement benefit (SJDB) in a timely manner; 6. \$2,500 for each penalty award by a workers' compensation judge for failure to reimburse an injured worker for supplemental job displacement services, or where a failure to pay the training provided results in an interruption of training; 7. \$1,000 to \$15,000, depending on duration, for each penalty award by a workers' compensation judge for failure to make timely payment of permanent disability benefits; 8. \$2,500 for each penalty award by a workers' compensation judge for any other violation of Labor Code §5814. <p>The AD may mitigate a penalty based on consideration of specified equitable factors. Each administrative penalty shall be doubled upon a second finding and tripled upon a third finding under Labor Code §5814.6 within a five-year period.</p>

Assembly Bill 227 and Senate Bill 228 – Official Medical Fee Schedule

<p>AB 227 & SB 228 OMFS Mandates/Tasks</p>	<p>Status of Regulations</p>
<p>LC §5307.1 Physician Fee Schedule</p> <p>Provides that the existing Official Medical Fee Schedule (OMFS) for physician services will remain in effect in 2004 and 2005, but fees will be reduced by 5 percent.</p> <p>As of January 1, 2006, the AD will have the authority to adopt an OMFS for physician services.</p>	<p><i>Status:</i> Regulations Complete</p> <p>http://www.dir.ca.gov/DWC/OMFS9904.htm</p> <p><i>8 CCR Section 9789.11</i></p> <p>For physician services rendered on or after January 1, 2004, the maximum allowable reimbursement amount set forth in the OMFS 2003 is reduced by five (5) percent, except that the reimbursement will not fall below the Medicare rate.</p> <p>The AD has not yet adopted the Medicare-based schedule for physicians. DWC is analyzing options for 2006 adoption of a new physician fee schedule and options for contracting an impact study.</p>
<p>LC §5307.1 Inpatient Hospital Fee Schedule</p> <p>AD to adopt an inpatient facility fee schedule for inpatient hospital care based on the Medicare fee plus 20 percent.</p>	<p><i>Status:</i> Regulations Complete (and ongoing)</p> <p>Statutes specify that Medicare changes can be implemented without regulations. Regulations are adjusted by an “Order of the Administrative Director of the Division of Workers’ Compensation.”</p> <p>http://www.dir.ca.gov/DWC/OMFS9904.htm</p> <p><i>8 CCR Section 9789.2 et seq.</i></p> <p>The Inpatient Hospital Fee Schedule, which applies to services with a date of discharge after January 1, 2004, provides that the maximum reimbursement is the Medicare fee plus 20 percent.</p>
<p>LC §5307.1 Outpatient Facility Fee Schedule</p> <p>AD to adopt a new fee schedule for hospital outpatient departments and ambulatory surgery centers based on the Medicare fee for hospital outpatient departments plus 20 percent.</p>	<p><i>Status:</i> Regulations Complete (and ongoing)</p> <p>Statutes specify that Medicare changes can be implemented without regulations. Regulations are adjusted by an “Order of the Administrative Director of the Division of Workers’ Compensation.”</p> <p>http://www.dir.ca.gov/DWC/OMFS9904.htm</p> <p><i>8 CCR Section 9789.3 et seq</i></p> <p>Regulations provide that all facility fees for services provided on or after January 1, 2004, by outpatient hospital departments and ambulatory surgical centers shall be paid in accordance with Medicare’s Hospital Outpatient Prospective Payment System, and that the maximum reasonable fees for outpatient facilities fees shall be 120 percent of the fees paid by Medicare for the same services performed in a hospital outpatient department.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

<p>AB 227 & SB 228 OMFS Mandates/Tasks</p>	<p>Status of Regulations</p>
<p>LC §5307.1 Pharmacy Fee Schedule AD to adopt a new fee schedule for pharmaceuticals based on the Medi-Cal fee schedule.</p>	<p><i>Status:</i> Regulations Complete http://www.dir.ca.gov/DWC/OMFS9904.htm <i>8 CCR Section 9789.40</i> Regulation reflects the statutory mandate that pharmacy services rendered on or after January 1, 2004, must be paid at 100 percent of the current Medi-Cal rates. NOTE: There is a public hearing on October 31, 2006 for the proposed regulations for repackaged drugs (not covered by Medi-Cal).</p>
<p>LC §5307.1 Official Medical Fee Schedule Shall Be Adjusted To Conform To Relevant Medicare/Medi-Cal Changes within 60 Days Of Changes (except specified inpatient changes)</p>	<p><i>Status:</i> Statutes specify that changes can be implemented without regulations. Updates to Medicare and Medi-Cal changes are implemented by an "Order of the Administrative Director of the Division of Workers' Compensation." http://www.dir.ca.gov/DWC/OMFS9904.htm DWC is exploring hiring and contracting options to obtain necessary expertise to monitor all Medicare changes for all schedules and post the applicable provisions to the Department of Industrial Relations (DIR) website.</p>
<p>LC §5307.1 Specified Schedules (Not to be included until January 1, 2005)</p>	<p><i>Status:</i> In Process DWC has contracted with RAND to provide technical assistance on the new fee schedules: Skilled Nursing Facility; Home Health Agency; Inpatient for Hospitals Exempt from Medicare Prospective Payment System; and Outpatient Renal Dialysis. DWC expects to move forward in 2007.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

AB 227 & SB 228 OMFS Mandates/Tasks	Status of Regulations
LC §5307.1 Miscellaneous Medicare Fee Schedules	<p><i>Status:</i> Regulations Complete (and ongoing)</p> <p>Statutes specify that Medicare changes can be implemented without regulations. Regulations are adjusted by an "Order of the Administrative Director of the Division of Workers' Compensation."</p> <p>http://www.dir.ca.gov/DWC/OMFS9904.htm</p> <p>Regulations were adopted incorporating Medicare's Ambulance, Laboratory and Pathology, and Durable Medical Equipment Prosthetics Orthotics Supplies (DMEPOS) fee schedules.</p> <p><i>8 CCR Section 9798.50:</i> Pathology and Laboratory.</p> <p><i>8 CCR Section 9789.60:</i> Durable Medical Equipment, Prosthetics, Orthotics, Supplies.</p> <p><i>8 CCR Section 9789.70:</i> Ambulance Services.</p>

Other Mandates of Assembly Bill 227 and Senate Bill 228

AB 227 & SB 228 Other Mandates/Tasks	Status of Regulations
LC §4903.5 Medical Provider Lien Filing Fee	<p>Regulations repealed effective July 1, 2006</p> <p>Effective July 1, 2006, budget trailer bill language in Assembly Bill (AB) 1806 repealed the lien filing fee in Labor Code section 4903.05 and added §4903.6 to preclude the filing of frivolous liens at DWC district offices.</p> <p>http://www.dir.ca.gov/DWC/dwcpropregs/LienPayEmerRegs.htm</p> <p><i>8 CCR Section 10250 (Repealed)</i></p> <p>Repealed regulations required that medical providers and medical-lien claimants who use the judicial services of the Workers' Compensation Appeals Board (WCAB) contribute to the funding of the workers' compensation program through the payment of a \$100 filing fee for each initial medical or medical-legal lien filed in a workers' compensation case.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

<p>AB 227 & SB 228 Other Mandates/Tasks</p>	<p>Status of Regulations</p>
<p>Section 4658.5 of AB 227</p> <p>Supplemental Job Displacement Benefit</p>	<p><i>Status:</i> Regulations Complete</p> <p>http://www.dir.ca.gov/DWC/DWCPropRegs/SupplementalJobDisplacementBenefitRegs.htm</p> <p><i>8 CCR Sections 10133.50 - 10133.60</i></p> <p>The supplemental job displacement benefit (SJDB) is for injuries occurring on or after January 1, 2004. Vocational rehabilitation is no longer available for injuries occurring on or after January 1, 2004.</p> <p>The SJDB is available to an injured worker if the injury causes permanent partial disability and the injured employee does not return to work for the employer within 60 days of the termination of temporary disability.</p> <p>The statute requires that a voucher for education-related retraining or skill enhancement or both be provided to the eligible employee. The amount of the benefit is determined by the percent of the permanent partial disability award.</p>
<p>LC §3201.7</p> <p>Carve-out Program For All Industries</p>	<p><i>Status:</i> Regulations Complete</p> <p>http://www.dir.ca.gov/DWC/dwcpropregs/CollectiveBargainingAgreementsEmerRegs.htm</p> <p><i>8 CCR Sections 10200, 10201, 10202, 10202.1, 10203, 10203.1, 10203.2 and 10204</i></p> <p>Regulations specify that an employer or groups of employers and a union, that is the recognized or certified exclusive bargaining representative, may negotiate a labor-management agreement or carve-out that may include an alternative dispute resolution system (with final decisions subject to WCAB review), an agreed list of medical providers, an agreed list of qualified or agreed medical evaluators, the creation of a joint safety committee, the creation of a return-to-work program, the creation of a vocational rehabilitation or retraining program with an agreed list of rehabilitation providers.</p> <p>Unlike carve-outs in the construction industry, employees in these carve-outs have the right to representation by counsel at all stages during the alternative dispute resolution process.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

<p>AB 227 & SB 228 Other Mandates/Tasks</p>	<p>Status of Regulations</p>
<p>LC §4062(b) Spinal Surgery Second- Opinion Process Procedure</p>	<p><i>Status:</i> Regulations Complete http://www.dir.ca.gov/DWC/dwcpropregs/SpinalProposedReg.htm <i>8 CCR Sections 9788.01 et seq</i> Regulations specify the procedures for an employer to object to a treating physician's proposed recommendation for spinal surgery and thus obtain from the AD the name of a randomly selected physician who is to render a second opinion. Regulations prescribe the qualifications of the physicians, the manner of their appointment and removal, the manner of selection and assignment of the second-opinion physicians, and the content of their reports.</p>
<p>LC §139.5 Vocational Rehabilitation Repeal for injuries on or after January 1, 2004.</p>	<p><i>Status:</i> Complete Vocational rehabilitation benefit was repealed for injuries on or after January 1, 2004. (The SJDB was established for injuries on or after January 1, 2004.)</p>
<p>LC §4603.4 Standardized Forms for Medical Bills Employer Acceptance of Electronic Medical Bills Regulations are required to mandate acceptance of electronic bills by January 1, 2006.</p>	<p><i>Status:</i> In Process Pre-rulemaking advisory committee meetings have been held from June 2004 to the present. Regulations are expected to be issued in Fall of 2006. Regulations are expected to be implemented in 2007. Proposed regulations will require standardized forms for medical bills and will require claims administrators to accept electronic claims for payment of medical services.</p>
<p>LC §4610 Utilization Review</p>	<p><i>Status:</i> Regulations Complete http://www.dir.ca.gov/dwc/DWCPropRegs/UREmerRegs.htm <i>8 CCR Sections 9792.6 et seq.</i> Regulations specify the applicability of the utilization review process; set forth the medically-based criteria required for the utilization review process; set forth the timeframe, procedures and notice content with respect to the utilization review requirements; provide clarification and guidance with respect to the dispute resolution process; and set forth the penalties which will be imposed for failure to comply with the requirements of the statute.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

AB 227 & SB 228 Other Mandates/Tasks	Status of Regulations
LC §4610.1 Utilization Review Enforcement UR Penalties	<p><i>Status:</i> Regulations in Formal Rulemaking Process</p> <p>A public hearing was scheduled for June 29, 2006. An additional 15-day comment period is expected. It is anticipated that the rulemaking will be completed by November 2006.</p> <p>http://www.dir.ca.gov/DWC/DWCPopRegs/UREnforcementRegulations/UR_EnforcementRegulations.htm</p> <p><i>8 CCR Sections 9792.11 – 9792.15</i></p> <p>Regulations provide for:</p> <p>Investigations of the Utilization Review process.</p> <p>A series of penalties on claims administrators from \$50.00-\$50,000 for failure to have a utilization review plan or provide treatment according to the regulations.</p> <p>Procedures include Notice of Administrative Penalty Assessment, Appeal Hearing, and Review Procedure.</p>
LC §5318 Spinal Surgery Implantables / Hardware Reimbursement	<p><i>Status:</i> In Process</p> <p>DWC is seeking assistance from RAND to develop possible approaches to refine reimbursement methodology.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

AB 227 & SB 228 Other Mandates/Tasks	Status of Regulations
<p>LC §5307.27</p> <p>Medical Treatment Utilization Schedule</p>	<p><i>Status:</i> Regulations in Formal Rulemaking Process</p> <p>45-day comment period is pending on proposed regulations. Public hearing was August 23, 2006. An additional 15-day comment period is expected.</p> <p>http://www.dir.ca.gov/DWC/DWCPropRegs/MedicalTreatmentUtilizationSchedule/MTUS_regulations.htm</p> <p><i>Proposed 8 CCR Sections 9792.20 – 9792.23</i></p> <p>The American College of Occupational and Environmental Medicine's (ACOEM) Practice Guidelines, Second Edition (2004), are presumed correct for both treatment and diagnostic services addressed in those guidelines, both for acute and for chronic conditions. For conditions and injuries not addressed by ACOEM Practice Guidelines, treatment shall be in accordance with other scientifically and evidence-based treatment guidelines that are generally recognized by the national medical community. Key terms are defined.</p> <p>A hierarchy of evidence is established to govern circumstances not covered by ACOEM Practice Guidelines, variances from the guidelines, and conflicts between other guidelines. The hierarchy ranges from strong to moderate to limited research-based evidence, with a minimum of one randomized controlled study to constitute limited research-based evidence.</p> <p>Treatment shall not be denied on the sole basis that the condition or injury is not addressed by the ACOEM Practice Guidelines. In this situation, the claims administrator shall authorize treatment if such treatment is in accordance with other scientifically and evidence-based medical treatment guidelines that are generally recognized by the national medical community.</p> <p>A Medical Evidence Evaluation Advisory Committee is established and its composition is specified.</p>

Assembly Bill 749

AB 749 Original Mandate/Tasks	Status of Regulations
<p>LC §127.6</p> <p>Medical Study</p> <p>DWC AD, in consultation with CHSWC and other state agencies, to conduct a study of medical treatment provided to injured workers.</p>	<p><i>Status:</i> Study in Process</p> <p>The contract was awarded to RAND. The bulk of the work has been completed, including recommendations for the medical treatment utilization schedule.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

AB 749 Original Mandate/Tasks	Status of Regulations
<p>LC §138.4</p> <p>Benefit Notices to Employees from Claims Administrators</p>	<p><i>Status:</i> Regulations in Process</p> <p>The benefit notice regulations, which provide direction for notices sent by claims administrators to injured workers, will be published on Friday, October 27th. The public hearing is scheduled for December 12, 2006.</p> <p><i>8 CCR Sections 9767.16, 9810, 9811, 9812, 9813, and 9813.1</i></p>
<p>LC §139.47</p> <p>Return to Work</p> <p>DIR Director to establish a program to encourage early and sustained return to work, including creation of educational materials.</p> <p>LC §§139.48 and 139.49</p> <p>Return-to-work Reimbursement Program</p>	<p><i>Status:</i> Proposed regulations filed with OAL June 9, 2006.</p> <p>Sections 10001–10003 will be effective October 21, 2006. Sections 10004 and 10005 (regarding the reimbursement for accomodation expenses) and sections 10133.53 and 10133.55 were approved by OAL and were effective August 18, 2006.</p> <p>http://www.dir.ca.gov/DWC/DWCPPropRegs/ReturnToWork_regulations/ReturnToWork_regulations.htm</p> <p><i>8 CCR Sections 10001 - 10005, 10133.53, and 10133.55</i></p> <p>Regulations specify the process to implement the 15 percent increase or decrease in permanent disability indemnity payments depending on a qualifying offer of return to work; specify the form for the employer's offer of return to work and the employee's reply; specify the reimbursement to employers for certain expenses in accomodating an employee's return to work; and specify the form for an employer to submit its request for reimbursement of those accomodation expenses. 8 CCR 10133.53 and 10133.55 are amended to make related changes in forms pertaining to the SJDB.</p>
<p>LC §§3201.5, 3201.7, and 3201.9</p> <p>Carve-Out Data</p> <p>AD to collect data regarding collectively bargained carve-out programs.</p>	<p><i>Status:</i> Implemented and Ongoing</p> <p>DWC reports and data on carve-out programs, including claim statistics, collective bargaining agreements (CBAs) and number of employees covered, are available at http://www.dir.ca.gov/dwc/carveout.html.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

AB 749 Original Mandate/Tasks	Status of Regulations
<p>LC §3550</p> <p>Workers' Compensation Notice to Employees Poster</p> <p>AD to prescribe the form and content of workers' compensation notices required to be posted by employers "in a conspicuous location frequented by employees"; notice must be available in Spanish.</p>	<p><i>Status:</i> Regulations Complete</p> <p>http://www.dir.ca.gov/DWC/DWCPropRegs/DWCClaimFormReg.htm</p> <p><i>8 CCR Section 9881</i></p> <p>Regulations specify a poster that will provide employees with information concerning workers' compensation benefits, including the name of employer's workers' compensation insurance carrier, how to obtain workers compensation benefits and how to get medical treatment. It also states that there are time limits for the employer to be notified of an occupational injury, the protections against discrimination, and the location and telephone number of the nearest information and assistance officer. The poster includes information on the SJDB and that for injuries on or after January 1, 2004, there is a limit on some medical services. (Caps on chiropractic, physical therapy and occupational therapy visits.)</p> <p>The AD's approved Workers' Compensation Notice to Employee Poster includes the following language:</p> <p>"Within one working day after an employee files a claim form, the employer shall authorize the provision of all treatment, consistent with the applicable treating guidelines, for the alleged injury and shall continue to provide treatment until the date that liability for the claim is accepted or rejected. Until the date the claim is accepted or rejected, liability for medical treatment shall be limited to ten thousand dollars (\$10,000)."</p>
<p>LC §3551</p> <p>Workers' Compensation Written Notice to New Employees</p>	<p><i>Status:</i> Regulations Complete</p> <p>http://www.dir.ca.gov/DWC/DWCPropRegs/DWCClaimFormReg.htm</p> <p><i>8 CCR Section 9880</i></p> <p>Regulations require a written notice to new employees to be easily understandable and to be provided in English and Spanish. The notice is required to include: information concerning workers' compensation benefits, including the name of employer's workers' compensation insurance carrier; how to obtain workers' compensation benefits; and how to get medical treatment. It also states that there are time limits for the employer to be notified of an occupational injury, the protections against discrimination, and the location and telephone number of the nearest information and assistance officer. The notice includes information on the SJDB and that for injuries on or after January 1, 2004, there is a limit on some medical services. (Caps on chiropractic, physical therapy and occupational therapy visits.)</p> <p>The notice must also include a form that the employee may use as an optional method for notifying the employer of the name of the employee's "personal physician."</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

AB 749 Original Mandate/Tasks	Status of Regulations
<p>LC §3822 Fraud Notice (Annually to every employer, claims adjuster, third-party administrator, physician and attorney participating in workers' compensation)</p>	<p><i>Status:</i> No regulations needed.</p>
<p>LC §4062.9 Develop and Revise Educational Materials for Primary Treating Physicians and Chiropractors</p>	<p><i>Status:</i> Project in Process University of California, San Francisco (UCSF) has completed a scope of work and a contract proposal to update the Physician's Guide to Workers' Compensation, which will include a section for treating physicians plus information on writing reports. The contract is pending at the Department of General Services (DGS) for final approval. The work will begin immediately and should be completed in 2007.</p>
<p>LC §4600.2 Pharmacy Contract Standards</p>	<p><i>Status:</i> In Process DWC contracted with University of California, San Francisco (UCSF) Pharmacy School to provide study and recommendations for contract standards. Report received at the end of March 2004. Rulemaking will commence in late 2006.</p>
<p>LC §5401 Workers' Compensation Claim Form and Notice of Potential Eligibility for Benefits</p>	<p><i>Status:</i> Regulations Complete http://www.dir.ca.gov/DWC/DWCPropRegs/DWCClaimFormReg.htm <i>8 CCR Sections 10117.1 and 10118.1</i> Regulations specify contents of the claim form and the attached notice of potential eligibility for benefits.</p>

Other Regulations

Other Mandates/Tasks	Status of Regulations
<p>LC §138.6 Workers' Compensation Information System Implementation of the Workers' Compensation Information System (WCIS) mandated</p>	<p><i>Status:</i> Regulations Complete http://www.dir.ca.gov/DWC/DWCPropRegs/WCIS_Regulations/WCIS_regulations.htm <i>8 CCR Sections 9701 et seq.</i> Regulations revise the Workers' Compensation Information System</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

Other Mandates/Tasks	Status of Regulations
<p>medical treatment and payment data collection.</p>	<p>(WCIS) reporting to eliminate unnecessary data elements, add relevant data elements, add medical-bill payment data elements, and facilitate data reporting by claims administrators.</p> <p>Regulations incorporate by reference the International Association of Industrial Accident Boards and Commissions (IAIABC) Guides (IAIABC Electronic Data Interchange [EDI] Implementation Guide, Release 1 and EDI Implementation Guide for Medical Bill Payment Records) and the California-specific guides (California EDI Implementation Guide for First and Subsequent Reports of Injury and California EDI Implementation Guide for Medical Bill Payment Records).</p> <p>Regulations allow DWC access to Workers' Compensation WCIS individually identifiable information to conduct research on the worker's compensation system in order to carry out the duties of the Division and the Administrative Director.</p>
<p>LC §138.6 Workers' Compensation Information System (continued)</p>	<p>Regulations provide that medical bill payment data reporting will become mandatory on September 22, 2006.</p> <p>To implement the Legislature's amendment of Labor Code §138.7, the regulations allow access to this information by researchers employed or under contract to the Commission of Health and Safety and Workers' Compensation (CHSWC).</p>
<p>Medical-Legal Report Fee Schedule Regulations</p>	<p><i>Status:</i> Regulations Complete</p> <p>http://www.dir.ca.gov/DWC/DWCPropRegs/MedicalLegalFeeSchedule_Regulations/MedicalLegalFeeSchedule_regulations.htm</p> <p><i>8 CCR Sections 9793 and 9795</i></p> <p>Regulations provide that the fee for each medical-legal evaluation is calculated by multiplying the relative value by \$12.50 (formerly \$10.00) and adding any amount applicable because of the modifiers permitted. Definitions are revised for the various levels of medical-legal services.</p> <p>"Medical research" is the investigation of medical issues and includes investigating and reading medical and scientific journals and texts. "Medical research" does not include reading about the <i>Guides for the Evaluation of Permanent Impairment</i> (any edition), treatment guidelines [including guidelines of the American College of Occupational and Environmental Medicine (ACOEM)], the Labor Code, regulations or publications of the DWC (including the <i>Physicians' Guide</i>), or other legal materials.</p> <p>For medical-legal testimony and for supplemental medical-legal evaluations, the physician shall be reimbursed for each quarter-hour or portion thereof, rounded to the nearest quarter-hour, spent by the physician. The physician shall be paid a minimum of one hour for a scheduled deposition.</p>

UPDATE: WORKERS' COMPENSATION REFORM REGULATIONS

Other Mandates/Tasks	Status of Regulations
LC §129, 129.5 Audit Program Regulations	<i>Status:</i> Regulation in Process An update to the audit regulations (8 CCR Section 10105 et seq.) will begin in August and be finalized in December 2006 to be effective in January 2007. These regulations will enforce the new SJDB, WCIS, return to work (RTW) and other reform modifications.

SPECIAL REPORT: CHSWC ESTIMATION OF POST-REFORM SAVINGS¹

CHSWC Estimation of Emerging Post-Reform Savings Due to AB 749, AB 227, SB 228 and SB 899 by Major Benefit Component Using WCIRB Estimates

Methodology:

CHSWC has calculated an estimate of Reform Savings based upon the latest data from WCIRB.

Columns A, B and C are from the WCIRB “2006 Legislative Cost-Monitoring Report” released September 27, 2006.

Column D was calculated by multiplying the Total Estimated System-Wide Costs Prior to Reforms of AB 227 and SB 228 including loss adjustment expenses (\$29,100 million) by Column A to determine the dollar amount of that component. That was then multiplied by prospective estimate in Column B if there is no retrospective evaluation available in **Column C**. **Column D** is left blank if a retrospective evaluation is available in **Column C**.

Column E was calculated by multiplying the Total Estimated System-Wide Costs Prior to Reforms of AB 227 and SB 228 including loss adjustment expenses (\$29,100 million) by Column A to determine the dollar amount of that component. That was then multiplied by Column C (the latest estimate).

For permanent disability (PD) benefits, the effects of five separate elements of the reforms have to be combined, not added. The total of pre-reform PD costs was reduced by the savings from the first listed element of PD reform, so the savings shown in **Column D or E** for the second element were calculated on that reduced total. The savings from the third listed element were calculated on the total PD as reduced by the first and second elements, and so forth. The order in which the elements of PD reform are listed is arbitrary. The order affects the amount of savings shown for any particular element, but the order does not affect the combined effect of the PD reforms.

¹ These estimates may change with different interpretations of the law or other factors.

SPECIAL REPORT: POST-REFORM SAVINGS

The total of estimated savings was derived by adding the totals of **Column D** and **Column E**

Total Estimated System-Wide Indemnity and Medical Incurred Costs (including Self-Insureds) Pre-Reform (including loss adjustment expense)= \$29,100 million (Source: WCIRB Estimates of the Total Statewide Cost of Compensation Benefits – 2002 thru 2007; Released March 30, 2004)	Column A Component as % of Total Loss and Loss Adjustment Expense (pre-reform)²	Column B Estimated Reform Impact by Component WCIRB Filings' Prospective Cost Estimate³	Column C September 2006 Preliminary Estimated Reform Impact by Component Retrospective Evaluation based on Post-Reform Experience⁴	Column D Estimated Cost Savings based on WCIRB's Prospective Evaluations Reflected in WCIRB Regulatory Filings (in Million \$)	Column E Estimated Cost Savings based on WCIRB Preliminary Estimates based on 2006 Post-Reform Experience (in million \$)
Medical Cost Components					
Medical Fee Schedule Changes:					
• Physician Fees	26%	-5%	-4%		\$303
• Inpatient Fees	6%	+8%	-4%		\$70
• Outpatient Facility Fees	9%	-41%	-39%		\$1,021
• Pharmaceutical Fees	3%	-37%	-13%		\$114
Medical Utilization Provisions:					
• Physical Medicine Limits	8%	-40%	-61% to -77%		\$1,420-\$1,793
• Other Utilization Provisions	47% ⁵	-25% ⁶	Approximately 5% reduction in visits ⁷	\$3,419	
Immediate Medical Pay	47% ⁸	+1%	Not Yet Quantifiable	-\$137 (this is not a cost saving, but an increase)	
Medical Legal	2%	-14%	Not Yet Quantifiable	\$82	

² Based on pre-AB 227 and pre-SB 228 estimates of system costs with loss adjustment costs with loss adjustment expenses projected to be 17% of losses.

³ Based on various prospective evaluations of benefit costs reflected in WCIRB pure premium rate filings.

⁴ These initial estimates are preliminary and will likely change as more complete information becomes available later.

⁵ These provisions were assumed to apply to all medical treatment.

⁶ Most of the estimated decrease resulted from projected elimination of inflation in medical severity (in excess of 10% annually).

⁷ Based on preliminary post-reform information, the growth in medical utilization for two years has been eliminated. The actual reduction in visits per claim (non-physical medicine) through 18 months of 2004 injuries ranges from 2% to 8%, depending on the fee schedule section.

⁸ These provisions were assumed to apply to all medical treatment.

SPECIAL REPORT: POST-REFORM SAVINGS

<p>Total Estimated System-Wide Indemnity and Medical Incurred Costs (including Self-Insureds) Pre-Reform (including loss adjustment expense)= \$29,100 million (Source: WCIRB Estimates of the Total Statewide Cost of Compensation Benefits – 2002 thru 2007; Released March 30, 2004)</p>	<p>Column A Component as % of Total Loss and Loss Adjustment Expense (pre-reform)²</p>	<p>Column B Estimated Reform Impact by Component WCIRB Filings' Prospective Cost Estimate³</p>	<p>Column C September 2006 Preliminary Estimated Reform Impact by Component Retrospective Evaluation based on Post-Reform Experience⁴</p>	<p>Column D Estimated Cost Savings based on WCIRB's Prospective Evaluations Reflected in WCIRB Regulatory Filings (in Million \$)</p>	<p>Column E Estimated Cost Savings based on WCIRB Preliminary Estimates based on 2006 Post-Reform Experience (in million \$)</p>
Indemnity Cost Components					
Temporary Disability Limitation	11%	-16%	Not Yet Quantifiable	\$512	
Temporary Disability Duration	11%	0%	-8% to -12%		\$256-\$384
Vocational Rehabilitation	5%	-86%	-75%		\$1,091
Permanent Disability Benefits: ⁹	18%				
• Apportionment		-10%	-5%		\$262
• Change in # of Weeks		-10%	-16%		\$796
• Return-to-Work Adjustments		-3%	Not Yet Quantifiable	\$125	
• PD Rating Schedule		-38%	-31% to -55%		\$1,257-\$2,230
• Zeroes			-15% ¹⁰		\$274-\$420
Sub-Totals				\$4,001	\$6,864-\$8,484

Total Estimated Savings = **Column D** plus **Column E** = \$4,001 + (\$6,864-\$8,484) = \$10,865 million to \$12,485 million in incurred dollars.

⁹ Five aspects of PD benefits were changed by recent reforms, and each one has an effect on the cost savings produced by the others, so the effects must be combined, not added. The change for each aspect of PD as a percent of the pre-reform cost of PD is shown separately in **Columns B and C**, but the PD cost savings in **Columns D and E** reflect the effect of each aspect calculated in sequence with the others. The combined savings do not depend on the order in which the aspects are combined, but the savings attributed to any one aspect would change depending on the sequence in which the combinations are calculated.

¹⁰ The estimate of cases becoming zero-rated under AMA Guides is based on the range of results from WCIRB estimate and from two studies in which sampled reports were rated under both the AMA Guides and the pre-2005 schedule.

SPECIAL REPORT: REVIEW OF PERMANENT DISABILITY RATING SCHEDULE

Introduction

When workers suffer a permanently disabling injury at the workplace, they are usually eligible to receive workers' compensation permanent partial disability (PPD) benefits. In California and other states, more severely disabled workers are entitled to higher benefits than less severely disabled workers. This characteristic of PPD benefits necessitates a system for ranking the severity of various disabilities. This ranking, called the permanent disability rating, is used to distribute PPD benefits to workers with various types of impairments.

The disability rating process sparks controversy in every state, but nowhere has it been more controversial than in California. California has historically relied on its own system for measuring disability, a system that has been criticized by many observers as being inconsistent, prone to promote disputes, and conducive to fraud.

CHSWC has conducted a landmark series of studies about permanent disability (PD) in California that has informed policy makers and the public. Subsequently, legislative modifications to the workers' compensation system, including PD, were adopted.

On January 1, 2005, a new permanent disability rating schedule (PDRS) was adopted pursuant to Senate Bill (SB) 899. The effects of the new schedule are becoming clearer as a result of ongoing experience and research.

Labor Code Section 4660 directs the Administrative Director (AD) to promulgate a PDRS. The section was amended by SB 899 to address two problems with the old schedule. One problem was the inequity among ratings for different types of disabilities. The other problem was the unpredictability and subjectivity of individual disability evaluations. The Legislature addressed the inequities among injuries by directing the AD to consider a specific study on this topic and additional empirical studies. The Legislature addressed the subjectivity of individual evaluations by specifying that the medical evaluations shall be based on American Medical Association (AMA) *Guides*. The AD had less than eight months to determine how to implement these legislative mandates before the new schedule was due on January 1, 2005.

Research has been done and further research is underway which will help to quantify the effects of the 2005 PDRS. The same research may inform future decisions about revisions to the schedule to fulfill the policy objectives of the PDRS.

Background

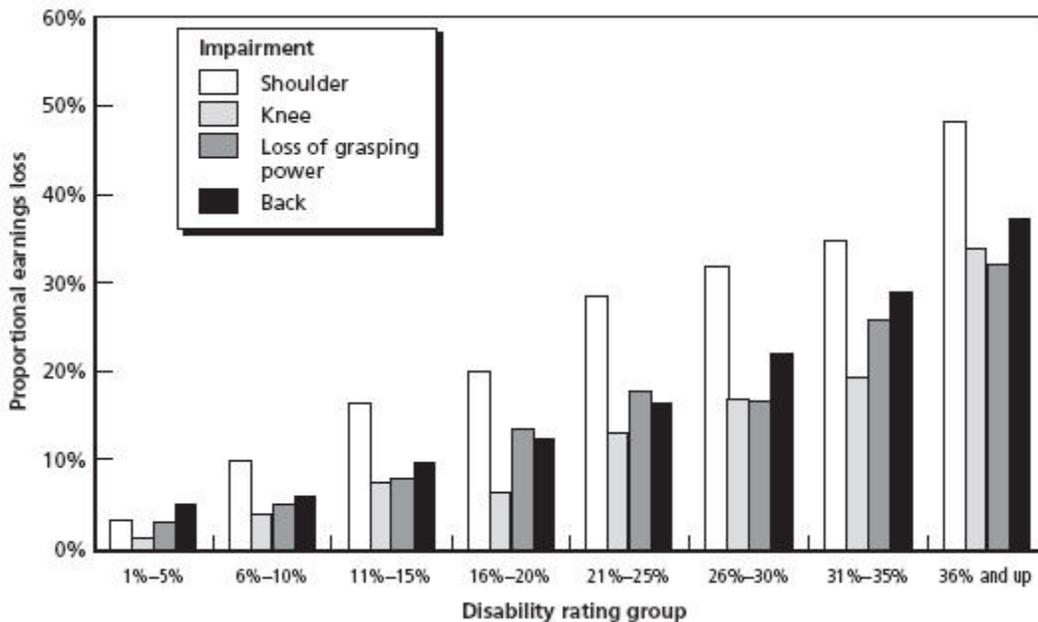
Before SB 899, the California PDRS attempted to produce a measure of disability that combined both severity of an impairment and the effect of the impairment on work. The disability ratings were based on a variety of objective and subjective criteria. The reliance on subjective criteria to measure disability was the most controversial feature of the California system and what most distinguished it from the systems used in other states. Supporters of the system contended that California's unique approach to compensating disabilities better targeted benefits to workers, and that some disabilities, while real, cannot be objectively measured using medical criteria. Critics of the system countered that the use of these criteria led to excessive PPD claiming and an inappropriate distribution of benefits.

Findings from the CHSWC-RAND Study of the Permanent Disability Rating Schedule

In its evaluation of the California system, RAND found that:

- The rating system appeared to function reasonably well in that the highest ratings (and therefore the most benefits) went to the most severely impaired individuals.
- The system targeted disability benefits appropriately to more severe impairments on average within a given body part. However, the ratings (and therefore benefits) were not distributed equitably for impairments to different parts of the body. For example, a worker with a shoulder disability that was rated with the same severity as another worker’s disabling back injury nevertheless suffered a higher earnings loss on average. The use of wage losses to evaluate impairment severity provides a common standard of comparison across impairment types and could reduce these inequities.
- At every level of injury severity, workers who return to work at the same employer even for a short period of time experience much lower proportional earnings losses over the long-term than those who do not.
- There were large differences in evaluations by different physicians examining the same impairment (especially in Southern California), and these inconsistencies in physician ratings appeared substantial enough to provide parties with incentives to litigate. However, it is not clear to what extent the discrepancies reflect use of subjective factors in the old rating system, before the reforms adopted with SB 899, or other factors such as workers’ ability to select sympathetic physicians.

Three-Year Losses by Disability Rating Category by Injury Type



Senate Bill 899 Reforms Implement Substantial System Changes

AMA Guides

The new approach to rating PD in California abandons the old rating schedule and adopts the “objective” criteria used by the American Medical Association (AMA) *Guides to the Evaluation of Permanent Impairment, 5th Edition* (American Medical Association, 2000). While the AMA *Guides* are not uncontroversial and have problems of their own, proponents of the new system hope that the adoption of the AMA *Guides* will increase the system’s reliance on objective medical evidence of disability, reduce costly litigation, and increase confidence that the system is performing fairly and efficiently. In addition, SB 899 called for the new system to incorporate empirical data on the long-term loss of income by workers with injuries to different parts of the body.

Two-Tier Permanent Disability Benefits

While California’s disability rating system incorporated a number of important factors that might indicate an individual’s earnings capacity, one factor that it did not previously consider in rating a disability was the observed return to work by an individual. Other states use two-tier benefit systems to factor in return to work when assigning PPD benefits. Two-tier systems, which provide relatively lower benefits to workers who receive a legitimate employment offer from the at-injury employer and higher benefits to those who do not, have the potential to boost labor market participation for disabled workers by providing both employers and workers with incentives to offer and accept, respectively, modified employment opportunities at the at-injury employer. SB 899 adopted a two-tier system for California, which provides a 30 percent difference in PPD benefits based on whether or not disabled workers are offered a suitable employment opportunity with the at-injury employer.

The 2005 Permanent Disability Rating Schedule

The AD promulgated the 2005 PDRS as an emergency regulation effective January 1, 2005. The regulation became permanent in June 2005 with only minor changes. In the 2005 PDRS, the AMA impairment percentage is multiplied by a future earning capacity (FEC) factor. The product of that multiplication is used in the calculation of an employee’s PD rating where a “standard” disability rating was used under the pre-2005 schedule. The FEC factor serves two purposes: it scales up the AMA impairment percentages in an effort to mitigate the reductions otherwise prevalent in AMA ratings; and it assigns different multipliers to different types of injuries in an effort to apply the RAND findings.

SPECIAL REPORT: AB 1987 AND RETURN-TO-WORK INCENTIVES AND ALTERNATIVES

Introduction

Assembly member Pedro Nava requested assistance from the Commission on Health and Safety and Workers' Compensation (CHSWC) in connection with his bill, Assembly Bill (AB) 1987. The bill would have made changes to the supplemental job displacement benefit (SJDB), which is one of the incentives and benefits intended to encourage and assist return to work (RTW). In response to the request, CHSWC issued a report on April 6, 2006. The CHSWC report examined some of the issues surrounding the effort to appropriately target the benefits and incentives of RTW, and the report offered recommendations to revise the SJDB.

Stakeholders in the workers' compensation system did not reach a consensus on how to improve the SJDB, and AB 1987 did not come to a hearing before the close of the 2005-2006 legislative sessions. RTW issues remain critical to the balance between compensation needed by injured workers and costs paid by their employers. The issues examined in the CHSWC paper will continue to be the subject of discussion in the future. The full report including suggested legislative language is available at <http://www.dir.ca.gov/CHSWC/Reports/RTW-AB1987.pdf>. The body of the report without attachments is reproduced below.

Background

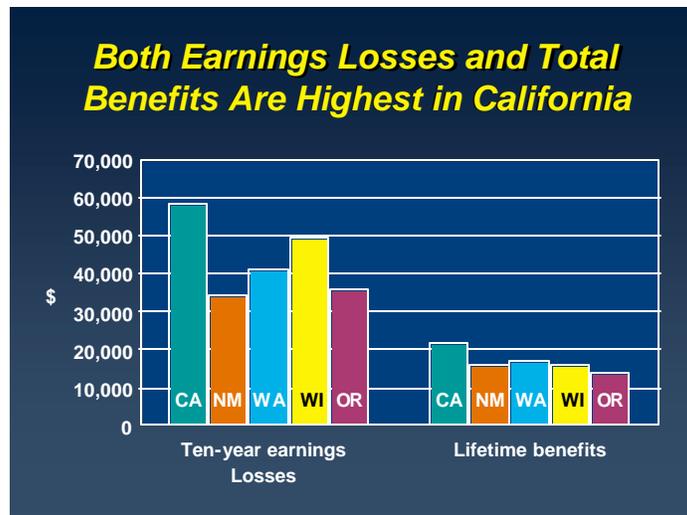
CHSWC concurs with AB 1987's encouragement of early RTW for injured workers. Studies conducted for CHSWC by RAND have determined that returning to work at the earliest appropriate time reduces the long-term wage loss of an injured worker.¹¹ In addition, return to sustained employment may minimize some of the costs borne by employers.

Workers with permanent partial disability (PPD) experience significant and sustained losses over the years after an injury. The greatest losses occur when the disabled worker loses his/her job and either cannot find work that pays as much as paid previously or cannot find any work at all.

Costs

California costs for workers' compensation have been high as compared to other states. The CHSWC Study by RAND, "Earnings Losses and Compensation for Permanent Disability in California and Four Other States," indicates that when compared to other states, California had the highest average PPD benefits paid. These costs are improving with recent reforms, but more can be done to reduce losses to employees and costs to employers as shown on the following chart.

¹¹ Reville, Robert T., Suzanne Polich, and Seth A. Seabury, and Elizabeth Giddens. "Permanent Disability at Private, Self-Insured Firms: A Study of Earnings Loss, Replacement, and Return to Work for Workers' Compensation Claimants." CHSWC Study by RAND. 2001. Boden, Leslie, Robert T. Reville and Jeff Biddle. "Timely Return to Work: Recent Findings." Presentation to CHSWC's California Forum on Workplace Health and Safety. February 2001.



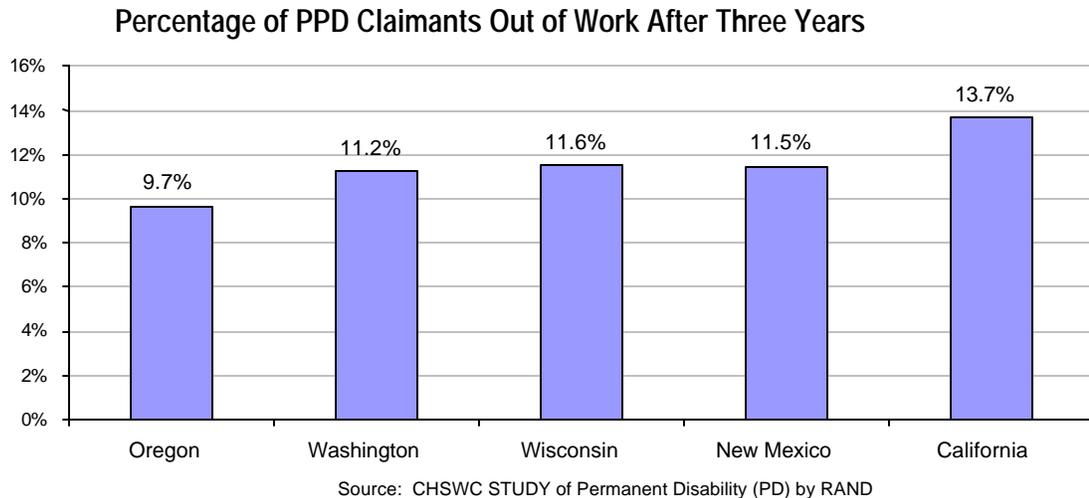
Source: CHSWC Study of Permanent Disability by RAND

Outcomes

The higher costs paid by California employers do not necessarily result in better outcomes for California's injured workers, according to CHSWC research by RAND. That study found that while average benefits paid for PPD were highest in California, California injured workers are far more likely to be out of work after their injury, and in the long run, the benefits could not compensate the resulting lower earnings. Specifically, Californians with PPD claims lose more than 25 percent of their earnings from employment over the ten years after injury. In contrast, workers in Washington and Oregon lose less than 20 percent. These results are driven by poor RTW in California compared with the other states."¹²

¹² Reville, Robert T., Seth Seabury, and Frank Neuhauser. "Evaluation of California's Permanent Disability Rating Schedule. Interim Report." CHSWC Study by RAND. December 2003.

In addition, as seen in the chart below, CHSWC's study comparing RTW rates of PPD claimants in five states determined that California has the highest percentage of PPD claimants out of work three years after injury.¹³



Preliminary findings of the CHSWC study by University of California (UC), Berkeley, "Cross-State Comparison of Occupational Injury Rates and Time to Return to Work," indicate that California has the worst record in the nation for returning workers to employment after occupational injuries and illnesses. On average, California workers are on disability longer than any other state, and they experience greater duration of restricted work days once back at work.

CHSWC Research on Return to Work

Several CHSWC studies conducted by RAND and UC Berkeley on RTW found that:

- Permanently disabled workers who return to work at the same employer have reduced levels of uncompensated wage loss over a five-year period.
- Better RTW at self-insured firms led to a lower proportion of earnings lost by PPD claimants. During the five years after injury, injured employees of self-insured firms lost a total of 23 percent of both pre- and post-tax earnings, compared to proportional losses of about 32 percent for injured employees of insured firms.¹⁴
- Injured workers have greater success at rehabilitation when they return to alternate or modified work with the same employer.
- Preliminary findings from a survey of RTW practices of private self-insured employers conducted by RAND found that worker participation in a formal RTW program decreases a worker's wage loss on average by approximately \$1,500 in the year after injury.

¹³ Reville, Robert T. "Comparing Return to Work of PPD Claimants Across States." RAND. Memorandum on April 23, 2002, via email.

¹⁴ Reville, Robert T., Suzanne Polich, and Seth A. Seabury, and Elizabeth Giddens. "Permanent Disability at Private, Self-Insured Firms: A Study of Earnings Loss, Replacement, and Return to Work for Workers' Compensation Claimants." CHSWC Study by RAND. 2001.

Other Research

Many other research studies emphasize the importance of early RTW interventions for injured workers. Some findings indicate that a supportive workplace response to injury needs to start as soon as the injury is first reported. An accommodating and flexible approach to RTW should follow promptly.¹⁵

Research evidence indicates that employers who promptly offer appropriately modified duties can reduce time lost per episode of back pain by at least 30 percent.¹⁶

Incentives

Incentives to return to work with the at-injury employer include the following:

For Workers:

- High wages and benefits
- Job satisfaction.
- Find the modified or alternative work to be acceptable.
- Like the particular employer and job setting.

For Employers:

- High costs to train new employees.
- See that productivity can be increased by fostering morale among employees.
- Possible to find or create modified or alternative work.
- Like the particular employee.

Rules and Programs that Encourage Return to Work

Currently, the California workers' compensation system includes the following rules and programs that encourage employers to offer work to their injured employees:

- A. California return-to-work program,** authorized by Labor Code Section 139.48. Under this program, the state is to reimburse smaller employers for expenses incurred to make changes in the workplace to accommodate temporarily and permanently disabled employees. Until now, this program has not been funded, but it may be funded in the near future.
- B. Reduced temporary disability (TD) costs.** TD payments can end when the employer offers appropriate modified or alternative work while the worker is recovering from the injury.
- C. Reduced PD payments.** PD payments are reduced by 15 percent if the employer offers appropriate regular, modified, or alternative work for 12 months within 60 days of a disability becoming permanent and stationary. The PD payments are increased 15 percent if this offer is not made. The offer is made after the worker's condition has become permanent and stationary and the worker is eligible to receive PD benefits. This rule applies to employers that have 50 or more employees.

¹⁵"Return to Work in California – Listening to Stakeholders' Voices," Report for CHSWC by the Labor Occupational Health Program, UC Berkeley, 2001.

¹⁶Frank, et. al., "Preventing disability from work-related low-back pain," Canadian Medical Association Journal, June 16, 1998.

- D. Vocational rehabilitation services and payments.** Vocational rehabilitation benefits of up to \$16,000 are available to workers injured before 2004. Employers who offer appropriate modified or alternative work for 12 months are not required to pay for vocational rehabilitation benefits. These benefits are offered to injured workers after the treating physician reports that the worker is medically precluded from returning to his or her pre-injury job or occupation. The physician can report this finding before the worker's condition becomes "permanent and stationary."
- E. Supplemental job displacement benefits (SJDB) or vouchers.** Vouchers for retraining expenses of \$4,000 to \$10,000 are available to workers injured in 2004 or later who sustain PD. Employers who offer appropriate modified or alternative work for 12 months are not required to pay for a voucher. The amount of the voucher is based on the amount of the worker's PPD award, which means that the amount of the voucher cannot be determined until after the worker's condition becomes permanent and stationary and a workers' compensation judge has decided on the appropriate amount of PPD benefits.

Problems with Current Supplemental Job Displacement Benefits or Vouchers

Timing of Vouchers

For workers whose employers do not offer modified or alternative work because incentives are insufficient or appropriate work is not available, vouchers can help workers in their efforts to be trained in another occupation and find employment elsewhere. However, the current statutes allow the employer or claims administrator to provide vouchers very late in a claim, i.e., after a workers' compensation judge has made a final award of PPD benefits. Workers would greatly benefit from the vouchers being provided earlier in order to allow the worker to begin the retraining process as soon as possible.

CHSWC Proposals for Timing and Dollar Amount of Vouchers

Proposal for Timing of Vouchers

CHSWC recommends that for workers whose employers do not offer appropriate regular, modified, or alternative work lasting at least 12 months, the voucher be provided within 60 days of a disability becoming permanent and stationary or within 60 days of the two-year termination of TD indemnity pursuant to Labor Code Section 4656, whichever applies. The first criterion is the same time in which employers must offer regular, modified, or alternative work in order to qualify for the 15 percent reduction in PD benefits under Labor Code Section 4658(d). The second criterion is addressed to workers who are no longer entitled to TD benefits after two years even though they have not returned to work and their disabilities are not yet permanent and stationary.

Alternative timing criteria for SJDB that have been considered but have been rejected are:

- a. When the treating physician reports that the worker will never be able to return to his or her pre-injury job or working conditions. This is equivalent to the medical test for "qualified injured worker" under the vocational rehabilitation system. This test was susceptible to frequent uncertainties and disputes. Furthermore, a large number of injured workers who were declared medically eligible for vocational rehabilitation benefits did not eventually sustain a permanent disability.
- b. 180 days after injury. This or any other fixed date would be either too early or too late for many workers and employers. Employers whose workers are still actively recovering 180 days after injury need more time to see what kinds of work the worker will ultimately be able to do before offering regular, modified, or alternative work lasting at least 12 months. As discussed above, workers who return to work with the same employer have better

SPECIAL REPORT: AB 1987 AND RETURN-TO-WORK INCENTIVES AND ALTERNATIVES

financial outcomes and greater success at rehabilitation than workers who seek employment elsewhere, so transitional work should be encouraged.

- c. After a final award of benefits, as provided in the current statutes. As discussed above, this is too late to produce optimal return on the investment in retraining.

CHSWC also suggests making the timing of the notice to injured workers regarding rights to the SJDB coincide with the timing of the notice about rights to PD benefits: “together with the last payment of TD or within 14 days of determining the amount of PD payable, whichever is earlier.”

Proposal for Dollar Amounts of Vouchers

Regarding the appropriate dollar amounts of vouchers, possible options include:

- a. Sliding scale based on amount of PD, as set forth in the current statutes. This assumes that workers with more severe permanent disabilities are less able to change occupations and therefore need more resources for retraining.
- b. Sliding scale based on amount of pre-injury wages, with lower-wage workers receiving more. This assumes that lower-wage workers are less able to change occupations and therefore need more resources for retraining.
- c. Flat rate. This would be appropriate if there is no readily identifiable factor that correlates with difficulty in changing one's occupation. This would also be simple to administer.

Due to the lack of evidence to support either of the first two assumptions, CHSWC recommends a flat rate that is within the range of the current benefit.

Expiration of Vouchers

Existing law does not provide for the expiration of vouchers. Claims administrators report potential problems of holding reserves open indefinitely. The purpose of the voucher, to support early RTW, is not served by prolonged delay in an employee's participation in retraining or skills-enhancement programs. Adequate time must be allowed, however, to accommodate class schedules, disabilities affecting participation, and the possibility of taking lower-wage employment while retraining. Therefore, CHSWC suggests that vouchers have an expiration date five years from date of issuance.

Supplemental Job Displacement Benefits in Carve-outs

Labor Code Sections 3201.5 and 3201.7 permit labor unions and employers to create carve-outs that embody alternative systems for delivering benefits to injured workers and resolving disputes in workers' compensation claims. These sections were not updated to reflect the repeal of vocational rehabilitation and the advent of SJDB. CHSWC suggests language to update these sections in the report “AB 1987 and Return-to-Work Incentives and Alternatives.”

SPECIAL REPORT: CATASTROPHE PREPAREDNESS AT THE WORKPLACE

Introduction

On April 7, 2006, the Commission on Health and Safety and Workers' Compensation (CHSWC) held a public "Forum on Catastrophe Preparedness: Partnering to Protect Workplaces" in Northern California. About 200 members of the workers' compensation community attended. Recognizing that employers and workers should be prepared if a catastrophe strikes at the workplace, CHSWC has embarked on a series of programs focusing on assessing and identifying how best to mitigate the potential enormous impact of such an event.

The first program, the National Symposium on the Future of Terrorism Risk Insurance, held on June 20, 2005, in Southern California, was directed to workers' compensation insurers and addressed their capability to respond to the demands of terrorism. (See CHSWC Issue Paper, <http://www.dir.ca.gov/CHSWC/Reports/ImpactTerrorism-WC.pdf>)

The second program, the Forum on Catastrophe Preparedness, was designed to provide the public with an opportunity to discuss ideas for safety in responding to terrorist attacks and natural disasters, learn lessons from other experiences, and consider areas where improvements need to be made. The forum was held by CHSWC in collaboration with the following sponsors and participants: the Labor and Workforce Development Agency; Department of Industrial Relations (DIR); Division of Occupational Safety and Health, Cal/OSHA; RAND; Service Employees International Union (SEIU); California Labor Federation; Governor's Office of Emergency Services (OES); Department of Health Services; California Department of Insurance; Risk Management Solutions; Swiss RE; US Geological Survey (USGS); National Institute for Occupational Safety and Health (NIOSH); Center for Occupational and Environmental Health at the University of California Berkeley; and California Workers' Compensation Institute. The forum co-chairs were Christine Baker, CHSWC, and Robert T. Reville, RAND.

Timed to coincide with the 1906 Earthquake Centennial commemorations, this forum brought together leaders in homeland security, emergency response, and occupational safety and health to discuss individual, worker and employer preparedness for catastrophic risks. One hundred years after the catastrophic earthquake of 1906 in San Francisco, earthquake risk and the risk of other catastrophes including terrorism continue to loom large for Californians and the nation. The nation learned from September 11th in 2001 that the risk of a catastrophe while people are at work and the risks to the workers who respond require the urgent attention of employers, workers and policymakers. More recently, the nation watched federal, state and local preparedness and response to Hurricane Katrina on August 29, 2005. At the time of the forum, the nation was cautiously monitoring the spread of the H5N1 virus posing a risk of pandemic avian flu. Such large-scale events have massive consequences for lives, families, businesses and communities, and local and regional economies.

Four main themes were emphasized during the forum:

- Disaster preparedness is an occupational safety and health issue.
- Occupational safety and health is about labor and employer cooperation and communication, as well as public and private partnerships.
- Preparedness includes first-responder safety, and the definition of first responder has been broadened to include employees themselves.

SPECIAL REPORT: CATASTROPHE PREPAREDNESS AT THE WORKPLACE

- The insurance system is a critical part of preparedness; compensation is necessary both for rebuilding structures and for providing support to the families of the deceased and seriously injured.

The expected outcome of this forum was to raise issues that need further discussion and resolution. The following is a summary of the main points and recommendations. A detailed Appendix in the CHSWC Report on the Forum on Catastrophe Preparedness: Partnering to Protect Workplaces includes highlights of the presentations by each of the speakers.

Preparation

Seismic Preparation:

- Building codes are designed to save lives, not save buildings or businesses, placing emphasis on business-continuity planning. Building codes apply only to new buildings, yet a lot of old buildings exist.
- Buildings located on fault lines and landfill are at greatest seismic risk. The San Jose area will experience the greatest after-effects of a quake; the ground with its high water table and the buildings on top of it will continue to be in motion for minutes after an initial quake. Industrial areas that rapidly grew in the 1970s and 1980s and that used the relatively inexpensive “tilt-up” vertical wall-to-roof connection are particularly vulnerable.
- The most hazardous and the riskiest fault is the Hayward Fault along the East Bay from Fremont, Hayward, Oakland, and Berkeley, continuing to the Roger’s Creek fault zone. More than 2 million people live on this fault zone.
- The likelihood of a repeat of the 1906 earthquake along the San Andreas Fault is not great, as it will take several hundred years to re-accumulate the strain; however, there is a greater likelihood that a smaller event, such as a magnitude 7 on the peninsular portion of the San Andreas Fault, will occur.
- Infrastructure damage from an earthquake or act of terrorism may prevent a planned response due to a lack of transportation alternatives and dispersed first responders.
- Most businesses and commercial-property owners are not required to retrofit their buildings (there is an exception requirement for hospitals and un-reinforced masonry only); this raises the safety risk in the area, as well as the business-continuity risk.
- Non-structural hazards in buildings, including falling hazards from ceiling or shelves, unsecured hazardous materials and fires, may be life-threatening, even if the building is up to code or retrofitted.

Hurdles to Seismic and Other Preparedness:

- Many people do not have a full understanding of how rapidly a catastrophic event will unfold and that there will be no time for outside direction to save lives. The standard set for individual preparedness is now a 72-hour self-sufficiency standard; any coordinated and prioritized command-and-control official response will take at least 72 hours and will be based on a priority system.
- Threat evaluation is inadequate, as there is a conscious or unconscious expectation that government will provide full support. Although California has some of the best emergency-response systems as a result of past experiences with disasters, even the most robust governments will be strained in the event of a catastrophe. Government and private

SPECIAL REPORT: CATASTROPHE PREPAREDNESS AT THE WORKPLACE

emergency responders will not be able to handle all the demands during the time of the disaster.

Overcoming Hurdles to Preparedness:

- A business-continuity plan should be presented as an insurance policy. *“A community cannot survive a disaster unless its businesses survive the disaster.”*
- Incentives are the only way to solve the retrofit problem and to encourage the use of other disaster-resistant materials for fire or floods; incentives could include federal and state tax and fee incentives, local-government fee and permitting incentives, banking interest rate and fee incentives, and retail discount incentives. Unfunded mandates cannot solve the retrofit problem.
- Preparedness is as strong as its weakest link; security guards who are most likely to be present on the premises do not have adequate training and compensation.
- Small business advocates advise that small businesses need simple solutions and specific recommendations to make preparation feasible; otherwise, preparation becomes a low priority that is forgotten when it is not a “hot issue.”
- Mitigation, including awareness, education, self-assessment and professional consultation, is the best preparation step, but preparedness is still a voluntary activity that may not end up as a priority.

Simple Tips:

- Review publications on disaster-preparedness available from different organizations, including: the Governor’s Office of Emergency Services (www.oes.ca.gov) handout of 10 ways to be prepared; RAND’s reference card for preparing for terrorist attacks involving harmful types of chemicals and other agents (CBRN); and the US Geological Survey’s publication “Putting Down Roots in Earthquake Country.”
- Collect emergency contact information for all employees, including employee personal cell phones and emails.
- Understand which employees live in close proximity to work operations versus those who might be isolated in a disaster; business-continuity plans need to take into consideration employees who live in close proximity, since infrastructure damage may prevent more senior-level personnel who live farther from work from being available.
- Create a messaging system so that employees can get detailed information about alternative worksites and reporting instructions and so that families can call in to learn about the whereabouts or safety of an employee.
- Hold evacuation drills and educate and train all employees about workplace safety including “duck and cover,” safety systems and precautions.
- Store a 72-hour Self-Preparedness Kit, including sturdy shoes, food, water and medications, in a car or at a work desk.
- Consider increasing water and food supplies for a built-in reserve as part of planning.

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- Create scenarios based on 10 percent to 30 percent decreases in the workforce which detail how work will continue to get done as part of the planning process.
- Create a staff succession plan, as no one can lead or manage during a catastrophe for days on end without back-up.

Partnerships

- Preparedness requires cooperation, communication and collaboration. Coordination, collaboration, and public-private partnerships, as well as labor-management partnerships, for disaster preparedness, mitigation and response are critical.
- Relationships should be established before they are needed; everyone should know who to call at each stage of planning, response and recovery; business cards should not have to be exchanged in the aftermath of a catastrophic event.
- Shared responsibility, shared accountability and shared leadership are ways Californians can work together to plan and prepare.
- One healthcare employer describes an internal and external collaboration to equate to “community readiness.”
- Despite partnerships in preparedness, stakeholder negotiations will become inevitable during the recovery phase due to the “uncertain science” in some disasters.
- Dual-use preparedness structures may help overcome reluctance by different groups to adopt planning modes. The challenge, therefore, is to make preparedness activities and organizations sustainable and supportive of non-disaster functionality.
- An example of a local partnership is the Los Angeles Business and Industrial Council for Emergency Planning and Preparedness (BICEPP), a non-profit self-help corporation made up of businesses and municipalities.

First Responders

- “Worker Safety and Health Annex” guidelines provide for the coordination of federal safety-and-health assets for proactive consideration of all potential hazards; ensures availability and management of all safety resources needed by responders; shares responder safety-related information; and coordinates among federal agencies, state, local and tribal governments, and private-sector organizations involved in responses to nationally significant events.
- Proper training and accurate hazard assessment should determine correct equipment use.
- Infrastructure damage from an earthquake or act of terrorism may prevent a planned response due to a lack of transportation alternatives and dispersed first responders.
- Coordinated and inter-operable communications methods/protocols will be needed in times of crisis management involving disparate responder groups.
- Standards still need to be aligned between Federal and State.
- Protective gear will continue to involve a trade-off between protection and acceptance and practicality.

SPECIAL REPORT: CATASTROPHE PREPAREDNESS AT THE WORKPLACE

- Following established response procedures requires accurate information, decision-analysis and communication.
- Better hazard assessment will dramatically improve safety.
- Non-routine events challenge the system and traditional training, requiring a different, integrated way of managing and coordinating.

Recommendations

- Preparedness requires cooperation, communication and collaboration.
- Public-private partnerships and labor-management partnerships should be included in disaster-preparedness plans and mitigation-and-response activities.
- Private-sector and government agencies may want to take a closer look at how best to be prepared at the local level.
- The private sector and the government need to assess if appropriate incentives are in place to encourage and offset the costs of mitigating and responding to disasters.
- Ongoing communication is needed between government agencies, employers, employees, and safety personnel for disaster preparedness, mitigation and response.
- In addition to police, firefighters, and emergency-management personnel, many other parties will need to be considered as emergency responders. They include employees, employers, security guards, healthcare workers and public-works workers.
- Small businesses need to address disaster preparedness, planning and training; Small business advocates advise that until now, disaster preparedness has not been a priority for small businesses due to a lack of resources.

Next Steps

- Identify models of emergency planning that include public-private partnerships and labor-management partnerships.
- Develop preparedness materials and training for small businesses.

UPDATE: THE CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

Background

In California, approximately two-thirds of the total payroll in the state has been covered for workers' compensation through insurance policies, while the remainder is through self-insurance. There are more than 100 private for-profit insurers and one public nonprofit insurer, the State Compensation Insurance Fund (SCIF).

The California Department of Insurance (CDI) oversees these insurers. To accomplish its principal objective of protecting insurance policy holders in the state, the CDI examines insurance companies to ensure that operations are consistent with the requirements of the Insurance Code.

Minimum Rate Law and Open Rating

In 1993, workers' compensation reform legislation repealed California's 80-year-old minimum rate law and replaced it beginning in 1995 with an open-competition system of rate regulation in which insurers set their own rates based on "pure premium advisory rates" developed by the Workers' Compensation Insurance Rating Bureau (WCIRB). These rates, approved by the Insurance Commissioner (IC) and subject to annual adjustment, are based on historical loss data for more than 500 job categories.

Under this "open rating" system, these recommended, non-mandatory pure premium rates are intended to cover the average costs of benefits and loss-adjustment expenses for all employers in an occupational class and thus provide insurers with benchmarks for pricing their policies. Insurers typically file rates that are intended to cover other costs and expenses, including unallocated loss-adjustment expenses.

Insurance Market after Elimination of Minimum Rate Law

Subsequent to the repeal of the minimum rate law effective January 1995, changes were noted in the actions of insurers and employers.

Price Competition

While declining claim costs and the mandated premium rate reductions initiated the decline in the total California workers' compensation premium, open rating apparently spurred competition among insurers seeking to retain or add to their market share. Some insurers attempted to increase their market share by writing coverage at low prices that eventually proved to be below loss costs. This deregulated market kept premium rates near their historic lows throughout the latter half of the 1990s, even though losses were no longer declining.

As the link between the price of insurance and loss costs became more and more tenuous, some insurers left the state, others ceased writing workers' compensation or were merged or acquired by other carriers, and still others, including several of the largest insurers in the State, became insolvent and had to be taken over or supervised by the State. As a result, the workers' compensation market became much more concentrated than in the past, with only a few insurers, aside from SCIF, which were mostly large, national carriers, accounting for the largest portion of statewide premium.

Changing Insurers

WCIRB estimated that before open rating, about 25 percent of California employers with experience modifications (ex-mods) changed insurance carriers each year. After open rating, about 35 percent of the employers did so. However, in many post open rating situations, employers had no choice but to change insurers, as the market had deteriorated to the point that many carriers, including several of the largest workers' compensation insurers in the State, ceased to exist or stopped writing workers' compensation in California.

Reinsurance

After open rating, many carriers shifted the risk of their workers' compensation claims to other insurance companies, some of which were inexperienced with the California workers' compensation insurance market. It was reported that many carriers used reinsurance aggressively in order to mitigate the risk of having to make large future payoffs. Some primary workers' compensation carriers offered extremely low rates that proved to be inadequate in the face of soaring losses. Some reinsurance companies also sold off their risk to other reinsurers in a process called "retrocession." During 1999, several major reinsurance pools experienced financial difficulty and ceased operations.

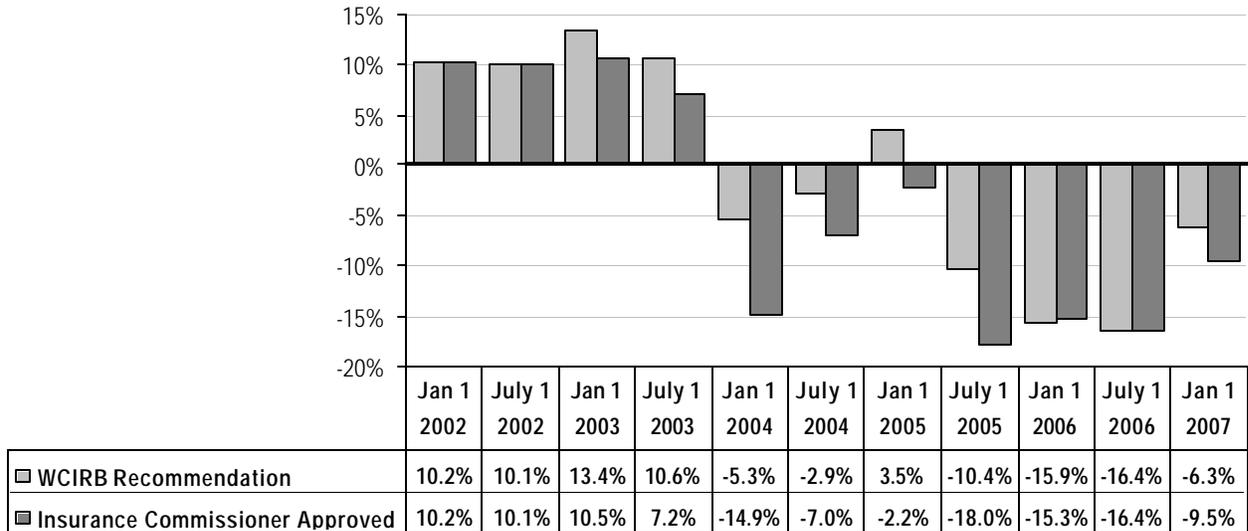
Impact of Recent Workers' Compensation Reforms on Insurance Companies

The workers' compensation reform legislation, Senate Bill (SB) 228, Assembly Bill (AB) 227, and SB 899, were enacted with the intent of controlling costs and improving the benefit-delivery process in the workers' compensation system.

As a result of the reforms, WCIRB recommended changes and the IC approved decreases in the pure premium advisory rates, as shown on the following chart in 2004, 2005 and 2006. A history of pure premium rates appears later in this section.

Recommended vs. Approved Advisory Workers' Compensation Rates

**Changes in Workers' Compensation Advisory Premium Rates
WCIRB Recommendation v. Insurance Commissioner Approval**



Data Source: WCIRB

California Workers' Compensation Rate Changes

As a result of recent workers' compensation legislative reforms and the subsequent decisions by the IC on advisory premium rates, workers' compensation insurers have reduced their filed rates as indicated in the chart below.

As of July 1, 2006, the cumulative premium weighted average rate reduction filed by insurers with the CDI is 45 percent for all writers including SCIF. There have been six rate reductions since the passage of AB 227 and SB 228, and individually stated, filed insurer rates were reduced 3.6 percent on January 1, 2004, 7.3 percent on July 1, 2004, 3.8 percent on January 1, 2005, 14.6 percent on July 1, 2005, 14.7 percent on January 1, 2006, and 10.72 percent on July 1, 2006.¹⁷

¹⁷ Source: Douglas G. Barker, J.D., Bureau Chief, California Department of Insurance Rate Filing Bureau.

UPDATE: THE CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

The WCIRB reports that actual rates charged in the market place as of March 31, 2006, had fallen by 42 percent since the enactment of AB 227 and SB 228. The average rate per \$100 of payroll fell from \$6.35 in the second half of 2003 to \$3.75 in the first quarter of 2006.¹⁸

California Workers' Compensation Insurance Carrier Rate Filing Changes

COMPANY NAME	GROUP NAME	Market share 2005	Cumulative % Change 1/1/04-7/1/06	07/01/ 2006 % Filed Rate Change	01/01/ 2006 % Filed Rate Change	07/01/2005 % Filed Rate Change	01/01/2005 % Filed Rate Change
STATE COMPENSATION INSURANCE FUND		42.08%	-44.22%	-10.00%	-16.00%	-14.00%	-5.00%
ZENITH INSURANCE COMPANY	Zenith National Group	4.96%	-35.60%	-5.00%	-13.10%	-12.00%	-2.00%
AMERICAN HOME ASSURANCE COMPANY	AIG Group	4.07%	-38.06%	-9.00%	-8.00%	-15.10%	-2.40%
ZURICH AMERICAN INSURANCE COMPANY	Zurich Insurance Group	2.52%	-53.92%	-16.40%	-7.70%	-22.70%	-6.40%
EMPLOYERS COMPENSATION INSURANCE COMPANY	Employers Group	2.40%	-56.17%	21.86%	-15.60%	-18.60%	-5.50%
VIRGINIA SURETY COMPANY, INC.	Aon Corporation	2.15%	-41.32%	-16.40%	-15.30%	-18.00%	-3.50%
REPUBLIC INDEMNITY COMPANY OF CALIFORNIA	Great American Group	1.72%	-56.18%	-11.20%	-15.00%	-25.00%	-2.20%
NATIONAL LIABILITY & FIRE INSURANCE COMPANY	Berkshire Hathaway	1.60%	-38.56%	-7.60%	-10.00%	-21.15%	-6.30%
EVEREST NATIONAL INSURANCE COMPANY	Everest Group	1.58%	-46.80%	-16.40%	-19.00%	-13.80%	-1.50%
COMMERCE AND INDUSTRY INSURANCE COMPANY	AIG Group	1.56%	-38.06%	-9.00%	-8.00%	-15.10%	-2.40%

¹⁸ Source: WCIRB Bulletin 2006-11 July 5, 2006.

In November 2006, several workers' compensation insurance carriers filed pure premium rate decreases for policies effective in January 2007. The chart below summarizes these decreases.

California Workers' Compensation Insurance Carrier Rate Filing Changes effective January 01, 2007

COMPANY NAME	GROUP NAME	01/01/ 2007 % Filed Rate Change	Date Filing Received
STATE COMPENSATION INSURANCE FUND		-11.00%	11/27/2006
ZENITH INSURANCE COMPANY	Zenith National Group	-4.40%	11/28/2006
AMERICAN HOME ASSURANCE COMPANY	AIG Group	-10.90%	11/28/2006
ZURICH AMERICAN INSURANCE COMPANY	Zurich Insurance Group	-7.50%	12/04/2006
EMPLOYERS COMPENSATION INSURANCE COMPANY	Employers Group	-9.90%	11/28/2006
VIRGINIA SURETY COMPANY, INC.	Aon Corporation	-9.50%	11/15/2006
REPUBLIC INDEMNITY COMPANY OF CALIFORNIA	Great American Group	-7.30%	11/20/2006
NATIONAL LIABILITY & FIRE INSURANCE COMPANY	Berkshire Hathaway	-7.70%	11/08/2006
EVEREST NATIONAL INSURANCE COMPANY	Everest Group	-7.90%	11/27/2006
COMMERCE AND INDUSTRY INSURANCE COMPANY	AIG Group	-10.90%	11/28/2006

The recent workers' compensation rate filing changes noted above could be one of the signs that the workers' compensation insurance market is becoming more stable and competitive.

Workers' Compensation Premiums

After elimination of the minimum rate law, the total written premium declined from a high of \$8.9 billion in 1993 to a low of \$5.7 billion (\$5.1 billion net of deductible) in 1995. The written premium grew slightly from 1996 to 1999 due to growth of insured payroll, an increase in economic growth and movement from self-insurance to insurance and other factors, rather than due to increased rates. However, even with well over a million new workers covered by the system, the total premium paid by employers remained below the level seen at the beginning of the decade.

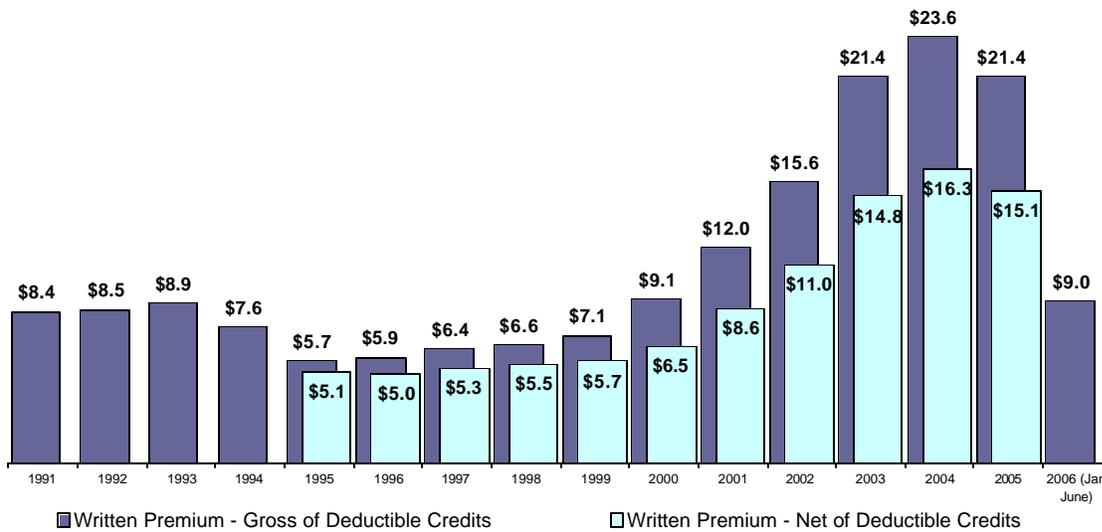
At the end of 1999, the IC approved an 18.4 percent pure premium rate increase for 2000, and the market began to harden after five years of open rating, though rates remained less than two-thirds of the 1993 level. Since then, the market has continued to firm, with the IC approving a 10.1 percent increase in the advisory

UPDATE: THE CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

rates for 2001 and a 10.2 percent increase for 2002. The total written premium has increased by 37.2 percent to \$21.4 billion from 2002 to 2003 and to \$23.6 billion from 2002 to 2004. The written premium declined by 11 percent from 23.6 billion to 21.4 billion between 2004 and 2005 due to rate decreases.

The chart below shows the California workers' compensation written premium before and after the application of deductible credits. Please note that these amounts are exclusive of dividends.

**Workers' Compensation Written Premium
(in billion\$, as of June 30, 2006)**



Data Source: WCIRB

**Advisory Workers' Compensation Pure Premium Rates
A History Since the 1993 Reform Legislation**

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1993

Insurance Commissioner approval:

Pure premium rate reduction of 7 percent effective July 16, 1993, due to a statutory mandate.

1994

WCIRB recommendation:

No change in pure premium rates.

Insurance Commissioner approval:

Two pure premium rate decreases: a decrease of 12.7 percent effective January 1, 1994; and a second decrease of 16 percent effective October 1, 1994.

1995

WCIRB recommendation:

A 7.4 percent decrease from the pure premium rates that were in effect on January 1, 1994.

Insurance Commissioner approval:

A total of 18 percent decrease to the premium rates in effect on January 1, 1994, approved effective January 1, 1995 (including the already-approved 16 percent decrease effective October 1, 1994).

1996

WCIRB recommendation:

An 18.7 percent increase in pure premium rates.

Insurance Commissioner approval:

An 11.3 percent increase effective January 1, 1996.

1997

WCIRB recommendation:

A 2.6 percent decrease in pure premium rates.

Insurance Commissioner approval:

A 6.2 percent decrease effective January 1, 1997.

1998

WCIRB recommendation:

The initial recommendation for a 1.4 percent decrease was later amended to a 0.5 percent increase.

Insurance Commissioner approval:

A 2.5 percent decrease effective January 1, 1998.

1999

WCIRB recommendation:

The WCIRB initial recommendation of a 3.6 percent pure premium rate increase for 1999 was later amended to a recommendation for a 5.8 percent increase.

Insurance Commissioner approval:

No change in pure premium rates in 1999.

**Advisory Workers' Compensation Pure Premium Rates
A History since the 1993 Reform Legislation**

Page 2 of 5

2000

WCIRB recommendation:

An 18.4 percent increase in the pure premium rate for 2000.

Insurance Commissioner approval:

An 18.4 percent increase effective January 1, 2000.

2001

WCIRB recommendation:

The WCIRB initial recommendation of a 5.5 percent increase in the pure premium rate later amended to a recommendation for a 10.1 percent increase.

Insurance Commissioner approval:

A 10.1 percent increase effective January 1, 2001.

January 1, 2002

WCIRB Recommendations:

The WCIRB initial recommendation of a 9 percent increase in the pure premium rate was later amended to a recommendation for a 10.2 percent increase effective January 1, 2002.

Insurance Commissioner Approvals:

The Insurance Commissioner approved a 10.2 percent increase effective January 1, 2002. .

April 1, 2002

WCIRB Recommendations:

On January 16, 2002, the WCIRB submitted recommended changes to the California Workers' Compensation Uniform Statistical Reporting Plan – 1995, effective March 1, 2002 and the California Workers' Compensation Experience Rating Plan – 1995, effective April 1, 2002, related to insolvent insurers and losses associated with the September 11, 2001 terrorist actions. No increase in advisory premium rates was proposed.

Insurance Commissioner Approvals:

The Insurance Commissioner approved the WCIRB's requests effective April 1, 2002. .

July 1, 2002

WCIRB Recommendations:

WCIRB filed a mid-term recommendation that pure premium rates be increased by 10.1 percent effective July 1, 2002, for new and renewal policies with anniversary rating dates on or after July 1, 2002.

Insurance Commissioner Approvals:

On May 20, 2002, the Insurance Commissioner approved a mid-term increase of 10.1 percent effective July 1, 2002.

January 1, 2003

WCIRB recommendation:

On July 31, 2002, the WCIRB proposed an average increase in pure premium rates of 11.9% for 2003.

On September 16, 2002, the WCIRB amended the proposed 2003 pure premium rates submitted to the California Department of Insurance (CDI). Based on updated loss experience valued as of June 30, 2002, the WCIRB is proposing an average increase of 13.4% in pure premium rates to be effective on January 1, 2003 and later policies.

**Advisory Workers' Compensation Pure Premium Rates
A History since the 1993 Reform Legislation**

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January 1, 2003

Insurance Commissioner Approval:

On October 18, 2002, the Insurance Commissioner approved a 10.5% increase in pure premium rates applicable to policies with anniversary rating dates in 2003. This increase takes into account the increases in workers' compensation benefits enacted by AB 749 for 2003.

July 1, 2003

WCIRB recommendation:

WCIRB filed a mid-term recommendation on April 2, 2003, that pure premium rates be increased by 10.6 percent effective July 1, 2003, for policies with anniversary dates on or after July 1, 2003.

Insurance Commissioner Approval:

The Insurance Commissioner approved a 7.2 percent increase in pure premium rates applicable to new and renewal policies with anniversary rating dates on or after July 1, 2003.

January 1, 2004

WCIRB Recommendations:

On July 30, 2003, WCIRB proposed an average increase in advisory pure premium rates of 12.0 percent to be effective on January 1, 2004, for new and renewal policies with anniversary rating dates on or after January 1, 2004.

The original WCIRB filing of an average increase of 12 percent on July 30, 2003, was later amended on September 29, 2003, to an average decrease of 2.9 percent to reflect the WCIRB's initial evaluation of AB 227 and SB 228.

In an amended filing made on November 3, 2003, the WCIRB recommended that pure premium rates be reduced, on average, from 2.9 percent to 5.3 percent.

Insurance Commissioner Approvals:

On November 7, 2003, the Insurance Commissioner approved a 14.9% decrease in advisory pure premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2004.

July 1, 2004

WCIRB Recommendations:

On May 13, 2004, WCIRB proposed advisory pure premium rates that are a 2.9 percent decrease from the January 1, 2004, approved pure premium rates. These rates reflect the WCIRB's analysis of the impact of provisions of SB 899 on advisory pure premium rates.

Insurance Commissioner Approvals:

In a decision issued May 28, 2004, the Insurance Commissioner approved a 7.0 percent decrease in pure premium rates, effective July 1, 2004, with respect to new and renewal policies, reflecting as compared to the approved January 1, 2004, pure premium rates.

January 1, 2005

WCIRB Recommendations:

On July 28, 2004, the WCIRB proposed advisory premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2005, that are, on average, 3.5 percent greater than the July 1, 2004, advisory pure premium rates approved by the Insurance Commissioner.

Insurance Commissioner Approvals

In a decision issued November 17, 2004, the Insurance Commissioner approved a total 2.2 percent decrease in advisory pure premium rates applicable to new and renewal policies with anniversary rating dates on or after January 1, 2005.

**Advisory Workers' Compensation Pure Premium Rates
A History since the 1993 Reform Legislation**

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July 1, 2005

WCIRB Recommendations:

On March 25, 2005, WCIRB submitted a filing to the California Insurance Commissioner recommending a 10.4 percent decrease in advisory pure premium rates effective July 1, 2005, on new and renewal policies.

On May 19, 2005, in recognition of the cost impact of the new Permanent Disability Rating Schedule adopted pursuant to SB 899, the WCIRB amended its recommendation. In lieu of the 10.4 percent reduction originally proposed in March, the WCIRB recommended a 13.8 percent reduction in pure premium rates effective July 1, 2005. In addition, the WCIRB recommended a 3.8 percent reduction in the pure premium rates effective July 1, 2005, with respect to the outstanding portion of policies incepting January 1, 2005, through June 30, 2005.

Insurance Commissioner Approvals

On May 31, 2005, the Insurance Commissioner approved an 18 percent decrease in advisory pure premium rates effective July 1, 2005, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2005. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to \$23,288. The Insurance Commissioner also approved a 7.9 percent decrease in pure premium rates, effective July 1, 2005, applicable to policies that are outstanding as of July 1, 2005. The reduction in pure premium rates applicable to these policies reflects the estimated impact on the cost of benefits of the new Permanent Disability Rating Schedule.

January 1, 2006

WCIRB Recommendations:

On July 28, 2005, the WCIRB submitted to the California Insurance Commissioner a proposed 5.2 percent average decrease in advisory pure premium rates as well as changes to the California Workers' Compensation Uniform Statistical Reporting Plan -1995 and the California Workers' Compensation Experience Rating Plan - 1995.

On September 15, 2005, the WCIRB amended its filing to propose an average 15.9 percent decrease in pure premium rates based on insurer loss experience valued as of June 30, 2005, and a re-evaluation of the cost impact of the January 1, 2005 Permanent Disability Rating Schedule.

Insurance Commissioner Approvals

On November 10, 2005, the Insurance Commissioner approved an average 15.3 percent decrease in advisory pure premium rates effective January 1, 2006, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2006. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to \$20,300.

July 1, 2006

WCIRB Recommendations:

On March 24, 2006, the WCIRB submitted a rate filing to the California Department of Insurance recommending a 16.4 percent decrease in advisory pure premium rates to be effective on policies incepting on or after July 1, 2006. The recommended decrease in pure premium rates is based on an analysis of loss experience valued as of December 31, 2005. The WCIRB filing also includes an amendment to the California Workers' Compensation Experience Rating Plan -1995, effective July 1, 2006, to adjust the experience rating eligibility threshold to reflect the proposed change in pure premium rates. A public hearing on the matters contained in the WCIRB's filing was held April 27, 2006.

Insurance Commissioner Approvals

On May 31, 2006, the Insurance Commissioner approved a 16.4 percent decrease in advisory pure premium rates effective July 1, 2006, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after July 1, 2006. In addition, the experience rating eligibility threshold was reduced to \$16,971 to reflect the decrease in pure premium rates.

**Advisory Workers' Compensation Pure Premium Rates
A History since the 1993 Reform Legislation**

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January 1, 2007

WCIRB Recommendations:

On October 10, 2006, WCIRB recommended a 6.3% decrease in advisory pure premium rates decrease for California policies incepting January 1, 2007.

Insurance Commissioner Approvals

On November 2, 2006, the Insurance Commissioner approved an average 9.5 percent decrease in advisory pure premium rates effective January 1, 2007, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2007. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to \$16,000.

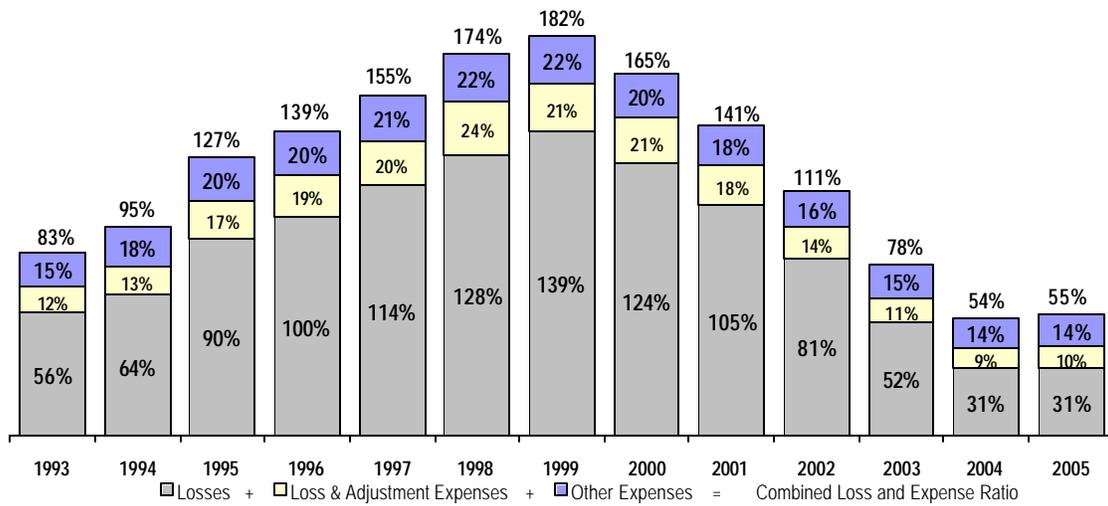
See the WCIRB website below for further details and updates to this information.

http://wcirbonline.org/index2.asp?section=6&subsection=1&content=resources/rate_filings.asp

Combined Loss and Expense Ratios

The accident-year combined loss and expense ratio, which measures workers' compensation claims payments and administrative expenses against earned premium, increased during the late 1990s and has been declining since that time. In accident-year 2005, insurers' claim costs and expenses amounted to \$0.55 for every dollar of premium they collected, which is the lowest combined ratio projected by WCIRB since the inception of competitive rating and reflects the estimated impact of AB 227, SB 228, and SB 899 on unpaid losses.

California Workers' Compensation Combined Loss and Expense Ratios
 Reflecting the Estimated Impact of AB 227, SB 228 & SB 899
 (as of June 30, 2006)



Insurance Companies' Reserves

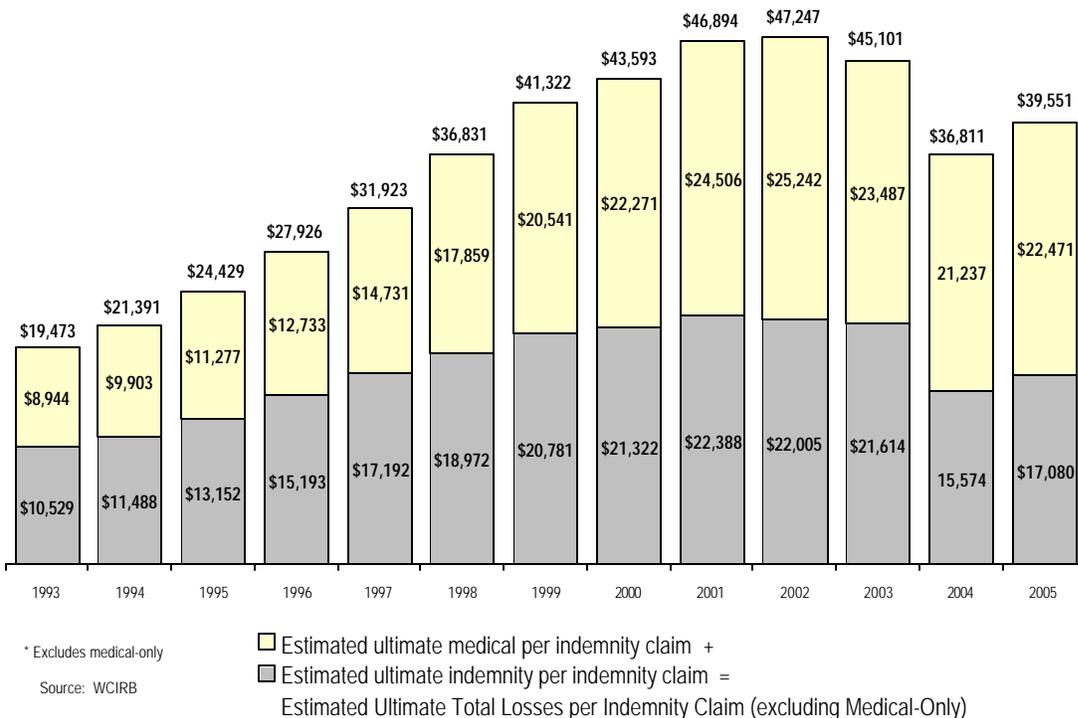
WCIRB estimates that the total cost of benefits on injuries occurring prior to January 1, 2006, is \$7 billion less than insurer-reported loss amounts.

Average Claim Costs

At the same time that premiums and claim frequency were declining, the total amount insurers paid on indemnity claims jumped sharply due to increases in the average cost of an indemnity claim, which rose dramatically during the late 1990s

The total average cost of indemnity claims has decreased by 16 percent from 2002 to 2005 reflecting the impact of AB 227, SB 228 and SB 899. However, the total, indemnity and medical average costs per claim increased between 2004 and 2005.

Estimated Ultimate Total Loss per Indemnity Claim
 Reflecting the Impact of AB 227, SB 228 & SB 899 as of June 30, 2006



Please note that WCIRB's estimates of average indemnity claim costs have not been indexed to take into account wage increase and medical inflation.

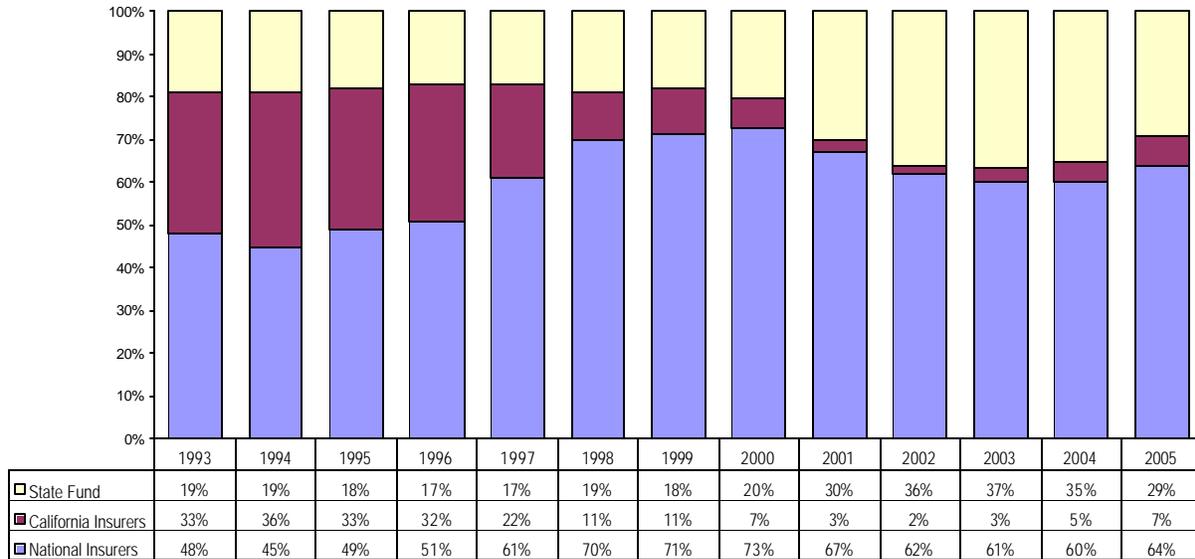
Current State of the Insurance Industry

Market Share

A number of California insurers left the market or reduced their writings as a result of the decrease in profitability, contributing to a major redistribution of market share among insurers since 1993, as shown in the following chart.

According to WCIRB, California companies (excluding SCIF) insured just 5 percent of the California workers' compensation market in 2004, compared with 36 percent of the market in 1994. From 2002 through 2004, SCIF attained about 35 percent of the California workers' compensation insurance market, double the market share it had in the 1990s. However, between 2004 and 2005, SCIF's market share decreased to 29 percent.

WC Insurance Market Share in California by Type of Insurer
Based on Written Premium Prior to Deductible Credits



Source: WCIRB

Please note that totals may not equal 100% due to rounding.

"California Insurers" are defined as private insurers who write at least 80% of their workers' compensation business in California

"September 11" Impact on Insurance Industry

The recent problems in the reinsurance market caused by the events of September 11, 2001, have significantly affected the cost and availability of catastrophe reinsurance and, correspondingly, have a significant effect on the cost of workers' compensation insurance. This effect extends to more than acts of terrorism and is a critical component of any evaluation of the California workers' compensation insurance marketplace.

Insurance Market Changes

Since 2000, a significant number of workers' compensation insurance companies have experienced problems with payment of workers' compensation claims. Thirty-three insurance companies have gone under liquidation and eleven companies have withdrawn from offering workers' compensation insurance during that time. However, since 2004, twelve insurance/reinsurance companies have entered the California workers' compensation market, while only two companies withdrew from the market and two companies were liquidated.

COMPANY NAME

DATE OF LIQUIDATION

2000

California Compensation Insurance Company	9/26/2000
Combined Benefits Insurance Company	9/26/2000
Commercial Compensation Casualty Insurance Company	9/26/2000
Credit General Indemnity Company	12/12/2000
LMI Insurance Company	5/23/2000
Superior National Insurance Company	9/26/2000
Superior Pacific Insurance Company	9/26/2000

2001

Credit General Insurance Company	1/5/2001
Great States Insurance Company	5/8/2001
HIH America Compensation & Liability Insurance Company	5/8/2001
Amwest Surety Insurance Company	6/7/2001
Sable Insurance Company	7/17/2001
Reliance Insurance Company	10/3/2001
Far West Insurance Company	11/9/2001
Frontier Pacific Insurance Company	11/30/2001

2002

PHICO	2/1/2002
National Auto Casualty Insurance Company	4/23/2002
Paula Insurance Company	6/21/2002
Alistar Insurance Company	11/2/2002
Consolidated Freightways	9/2002

2003

Western Growers Insurance Company	1/7/2003
Legion Insurance Company	3/25/2003
Villanova Insurance Company	3/25/2003
Home Insurance Company	6/13/2003
Fremont General Corporation	7/2/2003
Wasatch Crest Insurance Co. (No WC policies)	7/31/2003
Pacific National Insurance Co.	8/5/2003

2004

Protective National Insurance Company	2/12/04
Holland-America Insurance Company	7/29/04
Casualty Reciprocal Exchange	8/18/04

2005

Cascade National Insurance Company/Washington	11/4/05
South Carolina Insurance Company/South Carolina	3/21/05
Consolidated American Insurance Company/South Carolina	3/21/05

WORKPLACE SAFETY AND HEALTH

Workplace safety and health is of primary importance and the shared goal of all Californians. Ongoing cooperative efforts among workers, employers, employer and labor organizations, government agencies, health and safety professionals, independent researchers and the public have resulted in significant reductions in workplace injuries, illnesses and deaths.

This section will discuss the numbers and incidence rates of occupational injuries and illnesses, injuries and illnesses by occupation and other factors, and the efforts to prevent occupational injuries and illnesses. Also included is an overview of the requirements and methods to record and report occupational injuries and illnesses in the United States and California.

Where data are available, comparisons among private industry, state government and local government are also included.

Occupational Injuries, Illnesses and Fatalities

The numbers of occupational injuries, illnesses and fatalities in the private sector (private industry) and the public sector (state and local government) for the past several years are displayed and discussed in this subsection.

Please note that “lost-work-time” occupational injury and illness cases involve days away from work, job transfer, or days of restricted work activity, and that “days-away-from-work” cases involve days away from work, whether or not there is also job transfer or restricted work activity.

The National Academy of Social Insurance (NASI) estimated that there were 125.9 million workers covered by workers’ compensation in the United States in 2004, including 14.7 million in California.

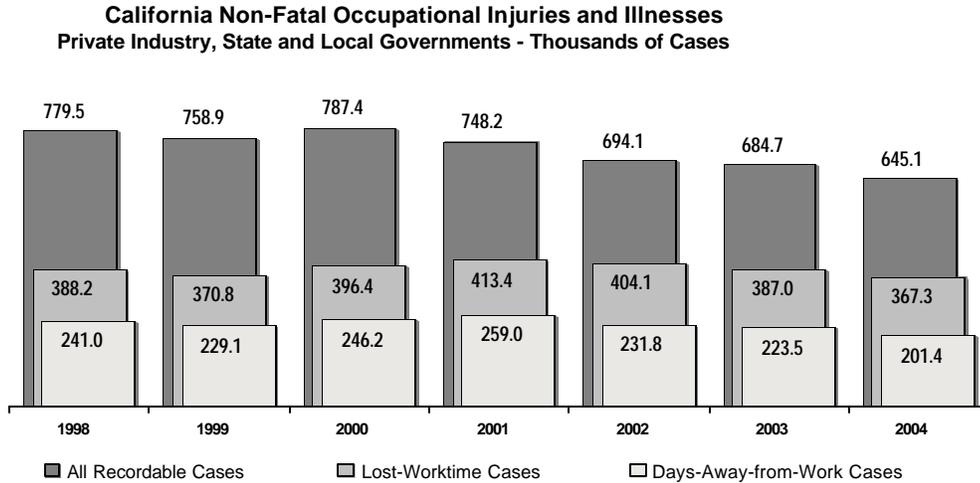
Public and Private Sectors

Non-Fatal Occupational Injuries and Illnesses

The following chart shows occupational injuries and illnesses in California’s private industry, state government and local government.

Occupational injuries and illnesses in California have decreased noticeably in the past few years.

As shown in the following chart, the number of recordable occupational injury and illness cases, the number of lost-work-time cases, and the number of cases with days away from work have all declined from 2000 to 2004.



Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California’s private sector have also decreased significantly as depicted in the chart below. Fatal occupational injuries and illnesses in California declined by 35 percent from 1997 to 2004 and then increased by 11 percent from 2004 to 2005.

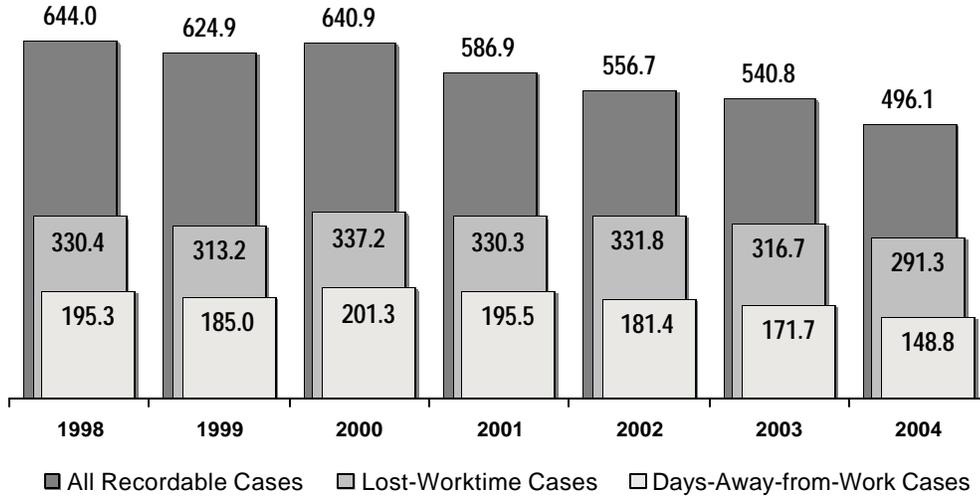


Private Sector

Non-Fatal Occupational Injuries and Illnesses

Occupational injuries and illnesses in California's private industry have also decreased noticeably in the past few years. The total number of recordable injury and illness cases dropped by 22.6 percent, the number of lost-work-time cases declined by 13.6 percent, and the number with days away from work decreased by 26.1 percent from 2000 to 2004.

**California Non-Fatal Occupational Injuries and Illnesses
Private Industry - Thousands of Cases**

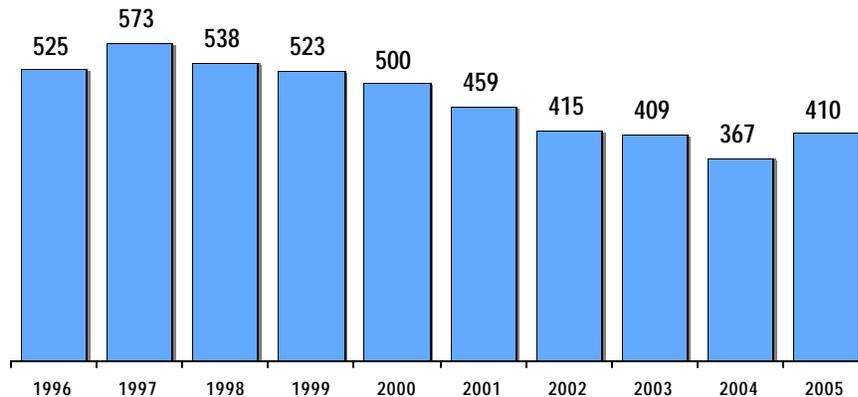


Source: DIR Division of Labor Statistics and Research

Fatal Occupational Injuries and Illnesses

From 1997 to 2004, fatal injuries decreased by 36.0 percent, then grew by 11.7 percent from 2004 to 2005.

**California Fatal Occupational Injuries and Illnesses
Private Industry**



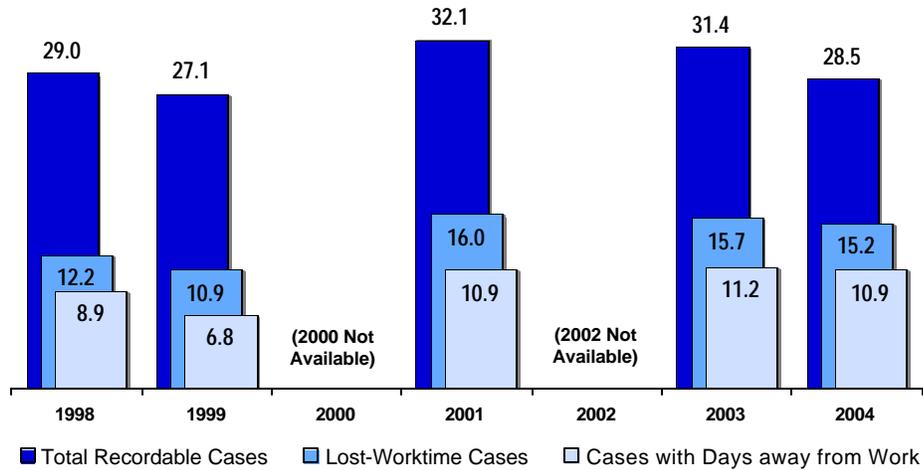
Source: DIR Division of Labor Statistics and Research

Public Sector – State Government

Non-Fatal Occupational Injuries and Illnesses

In contrast to private industry, the numbers of non-fatal occupational injuries and illnesses in state government have not changed appreciably in the past seven years, as shown on the following chart. It should be noted that many state and local government occupations are high risk, such as law enforcement, fire fighting, rescue, and other public safety operations. However, between 2003 and 2004, the total number of cases declined by about 9.0 percent.

**California Non-Fatal Occupational Injuries and Illnesses
State Government - Thousands of Cases**

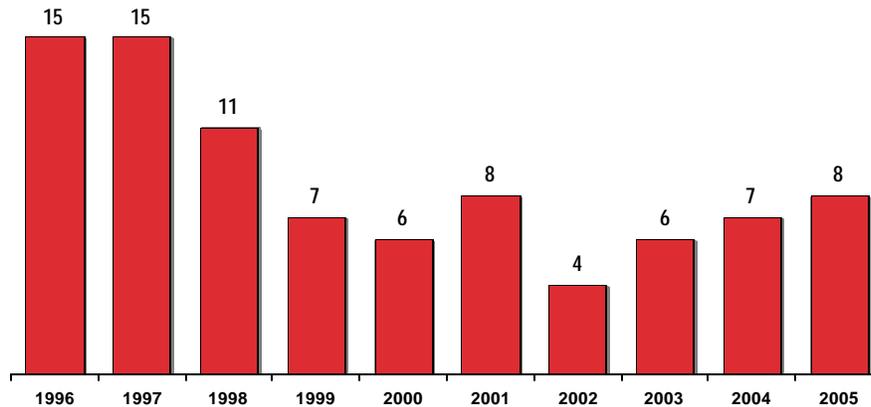


Source: DIR Division of Labor Statistics and Research

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in the California state government have decreased since the mid-1990s. The number of annual fatalities from 1996 to 1999 averaged 12.0, while from 2000 to 2005, the annual average was 6.5, as shown on the following chart.

**California Fatal Occupational Injuries and Illnesses
State Government**



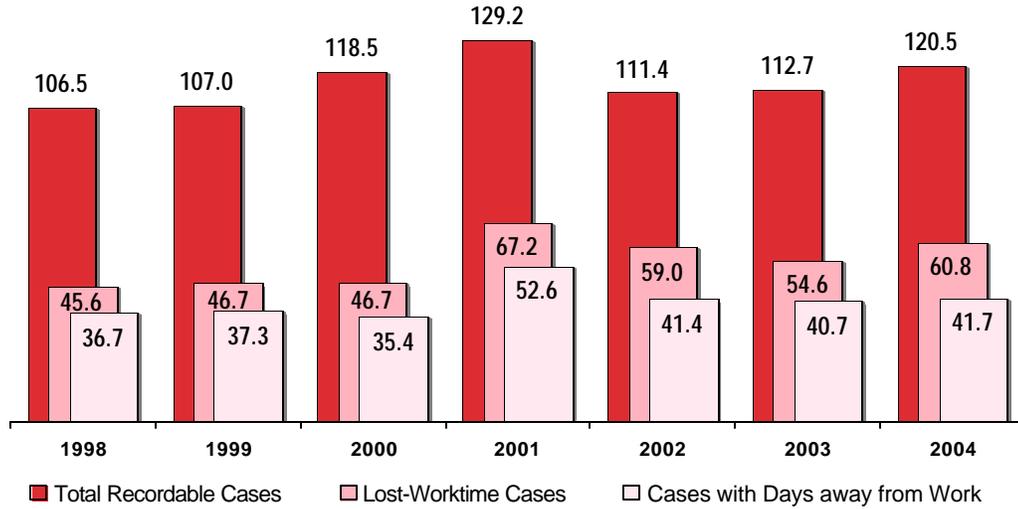
Source: DIR Division of Labor Statistics and Research

Public Sector - Local Government

Non-Fatal Occupational Injuries and Illnesses

The total number of non-fatal occupational injuries and illnesses in local governments has increased from the 1998 to 2004 by 13 percent.

**California Non-Fatal Occupational Injuries and Illnesses
Local Government - Thousands of Cases**

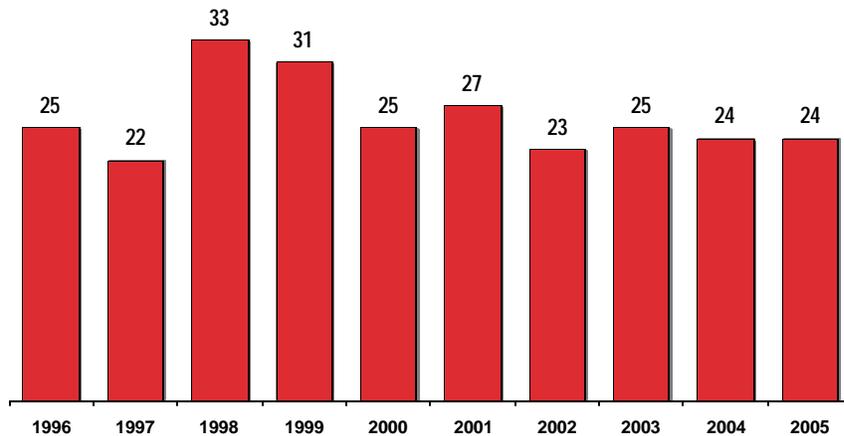


Source: DIR Division of Labor Statistics and Research

Fatal Occupational Injuries and Illnesses

The number of fatal occupational injuries and illnesses in California's local governments from 1996 to 1999 averaged 27.8, while from 2000 to 2004, the annual average was 24.8.

**California Fatal Occupational Injuries and Illness
Local Government**



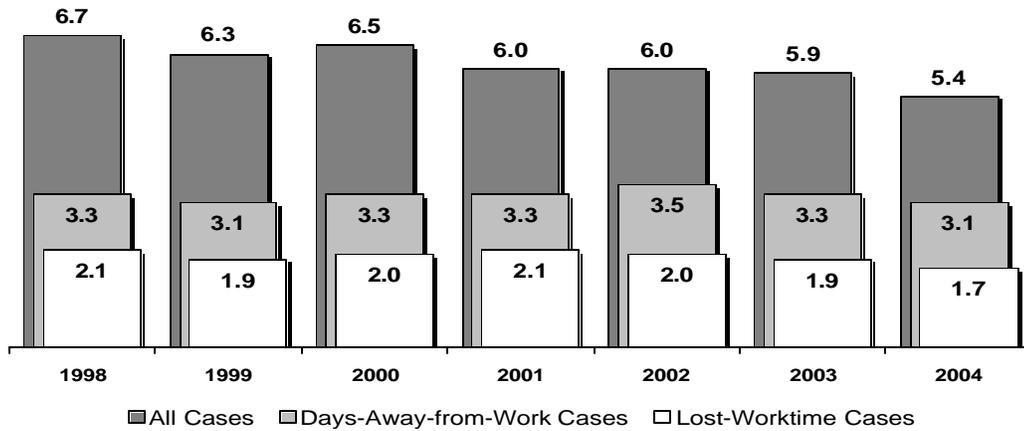
Source: DIR Division of Labor Statistics and Research

Occupational Injury and Illness Incidence Rates

Public and Private Sectors

From 1998 to 2004, incidence rates for all cases and lost-work-time cases in California declined, while the incidence rate for days-away-from-work cases remained relatively the same.

California Occupational Injury and Illness Incidence Rates
(Cases per 100 Full-Time Employees)
Private Industry, State and Local Governments

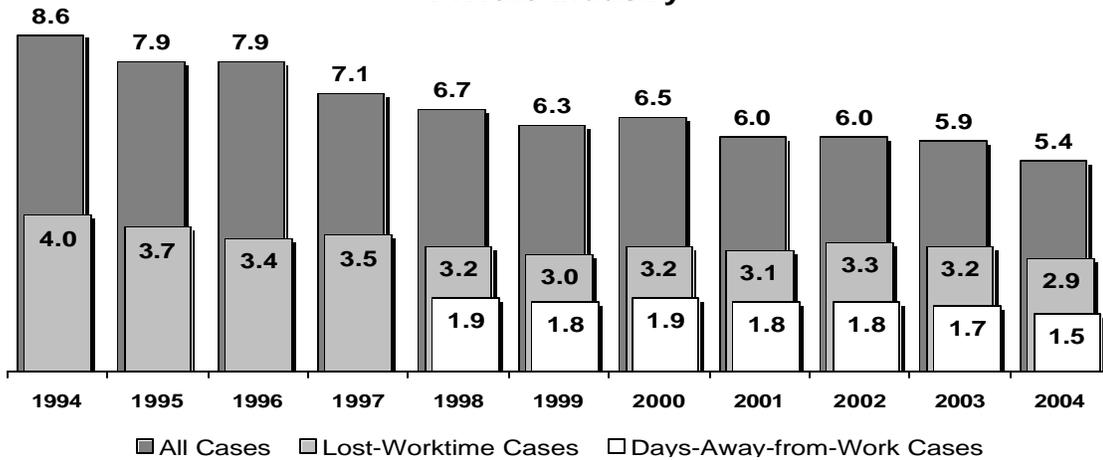


Source: DIR Division of Labor Statistics and Research

Private Sector

From 1994 to 2004, the occupational injury and illness incidence rate for all cases in California's private industry declined from 8.6 to 5.4, a decrease of 37.2 percent, while the incidence rate for lost-time cases dropped from 4.0 to 2.9, a decrease of 27.5 percent.

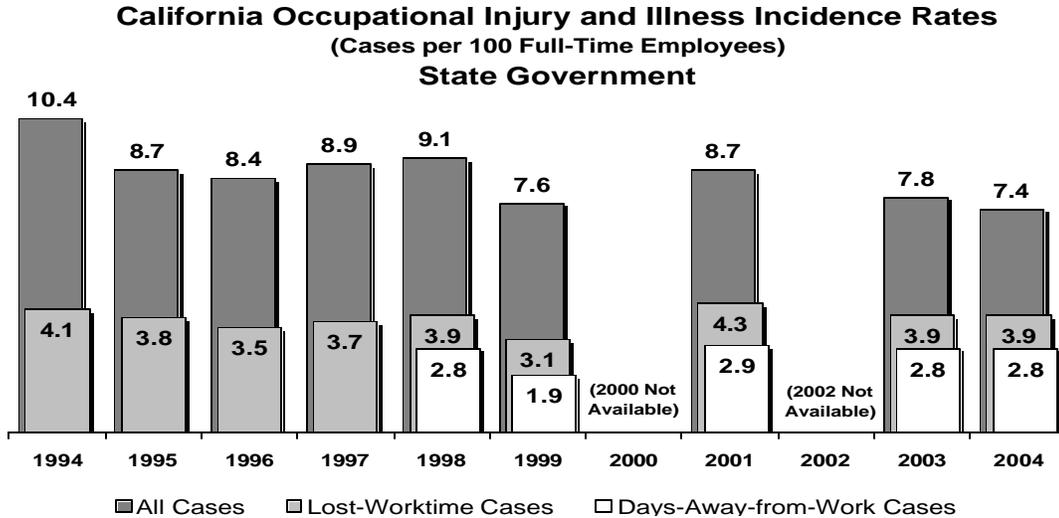
California Occupational Injury and Illness Incidence Rates
(Cases per 100 Full-Time Employees)
Private Industry



Source: DIR Division of Labor Statistics and Research

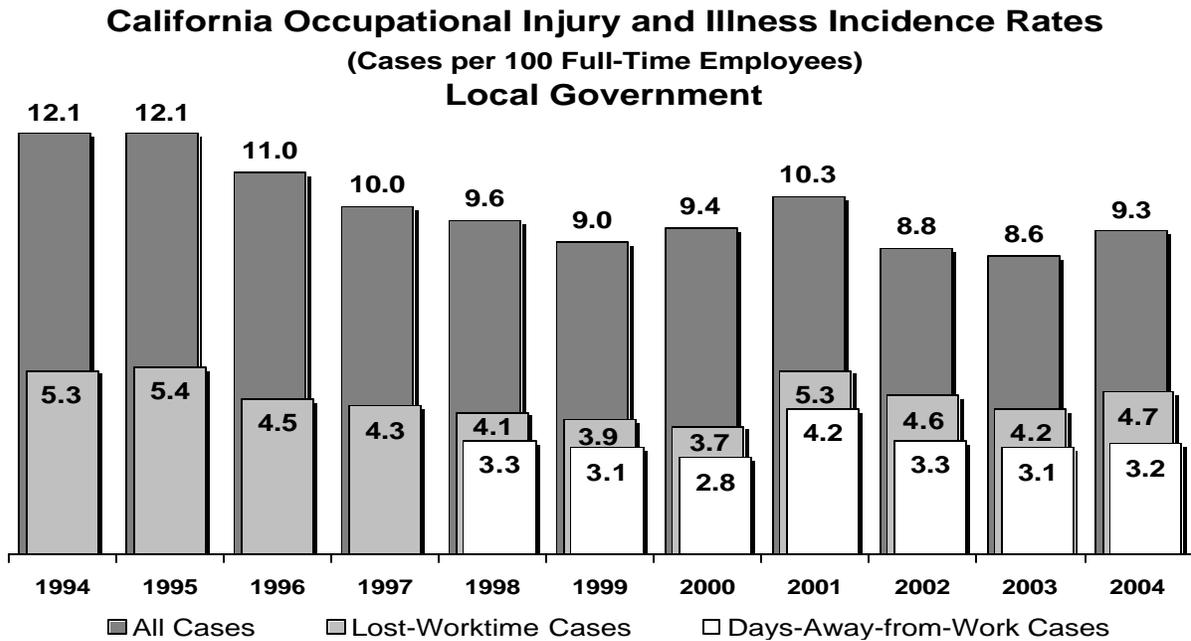
Public Sector - State Government

The California state government occupational injury and illness incidence rates have shown a decline between 1994 and 2004.



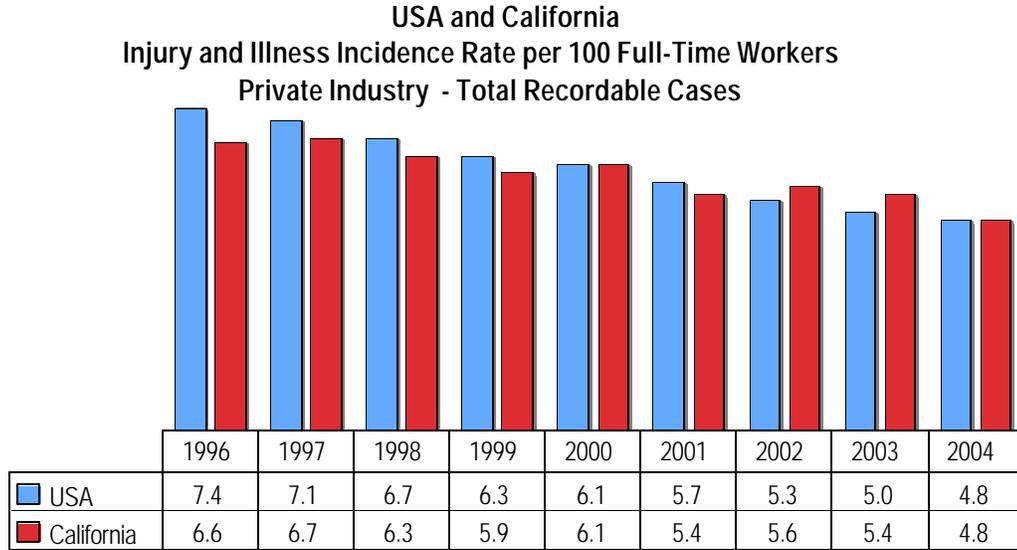
Public Sector – Local Government

Unlike the injury and illness rates for California state government whose incidence rates have been generally declining for the past decade, the local government occupational injury and illness incidence rates decreased from 1994 to 1999, increased through 2001, decreased through 2003, and then increased again in 2004.



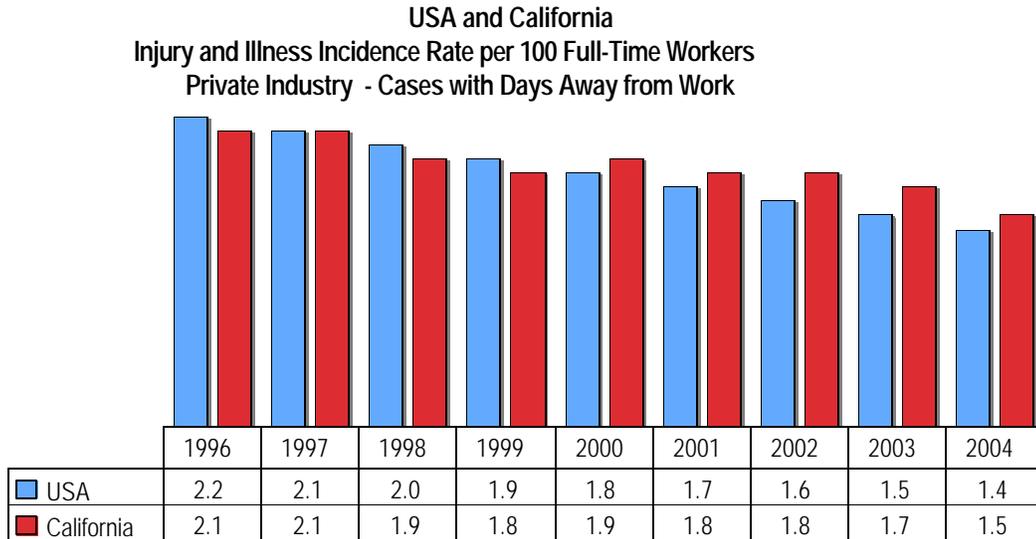
United States and California Incidence Rates: A Comparison

Both the United States and California have experienced a decrease in the occupational injury and illness incidence rates from 1996 through 2004. During that time, the United States incidence rate dropped by 35.1 percent, while the California rate declined by 27.3 percent



Source: US Department of Labor, Bureau of Labor Statistics

The incidence rate of occupational injury and illness days-away-from-work cases has also declined in the United States and California from 1996 through 2004. During that period of time, the rate for the United States decreased by 35.0 percent while the California rate dropped by 27.0 percent

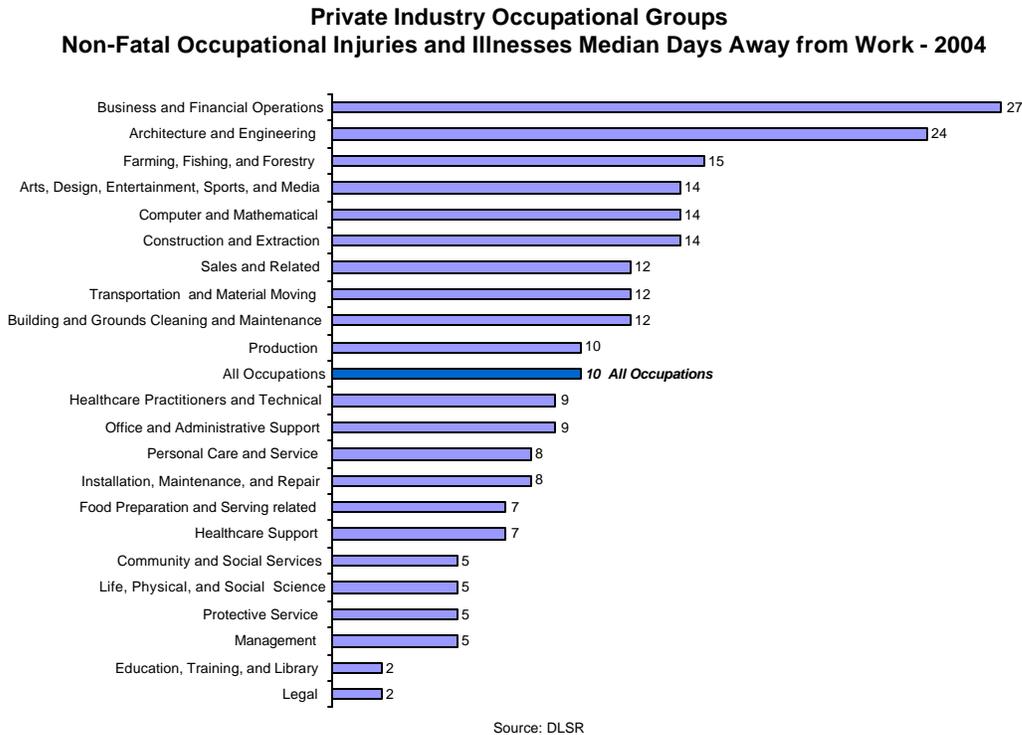
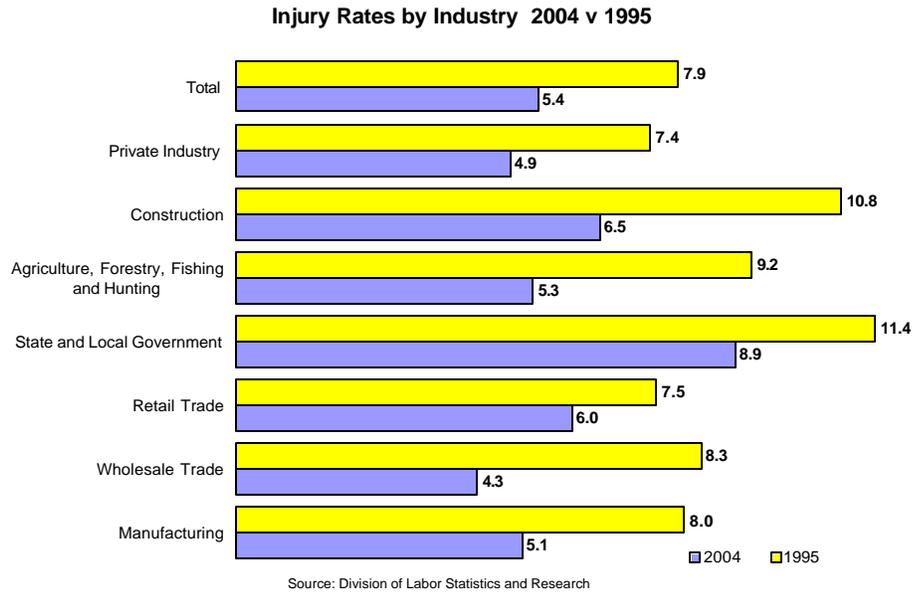


Source: US Department of Labor, Bureau of Labor Statistics

WORKPLACE SAFETY AND HEALTH

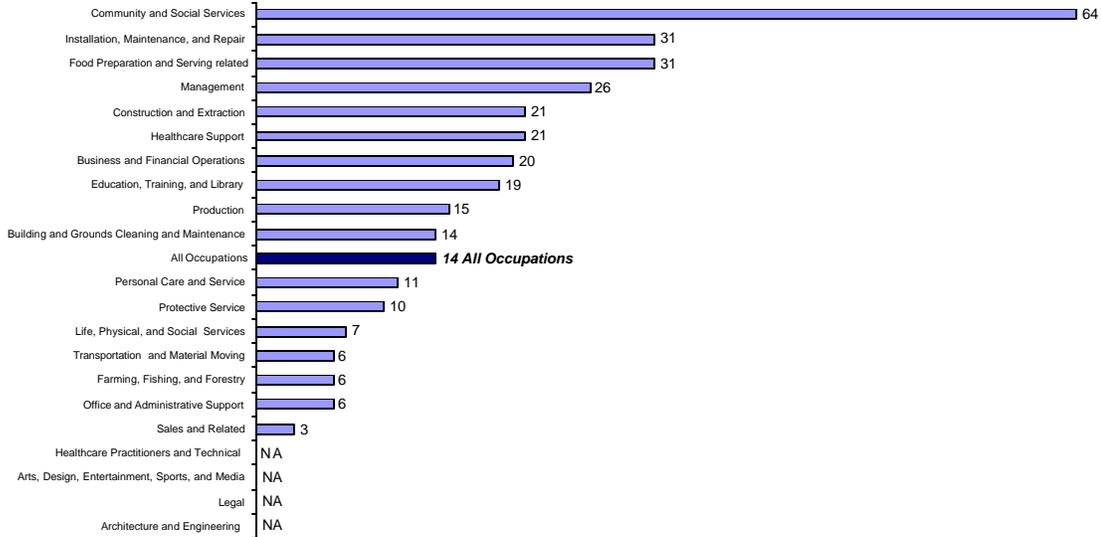
Characteristics of California Occupational Injuries and Illnesses

This section compares incidence rates by industry in 1995 with those in 2004 and also illustrates the days-away-from-work incidence rates by industry. Not only have the overall California occupational injury and illness incidence rates declined, but the incidence rates in major industries also have declined. The following charts compare days-away-from-work incidence rates in 1995 and 2004 by type of major industry including state and local government.



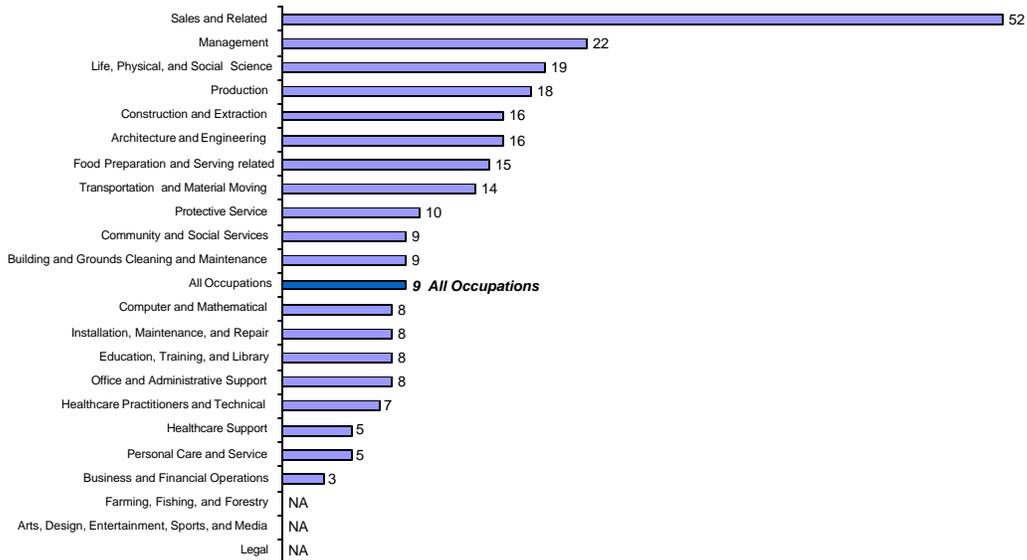
WORKPLACE SAFETY AND HEALTH

**Major Occupational Groups by Median Days Away from Work - State, 2004.
(Non-fatal injuries and illnesses)**



Data Source: DLSR

**Local Government Occupational Groups
Non-Fatal Occupational Injuries and Illnesses Median Days Away from Work - 2004**

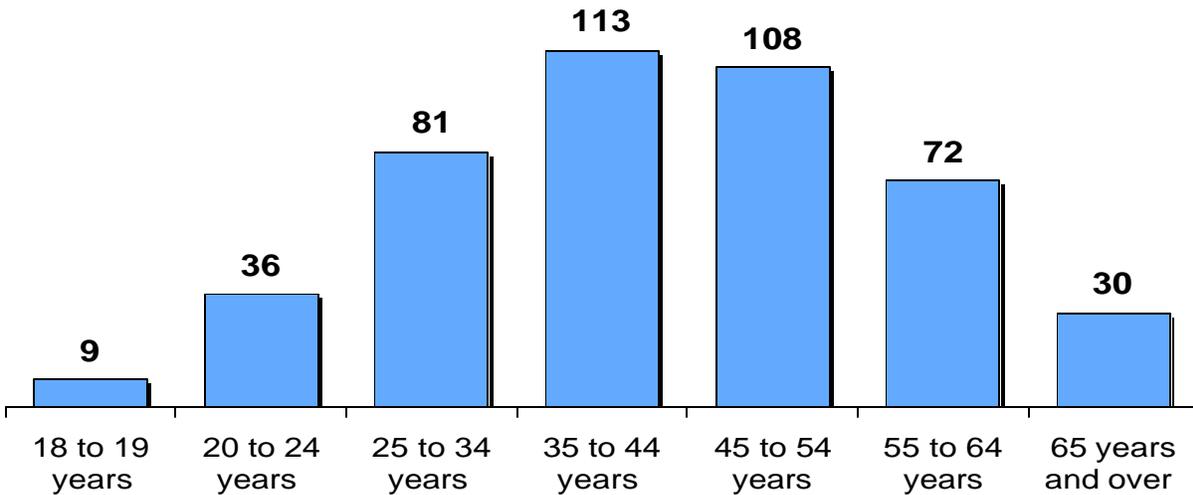


Data Source: DLSR

Characteristics of California Fatal Occupational Injuries and Illnesses

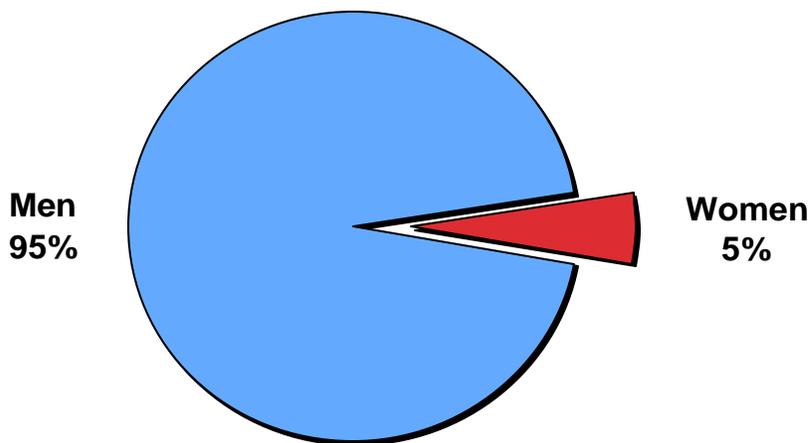
The following charts illustrate various characteristics of fatal occupational injuries and illnesses in 2005 in California's private industry and federal, state and local governments.

**California Fatal Occupational Injuries and Illnesses
by Age of Worker - 2005**



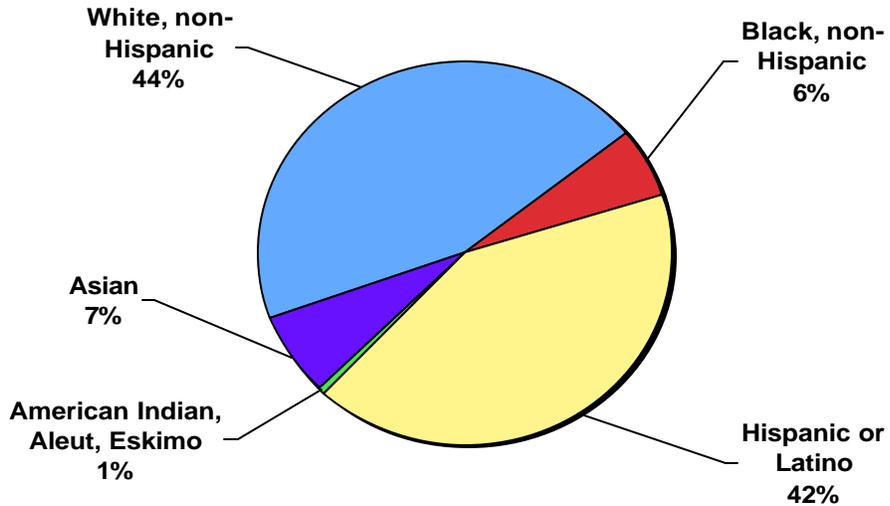
Source: DLSR

**California Fatal Occupational Injuries and Illnesses
by Gender - 2005**

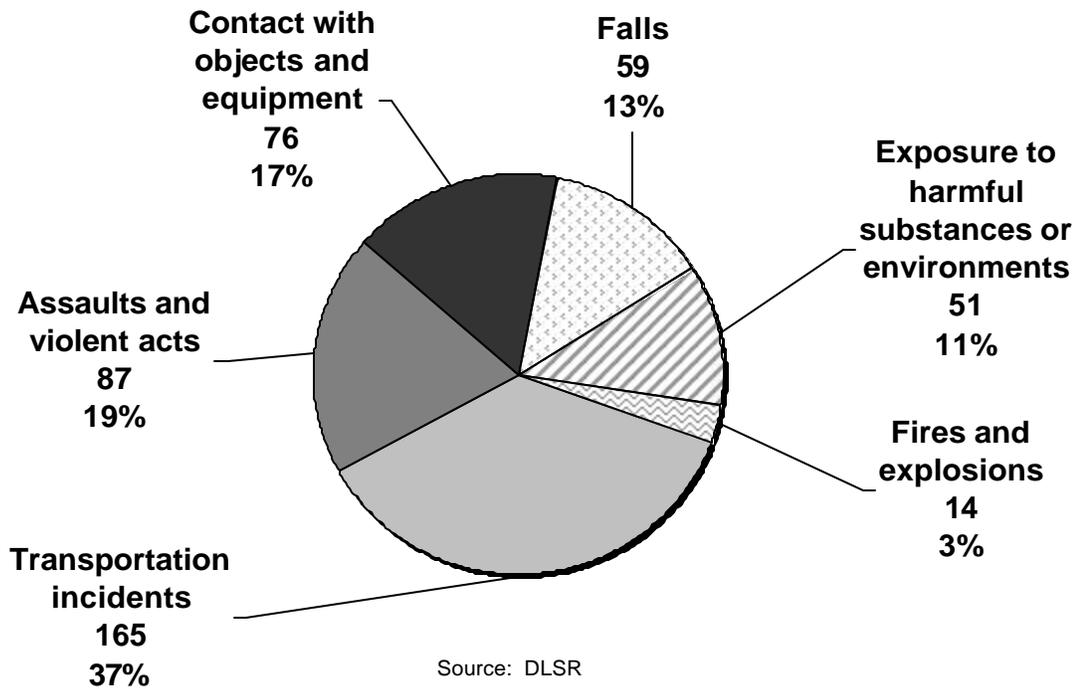


Source: DLSR

California Fatal Occupational Injuries and Illnesses by Race or Ethnic Origin - 2005



California Fatal Occupational Injuries and Illnesses by Event or Exposure - 2005



Profile of Occupational Injury and Illness Statistics: California and the Nation

Data for the following analyses, except where noted, were derived from the Department of Industrial Relations (DIR) Division of Labor Statistics and Research (DLSR), from the United States Department of Labor (DOL) Bureau of Labor Statistics (BLS), and from the California Workers' Compensation Institute (CWCI).

Incidence Rates

- California's most recent work injury and illness statistics for 2004 indicate an injury and illness rate of 4.9 cases per 100 full-time employees in the private sector in 2004. This is a 48 percent decline from the 1990 peak level of 9.4 and an estimated 8.6 percent decrease from the previous year's figures.
- The trend in California mirrors a national trend. DOL figures for private employers show that from 1990 to 2004, the work injury and illness rate across the United States fell from 8.8 to 4.8 cases per 100 employees in the private sector. The reduction in the number of incidences of job injuries is likely due to various factors including a greater emphasis on job safety, the improving economy since the early 1990s, and the shift from manufacturing toward service jobs.
- From the Western region states, Alaska, Arizona, California, Hawaii, Nevada, Oregon and Washington, California's 2004 private-industry rate of 4.9 for non-occupational injuries and illnesses is the second lowest.¹⁹ The state with the lowest incidence rate of 4.5 in 2004 was Arizona. The state that had the second-lowest incidence rate was Hawaii.

Duration

- Days-away-from-work cases, including those that result in days away from work with or without a job transfer or restriction, dropped from 2.2 to 1.5 cases per 100 full-time employees from 1995 to 2004 in the private sector. This also mirrors the national trend with the number of days-away-from-work cases falling from 2.5 to 1.4 cases in the national private sector with a similar decline as that of California.
- In the "State Report Cards for Workers' Compensation," published by the Work Loss Data Institute, the Institute reported that the median days away from work in California and New York is 8 days, compared with the national average of 6 days.²⁰

Industry Data

- In 2004, injury and illness incidence rates varied greatly between private industries ranging from 2.4 injuries/illnesses per 100 full-time workers in the financial activities sector to 6.5 in construction. California's private industry rates for total cases were higher than the national rates in every major industry division, except for manufacturing and for natural resources and mining.
- The private industry total-case rate for non-fatal injuries decreased between 2003 and 2004 from 5.4 to 4.9, and the rate for the public sector (state and local government) increased from 8.4 in 2003 to 8.9 in 2004.
- Over the past decade (1995-2004), the number of fatal injuries declined by about 35.6 percent, from 646 to 416. From 2003 to 2004, the number of fatal injuries decreased by 8.7 percent. The highest number of fatal injuries was in construction, followed by trade, transportation and utilities.
- In private industry, the top ten occupations with the most non-fatal injuries and illnesses in descending order are: laborers and freight, stock, and material movers; retail sales persons; construction laborers; carpenters; janitors and cleaners, except maids and housekeeping cleaners; truck drivers, light or delivery services; truck drivers, heavy and tractor-trailer; farm workers and laborers, crop, nursery, and greenhouse; nursing aides, orderlies, and attendants; and registered nurses.
- In California state government, the top ten occupations with the most non-fatal injuries and illnesses are: correctional officers and jailers; psychiatric aides; police and sheriff's patrol officers; maintenance

¹⁹ The comparisons of industry rates have not been adjusted for industry mix within each state.

²⁰ http://www.odg-disability.com/pr_repsrc.htm

WORKPLACE SAFETY AND HEALTH

and repair workers, general; janitors and cleaners, except maids and housekeeping cleaners; office clerks, general; fire fighters; executive secretaries and administrative assistants; and first-line supervisors/managers of fire fighting and prevention workers.

- In the local government, the top ten occupations with the most non-fatal injuries and illnesses are: police and sheriff's patrol officers; janitors and cleaners except maids and house-keeping cleaners; fire fighters; maintenance and repair workers, general; teacher assistants, elementary school teachers, except special education; bus drivers, transit and inter-city; landscaping and grounds-keeping workers; correctional officers and jailers.
- Truck drivers, heavy and tractor-trailer, construction laborers, farm workers, ground maintenance workers and police officers were the occupations with the most number of fatal injuries in 2004. Transportation and material-moving occupations and construction and extraction occupations accounted for nearly half of the fatal injuries in 2005. Transportation accidents were the number one cause of fatal injuries accounting for about 40 percent of fatal injuries in 2004 and 37 percent in 2005.
- Assaults and violent acts accounted for about 12.5 percent of fatal injuries in 2004 and 19 percent in 2005, and are a major cause of fatalities among: sales and related occupations; transportation and material-moving occupations; protective-service occupations; installation, maintenance and repair; and management occupations.

Establishment Size and Type

- The lowest rate for the total recordable non-fatal cases in 2004 was experienced by the smallest employers. Employers with 1 to 10 employees and 11 to 49 employees had incidence rates of 1.7 and 4.0 cases, respectively, per 100 full-time employees. There was a 19 percent decrease in incidence rates for employers with 1 to 10 employees. For employers with 11 to 49 employees, there was a 13 percent decrease in incidence rates compared to 2003.
- Establishments with 250 to 999 and 1000 or more employees reported the highest rate of 6.8 and 6.6 cases per 100 full-time employees. In 2004, all establishments had a decrease in incidence rates compared to 2003.

Types of Injuries

- Some types of work injuries have declined since 1995 in the private sector, while others have increased. The number of sprains and strains continued to decline from 1995, but these injuries remain by far the most common type of work injury accounting for about 39 percent of days-away-from-work cases in the private sector. Cuts, lacerations, bruises, contusions, heat burns, carpal tunnel syndrome, tendonitis, chemical burns, and amputations have decreased from 1995-2004, with the biggest decrease, 69 percent, seen in tendonitis. From 1995 to 2004, the only injury categories that experienced an increase are multiple injuries.
- In the private sector, contact with objects and equipment was the leading cause of days away-from-work injuries, cited in about 27.2 percent of days-away-from-work cases. Overexertion was the second common cause of injury, accounting for about 21 percent of injuries.
- In California state government, the two main causes of injury were overexertion and contact with objects and equipment accounting for about 14.7 percent of days-away-from-work cases in 2004 for each cause of injury. In local government, the number one cause of injury was overexertion, accounting for 17.9 percent of days-away-from-work cases in 2004.
- The most frequently injured body part is the back, accounting for about 17.2 percent of the cases in state government and about 18.4 percent cases in local government. In the private sector, back injuries account for 22 percent of non-fatal cases.

Demographics

- Over the period from 1995 to 2004 in California, the number of days-away-from-work cases for women decreased by about 30 percent. Days-away-from-work cases for men decreased by about 33 percent.

WORKPLACE SAFETY AND HEALTH

- Between 1995 and 2004, the age groups in private industry (16 to 19, 20 to 24, 25 to 34, 35 to 44, 45 to 54, and 65 and over) experienced a decline. The biggest decline (21 percent) occurred among 25 to 34 year-old workers. The age group 55 to 64 experienced a 7 percent increase in its numbers of days away from work.
- In 2004, out of 416 fatalities, approximately 95 percent were male and 5 percent were female. Some age group categories – 20 to 24 years, 25 to 34 years, 35 to 44 years, and 45 to 54 years – experienced a decline in fatal injuries between 2003 and 2004, while others – 18 to 19 years, 55 to 64 and 65 years and over – experienced an increase in days-away-from-work cases. The biggest decline (33 percent) was seen in the 20 to 24 years age group and the biggest increase (200 percent) in the 18 to 19 years age group. The 35 to 44 years age group experienced a slight decline of 2 percent.
- The highest number of fatalities in 2004 by race or ethnic origin categories was experienced by “White, non-Hispanic” followed by “Hispanic or Latino,” accounting for 45 percent and 41 percent of the fatalities respectively. From 2003 to 2004, fatal injuries increased by 13 percent (from 20 to 23 cases) for the “Black, non-Hispanic” and by 5 percent for the “Hispanic or Latino (from 161 to 169).” Since 2003, fatal injuries for the “White, non-Hispanic” group decreased 22 percent, and fatal injuries for the “Asian” category slightly decreased by 3 percent (from 31 to 30 cases).

Occupational Injury and Illness Reporting

Occupational injury and illness information is the responsibility of the BLS within the United States DOL and the DLSR within the California DIR. Occupational injuries and illnesses are recorded and reported by California employers through several national surveys administered by the DOL with the assistance of the DIR.

OSHA Reporting and Recording Requirements

The United States Occupational Safety and Health Act of 1970 (OSH Act) requires covered employers to prepare and maintain records of occupational injuries and illnesses. It provides specific recording and reporting requirements that comprise the framework for the nationwide occupational safety and health recording system. The Occupational Safety and Health Administration (OSHA) in the DOL administers the OSH Act recordkeeping system.

Although there are exemptions for some employers on recording of injuries, all California employers must report injuries to DLSR. Every employer must also report any serious occupational injuries, illnesses or deaths to California OSHA within the DIR.

The data assist employers, employees and compliance officers in analyzing the safety and health environment at the employer's establishment and are the source of information for the BLS “Annual Survey of Occupational Injuries and Illnesses” and the OSHA “Occupational Injury and Illness Survey.”

BLS Annual Survey of Occupational Injuries and Illnesses

To estimate the number of occupational injuries and illnesses in the United States, BLS established a nationwide annual survey of employers' occupational injuries and illnesses. The state-level statistics on non-fatal and fatal occupational injuries and illnesses are derived from this survey.

Non-Fatal Injuries and Illnesses

The BLS Annual Survey develops frequency counts and incidence rates by industry and also profiles worker and case characteristics of non-fatal workplace injuries and illnesses that result in lost work time. Each year, BLS collects employer reports from about 173,800 randomly selected private-industry establishments.

Fatal Injuries and Illnesses

The estimates of fatal injuries are compiled through the Census of Fatal Occupational Injuries (CFOI), which is part of the BLS occupational safety and health statistics program. CFOI uses diverse state and federal data sources to identify, verify, and profile fatal work injuries.

OSHA Occupational Injury and Illness Survey

Federal OSHA administers the annual "Occupational Injury and Illness Survey". OSHA utilizes this collection of employer-specific injury and illness data to improve its ability to identify and target agency interventions to those employers who have serious workplace problems.

For this survey, OSHA collects data from 80,000 non-construction establishments and from up to 15,000 construction establishments. DSLR sends the survey to about 16,000 randomly selected California employers including 800 from the public sector.

Occupational Injury and Illness Prevention Efforts

Efforts to prevent occupational injury and illness in California take many forms, but all are derived from cooperative efforts between the public and private sectors. This section describes consultation and compliance programs, health and safety standards, and education and outreach designed to prevent injuries and illnesses to improve worker health and safety.

Cal/OSHA Program

The Cal/OSHA Program is responsible for enforcing California laws and regulations pertaining to workplace safety and health and for providing assistance to employers and workers about workplace safety and health issues.

The Cal/OSHA Enforcement Unit conducts inspections of California workplaces based on worker complaints, accident reports and high hazard industries. There are 22 Cal/OSHA Enforcement Unit district offices located throughout the state of California. Specialized enforcement units, such as the Mining and Tunneling Unit and the High Hazard Enforcement Unit, augment the efforts of district offices in protecting California workers from workplace hazards in high hazard industries.

Other specialized units, such as the Crane Certifier Accreditation Unit, the Asbestos Contractors' Registration Unit, the Asbestos Consultant and Site Surveillance Technician Unit, and the Asbestos Trainers Approval Unit, are responsible for enforcing regulations pertaining to crane safety and prevention of asbestos exposure.

The Cal/OSHA Consultation Service provides assistance to employers and workers about workplace safety and health issues through on-site assistance, high hazard consultation and special emphasis programs, and develops educational materials on workplace safety and health topics.

Identification, Consultation and Compliance Programs

The 1993 reforms of the California workers' compensation system required Cal/OSHA to focus its consultative and compliance resources on "employers in high hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses."

High Hazard Employer Program

The High Hazard Employer Program (HHEP) is designed to:

- Identify employers in hazardous industries with the highest incidence of preventable occupational injuries and illnesses and workers' compensation losses.
- Offer and provide consultative assistance to these employers to eliminate preventable injuries and illnesses and workers' compensation losses.
- Inspect those employers on a random basis to verify that they have made appropriate changes in their health and safety programs.
- Develop appropriate educational materials and model programs to aid employers in maintaining a safe and healthful workplace.

WORKPLACE SAFETY AND HEALTH

In 1999, the passage of Assembly Bill (AB) 1655 gave the DIR the statutory authority to levy and collect assessments from employers to support the targeted inspection and consultation programs on an ongoing annual basis.

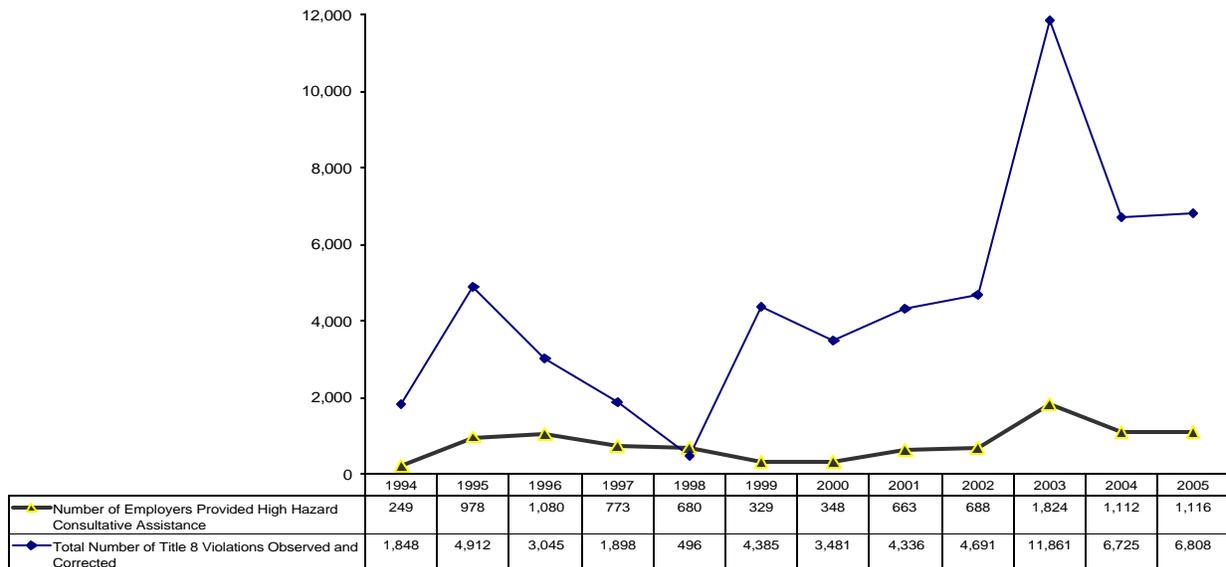
High Hazard Consultation Program

The Division of Occupational Safety and Health (DOSH) reports that in 2005, it provided on-site high hazard consultative assistance to 1,116 employers, as compared to 1,112 employers in 2004. During consultation with these employers, 6,808 Title 8 violations were observed and corrected as a result of the provision of consultative assistance.

Since 1994, 9,840 employers have been provided direct on-site consultative assistance, and 54,486 Title 8 violations have been observed and corrected. Of these violations, 41.4 percent were classified as "serious."

The following chart indicates the yearly number of consultations and violations observed and corrected during the years 1994 through 2005. It should be noted that effective 2002, the Safety and Health Inspection Projects (SHIPs) are included in the High Hazard Consultation Program figures.

High Hazard Consultation Program Production by Year



Data Source: Division of Occupational Safety and Health

High Hazard Consultation efficacy is measured by comparisons of employer lost and restricted workday data. Beginning in 2001, the Log 200 was replaced with the Log 300 as the source for lost and restricted workday data. The use of the Lost Work Day Case Incidence (LWDI) rate was transitioned and replaced with the Days Away, Restricted, or Transferred (DART) rate. Additionally, High Hazard Consultation uses experience modification (ex-mod) rates to measure efficacy.

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High Hazard Enforcement Program

DOSH reports that in 2005, 505 employers underwent a high hazard enforcement inspection, up from 390 employers in 2004. During these inspections in 2005, 2,223 violations were observed and cited, whereas in 2004, 2,055 violations were observed and cited.

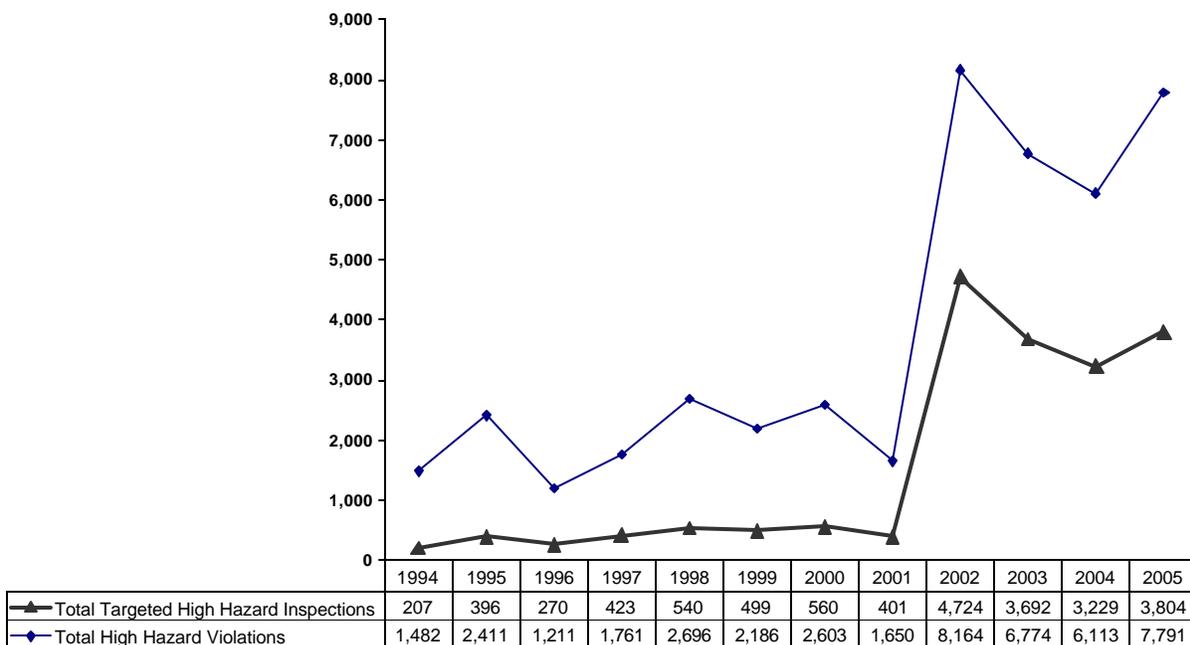
In addition, in 2005, 544 employers underwent an inspection as part of the Agricultural Safety and Health Inspection Project (ASHIP). Of these, 264 inspections were targeted. During these inspections, 949 violations were observed and cited.

In addition, in 2005, 2,755 employers underwent an inspection as part of the Construction Safety and Health Inspection Project (CSHIP). Of these, 868 inspections were targeted. During these inspections, 4,619 violations were observed and cited.

Since 1994, 19,255 employers have undergone a high hazard enforcement inspection, and 45,486 Title 8 violations have been observed and cited. Of these violations, 36.3 percent were classified as "serious."

The chart below indicates the yearly number of targeted inspections and violations observed and cited during the years 1994 through 2005. It should be noted that effective 2002, the Safety and Health Inspection Projects (SHIPs) are included in the High Hazard Enforcement Program figures.

High Hazard Enforcement Program Inspections and Violations



Data Source: Division of Occupational Safety and Health

The same lost and restricted workday methodology is used for both High Hazard Consultation and Enforcement. Efficacy is measured by comparisons of employer lost and restricted workday data. Beginning in 2001, the Log 200 was replaced with the Log 300 as the source for lost and restricted workday data. The use of the LWDI rate was transitioned and replaced with the DART rate.

For further information...



Additional information can be obtained by visiting the Cal/OSHA website at www.dir.ca.gov/DOSH or by e-mailing your questions or requests to InfoCons@dir.ca.gov.

Safety Inspections

DOSH has two major units devoted to conducting inspections to protect the public from safety hazards:

- The Elevator, Ride and Tramway Unit conducts public safety inspections of elevators, amusement rides, both portable and permanent, and aerial passenger tramways or ski lifts.
- The Pressure Vessel Unit conducts public safety inspections of boilers (pressure vessels used to generate steam pressure by the application of heat), air and liquid storage tanks, and other types of pressure vessels.

Health and Safety Standards

The Occupational Safety and Health Standards Board (OSHSB), a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program.

The mission of OSHSB is to promote, adopt, and maintain reasonable and enforceable standards, at least as effective as federal standards, to ensure a safe and healthful workplace for California workers. OSHSB also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The OSHSB safety and health standards provide the basis for Cal/OSHA enforcement.

For further information...

 www.dir.ca.gov/OSHSB/oshsb.html

Ergonomics Standards

Efforts to adopt an ergonomics standard in California and the United States are outlined in the following “brief histories.”

Ergonomics Standard in California: A Brief History

July 16, 1993

Governor Pete Wilson signs a package of bills that enacts major reform of California's workers' compensation system. A provision in AB 110 (Peace) added Section 6357 to the Labor Code requiring the Occupational Safety and Health Standards Board (OSHSB) to adopt workplace ergonomics standards by January 1, 1995, in order to minimize repetitive motion injuries.

January 18 and 23, 1996

OSHSB holds public hearings on the proposed ergonomics standard and receives over 900 comments from 203 commenters. The proposed standards are revised.

July 15, 1996

OSHSB provides a 15-day public comment period on revisions to proposed standards.

September 19, 1996

OSHSB discusses the proposal at its business meeting and makes further revisions.

October 2, 1996

OSHSB provides a 15-day public-comment period on the further revisions.

November 14, 1996

OSHSB adopts the proposal at its business meeting and submits it to the state Office of Administrative Law (OAL) for review and approval.

January 2, 1997

OAL disapproves the proposed regulations based on clarity issues.

February 25, 1997

OSHSB provides a 15-day public-comment period on new revisions addressing OAL concerns.

April 17, 1997

OSHSB adopts the new revisions and resubmits the proposal to OAL.

June 3, 1997

Proposed ergonomics standard is approved by OAL and becomes Title 8, California Code Regulations (8 CCR), Section (§) 5110, Repetitive Motion Injuries.

July 3, 1997

The ergonomics standard – 8 CCR §5110 - becomes effective.

September 5, 1997

Sacramento Superior Court holds a hearing to resolve the legal disputes filed by labor and business industries.

October 15, 1997

Judge James T. Ford of the Sacramento Superior Court issued a Peremptory Writ of Mandate, Judgment, and Minute Order relative to challenges brought before the Court. The Order invalidated the four parts of the standard.

December 12, 1997

OSHSB appealed Judge Ford's Order with its legal position that the Judge's Order would be stayed pending a decision by the Court of Appeal.

(Continued on following page)

Source: OSHSB

Ergonomics Standard in California: A Brief History (continued)

January 30, 1998

Judge Ford further ruled that his Order will remain in effect and not be stayed until the Court of Appeal hears the case.

March 13, 1998

The Third District Court of Appeal ruled that Judge Ford's Order to eliminate parts of Section 5110 would be stayed until the Court of Appeal issues a decision on the appeal filed in December 1997. The Standard is currently in effect and will remain in effect until the case is decided by the Court of Appeal.

October 10, 1999

AB 1127 (Steinberg) added Labor Code Section (LC §) 6718 which reads "The Legislature reaffirms its concern over the prevalence of repetitive motion injuries (RMIs) in the workplace and reaffirms the continuing duty [of OSHSB] to carry out Section 6357." LC §6357 provides "On or before January 1, 1995, the Occupational Safety and Health Standards Board shall adopt standards for ergonomics in the workplace designed to minimize the instances of injury from repetitive motion."

October 29, 1999

After hearing the case in September, the Court of Appeal issued an opinion reversing the Superior Court's judgment. The Court of Appeal directed the Superior Court to issue a new judgment in accordance with the instructions contained in its final opinion. The Court struck the regulatory exemption for employers with less than 10 employees.

November 1999

Federal OSHA introduced a proposed federal ergonomics standard, 29 Code of Federal Regulations (CFR) 1910.900, known as the Ergonomics Program Standard.

March 15, 2000

The Superior Court issued the new judgment and a modified writ of mandate. In response to the court's instructions, the OSHA Standards Board filed a revision to Title 8, General Industry Safety Orders, Section 5110 of the California Code of Regulations (CCR) with the OAL.

April 28, 2000

The court-ordered revision of the ergonomics standard – 8 CCR Section 5110 - was approved by OAL, filed with the Secretary of State and became effective immediately.

November 2000

Federal OSHA ergonomics standard, 29 CFR 1910.900, known as the Ergonomics Program Standard, was finalized.

January 16, 2001

Federal OSHA ergonomics standard, 29 CFR 1910.900, known as the Ergonomics Program Standard, is effective.

February 2001

In February 2001, prior to Congress repealing the federal standard, the California Labor Federation submitted a request (Petition 430) to OSHSB to revise 8 CCR Section 5110 to incorporate the elements of the Federal Ergonomics Program Standard, 29 CFR 1910.900.

(Continued on following page)

Source: OSHSB

Ergonomics Standard in California: A Brief History (continued)

March 21, 2001

The US Congress, for the first time, passed a Joint Resolution of Disapproval under the Congressional Review Act and repealed the Federal Standard on March 21, 2001. The Joint Resolution was signed, and Federal OSHA notified the States of the cancellation of OSHA's requirement to adopt an Ergonomics Program Standard comparable to the Federal Standard.

April 23, 2001

Federal OSHA published a notice in the Federal Register stating that the former 29 CFR 1910.900 was repealed effective immediately.

July 2001

After considering the California Labor Federation petition and the recommendations of DOSH and OSHSB staff, OSHSB concluded that the Federal model did not offer a sound approach for revising California's ergonomic standard and denied the petition.

February 2002

Assembly Bill 2845 (Goldberg) was introduced to amend Section 6357 of the Labor Code to require OSHSB to adopt revised standards for ergonomics in the workplace designed to minimize the instances of injury from repetitive motion by July 1, 2004.

August 2002

In August 2002, the California Labor Federation submitted another request (Petition 448) to OSHSB to revise 8 CCR Section 5110.

September 2002

Governor Gray Davis vetoed AB 2845 to allow OSHSB time to consider Petition 448, to evaluate the existing regulation and the merits of amending it.

February 2003

OSHSB directed its staff to convene an advisory committee to consider proposed revisions to Section 5110.

April 2003

In April 2003, OSHSB and Division of Occupational Health staff convened an advisory committee to consider proposed revisions to 8 CCR Section 5110 on repetitive motion injuries (RMIs). The committee reviewed and considered each of the items that the committee was directed to address in the Board's Petition Decision regarding Petition 448. There was no consensus on proposed revisions to Section 5110. Furthermore, there was general agreement that another meeting of the same group may not be useful.

May 2003

OSHSB was briefed on the results of the advisory committee on Petition 448. The Board members discussed the possibility of having another advisory committee meeting and asked staff to proceed.

March 2004

OSHSB, with three new members and a new Chair, was briefed on the history of the ergonomics issue. In addition to the interest in getting background on the issue, the item was placed on the March agenda based upon a question on convening another advisory committee. After the presentation, the OSHSB members discussed the issue. No action was taken.

Source: OSHSB

Federal Ergonomics Standard: A Brief History

1990

Former United States Secretary of Labor Elizabeth Dole pledges to “take the most effective steps necessary to address the problem of ergonomic hazards on an industry-wide basis.”

July 1991

OSHA publishes “Ergonomics: The Study of Work.” More than 30 organizations petition Secretary of Labor to issue an Emergency Temporary Standard.

April 1992

Secretary of Labor denies petition for Emergency Temporary Standard.

August 1992

OSHA publishes an Advance Notice of Proposed Rulemaking on ergonomics.

1993

OSHA conducts survey to obtain information on the extent of ergonomics programs.

March 1995

OSHA begins meeting with stakeholders to discuss approaches to drafting an ergonomics standard.

January 1997

OSHA/NIOSH conference on successful ergonomics programs.

February 1998

OSHA begins meetings with national stakeholders about the draft ergonomics standard under development.

February 1999

OSHA begins small business review (SBREFA) of its draft and makes draft regulatory text available to the public.

April 1999

OSHA receives SBREFA report on draft and begins to address the concerns raised in the report.

November 23, 1999

OSHA publishes proposed ergonomics program standard by filing in the Federal Register (64 FR 65768). OSHA asks for written comments from the public, including materials such as studies and journal articles and notices of intention to appear at informal public hearings.

March-May 2000

Informal public hearings held in Washington D.C. (March 13 - April 7, May 8-12), Chicago (April 11-21) and Portland (April 24 - May 5).

May 24, 2000

The House Appropriations Committee votes to amend \$342 billion spending bill by barring the Occupational Safety and Health Administration from using their budget to promulgate, issue, implement, administer or enforce any ergonomics standard. President Clinton responds by threatening to veto the bill.

Source: www.ergoweb.com

(Continued on following page)

**Federal Ergonomics Standard: A Brief History
(continued)**

November 14, 2000

OSHA issues Ergonomics Program Standard.

January 16, 2001

Final Ergonomics Program Standard - 29 CFR 1910.900 - becomes effective. The standard was challenged in court with over 30 lawsuits.

March 20, 2001

President George W. Bush signs into law S.J. Res. 6, a measure that repeals the ergonomic regulation. This is the first time the Congressional Review Act has been put to use. The Congressional Review Act allows Congress to review every new federal regulation issued by the government agencies and, by passage of a joint resolution, overrule a regulation.

April 23, 2001

Federal OSHA publishes a notice in the Federal Register stating that the former 29 CFR 1910.900 was repealed as of that date.

April 26, 2001

Secretary of Labor Elaine L. Chao testifies before the Subcommittee on Labor, Health and Human Services, and Education of the Senate Appropriations Committee, about reducing musculoskeletal disorders in the workplace.

April 5, 2002

The Occupational Safety and Health Administration unveils a comprehensive plan designed to reduce ergonomic injuries through "a combination of industry-targeted guidelines, tough enforcement measures, workplace outreach, advanced research, and dedicated efforts to protect Hispanic and other immigrant workers."

Source: www.ergoweb.com

Educational and Outreach Programs

In conjunction and cooperation with the entire health and safety and workers' compensation community, DIR administers and participates in several major efforts to improve occupational health and safety through education and outreach programs.

Worker Occupational Safety and Health Training and Education Program

CHSWC is mandated by Labor Code Section 6354.7 to maintain the Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The purpose of WOSHTEP is to promote safety and health prevention programs. A full description of WOSHTEP and its activities is in the section of this report entitled "Update: Worker Occupational Safety and Health Training and Education Program."

The California Partnership for Young Worker Health and Safety

CHSWC has convened The California Partnership for Young Worker Health and Safety. The Partnership is a statewide task force that brings together government agencies and statewide organizations representing educators, employers, parents, job trainers and others. The Partnership develops and promotes strategies to protect youth at work and provides training, educational materials, technical assistance, and information and referrals to help educate young workers.

Forum on Catastrophe Preparedness: Partnering to Protect Workplaces

The "Forum on Catastrophe Preparedness: Partnering to Protect Workplaces" was held on Friday, April 7, 2006, at the South San Francisco Conference Center.

Recognizing that employers and workers should be prepared if a catastrophe strikes at the workplace, CHSWC voted to host a public education program devoted to workplace safety in the event of terrorist attacks and natural disasters. CHSWC developed this forum to provide an opportunity for the health, safety and workers' compensation communities and the public to discuss and share ideas for safety in responding to terrorist attacks and natural disasters, learn lessons from other experiences, and consider areas where improvements need to be made.

This forum brought together leaders in homeland security, emergency response, and occupational safety and health to discuss individual, worker and employer preparedness for catastrophic risks. For information on the forum, see the "Special Report: Catastrophe Preparedness at the Workplace."

For further information...



Additional information about the Forum can be obtained at
<http://www.dir.ca.gov/chswc/forum2006.html>

Cal/OSHA Consultation

Consultative assistance is provided to employers through on-site visits, telephone support, publications and educational outreach. All services provided by Cal/OSHA Consultation are provided free of charge to California employers.

Partnership Programs

California has developed several programs that rely on industry, labor, and government to work as partners in encouraging and recognizing workplace safety and health programs that effectively prevent and control injuries and illnesses to workers. These partnership programs include the Voluntary Protection Program (VPP), Golden State, SHARP, Golden Gate, and special alliances formed between industry, labor, and OSHA.

UPDATE: WORKER OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM (WOSHTEP)

Background

California serves as a national leader in worker protection and injury and illness prevention. One example of California's leadership in this area is the Worker Occupational Safety and Health Training and Education Program (WOSHTEP), mandated by Labor Code Section 6354.7, which provides for the Workers' Occupational Safety and Health Education Fund (WOSHEF), administered by CHSWC. This fund is used to establish and maintain WOSHTEP.

From its inception in 2003 through 2006, WOSHTEP has served over 780 workers and almost 200 employers. To date, WOSHTEP has provided health and safety information and/or training to numerous industries including: maintenance; janitorial; construction; small manufacturers; corrections and rehabilitation; food service or restaurants; health care; telecommunications; agriculture; transportation; and schools.

Purpose and Objectives

The purpose of WOSHTEP is to promote safety and health prevention programs. WOSHTEP focuses on developing and providing injury and illness prevention skills to employees and their representatives to take a leadership role in promoting safety and health in the workplace. This program is being delivered through a statewide network of training providers.

The Commission on Health and Safety and Workers' Compensation (CHSWC) mandate for WOSHTEP is to:

- Develop and provide a core curriculum addressing competencies for effective participation in workplace injury and illness prevention programs and on workplace health and safety committees.
- Develop and provide additional training for any and all of the following categories:
 - High hazard industries.
 - Hazards that result in significant worker injuries, illnesses or compensation costs.
 - Industries or trades where workers are experiencing numerous or significant injuries or illnesses.
- Provide health and safety training to occupational groups with special needs, such as those who do not speak English as their first language, workers with limited literacy, young workers, and other traditionally underserved industries or groups of workers.
- Give priority to training workers who are able to train other workers and workers who have significant health and safety responsibilities, such as those serving on health and safety committees or serving as designated safety representatives.
- Operate one or more libraries and distribution systems of occupational health and safety training material.
- Establish a labor-management Advisory Board.
- Prepare an Annual Report, developed by the labor-management Advisory Board, evaluating the use and impact of the programs.
- Establish and maintain WOSHTEP and an insurance loss control services coordinator to respond to inquiries and complaints by employers.

UPDATE: WORKER OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM (WOSHTEP)

The loss control services coordinator in CHSWC informs employers of the availability of loss control consultation services, responds to their questions, and investigates complaints about the services provided by their insurer. If an employer and an insurer are unable to agree on a solution to a complaint, the loss control services coordinator will investigate and recommend action necessary to bring the loss control program into compliance. Ongoing outreach efforts are being made to reach California employers to let them know what services are available to them from their workers' compensation insurance carrier.

Funding

Pursuant to Labor Code Section 6354.7(a), insurance carriers who are authorized to write workers' compensation insurance in California are assessed \$100 or .0286 percent, whichever is greater, of paid workers' compensation indemnity amounts for claims reported for the previous calendar year to the Workers' Compensation Insurance Rating Bureau (WCIRB). This assessment is then deposited into the WOSHEF. CHSWC uses these funds for the development and implementation of WOSHTEP.

Project Team

CHSWC contracts with the Labor Occupational Health Program (LOHP) at the University of California, Berkeley, and the Labor Occupational Safety and Health (LOSH) Program at the University of California, Los Angeles, to design and carry out needs assessments with key constituencies, develop curriculum, conduct training, operate a resource library of health and safety resource materials, and build a statewide network of trainers.

Labor-Management Advisory Board

A labor-management Advisory Board for WOSHTEP is mandated by legislation and meets bi-annually to assist the Project Team on all aspects of the Program. The role of the Advisory Board is to:

- Guide development of curricula, teaching methods and specific course material about occupational health and safety.
- Assist in providing links to the target audience.
- Broaden partnerships with worker and employer organizations, labor studies programs and others that are able to reach the target audience.
- Prepare an Annual Report evaluating the use and impact of WOSHTEP.

Members of the Advisory Board are as follows:

UPDATE: WORKER OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM
(WOSHTEP)

WOSHTEP Advisory Board Members

Bob Balgenorth State Building & Construction Trades Council
Laura Boatman State Building & Construction Trades Council
Andrea Dehlendorf Service Employees International Union
Judith Freyman ORC, Inc.
Simmi Gandhi Garment Workers Center
Deborah Gold State of California Division of Occupational Safety and Health Cal/OSHA
Scott Hauge Small Business California
Jonathan Hughes United Food and Commercial Workers Union (UFCW) Local 428
Bonnie Kolesar California Department of Corrections and Rehabilitation
Laura Kurre Service Employees International Union (SEIU) Local 250
Jason Schmelzer California Manufacturers & Technology Association
Christina Vasquez Union of Needletrades, Industrial and Textile Employees (UNITE)
Len Welsh State of California Division of Occupational Safety and Health
Chad Wright Laborers Tri-Funds

WOSHTEP Advisory Board Ex-officio Members

Charles Boettger Municipal Pooling Authority
Susan Harada Toyota Motor Sales, U.S.A., Inc.
Ken Helfrich Employers Direct Insurance
Scott Henderson Henderson Insurance Agency
Barry Hoschek Liberty Mutual Insurance Group
Dori Rose Inda Watsonville Law Center
Mark Jansen Zenith Insurance
Keith Lessner Property and Casualty Insurance Association of America
Dave Mack Chubb Group of Insurance Companies
Michael Marsh California Rural Legal Assistance
Lauren Mayfield State Compensation Insurance Fund
John McDowell LA Trade Technical College, Labor Studies
Julia Quint Department of Health Services
Fran Schreiber Kazan, McClain, Edises, Abrams, Fernandez, Lyons & Farris
Dave Strickland Zurich Insurance
Ed Walters Praetorian Financial Group
Jim Zanotti AIG

WOSHTEP Accomplishments

Needs Assessment

CHSWC, from the inception of WOSHTEP, has recognized the important role that key stakeholders, including employers, labor, educators, insurers, governmental agencies and community-based organizations, play in determining the success of WOSHTEP.

Therefore, CHSWC, LOHP and LOSH have conducted, and continue to conduct, needs assessment activities with representatives from key constituency groups. These needs assessments are designed to provide direction for development and refinement of core and supplemental curriculum, implementation of training programs statewide, and effective outreach to the target audience.

Based on extensive needs assessment, WOSHTEP developed four major programs: (1) a Worker Occupational Safety and Health (WOSH) Specialist curriculum; (2) Small Business Health and Safety Resources, currently adapted for the restaurant industry; (3) Young Worker Programs of health and safety education, training, and leadership opportunities; and (4) two Resource Centers, one each in Northern and Southern California, with online educational materials on health and safety, including a Multilingual Health and Safety Resource Guide.

WOSH Specialist Curriculum

A WOSH Specialist curriculum has been designed to build knowledge and skills in many areas of injury and illness prevention. Participants are required to successfully complete six modules of core training plus a minimum of three supplemental modules relevant to their workplace in order to be recognized as WOSH Specialists. The curriculum was piloted and reviewed by occupational health experts and members of the WOSHTEP Advisory Board and has been printed in three languages, English, Spanish and Chinese.

Roles of WOSH Specialists

The WOSH Specialist curriculum is intended to help participants develop the skills needed to participate actively in injury and illness prevention efforts, provide resources and join in problem-solving in the workplace. Possible roles WOSH Specialists can play upon completion of training include:

- Participate on an employer-employee health and safety committee.
- Help identify a range of potential hazards on the job and uncover the root causes of injuries and illnesses by conducting surveys of workers or by walk-through inspections to determine health and safety problems.
- Assist in analyzing data collected from surveys, inspections, and other sources in order to identify and prioritize health and safety problems and address them.
- Participate in efforts to reduce or eliminate common hazards.
- Contribute to efforts to explain the legal requirements for maintaining a healthy and safe workplace and support an employer's compliance efforts.
- Help provide health and safety training to co-workers.
- Help develop an Injury and Illness Prevention Plan (IIPP).
- Serve as a health and safety resource for co-workers, employers, the union, labor-management committees, etc.

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Core Curriculum

The core curriculum addresses competencies for effective participation in workplace injury and illness prevention programs and on workplace health and safety committees. The core curriculum consists of the following modules:

- Promoting Effective Safety Programs
- Identifying Hazards in the Workplace
- Controlling Hazards in the Workplace
- Health and Safety Rights and Responsibilities
- Workers' Compensation and Return-to-Work Programs
- Taking Action

Supplemental Modules

Supplemental modules were developed to address the needs of the participants. These modules cover the following topics:

- Bloodborne Pathogens
- Chemical Hazards and Hazard Communication
- Communicating Effectively About Workplace Health and Safety
- How Adults Learn Best: Sharing Health and Safety Information in the Workplace
- Preventing Musculoskeletal Disorders: Introduction to Ergonomics
- Workplace Health and Safety Committees

Additional topics will be considered as needs are identified in the future.

Pilot Training Programs

Needs assessments identified the importance of piloting the training program with diverse populations and in different settings due to the differences in size of employers, languages and types of industry in California.

Four different settings were selected to pilot the curriculum in 2004. LOHP conducted pilot trainings with homecare workers in San Francisco and a multi-industry group in the Bay Area. LOSH conducted pilot trainings with a light manufacturing company and worker-advocacy groups in Los Angeles. The following is a description of the four pilots:

Felbro, Inc.

Felbro, Inc., a light manufacturing company, is located in East Los Angeles and is representative of a typical small manufacturing plant comprised of a Spanish-speaking immigrant workforce. Training was conducted in Spanish with 6 Spanish-speaking participants.

Home Care Workers

The participants of this training were homecare workers who are members of the Service Employees International Union (SEIU) Local 250 and provide homecare services through two organizations, the San Francisco In-Home Supportive Services (IHSS) and the IHSS Consortium. Training was conducted for 16 participants in English with simultaneous translation into Spanish and Chinese by native-speaking interpreters (six English-speakers, four Chinese-speakers, and six Spanish-speakers).

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Joint Labor-Management Open Enrollment

This open-enrollment pilot was conducted at Alameda County Central Labor Council. Twenty-two participants, representing the following organizations, completed the course:

- Communications Workers of America
- Service Employees International Union
- United Taxicab Workers
- California Correctional Officers Association
- Community Occupational Health Project
- United Food and Commercial Workers
- California State Employees Association
- Amalgamated Transit Union
- American Federation of State, County, and Municipal Employees
- San Mateo Labor Council
- International Brotherhood of Electrical Workers

Employers/Industries represented at this pilot include:

- Large and small telecommunication employers
- Bay Area county medical center
- San Francisco taxi companies
- California Department of Corrections
- Small employers -- construction, janitorial
- Meatpacking employers
- Tree-trimming employers
- California State University
- Bay Area Rapid Transit (BART)
- East and South Bay Municipal Utility District
- University of California

Community-Based Immigrant Worker Organization

The training participants were leaders and outreach workers representing the Coalition of Immigrant Worker Advocates (CIWA), a collaboration of community worker-advocacy centers serving immigrant and limited English-speaking workers in Los Angeles.

Worker centers/populations represented included:

- Garment Worker Center (garment workers)
- Koreatown Immigrant Workers Alliance (restaurant workers)
- Institute of Popular Education of Southern California (day laborers)

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- Legal Aid Foundation of Los Angeles (low-income/vulnerable workers)
- Maintenance Cooperation Trust Fund (janitorial workers)

WOSH Specialist Trainings

Pilot training concluded in August of 2004. During the remainder of 2004 and continuing through 2005, additional WOSH Specialist training courses were conducted in Northern and Southern California as described in the CHSWC Annual Reports for 2004 and 2005.

WOSH Specialist training classes conducted in 2006 include:

- A State of California Department of Corrections and Rehabilitation (CDCR) WOSH Specialist training for joint labor-management health and safety committee members was held for the two Kern Valley State Prisons in Delano, CA, on January 17, 18, and 19, 2006. The class was taught by three CDCR Network trainers from Northern and Southern California. In English for 22 participants.
- An open-enrollment WOSH Specialist class was held at San Francisco State University in San Francisco, CA, February 1 to May 24, 2006, for participants employed in various industries. The class was taught by two LOHP trainers. In English for 10 participants.
- An open-enrollment course was held at the Cesar Chavez Continuing Adult Education Center in San Diego, CA, in collaboration with the San Diego City College Labor Studies Program and with support from the San Diego Imperial Valley Labor Council and AFT 1931. This was the first health and safety training for Spanish-speaking workers in the San Diego area. Held on February 11 and 15 and March 11 and 25, 2006, the class was co-taught by one WOSH Network trainer and one WOSH Specialist. In Spanish for 26 participants.
- A WOSH Specialist course was held by LOHP for homecare workers in collaboration with the Service Employees International Union (SEIU) and the Alameda Public Authority in Oakland, CA, on March 9, 10, 23, and 24, 2006. The class was taught by two WOSH Network trainers. In English and simultaneously translated into Spanish and Chinese. For 17 participants (5 English-speakers, 7 Chinese-speakers, and 5 Spanish-speakers).
- A WOSH Specialist course was held by LOHP for members of AFSCME 3299 who are employed at the University of California, San Francisco (UCSF) in San Francisco, CA, on March 13, 20, and April 3, 2006. The class was taught by two LOHP trainers. In English for 22 participants.
- A CDCR WOSH Specialist course was held by LOHP in Stockton, CA, at the Youth Correctional Facility on March 21, 22, and 23, 2006, for members of their joint labor/management health and safety committee. The class was taught by two WOSH Network trainers. In English for 32 participants.
- A WOSH Specialist course was held by LOSH for Phoenix House, a non-profit alcohol and substance abuse prevention and treatment program, on April 20, 21 and May 11 in Lakeview, CA. The class was co-taught by LOSH with two WOSH Network trainers. In English for 15 participants.
- A CDCR WOSH Specialist course in Folsom, CA, was held by LOHP for the members of old and new Folsom Prisons' health and safety committees on April 19, 26 and May 3, 2006. The class was taught by two WOSH Network trainers. In English for 23 participants.
- An open-enrollment WOSH Specialist course was held by LOHP in collaboration with the Contra Costa Central Labor Council in Martinez, CA, from April 20 to June 8, 2006. The class was taught by three WOSH Network trainers. In English for 12 participants.

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- A CDCR WOSH Specialist course was held by LOSH for joint labor-management health and safety committee members was held in Blythe, California, on May 9, 10, and 11, 2006. The class was taught by two CDCR Network trainers. In English for 30 participants.
- A WOSH Specialist course was held by LOHP for members of the CDCR's health and safety committee at the prison in Susanville, CA, on June 22, 23, and 24, 2006. The class was taught by two WOSH Network trainers. In English for 19 participants.
- A WOSH Specialist course was held by LOSH for community health workers from different agencies who are members of the Community Health Promotores Program in Pacoima, CA, on July 5, 18, and 22, 2006. The class was taught by three WOSH Network trainers. In Spanish for 18 participants.
- An open-enrollment course was held by LOHP in Spanish in partnership with community-based organizations in the Bay Area that target immigrant workers. The class was taught in Oakland, CA, on July 6, 13, and 20, 2006, by two LOHP trainers. In Spanish for 15 participants.
- A CDCR WOSH Specialist course was held by LOSH at the Richard J. Donovan Correctional Facility in San Diego on July 19, 20, and 21, 2006. The class was taught by CDCR Network trainers and one WOSH Network trainer from San Diego. In English for 13 participants.
- A WOSH Specialist course was held in by LOHP Concord, CA, for SBC/AT&T on August 1, 2, 8, and 9, 2006. The class was taught by an LOHP trainer and three Network trainers from SBC/Communication Workers of America (CWA). In English for 10 participants, all of whom are members of a joint labor-management health and safety committee.
- A WOSH Specialist course was held by LOHP for the CDCR at San Quentin in Marin County, CA, on August 30, 31, and September 1, 2006. The class was taught by two Network trainers and two LOHP trainers. All participants are members of a join labor-management health and safety committee. In English for 14 participants.
- A three-day open-enrollment WOSH Specialist course was held by LOSH on September 14, 15, and 20, 2006. The class was co-taught by LOSH and WOSH Network trainers at the UCLA Downtown Labor Center. Participants were recruited from company, union and community representatives who had independently contacted LOSH during the past 18 months to request training. In English for 29 participants.
- A three-day open-enrollment course was held by LOHP at Laney College in Oakland, CA, by three Network trainers on October 7, 14, and 21, 2006. In English for 18 participants.
- A WOSH Specialist course was held by LOHP on October 24, 25, 31 and November 1, 2006, for SBC/AT&T in Pleasanton, CA. The class was taught by three Network trainers and an LOHP trainer. In English.
- A CDCR WOSH Specialist course will be held by LOSH in San Luis Obispo, CA, on December 12, 13, and 14, 2006. The class will be taught by CDCR Network and LOSH trainers. In English.

WOSH Specialist Statewide Network of Trainers

To begin development of a statewide network of trainers in 2005, as mandated by the Labor Code, LOHP and LOSH developed Training-of-Trainers curricula and offered the first two WOSH Specialist Training-of-Trainers courses in April and July 2005. LOHP's 24-hour course in July trained 12 participants, including those from the Department of Corrections and Rehabilitation, SBC/Communication Workers of America, and community college instructors. LOSH's 30-hour Training-of-Trainers course in July 2005 trained 16 participants, including bilingual trainers from SCIF, representatives from non-profit organizations working with day laborers and with teenagers, workers from small manufacturing and acetate industries, and union representatives who will train their members in the homecare and nursing-home industries, as well as through the Los Angeles and San Diego Community College Labor Studies Programs. LOHP also offered a WOSH Specialist Training-of-Trainers course in Oakland, CA, on September 11, 12, and 13, 2006. The class was taught in English for 13 participants. LOSH offered a WOSH Specialist Training-of-Trainers course in Los Angeles, CA. The class was taught in Spanish for 14 participants.

In these courses, the participants/new trainers were able to learn effective training skills and become familiar with teaching the modules. In addition, they were required to complete an apprenticeship that includes teaching a minimum of two classes with a mentor trainer and completing an evaluation process. To date, 55 WOSH Specialists from Northern and Southern California have been trained as trainers, and a number of Network trainers from Northern and Southern California have been delivering modules of the WOSH Specialist course in English or Spanish.

Outreach to identify trainers interested in participating in the Trainers Network continues. Training-of-Trainers classes will be offered each year in order to expand the trainers' network with trainers prepared to teach the WOSH Specialist course.

Awareness Sessions and Presentations

LOHP and LOSH have also conducted shorter Awareness training sessions, drawing on the WOSH Specialist curriculum, to help promote awareness of and interest in the WOSH Specialist courses. Awareness trainings in 2004 and 2005 are described in the CHSWC Annual Reports for 2004 and 2005. Awareness sessions conducted in 2006 include:

- A two-hour Awareness session was conducted by LOHP for the San Francisco City College/SF Build, a workforce pre-apprenticeship training program in San Francisco on January 25, 2006. The topics were controlling hazards at work and workers' compensation. There were 25 Chinese-speaking participants.

Additional two-hour Awareness sessions conducted by LOHP and focusing on the same topics were delivered at San Francisco City College for the SF/Build program on: February 3, 2006; April 21, 2006; April 28, 2006; July 14, 2006; July 21, 2006; and August 19, 2006. Each of these sessions had between 17 and 37 participants.

- On January 27, 2006, LOHP made a presentation to SCIF Loss Control Managers in Burlingame, CA, as part of a SCIF annual meeting. The presentation provided an overview of WOSHTEP and solicited participation by the loss control managers in helping to identify companies who might be interested in sending worker leaders to a Specialist course and/or in need of assistance through WOSHTEP's small business health and safety resources program. There were 40 participants.
- Esperanza Community Health Promotores Training Program, Los Angeles, CA, received a three-hour occupational health and safety Awareness session held on March 3, 2006. LOSH staff and a WOSH Specialist who is a graduate of the Promotores Program co-facilitated an activity. Taught in Spanish for 17 participants.
- More than 350 SCIF policy holders participated in an Awareness session taught as part of an all-day cultural-diversity conference, "Outreaching to the Spanish-speaking Community," held in Monterey Park, CA, on May 3, 2006. Two LOSH staff and one WOSH Network trainer were on the program. Two WOSH Network trainers were the primary organizers for the day that also included a display

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booth where attendees could discuss their companies' health and safety training needs. The lunch Keynote Speaker was John Howard, Director of NIOSH.

- Six staff and organizers represented by the Pilipino Workers' Center and Koreatown Immigrant Worker Advocates in Los Angeles participated in a half-day Awareness session on May 24, 2006, held by LOSH and focusing on hazards affecting home healthcare workers and officer workers. The session was conducted in Spanish.
- A two-hour Awareness session on identifying hazards and taking action was conducted by LOHP as part of the Women in the Building Trades annual conference in Sacramento, CA, on June 11, 2006, by a WOSH Network trainer. The session promoted the WOSH Specialist training and encouraged participants to take the full 24-hour course. Taught in English for 9 participants.
- A two-hour Awareness session was held by LOHP for SEIU Local 87 for shop stewards in San Francisco, CA, on June 15, 2006. Topics covered were identifying hazards and controlling hazards at work. Taught in English for 35 participants.
- A two-hour Awareness session was held by LOHP for SEIU Local 87 in San Francisco, CA. Topics covered were identifying hazards and workers' compensation. There were 21 participants.
- A two-day Awareness session (a total of 8 hours) was held by LOSH for the SEIU Hazmat-United Healthcare West worker/trainers on July 19 and 20, 2006, at the UCLA Downtown Labor Center, Los Angeles, CA. The session was co-taught by two WOSH trainers; one was from the Homecare Workers Union and the other one was a SoCalCOSH coordinator. In English for 18 participants.
- A two-and-a-half-hour Awareness session for youth ages 14 through 18, who were participating in the UCLA Community-based Learning Program's Summer Internship program, and adult program staff was held by LOSH on July 28, 2006. Activities included risk mapping, pyramid of controls, the Jeopardy game and health and safety resources. In English for 86 youth and 15 adult staff.
- Regular (monthly) brief presentations by LOSH in Spanish on occupational health topics began in August 2006 at the Mexican Consulate for immigrants through the Ventanilla de Salud community health education project. Participants will be recruited to participate in Awareness sessions at the nearby UCLA Downtown Labor Center, and worker leaders will be identified to join WOSH Specialist courses.
- A two-hour Awareness session was held by LOHP for the Silicon Valley Toxics Coalition in Oakland, CA, on August 18, 2006. There were 15 participants.
- Two Awareness sessions of one-and-a-half hours in length were held by LOSH for a total of 34 day laborers and household workers who are members of the Hollywood Community Job Center at the 2006 Day Laborer Latina/o Health Fair co-sponsored by the Instituto de Educación Popular del Sur de California (IDEPSCA) on August 26, 2006. The sessions were co-facilitated by a LOSH staff member and two WOSH Network trainers. Topics included identifying and controlling workplace hazards and health and safety resources, including Cal/OSHA. In addition, a resource table on occupational safety and health was set up to provide information to those who could not participate in the sessions. In Spanish.
- A two-hour Awareness session was held for 11 youth and 3 adults at IDEPSCA's Teens in Action summer retreat in Hollywood, CA, on August 29, 2006. More than half of the participants had work experience and many had parents who work in high-risk industries. The session was co-taught with LOSH staff and a WOSH trainer. Topics and activities included risk mapping, pyramid of controls, a health and safety Jeopardy game, and health and safety resources. In Spanish.
- A one-hour Awareness session for 13 day laborers who are members of the Downtown Community Job Center and IDEPSCA was held at the Job Center on September 26, 2006. A WOSH Specialist, who is a member and organizer for IDEPSCA, did outreach to participants who were Latino immigrants working in a variety of low-wage jobs, which ranged from general labor, moving, yard work and landscaping, maintenance and cleaning, painting and basic carpentry, and warehouse work. Activities and resources included: identifying and controlling hazards in the workplace;

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Cal/OSHA and safety and health resources overview; heat stress handouts and resources; and CAL/OSHA and WOSHTEP materials.

- A half-day Awareness session will be presented to immigrant workers representing unions, worker centers, and community-based organizations as part of a three-day Colegio (leadership school) coordinated by the UCLA Labor Center on December 7, 8, and 9, 2006. In Spanish.

Refresher Trainings

Refresher trainings were provided in 2004 and 2005 (see 2004 and 2005 CHSWC Annual Reports) to a number of trained WOSH Specialists in a variety of settings to assist them in carrying out activities they chose to pursue in their workplaces after completion of the WOSH Specialist training. Refresher trainings in 2006 were conducted as follows:

- Four WOSH Specialists plus five WOSH Network trainers participated in an open-enrollment Refresher held by LOSH in collaboration with SoCalCOSH at the UCLA Downtown Labor Center in Los Angeles, CA, on January 20, 2006. A representative from federal OSHA spoke about the differing services of OSHA and Cal/OSHA, as well as the federal response to Hurricane Katrina, and a representative from the National Day Laborers Network gave a slide presentation about conditions day laborers are facing in the hurricane clean-up. Facilitated by a WOSH Network trainer in English.
- Nine WOSH Network trainers came together at the UCLA Downtown Labor Center on January 27, 2006, for a Refresher/planning session with LOSH trainers in English. The group discussed the successes and challenges they faced in implementing training. They received new training manuals and developed a training calendar.
- Four WOSH Network trainers and two Specialists participated in an open-enrollment Refresher on workers' compensation was held by LOSH in collaboration with SoCalCOSH at the UCLA Downtown Labor Center on February 16, 2006. A personal-injury attorney and a workers' compensation attorney spoke at the session which was facilitated by a WOSH Network trainer in English.
- Sixty individuals participated in an open-enrollment Refresher was held by LOSH on April 28, 2006, Workers' Memorial Day (WMD), to honor workers who were injured or died on the job since the 2005 WMD event. Speakers shared information on strategies being used to prevent workplace injuries. This refresher included resource tables with community and governmental groups where participants could share and exchange health and safety information and practices. The event was coordinated by WOSH Network trainers and LOSH staff. Five WOSH Network trainers and five WOSH specialists participated in the event. Facilitated in English with simultaneous translation in Spanish.
- An open-enrollment Refresher training was conducted by two LOHP trainers on May 23, 2006, for 22 participants in Berkeley, CA. The primary topic was an update on workers' compensation; participants also discussed their successes in taking action to improve health and safety back at their workplaces. The class was conducted in English and simultaneously translated in Spanish (1 participant) and Chinese (3 participants).
- More than 45 participants, including five WOSH Network trainers and four WOSH Specialists attended an open-enrollment Refresher training on heat stress conducted in collaboration with SoCalCOSH in Los Angeles, CA, on August 16, 2006. The session featured a series of speakers covering: the history of the Cal/OSHA Standard; how heat affects agricultural workers and day laborers; newly developed Fact Sheets on heat stress and a heat stress safety checklist; how to identify signs of heat stress; and what workers can do on their job and health and safety resources.
- A five-hour Training-of-Trainers Refresher to improve WOSH Network trainers' ability to identify and meet the needs of their audience, held by LOSH, was attended by 8 WOSH trainers at the UCLA Downtown Labor Center on October 2, 2006. The group reviewed needs assessment goals and tools and the processes before and after the WOSH Specialist training course that support an effective educational experience. A health and safety trainer for the national program of the United Food and

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Commercial Workers International Union (UFCW) attended the Refresher along with a panel of advisors representing the areas that provide resources for health and safety action in the workplace: Cal/OSHA, Worker's Compensation and Community/Policy Advocacy. The panel answered questions to deepen the trainers' understanding of the needs of this group of workers. They then put together a training action plan. Procedures to keep in place for all WOSH Specialist courses were reviewed, including the process for proposing trainings and receiving stipends. Trainers also received updated instructor manuals.

- A full-day open-enrollment Refresher in Spanish is scheduled by LOSH for December 9, 2006. The program will include an opportunity for participants to share challenges and successes in taking action to improve health and safety conditions in their workplace, as well as a review of action plans that incorporate methods for hazard identification and control, effective communication, and community resources.

WOSH Specialist and Trainer Listservs

LOHP and LOSH have each developed a listserv, an electronic group email list, for Northern and Southern California WOSH Specialists and trainers. Through the listservs, WOSH Specialists and trainers are regularly invited to meetings and events that will supplement their knowledge of workplace health and safety/injury-prevention practices.

WOSH Specialists Accomplishments

WOSH Specialists have reported accomplishments to date, which include:

- Requesting or offering health and safety information to co-workers covering risk mapping for identifying hazards in the workplace, causes of hazards, ergonomics, Cal/OSHA rules and regulations, and Injury and Illness Prevention Plans (IIPPs).
- Participating in efforts to identify hazards on the job, including surveys, inspections and research.
- Participating in efforts to reduce or eliminate hazards.
- Conducting or helping to conduct health and safety trainings.
- Developing or helping to develop health and safety programs or policies.
- Writing health and safety articles for company newsletters.
- Recruiting new members to a workplace health and safety committee.
- Providing testimony at the February 2006 NIOSH National Occupational Research Agenda Town Hall meeting in Los Angeles, one of 13 scheduled around the country to give everyone interested in worker health and safety a chance to voice concerns, insights, and recommendations for research to improve workplace health and safety.

Small Business Resources

Because many small business owners may find it difficult to send their employees to the 24-hour classes to become WOSH Specialists, easy-to-use training materials have been developed to help small business owners train their employees to identify hazards and participate in finding ways to control those hazards in their workplaces.

Restaurant Industry Small Business Model

In partnership with the State Compensation Insurance Fund (SCIF), Cal/OSHA Consultation, and the California Restaurant Association (CRA), LOHP completed the first set of health and safety resources in June 2005 for owners and managers of small restaurants, the Restaurant Supervisor Safety Training Program. Through a focus group and pilot tests with owners and managers of several small restaurants,

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LOHP identified the type of training and information that managers said they needed and would be able to use. The materials include a training guide for two short training sessions and tip sheets on the most common restaurant hazards that managers can use to tailor training to the specific hazards in their own restaurants.

The Restaurant Supervisor Safety Training Program helps restaurant owners and managers to:

- Provide a one-hour safety training tailored to their restaurant.
- Encourage workers to become involved in workplace safety programs.
- Identify concrete ways to prevent injuries at work.
- Meet Cal/OSHA training requirements.

There is also specific information regarding training and supervising young workers. The materials are available in English and Spanish both online (<http://www.dir.ca.gov/CHSWC/SBMRMaterials.htm>) and in print.

Through a continued partnership with SCIF and CRA, workshops have been hosted at SCIF district offices throughout the state. Starting in November 2005, 18 workshops have been held, reaching 193 owners or managers from 134 restaurants or food service programs. In addition, both LOHP and LOSH have done outreach to franchise organizations, culinary programs, local minority Chambers of Commerce, and other local business organizations. Additional outreach occurred when the Independent Restaurant Safety Council printed and distributed 3,000 copies of the Restaurant Safety Training program materials to their members.

The small business health and safety training materials will continue to be promoted and distributed throughout the state. An additional potential partnership with one or more employer associations is being explored in order to develop small business health and safety resources for a second industry.

Young Worker Programs

CHSWC believes strongly in the importance of educating young workers and keeping them safe as they enter the workforce. Statistics show that over 250,000 teens are injured on the job annually in the United States; at least 84,000 of these injuries are serious enough to require hospital treatment. Many of the injuries teens experience occur from work in the retail and services sector. A goal of the WOSHTEP program is to identify unique ways to effectively engage young workers as health and safety promoters at work or in their communities.

Young Worker Leadership Academy

In February 2005, WOSHTEP funding helped support the first Young Worker Leadership Academy in Anaheim, California. Twenty-five youth in teams from six different communities in California learned about workplace health and safety and took this information back and shared it in creative ways in their own communities. High school students from an LOHP young worker research team and the LOSH peer educator program helped conduct this Academy. Following the Academy's success, WOSHTEP funding in 2006 supported two Academies, one held in Sacramento on January 19, 20, and 21, and the other held in Los Angeles on February 16, 17, and 18. Thirteen teams attended the two Academies, with four youth from the 2005 Academy returning to act as youth mentors to the new teams. CHSWC co-sponsored these Academies with LOHP, LOSH, the Center for Civic Participation, and the California Partnership for Young Worker Health and Safety.

The goals of the Young Worker Leadership Academy are to: teach youth about workplace health and safety and their rights on the job; help youth identify educational, policy and media strategies to help ensure that young people do not get hurt on the job; and provide a forum for these youth to plan specific actions they will take in their own communities to promote young worker safety during Safe Jobs for Youth Month in May.

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During May 2006, 12 of the teams that attended the Academies successfully conducted a variety of creative activities such as: conducting workshops at schools and in the community on health and safety hazards, including developing and staffing a booth on teen-worker safety at a local farmers' market; being interviewed on a local Spanish-language radio station; and working with school personnel to change Work Permit policies by developing and instituting a quiz about young worker rights and responsibilities to be taken by all youth seeking Work Permits. In addition to activities in May, in August 2006, five of the six youth teams from the February Academy held a reunion meeting at UCLA to share their team projects which reached over 2,000 youth and 100 adults. Teams reached at least 3000 people, mainly youth, through these activities.

In response to participant requests, LOSH and LOHP organized a reunion for the 2006 LA Academy participants, held at UCLA in August 2006. Twelve youth representing five of the six teams participated to share their team projects, develop additional skills, and discuss ideas for building an ongoing network of young worker health and safety advocates.

As a result of the Academies in 2005 and 2006, a network of youth who can help promote workplace health and safety in their communities has been developed. Two Academies are planned for 2007, to be held in January at UC Berkeley and February at UCLA.

Resource Centers

Resource Centers at LOHP and LOSH have been established to house and act as distribution systems of occupational health and safety training material, including, but not limited to, all materials developed by WOSHTEP. These centers provide information and technical assistance.

LOHP has developed Resource Center tours and classes for WOSHTEP students, orienting them to the Center and giving them take-home research tools to use when at work. The training covers various sources of occupational health and safety information such as journal articles, flyers and brochures, books online resources and multilingual materials. In addition, the Resource Center develops resource lists for the LOHP WOSHTEP e-newsletter to help WOSH Specialists and trainers find answers to their occupational safety and health questions. The LOHP Resource Center assisted in the development of background resources of a more general nature at the inception of the WOSHTEP program, emphasizing online resources, where available, to ensure that all WOSHTEP participants have access to these materials.

LOSH has developed a satellite for their Resource Center at the UCLA Downtown Labor Center, which is accessible to workers and members of their community. The Center held a training session in November 2005 to orient WOSH Specialists in the LA Trade Technical College class to the library and piloted a new Internet research activity using the computer lab to find health and safety resources. LOSH also developed a list of primarily electronic, recommended background resources for new WOSH trainers and/or other workplace health and safety professionals to review as they prepare to teach one or more topics in the WOSH Specialist curriculum.

New health and safety materials are added to the two Resource Centers monthly, which are identified by staff as they attend meeting and conferences, as well as through Internet searches, literature searches, and review of the weekly Cal/OSHA Reporter.

Multilingual Health and Safety Resource Guide

An electronic Multilingual Health and Safety Resource Guide has been developed for CHSWC by LOHP. The guide is a free resource for finding health and safety information, such as fact sheets, checklists, and other resources that are available online and can be printed to distribute to employees participating in injury and illness prevention programs in the workplace.

UPDATE: WORKER OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM (WOSHTEP)

The Multilingual Health and Safety Resource Guide covers a broad range of topics including identifying and controlling hazards, legal rights and responsibilities in the workplace, ergonomics, chemical hazards, and violence prevention. It also provides information on hazards in a number of specific industries and occupations, including agriculture, construction, health care and office work.

Resources in the Guide are available in over 20 different languages including Spanish, Chinese, Arabic, Croatian, Haitian/Creole, Hmong, Japanese, Khmer/Cambodian, Korean, Polish, Portuguese, Russian, Serbian, Swahili, Tagalog, Thai, and Vietnamese. The Guide is available on the web at <http://www.dir.ca.gov/chswc/MultilingualGuide/MultilingualGuideMain.html>.

The Multilingual Health and Safety Resource Guide is maintained and updated regularly. Training handouts are currently being translated into Spanish and Chinese and, as needed and as funding allows, will in future years be translated into other languages.

Website

A WOSHTEP section of the CHSWC, LOHP and LOSH websites has been created to promote public access and awareness of WOSHTEP and products developed for the program. These materials include: a WOSHTEP fact sheet; a WOSHTEP brochure; the Multilingual Health and Safety Resource Guide; a survey of state, national and international training programs; and other resources developed for WOSHTEP training. LOHP and LOSH maintain linked websites: www.lohp.edu and www.losh.ucla.edu.

Database and Evaluation

CHSWC maintains a database of all trainers, WOSH Specialists, course information and certificates awarded. The database assists in tracking all participants in the program and with evaluation of the program.

In 2006, an evaluation consultant designed and tested a comprehensive evaluation plan for two areas of WOSHTEP: the WOSH Specialist course; and the Small Business Restaurant Supervisor Safety Training class.

The WOSH Specialist training evaluation uses a mixed-method (qualitative and quantitative non-experimental design (i.e., there is no control group) that gathers information on knowledge, attitudes, skills, and WOSH Specialist effectiveness. The sources of data used to evaluate the WOSH Specialist course include: the Registration Form completed by participants prior to the class; a post-training form (post test) completed by participants at the end of the course which assesses their knowledge of several key learning objectives, as well as perceived changes in that knowledge and willingness to conduct WOSH Specialist tasks in their workplace; and follow-up interviews conducted with a representative sample of WOSH Specialists three to five months after completing the course to assess whether they were able to conduct WOSH Specialist tasks and have an impact in their places.

Similarly, the evaluation of the Small Business Restaurant Supervisor Training for restaurant owners and managers will be based on post tests and structured follow-up interviews with a randomly selected sample of participants.

Industries and Occupations Served by WOSHTEP to Date

To date, WOSHTEP has provided health and safety information and/or training to the following industries: janitorial/maintenance; construction; small manufacturers; corrections and rehabilitation; restaurants; health care; corrections and rehabilitation; telecommunications; food service/restaurant; laundry; agriculture; transportation; schools; refineries; warehousing; garment; meat packing; and recycling.

UPDATE: WORKER OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM
(WOSHTEP)

National Outreach

WOSHTEP is gaining national recognition through CHSWC, LOHP and LOSH presentations at state and national conferences, such as the International Association of Industrial Accident Boards and Commissions (IAIABC), American Society of Safety Professionals and the American Public Health Association (APHA), as well through articles written for publications such as the IAIABC journal and the Bureau of National Affairs SafetyNet monthly newsletter, and the quarterly magazine for the Foodservice Consultants Society International (FCSI).

Future Plans in 2007 and Beyond

WOSH Specialist s Statewide Network of Trainers

Ongoing expansion of the statewide network of WOSH Specialist trainers will continue. A Training-of-Trainers Implementation Plan will be developed to reach new training partners for the training network with an emphasis on recruiting participants who can reach workers in high hazard industries.

Listserves and newsletters will continue to be developed to provide ongoing information to WOSH Specialists on occupational health and safety issues and to provide them with a way of sharing information about health and safety practices on the job.

Awareness Trainings

As part of ongoing outreach to employers, awareness trainings will continue to be held each year to promote employer interest and participation in WOSHTEP. Workers attending these trainings will be encouraged to share what they have learned with their employers in order to promote offering the full 24-hour WOSH Specialist course to a group of workers on-site. CHSWC, LOHP and LOSH will work with the WOSHTEP Advisory Board, Training-of-Trainers participants, needs assessment stakeholders and others to prioritize employer groups who would most benefit from awareness trainings.

Refresher Trainings

Refresher trainings will continue to be offered to WOSH Specialists in a variety of settings to assist them in carrying out activities they choose to pursue in their workplaces after completion of the WOSH Specialist training.

Expansion to the Central Valley and Other Geographic Areas of Northern and Southern California

To implement expansion of WOSHTEP to the Central Valley, efforts will be made to find strong partners to help serve rural parts of the state and to pilot test a variety of approaches including: holding the WOSH Specialist course and Training-of-Trainers course in Fresno (Fresno State University); conducting a heat-stress education campaign with broad partnership support; and conducting school-based outreach to teens working in agriculture in the Central Valley. Expansion of WOSHTEP by LOHP to other geographic areas in Northern California will include Sacramento, San Jose and Redding.

Expansion in Southern California by LOSH will include San Diego and eastern counties. In San Diego, LOSH has worked with governmental and community-based organizations to identify ways to reach target populations, support efforts by WOSH Specialists to promote health and safety in their workplaces, and identify potential trainers.

Small Business Health and Safety Training

The restaurant safety training materials will continue to be promoted and distributed throughout the state. An additional potential partnership with one or more employer associations will be explored in order to develop small business health and safety resources for a second industry.

UPDATE: WORKER OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM (WOSHTEP)

To meet the needs of small businesses for generic health and safety information and training, a resource packed will be developed and pilot tested with a number of diverse small business owners and managers.

Young Worker Leadership Academies

Two Young Worker Leadership Academies will be held in 2007 in Northern and Southern California for a total of 50-60 youth, with the goal of continuing to create a network of youth who can share health and safety information with their peers. Several students from the 2005 and 2006 Leadership Academies will participate in the 2007 Academies leading activities and serving as mentors.

Carve-out Health and Safety Training

Needs assessment with key stakeholders involved in carve-outs has been conducted to determine health and safety training needs. Materials from the WOSH Specialist program have been adapted for health and safety training for carve-outs, and a pilot training was conducted. A conference on health and safety prevention strategies for carve-out programs will include such topics as: effective joint health and safety committees; the highest-quality IIPP development and implementation; effective return-to-work programs; and worker training and participation in safety programs.

Resource Centers

Resource Centers in Northern and Southern California will continue to house and act as distribution systems of occupational health and safety training material, including, but not limited to, materials developed by WOSHTEP. These Centers will also continue to provide information and technical assistance to support the workers' compensation community, including trained WOSH Specialists and WOSHTEP trainers.

Training Materials in Other Languages and Multilingual Guide

WOSHTEP training handouts have been translated into Spanish and Chinese. Other languages will be added as needed and as funding allows. The Multilingual Health and Safety Resource Guide developed by LOHP will continue to be updated and maintained regularly. Through this Guide, health and safety resource information will continue to be available online in 23 languages.

Website

The WOSHTEP section on the CHSWC website will continue to promote public access to and awareness of WOSHTEP and products developed for the program will continue to be maintained and updated regularly. LOHP and LOSH will continue to maintain linked websites.

Database

CHSWC will continue to maintain a database of all trainers, WOSH Specialists, course information and certificates awarded. This database will continue to be maintained to track all participants in the program and provide information to support the evaluation process.

Evaluation

The WOSHTEP evaluation system will continue to track the training of participants and trainers, thereby supporting ongoing efforts to identify needs and evaluate the program.

UPDATE: WORKER OCCUPATIONAL SAFETY AND HEALTH TRAINING AND EDUCATION PROGRAM
(WOSHTEP)

National Outreach

CHSWC, LOHP and LOSH will continue to deliver presentations at meetings of professional state and national organizations and will continue to provide articles on WOSHTEP to professional journals and newsletters to inform the national health and safety community about WOSHTEP.

WORKERS' COMPENSATION SYSTEM PERFORMANCE

Introduction

The Commission on Health and Safety and Workers' Compensation (CHSWC) monitors the overall performance of the entire health and safety and workers' compensation system to determine whether it meets the State's Constitutional objective to "accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of any character."

In this section, CHSWC has attempted to provide performance measures to assist in evaluating the system impact on everyone, particularly workers and employers.

Through studies and comments from the community, as well as administrative data, CHSWC has compiled the following information pertaining to the performance of California's systems for health, safety and workers' compensation. Explanations of the data are included with the graphs.

Administrative Operations

- DWC Opening Documents

- DWC Hearings

- DWC Decisions

- DWC Lien Decisions

- Vocational Rehabilitation / Supplemental Job Displacement Benefit (SJDB)

- DWC Audit and Enforcement Program

- Disability Evaluation Unit

- Healthcare Organizations and Medical Provider Networks

- Uninsured Employer Fund

- DWC Staffing

Adjudication Simplification Efforts

- DWC Information System

- Carve-outs – Alternative Workers' Compensation Systems

Anti-Fraud Efforts

Administrative Operations

Division of Workers' Compensation Opening Documents

Three types of documents open a Workers' Compensation Appeals Board (WCAB) case. The following chart shows the numbers of Applications for Adjudication of Claim (Applications), Original Compromise and Releases (C&Rs), and Original Stipulations (Stips) received by the Division of Workers' Compensation (DWC).

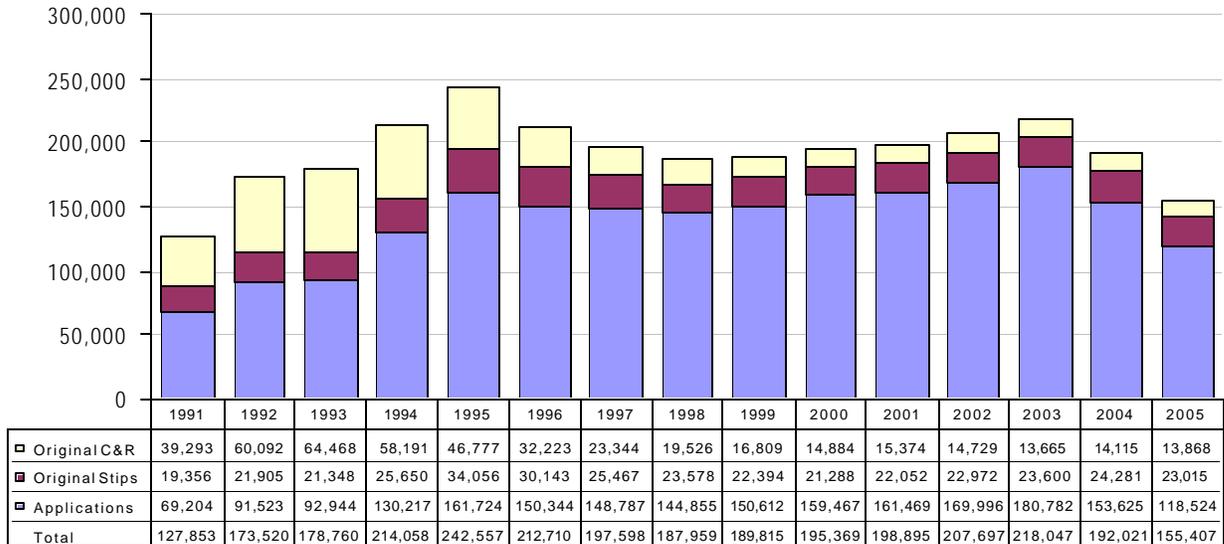
The number of documents filed with the DWC to open a WCAB case on a workers' compensation claim fluctuated during the early- and mid-1990s, leveled off during the late 1990s, increased slightly between 2000 and 2003, and decreased between 2003 and 2005.

The period from 1991 to 1992 shows growth in all categories of case-opening documents, followed by a year of leveling off between 1992 and 1993. The period from 1993 to 1995 is one of substantial increases in Applications, slight increases in Stips, and significant decreases in C&Rs. Through 2003, C&Rs continued to decline, while Applications increased. Between 2003 and 2005, Applications declined substantially, and C&Rs increased slightly. 2005 was the lowest

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year since 1992 for all three documents combined, with C&Rs nearing a historic low for the period defined.

DWC Opening Documents

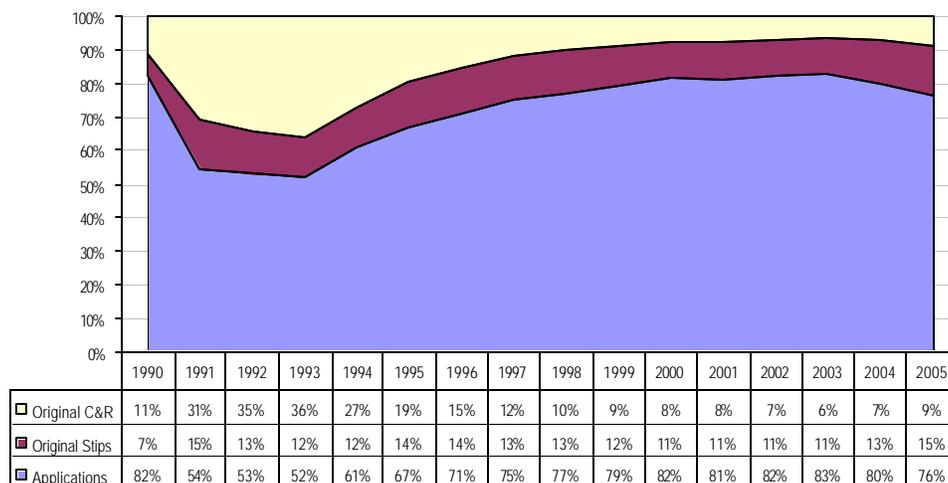


Source: DWC

Mix of DWC Opening Documents

As shown in the following graph, the proportion or mix of the types of case-opening documents received by the DWC varied during the 1990s. Applications initially dropped from about 80 percent of the total in 1990 to less than 60 percent in 1991, reflecting increases in both original Stips and C&Rs. The proportion of Applications was steady from 1991 to 1993, rising again through 2003, and declining slightly from 2003 to 2005. The proportion of original (case-opening) Stips and original C&Rs declined slightly from 1999 to 2003, and then increased from 2003 to 2005.

Percentage by Type of Opening Documents



Source: DWC

WORKERS' COMPENSATION SYSTEM PERFORMANCE

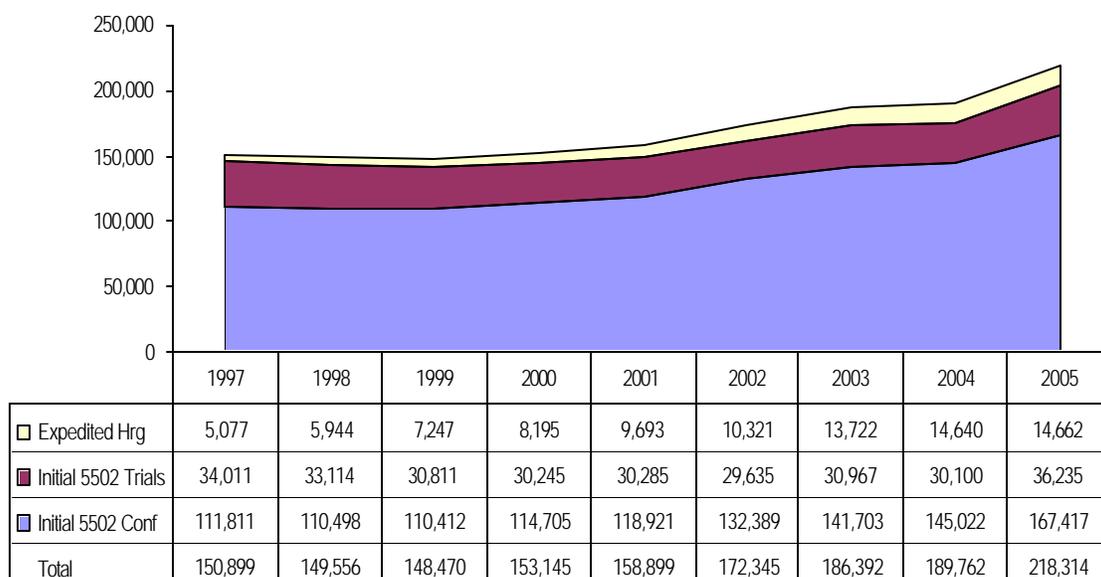
Division of Workers' Compensation Hearings

Numbers of Hearings

The graph below indicates the numbers of different types of hearings held in the DWC from 1997 through 2005. While the total number of hearings held increased by 44.7 percent from 1997 to 2005, the number of expedited hearings grew by about 189 percent during the same period.

Expedited hearings for certain cases, such as determination of medical necessity, may be requested pursuant to Labor Code Section 5502(b). Per Labor Code Section 5502(d), Initial 5502 Conferences are to be conducted in all other cases within 30 days of the receipt of a Declaration of Readiness (DR), and Initial 5502 Trials are to be held within 75 days of the receipt of a DR if the issues were not settled at the Initial 5502 Conference.

DWC Hearings Held



Source: DWC

Timeliness of Hearings

California Labor Code Section 5502 specifies the time limits for various types of hearings conducted by the DWC on WCAB cases. In general:

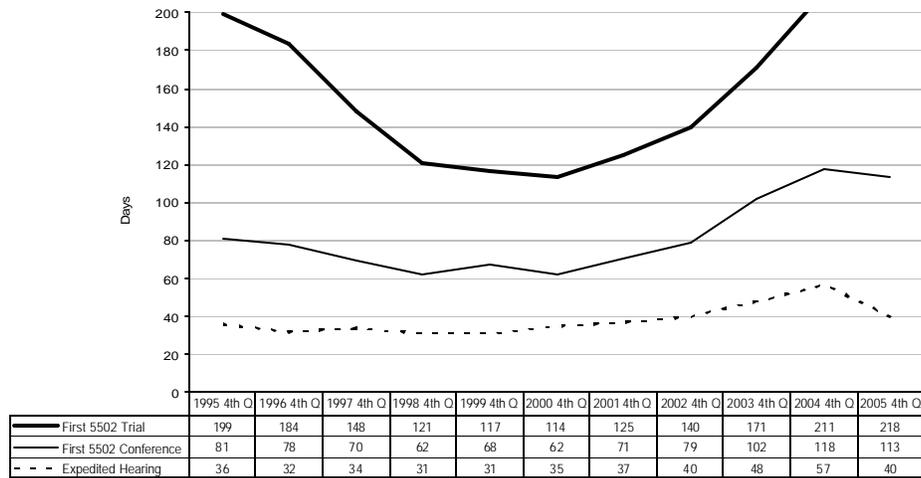
- A conference is required to be held within 30 days of the receipt of a request in the form of a DR.
- A trial must be held either within 60 days of the request or within 75 days if a settlement conference has not resolved the dispute.
- An expedited hearing must be held within 30 days of the receipt of the DR.

As the following chart shows, the average elapsed time from a request to a DWC hearing decreased in the mid- to late-1990s and then remained fairly constant. From 2000 to 2004, all of the average elapsed times have increased from the previous year's quarter, and none were within the statutory requirements. However, between 2004 and 2005, the average elapsed times for

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expedited hearings and conferences decreased while the average time from the request to a trial increased slightly.

Elapsed Time in Days from Request to DWC Hearing



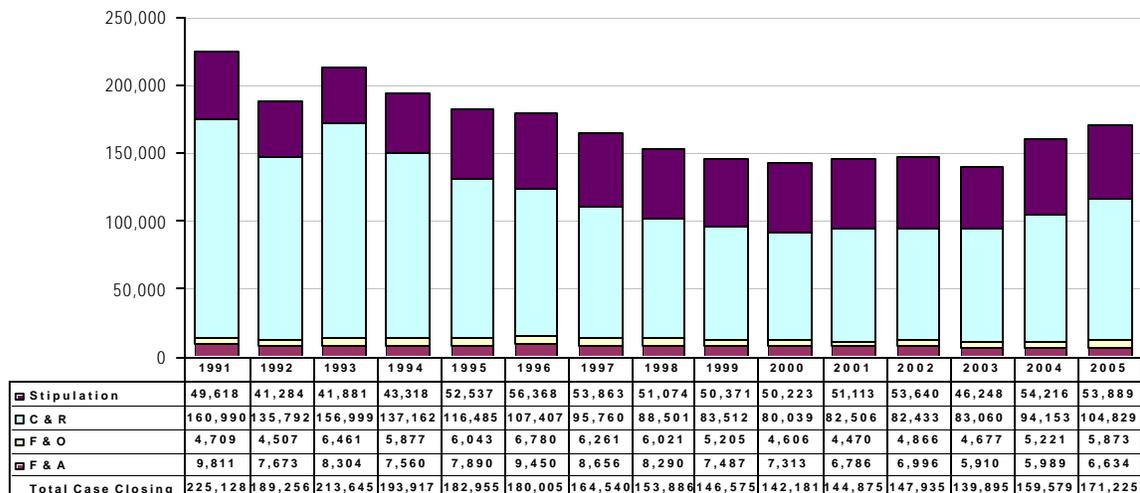
Source: DWC

Division of Workers' Compensation Decisions

DWC Case-Closing Decisions

The number of decisions made by the DWC that are considered to be case-closing have declined overall during the 1990s, with a slight increase from 2000 to 2002, followed by a decrease in 2003, and then an increase between 2003 and 2005.

DWC Case-Closing Decisions



Data Source: DWC

The preceding chart shows:

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- The numbers of Findings and Awards (F&As) have shown an overall decline of 29.2 percent from 1990 to 2005.
- Findings and Orders (F&Os) increased during the first part of the decade, declined to the original level in 2002, decreased slightly from 2002 to 2003, and increased again between 2003 and 2005.
- Stips were issued consistently throughout the decade. The numbers of Stips issued rose from 1990 to 1991, declined from 1991 to 1992, leveled off from 1992 to 1994, rose again in 1995 and 1996, remained stable through 2000, increased slightly in 2001 and 2002, decreased in 2003, and increased between 2003 and 2005.
- The use of C&Rs decreased by half during the 1990s and into the millennium. C&Rs declined steadily from 1993 through 2000, increased in 2001, remained stable in 2002 and 2003, and increased by 26.2 percent between 2003 and 2005.

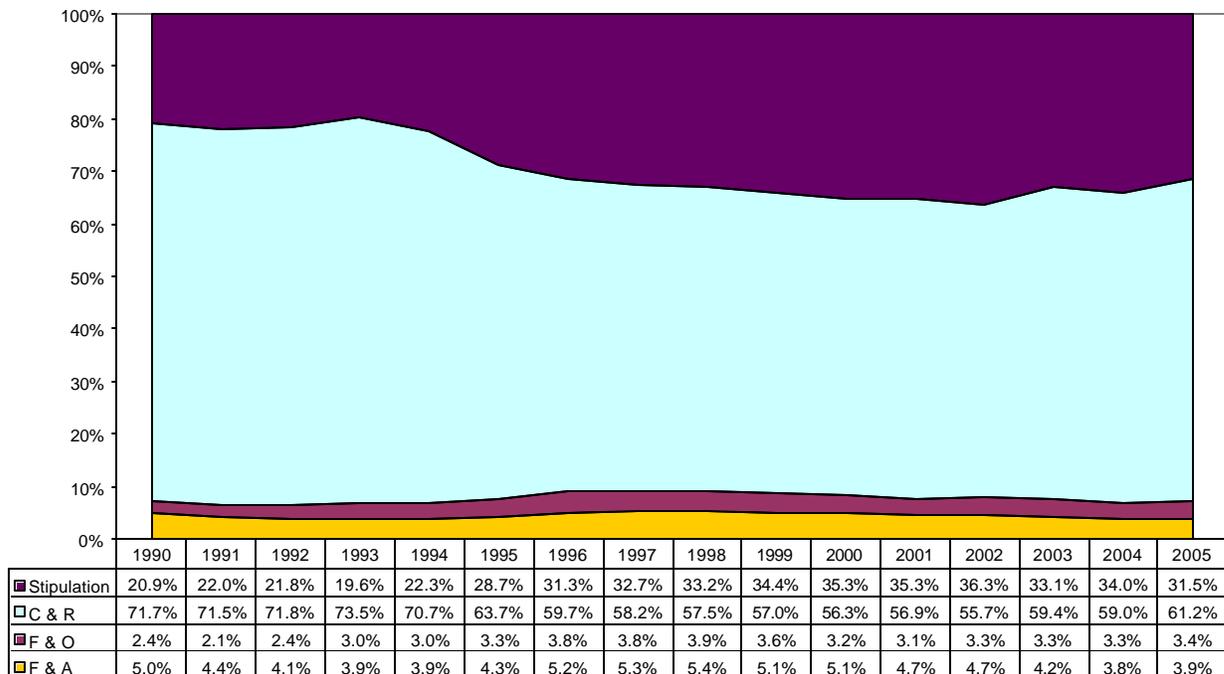
Mix of DWC Decisions

As shown on the charts on the previous page and this page, again, the vast majority of the case-closing decisions rendered during the 1990s were in the form of a WCAB judge's approval of Stips and C&Rs which were originally formulated by the case parties.

During the period from 1993 through the beginning of 2000 and beyond, the proportion of Stips rose, while the proportion of C&Rs declined. This reflects the large decrease in the issuance of C&Rs through the 1990s.

Only a small percentage of case-closing decisions evolved from an F&A or F&O issued by a WCAB judge after a hearing.

DWC Decisions: Percentage Distribution by Type of Decisions



Data Source: DWC

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Division of Workers' Compensation Lien Decisions

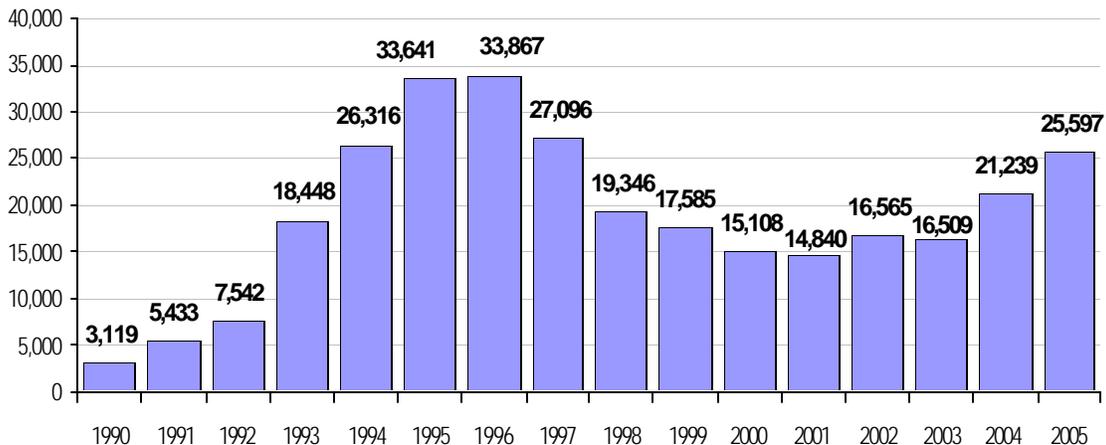
The DWC has been dealing with a large backlog of liens filed on WCAB cases. Many of the liens have been for medical treatment and medical-legal reports. However, liens are also filed to obtain reimbursement for other expenses:

- The Employment Development Department (EDD) files liens to recover disability insurance indemnity and unemployment benefits paid to industrially injured workers.
- Attorneys have an implied lien during representation of an injured worker. If an attorney is substituted out of a case and seeks a fee, the attorney has to file a lien.
- District Attorneys file liens to recover spousal and/or child support ordered in marital dissolution proceedings of the injured worker.
- A landlord or grocer will occasionally claim a lien for living expenses of the injured worker or his/her dependents.
- Although relatively rare now, a private disability-insurance policy will occasionally file a lien on workers' compensation benefits on the theory that the proceeds from the benefits were used for living expenses of the injured worker.
- Some defendants will file liens in lieu of petitions for contribution where they have paid or are paying medical treatment costs to which another carrier's injury allegedly contributed.
- Liens are sometimes used to document recoverable (non-medical) costs, e.g., photocopying of medical records, interpreters' services and travel expenses.

Effective July 1, 2006, budget trailer bill language in Assembly Bill (AB)1806 repealed the lien filing fee in Labor Code Section 4903.05 and added Section 4903.6 to preclude the filing of frivolous liens at DWC district offices. Labor Code Section 4903.05, originally added by Senate Bill (SB) 228, had required that a filing fee of \$100 be charged for each initial lien filed by a medical provider, excluding the Veterans Administration, the Medi-Cal program, or public hospitals.

The following chart shows a large growth in decisions regarding liens filed on WCAB cases and a concomitant expenditure of DWC staff resources on the resolution of those liens.

DWC Lien Decisions



Source: DWC

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Vocational Rehabilitation / Supplemental Job Displacement Benefit

The DWC Vocational Rehabilitation (VR) Unit reports the following for Fiscal Year 2004/05:

Number of documents

Opening documents:	35,167
Disputes:	18,064
Settlement of VR:	12,081
Plan approval/disapproval:	5,022
Notice of Offer of Regular Work submitted as part of return to work (RTW):	215

Number of rehabilitation plans submitted and approved

Plans submitted:	5,022
Plans approved:	4,185

Number of closures by type and total by primary sources:

Total number of closures:	35,128
Settlement of VR:	16,250
RTW via rehabilitation plan:	9,296
No RTW via rehabilitation plan:	7,017

Appeals

There were 1,427 appeals of 34,063 decisions issued by the Rehabilitation Unit. The appeals are a reflection of the following disputed issues:

- a) An employee objection to a notice of termination by the defendant;
- b) An employee's medical eligibility or entitlement to VR services and benefits;
- c) Retroactive vocational rehabilitation maintenance allowance (VRMA) at the temporary disability (TD) (delay) rate outside of the \$16,000 cap;
- d) The identification of a vocational goal; and
- e) Second plan request.

Number of Notices to Potential Right to the Supplement Job Displacement Benefit

The Administrative Director's (AD's) regulations do not require the defendant to submit the "Notice of Potential Right to SJDB" to the Rehabilitation Unit unless there is a dispute regarding the voucher. The AD has received 103 disputes during this period.

Division of Workers' Compensation Audit and Enforcement Program

Background

The 1989 California workers' compensation reform legislation established an audit function within the DWC to monitor the performance of workers' compensation insurers, self-insured employers, and third-party administrators to ensure that industrially injured workers are receiving proper benefits in a timely manner.

The purpose of the audit and enforcement function is to provide incentives for the prompt and accurate delivery of workers' compensation benefits to industrially injured workers and to identify

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and bring into compliance those insurers, third-party administrators, and self-insured employers who do not deliver benefits in a timely and accurate manner.

Assembly Bill 749 Changes to the Audit Program

Assembly Bill (AB) 749, effective January 1, 2003, resulted in major changes to California workers' compensation law and mandated significant changes to the methodologies for file selection and assessment of penalties in the audit program.

Labor Code Sections 129 and 129.5 were amended to assure that each audit unit will be audited at least once every five years and that good performers will be rewarded. A profile audit review (PAR) of every audit subject will be done at least every five years. Any audit subject that fails to meet a profile audit standard established by the AD will be given a full compliance audit (FCA). Any audit subject that fails to meet or exceed the FCA performance standard will be audited again within two years. Targeted PARs or FCAs may also be conducted at any time based on information indicating that an insurer, self-insured employer, or third-party administrator is failing to meet its obligations.

To reward good performers, profile audit subjects that meet or exceed the PAR performance standard will not be liable for any penalties but will be required to pay any unpaid compensation. FCA subjects that meet or exceed standards will only be required to pay penalties for unpaid or late paid compensation and any unpaid compensation.

Labor Code Section 129.5(e) is amended to provide for civil penalties up to \$100,000 if an employer, insurer, or third-party administrator has knowingly committed or (rather than "and") has performed with sufficient frequency to indicate a general business-practice act discharging or administering its obligations in specified improper manners. Failure to meet the FCA performance standards in two consecutive FCAs will be rebuttably presumed to be engaging in a general business practice of discharging and administering compensation obligations in an improper manner.

Review of the civil penalties assessed will be obtained by written request for a hearing before the WCAB rather than by application for a writ of mandate in the Superior Court. Judicial review of the Board's findings and order will be as provided in Sections 5950 et seq.

Penalties collected under Section 129.5 and unclaimed assessments for unpaid compensation under Section 129 are credited to the Workers' Compensation Administration Revolving Fund (WCARF).

Audit and Enforcement Unit Data

Following are various charts and graphics depicting workload data from 2000 through 2005. As noted on the charts, data before 2003 cannot be directly compared with similar data in 2003 and after because of the significant changes in the program effective January 1, 2003.

Overview of Audit Methodology

Selection of Audit Subjects

Audit subjects include insurers, self-insured employers, and third-party administrators selected randomly.

The bases for the targeting of audit subjects by the Audit Unit are specified in 8 California Code of Regulations Section 10106.1(c), effective January 1, 2003:

- Complaints regarding claims handling received by the DWC.
- Failure to meet or exceed FCA Performance Standards.
- High numbers of penalties awarded pursuant to Labor Code Section 5814.

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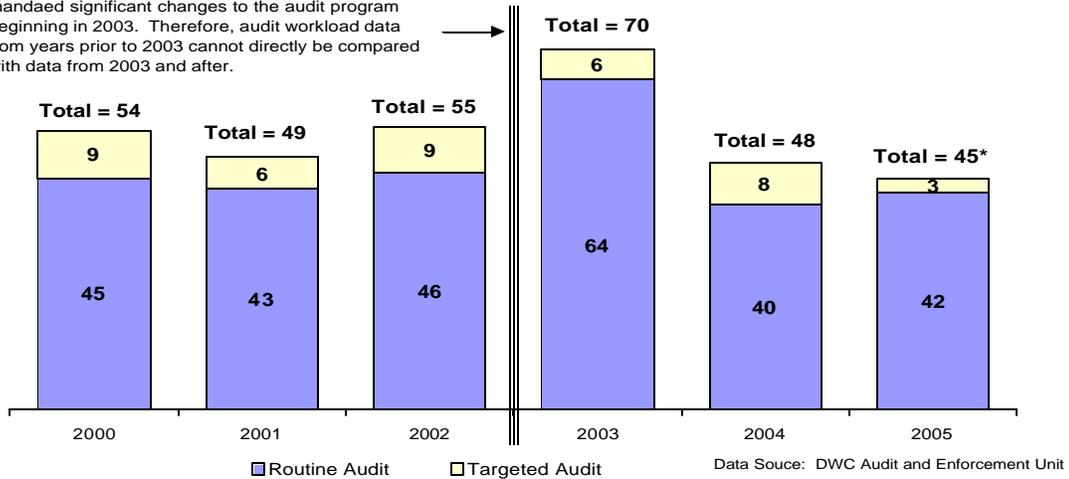
- Information received from the Workers' Compensation Information System (WCIS).
- Failure to provide a claim file for a PAR.
- Failure to pay or appeal a Notice of Compensation Due ordered by the Audit Unit.

Routine and Targeted Audits

The following chart shows the number of routine audits and target audits and the total number of audits conducted each year.

Routine and Targeted Audits

Please Note: Assembly Bill 749 resulted in major changes to California workers' compensation law and mandated significant changes to the audit program beginning in 2003. Therefore, audit workload data from years prior to 2003 cannot directly be compared with data from 2003 and after.



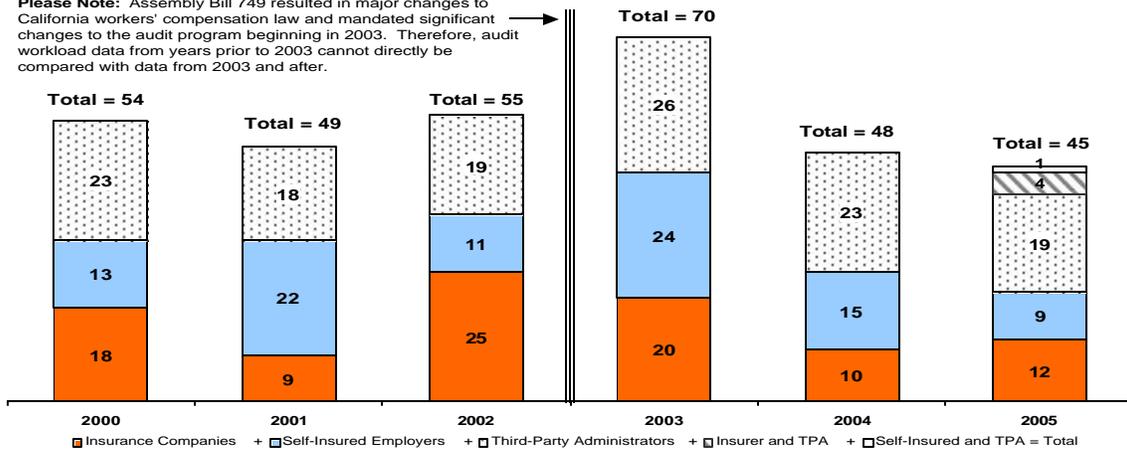
* Note: An additional target audit was conducted based on a return agreement in a previous stipulation of civil penalty in year 2000

Audits by Type of Audit Subject

The following graph depicts the total number of audit subjects each year with a breakdown by whether the subject is an insurer, a self-insured employer, or a third-party administrator.

DWC Audits by Type of Audit Subject

Please Note: Assembly Bill 749 resulted in major changes to California workers' compensation law and mandated significant changes to the audit program beginning in 2003. Therefore, audit workload data from years prior to 2003 cannot directly be compared with data from 2003 and after.



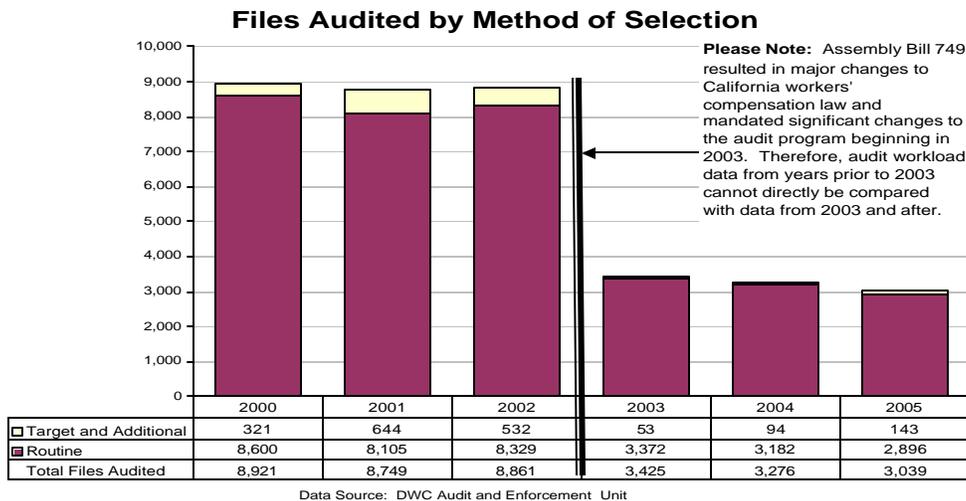
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Selection of Files to be Audited

The majority of claim files are selected for audit on a random basis, with the number of indemnity and denied cases being selected based on the numbers of claims in each of those populations of the audit subject:

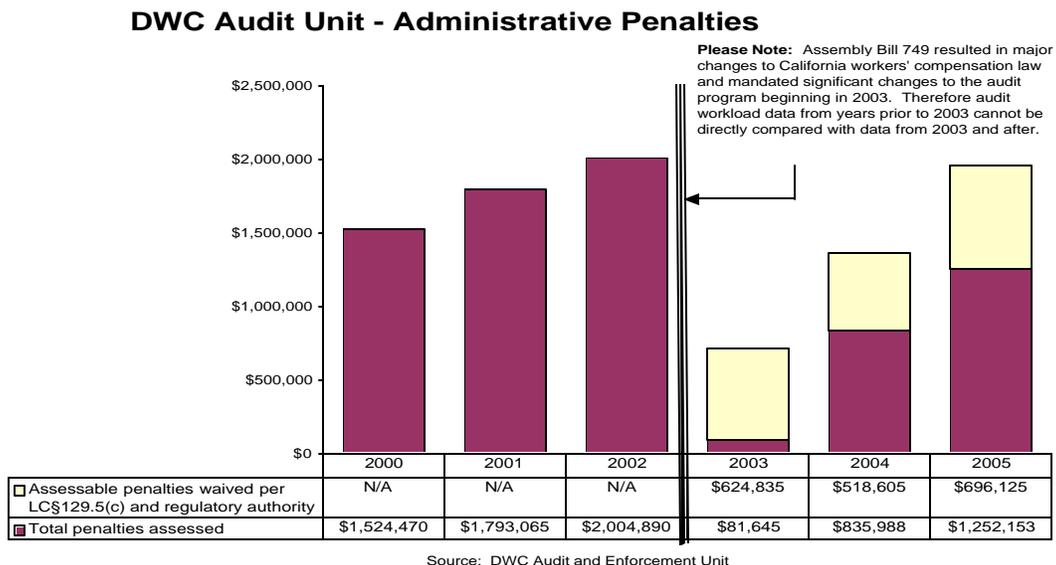
- Targeted files are selected because they have attributes that the audits focus on.
- Additional files include claims chosen based on criteria relevant to a target audit but for which no specific complaints had been received.
- The number of claims audited is based upon the total number of claims at the adjusting location and the number of complaints received by the DWC related to claims-handling practices. Types of claims include indemnity, medical-only, denied, complaint and additional.

The following chart shows the total number of files audited each year, broken down by the method used to select them.



Audit Findings

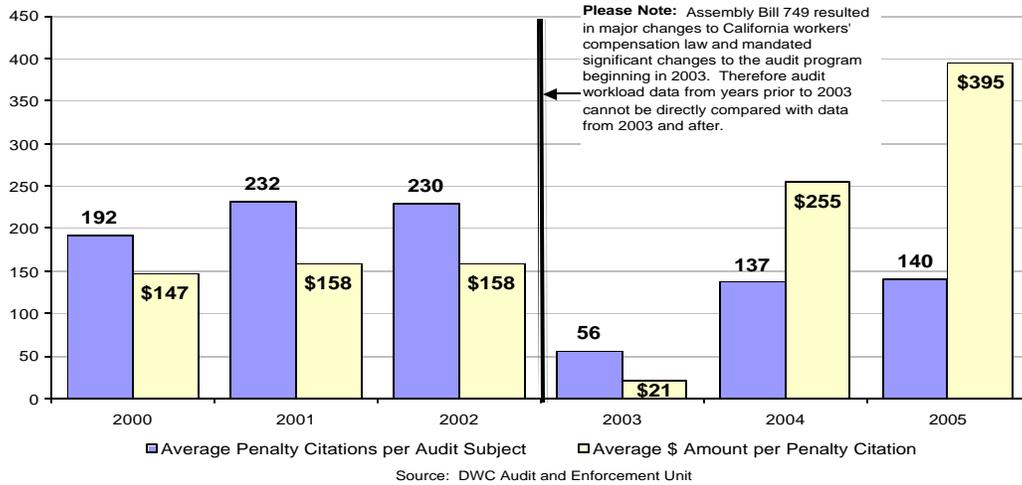
As shown in the following chart, the administrative penalties assessed have changed significantly since the reform legislation changes to the Audit and Enforcement Program beginning in 2003.



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The following chart shows the average number of penalty citations per audit subject each year and the average dollar amount per penalty citation.

**Average Number of Penalty Citations per Audit Subject
and Average Amount per Penalty Citation**



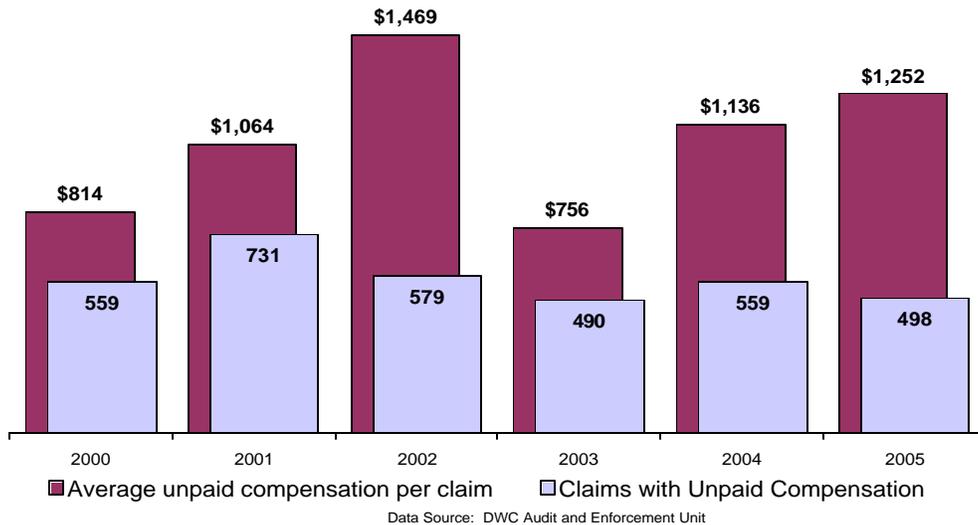
Unpaid Compensation Due To Employees

Audits identify claim files where injured workers were owed unpaid compensation.

The administrator is required to pay these employees within 15 days after receipt of a notice advising the administrator of the amount due, unless a written request for a conference is filed within 7 days of receipt of the audit report. When employees due unpaid compensation cannot be located, the unpaid compensation is payable by the administrator to the WCARF. In these instances, application by an employee can be made to the DWC for payment of monies deposited by administrators into this fund.

The following chart depicts the average number of claims per audit where unpaid compensation was found and the average dollar amount of compensation due per claim.

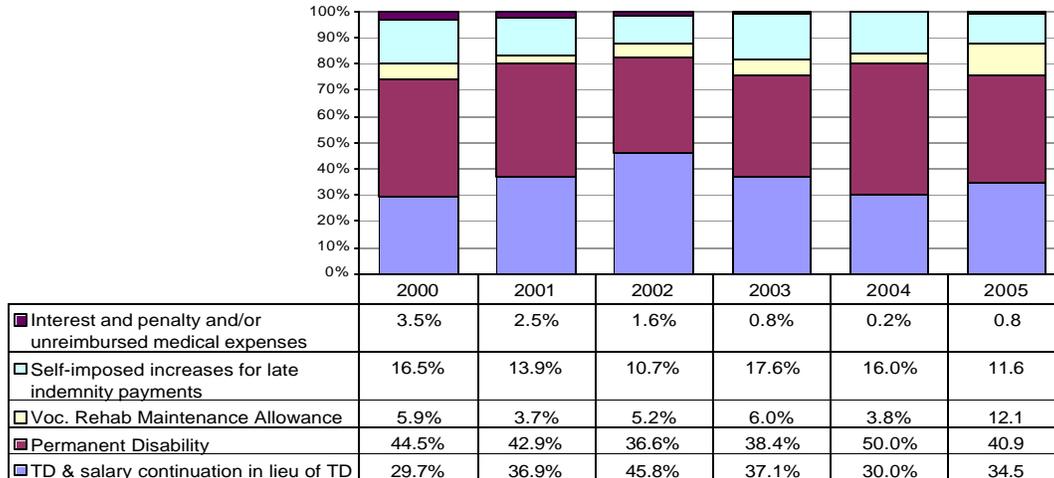
**DWC Audit Unit Findings of Unpaid Compensation
Number of Claims / Average \$ Unpaid per Claim**



WORKERS' COMPENSATION SYSTEM PERFORMANCE

This chart shows unpaid compensation each year, broken down by percentage of the specific type of compensation that was unpaid.

**Unpaid Compensation in Audited Files
Type by Percentage of Total**



Data Source: DWC Audit and Enforcement Unit

Frequency of Violations

A statewide frequency of the five key areas under review for violations used in determining the PAR and FCA performance standards was calculated after combining the individual audit findings. The frequency noted in each area is the ratio of files in which there is an assessment for a specific type of violation to the total number of randomly selected files in which the possibility of that type of violation exists.

Unpaid Indemnity

Of the randomly selected audited claims in which indemnity was accrued and payable, the percentage for assessable penalties for unpaid indemnity is:

- 2004 37 Audits passing the PAR standard: 12.02%
- 2004 5 Audits passing the FCA standard: 24.39%
- 2004 6 Audits failing all standards: 32.36%
- 2005 35 Audits passing the PAR standard: 12.83%
- 2005 8 Audits passing the FCA standard: 19.20%
- 2005 2 Audit failing all standards: 32.60%

Late First Payment of Temporary Disability or First Salary Continuation Notice When Salary Continuation is Paid in Lieu of Temporary Disability

Of the randomly selected audited claims with TD payments or first notice of salary continuation, the following percentage for assessable penalties for late-paid first payment of TD or late first notice of salary continuation is:

- 2004 37 Audits passing the PAR standard: 24.59%
- 2004 5 Audits passing the FCA standard: 39.51%
- 2004 6 Audits failing all standards: 53.68%

WORKERS' COMPENSATION SYSTEM PERFORMANCE

- 2005 35 Audits passing the PAR standard: 26.31%
- 2005 8 Audits passing the FCA standard: 32.36%
- 2005 2 Audit failing all standards: 46.99%

Late First Payment of Permanent Disability, Vocational Rehabilitation Maintenance Allowance, and Death Benefits

Of the randomly selected audited claims with permanent disability (PD), vocational rehabilitation maintenance allowance, and death-benefits payments, the following percentage for assessable penalties for late-paid first payment of PD, vocational rehabilitation maintenance allowance, and death benefits is:

- 2004 37 Audits passing the PAR standard: 12.03%
- 2004 5 Audits passing the FCA standard: 32.10%
- 2004 6 Audits failing all standards: 40.80%
- 2005 35 Audits passing the PAR standard: 15.83%
- 2005 8 Audits passing the FCA standard: 23.88%
- 2005 2 Audit failing all standards: 26.15%

Late Subsequent Indemnity Payments

Of the randomly selected audited claims with subsequent indemnity payments, the following percentage for assessable penalties for late subsequent indemnity payments is:

- 2004 37 Audits passing the PAR standard: 20.39%
- 2004 5 Audits passing the FCA standard: 45.27%
- 2004 6 Audits failing all standards: 26.10%
- 2005 35 Audits passing the PAR standard: 21.82%
- 2005 8 Audits passing the FCA standard: 35.84%
- 2005 2 Audit failing all standards: 27.42%

Failure or Late Provision of Agreed Medical Evaluator/Qualified Medical Evaluator Notices and Notices of Potential Eligibility for Vocational Rehabilitation

Of the randomly selected audited claims with requirement to issue the agreed medical evaluator/qualified medical evaluator (AME/QME) notice and/or the notice of potential eligibility for vocational rehabilitation, the following percentage for assessable penalties for failure or late issuance is:

- 2004 37 Audits passing the PAR standard: 24.16%
- 2004 5 Audits passing the FCA standard: 31.39%
- 2004 6 Audits failing all standards: 57.08%
- 2003 35 Audits passing the PAR standard: 27.78%
- 2003 8 Audits passing the FCA standard: 39.87%
- 2003 2 Audit failing all standards: 20.00%

Performance Ratings

Each audit subject's performance rating is calculated following a review of a sample of randomly selected indemnity claims and is a composite score based on performance in specific key areas.

Ratings are based on the frequency and severity of violations, with a weighting factor emphasizing the gravity of violations involving the failure-to-pay compensation. The higher the rating of an audit subject, the worse the performance.

Ratings are calculated based on the frequency of claims with:

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- Unpaid compensation and the amounts of unpaid compensation found in the sample of randomly selected undisputed claims.
- Violations involving late first TD payments or first notices of salary continuation.
- Violations involving late first payments of permanent disability (PD), vocational-rehabilitation maintenance allowance, and death benefits.
- Violations involving late subsequent (scheduled) indemnity payments.
- Violations involving the failure to timely issue Notices of Potential Eligibility for Vocational Rehabilitation and Notices Advising Injured Workers of their Rights for Qualified Medical Examinations to determine PD.

If the audit subject's performance rating meets or exceeds (i.e., is lower than) the worst 20 percent of performance ratings for all final audit reports issued over the three calendar years before the year preceding the current audit, the Audit Unit will issue Notices of Compensation Due pursuant to Section 10110 but will assess no administrative penalties for violations found in that audit.

If the audit subject's performance rating is higher than the worst 20 percent of performance ratings as calculated based on all final audit findings as published in the Annual DWC Audit Reports over the three calendar years before the year preceding the current audit, the Audit Unit will conduct an additional audit by randomly selecting and auditing an additional sample of indemnity claims.

Specific findings for all audit subjects may be found in the DWC Audit Unit Annual Reports, available at <http://www.dir.ca.gov/dwc/audit.html>.

For further information...

-  DWC Annual Audit Reports may be accessed at <http://www.dir.ca.gov/dwc/audit.html>
-  CHSWC Report on the Division of Workers' Compensation Audit Function (1998) - available at www.dir.ca.gov/chswc

Health Care Organizations and Medical Provider Networks

Health Care Organization Program

The Health Care Organization (HCO) program, established by the 1993 workers' compensation reform package, expanded the use of managed care techniques in the workers' compensation system. This was viewed as a means of reducing medical costs and facilitating better management of workers' compensation cases.

HCOs provide medical care to employees with job-related injuries or illnesses in a managed care setting. Insurance carriers and self-insured employers may contract with a certified HCO as a way of reducing workers' compensation costs while at the same time helping to ensure that injured workers receive quality medical care for their injuries. Three types of organizations may apply for HCO certification: HCOs licensed by the Department of Managed Care Regulation; disability insurers licensed by the Department of Insurance; and other Workers' Compensation Health Care Provider Organizations (WCHCPOs).

Under the initial program, an employer in an HCO gains additional medical control over the care of the injured employee, ranging from 90 days (if no group health insurance coverage is offered) to 365 days (if the employee's provider of non-occupational health care is also in the HCO network). After the control period, the injured employee has free choice; he or she may select any physician within a reasonable geographic area. The program also required certification fees, renewal fees, per enrollee fees and administrative costs.

AB 749 made changes to the HCO program effective January 1, 2003:

- Employers are no longer required to offer at least two HCOs to employees; employers may contract with only one HCO.
- Employees must give written affirmative choice annually to select an HCO or pre-designate a personal physician, personal chiropractor or personal acupuncturist. Employees who do not designate a personal physician, personal chiropractor or personal acupuncturist shall be treated by the HCO.
- Employer control of medical treatment has been changed to 90 days, if there is no non-occupational health care coverage from the employer, or 180 days, if the employer provides non-occupational health care coverage as well.
- HCO certification has been simplified. Healthcare Management Organizations (HMOs) certified by the Department of Managed Health Care (DMHC) are "deemed" to be HCOs if they are in good standing with DMHC and meet requirements for occupational treatment and case management required of other HCOs.

HCOs have never been more than a niche market, never exceeding a 3 percent market share according to the annual December 31st census of enrollees. In early 2004, the number of HCO enrollees rose as high as 750,000 just before passage of SB 899 and the introduction of medical provider networks (MPNs). In the short time that MPNs have been available, the HCO market share has declined to just over 1 percent. The DWC reported that there were about 200,000 employees enrolled in the HCO program as of November 2005.

For further information...



The latest information on Health Care Organizations may be obtained at www.dir.ca.gov/dwc and <http://www.dir.ca.gov/dwc/HCO.htm>

Current Health Care Organizations

(As of February 2006)

Intracorp Plan B
 CompPartners Access
 CompPartners Direct
 First Health/Comp America Select and Primary
 CorVel Select
 Corvel Corporation
 MedEx and MedEx 2
 Kaiser Foundation Health Plan
 Prudent Buyer HCO

No Enrollees (Using HCO network as deemed entity for Medical Provider Network products)

Astrasano (Concentra)
 Pac Med
 Network HCO
 Genex

Source: DWC

Medical Provider Networks

SB 899 added Labor Code Section 4616, which provides that, beginning January 1, 2005, employers or insurers may establish networks to provide medical treatment to injured employees.

- An MPN is an entity or group of health-care providers set up by an insurer or self-insured employer and approved by the Ad of the DWC to treat workers injured on the job. Each MPN must include a mix of doctors specializing in work-related injuries and doctors with expertise in general areas of medicine. MPNs are required to meet access-to-care standards for common occupational injuries and work-related illnesses.
- MPNs also must offer an opportunity for second and third opinions if the injured worker disagrees with the diagnosis or treatment offered by the treating physician. If a disagreement still exists after the second and third opinion, a covered employee in the MPN may request an independent medical review (IMR).
- An MPN established by an employer controls medical treatment for the life of the claim. The degree of control differs from an HCO because after the first visit, the employee covered by an MPN has the right to select any physician in the MPN.

SB 899 also added Labor Code Section 4616.7 which provides that the following organizations are deemed to meet all or specified parts of the eligibility requirements to be networks:

- Health Care Organization licensed under Labor Code Section 4600.5.
- Health Care Service Plan licensed pursuant to the Knox-Keene Act.
- Group-disability policy for medical expenses under Insurance Code Section 106(b).
- Taft-Hartley Act Health and Welfare Fund.

According to DWC, about 55 percent of employees in California are now covered by a payor that has established an MPN between January 1, 2005, and November 1, 2005. As of April 2006, there were over 1,000 approved MPNs.

Pre-Designation under Health Care Organization versus Medical Provider Network

An employee's right of predesignation under an HCO has become different from the right under an MPN. The general right of predesignation under Labor Code Section 4600 as it existed in 1993 was mirrored in Section 4600.3 for HCOs. Eligibility to pre-designate was subsequently restricted by the 2004 amendments of Section 4600. The provisions of the HCO statutes were not amended to conform, so employees who would not otherwise be eligible to pre-designate a personal physician may become eligible if their employers adopt an HCO. An HCO may lose medical control more frequently than an MPN due to this lack of conformity in the statute.

For further information...



The latest information on MPNs may be obtained at www.dir.ca.gov/dwc and http://www.dir.ca.gov/dwc/MPN/DWC_MP_N_Main.html

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Uninsured Employers Fund

Claims are paid from the Uninsured Employers Fund (UEF) when illegally uninsured employers fail to pay workers' compensation benefits awarded to their injured employees by the WCAB. The number of new UEF cases for the past five fiscal years are shown below:

Fiscal Year 2001/2002 = 1,001

Fiscal Year 2002/2003 = 1,083

Fiscal Year 2003/2004 = 1,263

Fiscal Year 2004/2005 = 1,451

Fiscal Year 2005/2006 = 1,794

The dollar amounts associated with new opened claims for Fiscal Years 2003/04, 2004/05, and 2005/06 are shown below:

Fiscal Year 2003/04 = \$22,013,568

Fiscal Year 2004/05 = \$26,358,984

Fiscal Year 2005/06 = \$29,251,720

Division of Workers' Compensation Staffing

In Fiscal-Year 2004/05, the DWC was augmented by 293 new positions as a result of implementation of workers' compensation reforms in 2003, specifically AB 227/SB 228, and in 2004, specifically SB 899, and restoration of baseline positions in the district offices.

As of April 15, 2005, the DWC has 1172.4 authorized positions, of which 900 are filled and 272.4 are vacant. Since the start of this fiscal year, the DWC has hired 160 new people from outside the DWC to fill vacant positions and has promoted 134 existing DWC staff to other positions within the division.

As of May 2006, DWC had not received any additional new positions. Currently, there are 98 vacancies in the DWC, the vast majority of which are clerical positions in hard-to-hire areas such as Los Angeles and the coastal cities.

Adjudication Simplification Efforts

Division of Workers' Compensation Information System

The California Workers' Compensation Information System (WCIS) is intended to be an information source to help the AD and other State policy makers carry out their decision-making responsibilities and to provide accurate and reliable statistical data and analyses to other stakeholders in the industry. The specific legislative mandate for California's WCIS is that it should provide information in a cost-effective manner for:

- Managing the workers' compensation system.
- Evaluating the benefit-delivery system.
- Assessing the adequacy of indemnity payments.
- Providing data for research.

The California WCIS has been collecting information about workers' compensation injuries via electronic (computer-to-computer) data interchange since March 2000. Since then, the system has collected 5 million employer's first report of injuries (FROI), as well as subsequent payments reports (SROI) pertaining to about 950,000 unique indemnity claims. More than 200 claims administrators currently provide data to the WCIS, representing all segments of the industry in California.

Some of the uses of the WCIS include the creation of several informational tables and reports that have been posted to the WCIS website which give, for example, the distributions of injuries

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by age, gender, part of body, etc. Data are provided regularly to state agencies such as the Department of Health Services and the Division of Occupational Safety and Health for selected injuries. WCIS has been used to create special analyses for the Division of Labor Statistics and Research, CSHWC, the Bureau of State Audits, and the Employment Development Department. Additionally, WCIS data have been used for law-enforcement activities related to fraud and for analyzing claim denials for the California Workers' Compensation Insurance Rating Bureau. Outside researchers, such as those at the University of California San Francisco, University of California Berkeley and Boston University also have been provided with data extracts from the WCIS. The DWC is also initiating a quarterly timeliness-of-(claims)-payments report at the request of a state legislator.

WCIS regulations providing for reporting of medical data were approved in March 2006. According to the regulations, medical bill payment data reporting became mandatory on September 22, 2006. With these data supplementing existing information regularly collected, DWC researchers and others will be able to: perform additional analyses, useful, for example, for creating, evaluating and maintaining fee schedules; examining medical provider treatment patterns; identifying potential areas of employer, employee, and provider overpayments and under payments; evaluating impacts of myriad legislative changes affecting medical and benefit costs; and studying a variety of other public-policy issues.

The DWC is also creating a task force to review its FROI/SROI reporting system and make recommendations for improving the Implementation Guide.

Carve-outs: Alternative Workers' Compensation Systems

A provision of the workers' compensation reform legislation in 1993, implemented through Labor Code Section 3201.5, allowed construction contractors and unions, via the collective bargaining process, to establish alternative workers' compensation programs, also known as carve-outs.

CHSWC is monitoring the carve-out program, which is administered by the DWC.

CHSWC Study of Carve-Outs

CHSWC engaged in a study to identify the various methods of alternative dispute resolution that are being employed in California carve-outs and to begin the process of assessing their efficiency, effectiveness and compliance with legal requirements.

Since carve-out programs have operated only since the mid-1990s, the data collected are preliminary. The study team found indications that: the most optimistic predictions about the effects of carve-outs on increased safety, lower dispute rates, far lower dispute costs, and significantly more rapid RTW have not occurred; and that the most pessimistic predictions about the effect of carve-outs on reduced benefits and access to representation have not occurred.

For further information...



How to Create a Workers' Compensation Carve-out in California: Practical Advice for Unions and Employers." CHSWC (2006). Available at www.dir.ca.gov/CHSWC/chswc.html.

Impact of Senate Bill 228

SB 228 adds Labor Code Section 3201.7, establishing the creation of a new carve-out program for any unionized industry that meets the requirements. This is in addition to the existing carve-out in the construction industry (already covered in current law by Labor Code Section 3201.5).

Only the union may initiate the carve-out process by petitioning the AD. The AD will review the petition according to the statutory requirements and issue a letter allowing each employer and labor representative a one-year window for negotiations. The parties may jointly request a one-year extension to negotiate the labor-management agreement.

In order to be considered, the carve-out must meet several requirements including:

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- The union has petitioned the AD as the first step in the process.
- A labor-management agreement has been negotiated separate and apart from any collective- bargaining agreement covering affected employees.
- The labor-management agreement has been negotiated in accordance with the authorization of the AD between an employer or groups of employers and a union that is the recognized or certified as the exclusive bargaining representative that establishes any of the following:
 - An alternative dispute-resolution system governing disputes between employees and employers or their insurers that supplements or replaces all or part of those dispute-resolution processes contained in this division, including, but not limited to, mediation and arbitration. Any system of arbitration shall provide that the decision of the arbiter or board of arbitration is subject to review by the appeals board in the same manner as provided for reconsideration of a final order, decision, or award made and filed by a workers' compensation administrative law judge.
 - The use of an agreed list of providers of medical treatment that may be the exclusive source of all medical treatment provided under this division.
 - The use of an agreed, limited list of qualified medical evaluators (QMEs) and agreed medical evaluators (AMEs) that may be the exclusive source of QMEs and AMEs under this division.
 - A joint labor-management safety committee.
 - A light-duty, modified job or RTW program.
 - A vocational rehabilitation or retraining program utilizing an agreed list of providers of rehabilitation services that may be the exclusive source of providers of rehabilitation services under this division.
- The minimum annual employer premium for the carve-out program for employers with 50 employees or more equals \$50,000, and the minimum group premium equals \$500,000.
- Any agreement must include right of counsel throughout the alternative dispute resolution process.

Impact of Senate Bill 899

Construction industry carve-outs were amended per Labor Code Section 3201.5 and carve-outs in other industries were amended per Labor Code Section 3201.7 to permit the parties to negotiate any aspect of the delivery of medical benefits and the delivery of disability compensation to employees of the employer or group of employers who are eligible for group health benefits and non-occupational disability benefits through their employer.

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Carve-Out Participation

As shown in the following table, participation in the carve-out program has grown, with significant increases in the number of employees, work hours and amount of payroll.

Carve Out Participation	1995	1996	1997	1998	1999	2000*	2001*	2002	2003*	2004*	2005*
Employers	242	277	550	683	442	260	143	512	316	462	739
Work Hours	6.9 million	11.6 million	10.4 million	18.5 million	24.8 million	16.9 million	7.9 million	29.4 million	22.9 million	25.4 million	24.5 million
Employees (full-time equivalent)	3,450	5,822	5,186	9,250	12,395	8,448	3,949	14,691	11,449	12,700	12,254
Payroll	\$157.6 million	\$272.4 million	\$242.6 million	\$414.5 million	\$585.1 million	\$442.6 million	\$201.9 million	\$634.2 million	\$623.6 million	\$1.2 billion	\$966.0 million

* Please note that data is incomplete

Source: DWC

A listing of employers and unions in carve-out agreements follows.

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Status of Carve-out Agreements as of May 2005

The following charts show the current status of carve-out agreements pursuant to Labor Code Sections 3201.5 and 3201.7, as reported by the DWC.

**Construction Carve-out Participants as of May 2, 2006
Labor Code Section 3201.5**

*Key: 1 = one employer, one union; 2 = one union, multi employer; 3 = project labor agreement

No.	Union	Company	Exp. Date
1. (3)	CA Building & Construction Trades Council	Metropolitan Water Dist. So. Ca-Diamond Valley Lake	11/07/06
2. (2)	Internat'l Brotherhood of Electrical Workers IBEW	NECA--National Electrical Contractors Assoc.	8/14/07
3. (2)	So. Ca. Dist. of Carpenters & 19 local unions	6 multi-employer groups—1000 contractors.	8/14/07
4. (2)	So. Ca. Pipe Trades Council 16	Multi employer—Plumbing & Piping Industry Coun.	8/24/07
5. (1)	Steamfitters Loc. 250	Cherne—two projects completed in 1996	Complete
6. (1)	Intern'l Union of Petroleum & Industrial Wkrs	TIMEC Co., Inc./TIMEC So. CA., Inc.	7/31/07
7. (3)	Contra Costa Bldg & Const. Trades Council	Contra Costa Water District - Los Vaqueros	Complete
8. (2)	So. CA Dist. Council of Laborers	Assoc. Gen'l Contr's of CA, Bldg. Industry Assoc. -So. CA., So CA Contrs' Assoc., Eng. Contrs' Assoc.	7/31/08
9. (3)	Ca. Bldg. & Construction Trades Council	Metropolitan Water Dist. So. Ca. Inland Feeder-Parsons	Ended 12/31/02
10. (3)	Bldg. & Construction Trades Council of Alameda County	Parsons Constructors, Inc. National Ignition Facility—Lawrence Livermore	9/23/06
11. (2)	District Council of Painters	Los Angeles Painting & Decorating Contrs Assoc.	10/29/06
12. (1)	Plumbing & Pipefitting Local 342	Cherne Contracting - Chevron Base Oil 2000 project	Complete
13. (3)	LA Bldg & Const. Trades Coun. AFL-CIO	Cherne Contracting —ARCO	Complete
14. (2)	Operating Engineers Loc. 12	So. California Contractors' Assoc.	4/1/08
15. (2)	Sheet Metal International Union	Sheet Metal-A/C Contractors National Assoc	4/1/08
16. (3)	Bldg & Construction Trades Council San Diego	San Diego Cny Water Authority Emer. Storage Project	2/2006
17. (3)	LA County Bldg. & Const.Trades Council	Cherne Contracting – Equilon Refinery - Wilmington	3/1/07

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No.	Union	Company	Exp. Date
18. (3)	Plumbers & Steamfitters	Cherne Contracting – Chevron Refinery Richmond	7/1/05
19. (3)	Plumbers & Steamfitters	Cherne Contracting – Tesoro Refinery – Martinez	7/1/05
20. (3)	LA/Orange Counties Bldg. & Const.Trade Coun	Cherne Contracting – Chevron Refinery – El Segundo	7/26/05
21. (2)	District Council of Iron Wkrs- State of CA and Vicinity	California Ironworker Employers Council	2/25/09
22. (2)	Sheet Metal Wkr Intern'l Assoc #105	Sheet Metal & A/C Labor Management Safety Oversight Committee (LMSOC)	4/17/09
23. (2)	United Union of Roofers, Waterproofers and Allied workers, Local 36 and 220	Southern California Union Roofing Contractors Association	07/31/08
24. (2)	United Union of Roofers, Waterproofers and Allied Workers, Locals 40, 81 & 95	Associated Roofing Contractors of the Bay Area Counties	7/31/06
25. (2)	United Assoc.-Journeyman & Apprentices--Plumbers & Pipefitters, Local #447	No.CA Mechanical Contractors Assoc & Assoc. Plumbing & Mechanical Contractors of Sacto Inc.	11/7/06
26. (2)	Operatives Plasterers and Cement Masons International Association, Local 500 & 600	So. California Contractors Association, Inc.	4/1/05
27. (1)	International Unions of Public & Industrial Workers	Irwin Industries, Inc.	3/23/07
28. (2)	PIPE Trades Dist. Council No. 36	Mechanical Contractors Council of Central CA	4/14/07
29. (2)	No. CA Carpenters Reg'l Council/	Basic Crafts Worker' Compensation Benefits Trust	8/30/07
30. (2)	No. CA District Council of Laborers	Basic Crafts Worker' Compensation Benefits Trust	8/30/07
31. (2)	Operating Engineers Local 3	Basic Crafts Worker' Compensation Benefits Trust	8/30/07
32. (1)	Industrial, Professional & Technical Workers	Irish Construction	12/20/07
33. (3)	Building Trades Council of Los Angeles-Orange County	Los Angeles Community College District Prop A & AA Facilities Project	5/6/08

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**Non Construction Industry Carve-Out Participants as of September 23, 2005
(Labor Code Section 3201.7)**

No.	Union	Company	Permission to Negotiate Date Expires	Application for Recognition of Agreement	Agreement Recognition Letter Date
1.	United Food & Commercial Workers Union Local 324	Super A Foods-2 locations 76 employees	09/01/04-09/01/05		
2.	United Food & Commercial Workers Union Local 1167	Super A Foods – Meat Department 8 employees	09/01/04-09/01/05		
3.	Teamsters Cal. State Council-Cannery & Food Processing Unions, IBT, AFL-CIO	Cal. Processors, Inc. Multi-Employer Bargaining Representative	7/06/04-7/05/05		
4.	United Food & Commercial Workers Union Local 770	Super A Foods – 10 locations - ~ 283 members	09/01/04-09/01/05		
5.	United Food & Commercial Workers Union Local 1036	Super A Foods - All employees, except those engaged in janitorial work or covered under a CBA w/Culinary Workers and demonstrators	09/01/04-09/01/05		
6.	Operating Engineers-Loc 3 Non-Construction	Basic Crafts Workers' Compensation Benefits Trust Fund	12/09/04-12/09/05	02/15/05	02/28/05
7.	Laborers - Non-Construction	Basic Crafts Workers' Compensation Benefits Trust Fund	12/09/04-12/09/05	02/15/05	02/28/05
8.	Carpenters- Non-Construction	Basic Crafts Workers' Compensation Benefits Trust Fund	12/09/04-12/09/05	02/15/05	02/28/05
9.	United Food & Commercial Workers Union Local 588	Mainstay Business Solutions	8/11/05-8/11/06	09/02/05	09/12/05

For further information...

 The latest information on carve-outs may be obtained at www.dir.ca.gov. Select "workers' compensation" then "Division of Workers' Compensation," then "Construction Industry Carve-Out Programs" (under "DWC/WCAB Organization and Offices").

 CHSWC Report: "Carve-Outs' in Workers' Compensation: An Analysis of Experience in the California Construction Industry" (1999). Available at www.dir.ca.gov/CHSWC/chswc.html.

 Carve-outs: A Guidebook for Unions and Employers in Workers' Compensation." CHSWC (2004). Available at www.dir.ca.gov/CHSWC/chswc.html.

Anti-Fraud Activities

Background

During the past decade, there has been a dedicated and rapidly growing campaign in California against workers' compensation fraud. This report on the nature and results of that campaign is based primarily on information obtained from the California Department of Insurance (CDI) Fraud Division, as well as applicable Insurance Code and Labor Code sections and data published in periodic Bulletin[s] of the California Workers' Compensation Institute (CWCI).

Suspected Fraudulent Claims

Suspected Fraudulent Claims (SFC) are reports of suspected fraudulent activities received by CDI from various sources, including insurance carriers, informants, witnesses, law enforcement agencies, fraud investigators, and the public. The number of suspected fraudulent claims represents only a small portion that has been reported by the insurers and does not necessarily reflect the whole picture of fraud since many fraudulent activities have not been identified or investigated.

According to the CDI Fraud Division, the number of suspected fraudulent claims has increased near the end of fiscal-year 2003-04. Several reasons for this increase include:

- The extensive efforts to provide training to the insurance claim adjusters and SIU personnel by the Fraud Division and District Attorneys
- Changing submission of SFCs by filling out FD-1 Form electronically through Internet
- The Department has promulgated new regulations to help insurance carriers step up their anti-fraud efforts and become more effective in identifying, investigating, and reporting workers' compensation fraud. A work plan to increase the number of audits performed by the Fraud Division SIU Compliance Unit has been established and continues with an aggressive outreach plan to educate the public on anti-fraud efforts and how to identify and report fraud. This has ensured a more consistent approach to the oversight and monitoring of the SIU functions with the primary insurers as well as the subsidiary companies
- Finally, CDI is strengthening its working relationship with the Workers' Compensation Insurance Rating Bureau (WCIRB) to support the Department's anti-fraud efforts

For fiscal-year 2005-06, the total number of SFCs is reported at 8,489 SFCs.

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Workers' Compensation Fraud Suspect Arrests

After a fraud referral, an investigation must take place before any warrants are issued or arrests are made. The time for investigation ranges from a few months to a few years depending on the complexity of the caseload. For this reason, the number of arrests does not necessarily correspond to the number of referrals in a particular year.

Fiscal Year	Suspected Fraudulent Claims	Fraud Suspect Arrests
1992-93	8,342	125
1993-94	7,284	195
1994-95	4,004	344
1995-96	3,947	406
1996-97	3,281	456
1997-98	4,331	424
1998-99	3,363	456
1999-00	3,362	478
2000-01	3,548	382
2001-02	2,968	290
2002-03	3,544	369
2003-04	5,122	481
2004-05	6,492	439

Source: California Department of Insurance, Fraud Division

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Workers' Compensation Fraud Suspect Convictions

Based on information from the Fraud Division and CWCI [Bulletin\[s\]](#), the number of workers' compensation fraud suspects *convicted* annually is as follows while many cases are still pending in court:

Year	Fraud Suspect Prosecutions	Fraud Suspect Convictions
1993-94 Fiscal Year	363	181
1994-95 Fiscal Year	422	198
1995-96 Fiscal Year	346	248
1996-97 Fiscal Year	567	331
1997-98 Fiscal Year	637	375
1998-99 Fiscal Year	869	384
1999-2000 Fiscal Year	980	390
2000-01 Fiscal Year	822	367
2001-02 Fiscal Year	659	263
2002-03 Fiscal Year	739	293
2003-04 Fiscal Year	1,003	426
2004-05 Fiscal Year	970	423

Source: California Department of Insurance, Fraud Division and California Workers' Compensation Institute

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Workers' Compensation Fraud Investigations

Types of Workers' Compensation Fraud Investigations

The following table indicates the number and types of investigations opened and carried for fiscal-years 2001-02, 2002-03, 2003-04 and 2004-05 reported by District Attorneys. Applicant fraud appears to be the area generating the most cases followed by premium fraud and medical provider fraud.

Type of Investigation	Fiscal Year 2001-02 Cases Number / Percent		Fiscal Year 2002-03 Cases Number / Percent		Fiscal Year 2003-04 Cases Number / Percent		Fiscal Year 2004-05 Cases Number / Percent	
Applicant	1,293	79.37%	1,263	72.63%	1,177	60.14%	1,478	69.2%
Premium	159	9.76%	207	11.90%	242	12.36%	172	8.1%
Fraud Rings	1	0.06%	7	0.40%	39	1.99%	4	0.19%
Capping	6	0.37%	5	0.28%	5	0.25%	3	0.14%
Medical Provider	98	6%	97	5.60%	97	4.95%	105	4.91%
Insider	8	0.49%	6	0.34%	14	0.71%	6	0.28%
Other	64	3.93%	93	5.3%	56	2.86%	43	2.01%
Uninsured	N/A		61	3.5%	327	16.71%	325	15.22%
TOTAL	1,629		1,739		1,957		2,136	

Source: California Department of Insurance, Fraud Division

Geographically, the great majority of suspected fraud cases in 2003 and 2004 came from Los Angeles County (30 percent) followed by Orange County (8 percent) and then San Diego County (8 percent).

Trends in Workers' Compensation Fraud Investigations

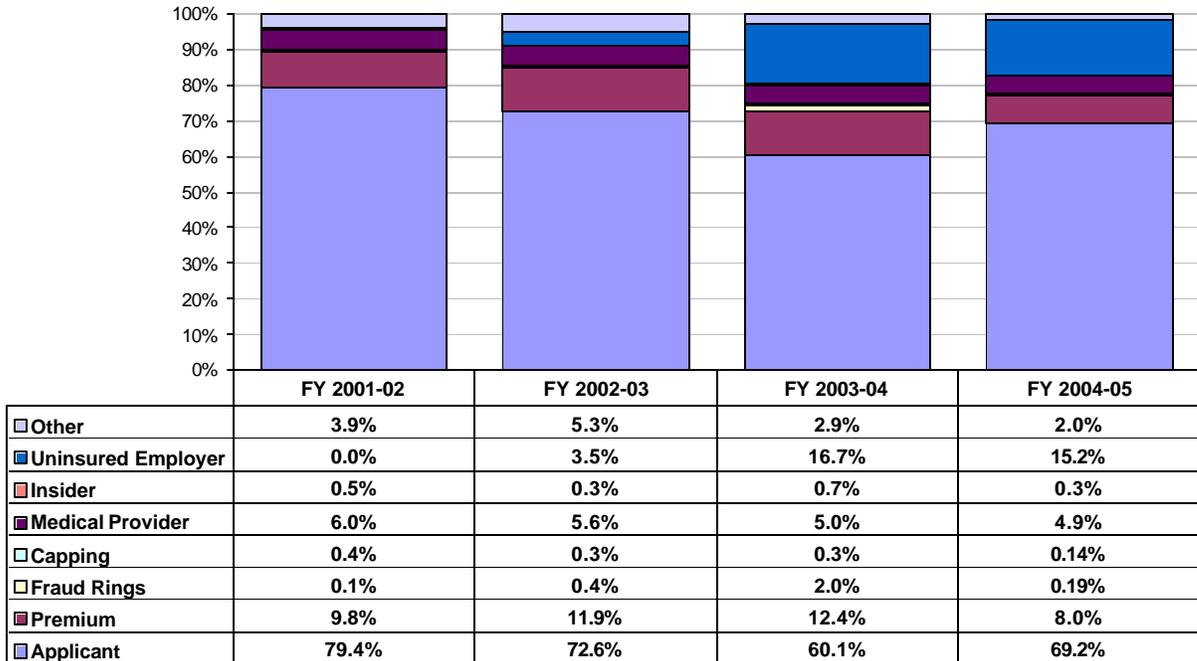
The chart below illustrates the changing focus of workers' compensation investigations over the past three fiscal years, by showing what types of investigations comprise what percentage of all the investigations each year. For example, investigations of applicants were nearly 80 percent of all investigations during 2001-02; in other words, eight out of ten of all investigations were directed at applicants.

As seen in the chart, the focus of the investigations has been changing. Applicant fraud investigations have dropped from nearly 80 percent of the total in 2001-02 to about 70 percent of the total number of investigations. At the same time, there has been an increase in the percentage of investigations of uninsured employers and fraud rings, while the medical-provider

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fraud-investigation percentage has dropped slightly.

Type of Fraud Investigations by Percentage of Total



Data Source: California Department of Insurance, Fraud Division

Underground Economy

While most California businesses comply with health, safety and workers' compensation regulations, there are businesses that do not. Those businesses are operating in the "underground economy". Such businesses may not have all their employees on the official company payroll, nor do all of the wages paid to employees reflect their real job duties. Underground-economy businesses are therefore competing unfairly with those which comply with the laws.

According to the Employment Development Department (EDD), the California underground economy is estimated at \$60 billion to \$140 billion.²¹

Potential Areas for Improvement in Workers' Compensation Anti-Fraud Efforts

Workers' compensation fraud ranges from employer premium fraud, fraudulent provider billing practice, medical-legal "mills" to applicant and insider fraud. Numerous factors exacerbate and perpetuate workers' compensation fraud, including personal and business economic hardship, public acceptance of insurance fraud, and inadequate resources to investigate insurance fraud cases. According to Bureau of State Audits, the extent and nature of fraud within the workers' compensation system is not adequately measured or monitored. Currently, there is no way to evaluate if anti-fraud efforts have reduced the overall cost that fraud adds to the system by as much or more than what is spent annually to fight it.

To address this concern, at the December 10, 2004 meeting of the Commission on Health and Safety and Workers' Compensation (CHSWC), William Zachry, Chair of the Fraud Assessment

²¹ http://www.edd.ca.gov/taxrep/txueoind.htm#What_Does_It_Cost_You

WORKERS' COMPENSATION SYSTEM PERFORMANCE

Commission (FAC), requested that CHSWC assist with anti-fraud research by establishing a working group to develop a proposal that would assist the FAC to identify measure and focus anti-fraud efforts effectively.

Selected members from the workers' compensation labor and management community were invited by CHSWC and the FAC to attend the first working group meeting to support this effort. The proposed budget of \$1 million was approved by the Legislature in July 2006 for a study to identify medical provider overpayments and underpayments of all types including fraud, waste, abuse, billing and processing errors. The study could help to reduce the high medical costs in the workers' compensation system. The result of this study is projected to conclude in 2008. In addition, CHSWC is also conducting a study to estimate the amount of premium fraud committed by employers in the underground economy.

WORKERS' COMPENSATION SYSTEM PERFORMANCE

CHSWC PROJECTS AND STUDIES

Introduction

In response to its Labor Code mandate, the Commission on Health and Safety and Workers' Compensation (CHSWC) has engaged in many studies to examine the health and safety and workers' compensation systems in California. CHSWC has concentrated these efforts on areas that are most critical and of most concern to the community.

CHSWC studies are conducted by staff and independent researchers under contract with the State of California. Advisory Committees are composed of interested members of the workers' compensation community and the public who provide comments, suggestions, data and feedback.

Studies were initially formed to evaluate changes to the system after the implementation of workers' compensation legislative reforms in the early 1990s and to assess the impact on workers and employers. While that focus continues, the scope of CHSWC projects has also evolved in response to findings in the initial studies and to concerns and interests expressed by the Legislature and the workers' compensation community.

This report contains synopses of current and recently completed projects and studies followed by an overview of all CHSWC projects and studies. These projects are categorized as follows:

- Permanent Disability and Temporary Disability
- Return to Work
- Information for Workers and Employers
- Medical Care
- Community Concerns
- CHSWC Issue Papers
- Occupational Safety and Health



California Labor Code Section 77(a)

“The commission shall conduct a continuing examination of the workers' compensation system ... and of the state's activities to prevent industrial injuries and occupational diseases. The commission may contract for studies it deems necessary to carry out its responsibilities.”

OVERVIEW OF ALL CHSWC PROJECTS AND STUDIES

PERMANENT DISABILITY AND TEMPORARY DISABILITY STUDIES

Permanent Disability Schedule Analysis

Status: Completed

CHSWC Reports:

Permanent Disability Schedule Analysis (2006)

<http://www.dir.ca.gov/CHSWC/Reports/CHSWC-PD-Report-Feb23-2006.pdf>

Impact of Changes to the Temporary Disability Benefits

Status: In Process

CHSWC Reports:

Permanent Disability Schedule Analysis (2006)

For further information...

See the project synopsis in the Projects and Studies section.

Initial Wage Loss Analyses

Status: Completed

CHSWC Reports:

Compensating Permanent Workplace Injuries: A Study of the California System (RAND, 1998)

Findings and Recommendations on California's Permanent Partial Disability System- Executive Summary (RAND, 1997)

<http://www.rand.org/publications/MR/MR919/>

Enhancement of Wage Loss Analysis – Private Self-Insured Employers

Status: Completed

CHSWC Reports:

Permanent Disability, Private Self-Insured Firms: A Study of Earnings Loss, Replacement, and

Return to Work for Workers' Compensation Claimants (RAND, 2003)

<http://www.rand.org/publications/MR/MR1268/>

Enhancement of Wage Loss Analysis – Public Self-insured Employers

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

Impact of Local Economic Conditions on Wage Loss

Status: Completed

CHSWC Report:

Trends in Earnings Loss from Disabling Workplace Injuries in California – The Role of Economic Conditions (RAND, 2001)

<http://www.rand.org/publications/MR/MR1268/>

Permanent Disability Rating Tool

Status: Completed

CHSWC Report:

An Evaluation of California's Permanent Disability Rating System (RAND, 2005)

PERMANENT DISABILITY AND TEMPORARY DISABILITY STUDIES (continued)

<http://www.rand.org/pubs/monographs/MG258/index.html>

The Evaluation of California's Permanent Disability Rating Schedule: Interim Report
(RAND, 2003)

<http://www.rand.org/publications/DB/DB443/index.html>

Apportionment

Status: Completed

CHSWC Report:

Understanding the Effect of SB 899 (Stats 2004, Chap 34) on the Law of Apportionment (October 2005)

<http://www.dir.ca.gov/CHSWC/FinalApportionmentPaper.pdf>

[Background Paper on Causation and Apportionment \(May 2004\)](#)

http://www.dir.ca.gov/chswc/Causation_and_Apportionment_Final_May_2004.doc

RETURN TO WORK

Impact of Recent Return to Work Reforms

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

AB 1987 and Return to Work

Status: Completed

CHSWC Report:

AB 1987 and Return-to-Work Incentives and Alternatives (April 2006)

<http://www.dir.ca.gov/CHSWC/Reports/RTW-AB1987.pdf>

“Best Practices” Encouraging Return to Work

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

Review of Literature on “Modified Work”

Status: Completed

For further information...

CHSWC Report:

Does Modified Work Facilitate Return to Work for Temporarily or Permanently Disabled Workers? (1997)

http://www.dir.ca.gov/CHSWC/Modified_Work_Krause.html

Policies and Strategies to Help Injured Workers Return to Sustained Employment

Status: Completed

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Report:

Return to Work in California: Listening to Stakeholders' Voices (2001)

<http://www.dir.ca.gov/CHSWC/RTWinCA0701.html>

Primary Treating Physician Effectiveness in Return to Work (RTW) After Low-Back Injuries

Status: First phase: Completed

Second phase: In process

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Report:

Physical Workplace Factors and Return to Work After Compensated Low-Back Injury: A Disability Phase-Specific Analysis” (JOEM, 2000)

Predictors and Measures of Return to Work

Status: Completed

CHSWC Report:

Determinants of Return to Work and Duration of Disability After Work-Related Injury of Illness: Developing a Research Agenda: (2001)

<http://www.dir.ca.gov/chswc/Determinants.pdf>

WORKERS' COMPENSATION REFORMS

Assembly Bill 749 Analysis

CHSWC Summary:

CHSWC and AB 749 as Amended (2002)

<http://www.dir.ca.gov/CHSWC/749Report/AB749asamended112202.html>

CHSWC and AB 749 (2002)

<http://www.dir.ca.gov/CHSWC/ab749.html>

Assembly Bill 227 and Senate Bill 228 Analysis

CHSWC Summary:

Reforms of 2003, October 2003 AB 227 and SB 228 (2003)

http://www.dir.ca.gov/CHSWC/Reports/Reforms_of_2003-AB227.pdf

http://www.dir.ca.gov/CHSWC/Reports/Reforms_of_2003-SB228.pdf

Senate Bill 899 Analysis

CHSWC Summary:

Summary of Workers' Compensation Reform Legislation (2004)

<http://www.dir.ca.gov/CHSWC/Summary-of-SB899.doc>

Section-by-Section Review of SB 899 (2004)

<http://www.dir.ca.gov/CHSWC/Section-by-section-Review-of-SB899.doc>

Evaluation of the Division of Workers' Compensation (DWC) Audit Function (Special Study at the Request of the Legislature)

Status: Completed

CHSWC Report:

CHSWC Report on the Division of Workers' Compensation Audit Function (1998)

<http://www.dir.ca.gov/CHSWC/FinalAuditReport.html>

Executive Summary (1998)

<http://www.dir.ca.gov/CHSWC/AuditSummaryCover.html>

Medical-Legal Study

Status: Ongoing

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Reports:

Evaluating the Reforms of the Medical-Legal Process Using the WCIRB Permanent Disability Survey (1997)

http://www.dir.ca.gov/CHSWC/DisabilityReport/data_and_methodology.html

Executive Summary (1997)

<http://www.dir.ca.gov/CHSWC/DisabilitySummary/execsummary.html>

Vocational Rehabilitation Study

Status: In process

For further information...

See "Best Practices" Encouraging Return to Work in project synopsis section.

CHSWC Reports:

Vocational Rehabilitation Reform Evaluation (2000)

<http://www.dir.ca.gov/CHSWC/Vocrehabreform2000.pdf>

Vocational Rehabilitation Benefit: An Analysis of Costs, Characteristics, and the Impact of the 1993 Reforms" (1997)

<http://www.dir.ca.gov/CHSWC/rehab/rehabcover.html>

WORKERS' COMPENSATION REFORMS (continued)

Evaluation of Treating Physician Reports and Presumption

Status: Completed

CHSWC Report:

Report on the Quality of the Treating Physician Reports and the Cost-Benefit of Presumption in Favor of the Treating Physician (1999)

<http://www.dir.ca.gov/CHSWC/Report99/TPhysician.html>

Update of Treating Physician Reports and Presumption Study

Status: Completed

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Report:

Report on the Quality of the Treating Physician Reports and the Cost-Benefit of Presumption in Favor of the Treating Physician (1999)

<http://www.dir.ca.gov/CHSWC/Report99/TPHYCover.htm>

CHSWC Report:

Doctors and Courts: Do Legal Decisions Affect Medical Treatment Practice? (2002)

<http://www.dir.ca.gov/CHSWC/CHSWCLegalDecAffectMedTreatPractice/ptfinalrpt.html>

Evaluation of Labor Code Section 5814 Penalty Provisions

Status: Completed

CHSWC Report:

Issue Paper on Labor Code Section 5814 (2000)

<http://www.dir.ca.gov/CHSWC/LC5814Cvr.html>

CHSWC Report:

Background Paper on Labor Code Section 5814 (1999)

<http://www.dir.ca.gov/CHSWC/LC5814Cvr.html>

“Baseball Arbitration” Provisions of Labor Code Section 4065

Status: Completed

CHSWC Report:

Preliminary Evidence on the Implementation of Baseball Arbitration (1999)

http://www.dir.ca.gov/CHSWC/Baseballarbfinal_percent27rptcover.htm

CHSWC Response to Questions from the Assembly Committee on Insurance

Status: Completed

CHSWC Report:

CHSWC Response to Questions from the Assembly Committee on Insurance (2001)

OCCUPATIONAL SAFETY AND HEALTH

ISO 9000

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

The Disability Retirement Benefits for Public Safety Officers

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

The Relationship Between Employer Health-Promotion Measures and Workplace Injury and Illness Prevention: A CHSWC-NIOSH Study

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

Project: Worker Occupational Safety and Health Training and Education Program

Status: Ongoing

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Report:

State, National and International Safety and Health Training Program Resources (2003)

<http://www.dir.ca.gov/CHSWC/TrainingProgramsResources/Surveycover.html>

CHSWC Report:

Workplace Health and Safety Worker Training Materials: An Electronic Multilingual Resource List (2003)

<http://www.dir.ca.gov/chswc/MultilingualResourceSite2fromLOHP.doc>

CHSWC Report:

2005 WOSHTEP Advisory Board Annual Report

<http://www.dir.ca.gov/CHSWC/Reports/WOSHTEP-2005AdvBrdAnnualReport.pdf>

2004 WOSHTEP Advisory Board Annual Report

<http://www.dir.ca.gov/CHSWC/WOSHTEPReportNov2004.pdf>

California Partnership for Young Worker Health and Safety

Status: Ongoing

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Report:

Protecting and Educating Young Workers: Report of the California Study Group on Young Worker Health and Safety" (1998)

www.youngworkers.org for the California Young Worker Resource Network, providing information for teens, teen workers in agriculture, employers, and educators

<http://www.dir.ca.gov/chswc/TrainingProgramsResources/Surveycover.html>

Project: Child Labor Photography Exhibit and Teen Workshops

Status: Ongoing

For further information...

See the project synopsis in the Projects and Studies section.

WORKERS' COMPENSATION ADMINISTRATION

Selected Indicators in Workers' Compensation

Status: Completed

CHSWC Report:

Selected Indicators in Workers' Compensation: A Report Card for Californians, February 2005

http://www.dir.ca.gov/CHSWC/WC_ReportCard_Feb2005.pdf

Workers' Compensation Court Management and Judicial Function Study

Status: Completed

CHSWC Report:

Improving Dispute Resolution for California's Injured Workers (RAND, 2003)

<http://www.rand.org/publications/MR/MR1425/index.html> (summary)

Improving "The Courts": Candidate Recommendations for the Adjudication of Claims
California Workers' Compensation Appeals Board (2003)

http://www.rand.org/pubs/monograph_reports/MR1425/index.html (full report)

Court Technology Project

Status: Completed

CHSWC Report:

Briefing on the Use of Technology in the Courts" (2003)

Feasibility Study Report (Gartner, 2003)

Local Forms and Procedures – Labor Code Section 5500.3

Status: Completed

For further information...

CHSWC 1998-99 Annual Report: Projects and Studies Section

Profile of Division of Workers' Compensation (DWC) District Office Operations

Status: Completed

For further information...

CHSWC 1997-98 Annual Report: Program Oversight Section

CHSWC Roundtable on Division of Workers' Compensation (DWC) Lien Workload

Status: Completed

For further information...

CHSWC 1998-99 Annual Report: Projects and Studies Section

INFORMATION NEEDS

Medical Booklet and Fact Sheet

Status: Completed

CHSWC Booklet and Fact Sheet

Getting Appropriate Medical Care for Your Injury (2006)

Basics About Medical Care for Injured Workers (2006)

<http://www.dir.ca.gov/CHSWC>

Benefit Notices Simplification Project

Status: Completed

CHSWC Report:

Project to Improve Laws and Regulations Governing Information for Workers (2000)

Recommendations for Injured Workers (2000)

<http://www.dir.ca.gov/CHSWC/IWCover.html>

CHSWC Report:

Navigating the California Workers' Compensation System: The Injured Workers' Experience (1996)

<http://www.dir.ca.gov/CHSWC/navigate/navigate.html>

Workers' Compensation Information Prototype Materials

Status: Completed

CHSWC Report:

Project to Augment, Evaluate, and Encourage Distribution of the Prototype Educational Materials for Workers (2000)

Workers' compensation Fact Sheets and a video:

"Introduction to Workers' Compensation" is available at

<http://www.dir.ca.gov/chswc/EduMaterials.html>

Consolidating and Coordinating Information for Injured Workers

Status: English version completed. Spanish version completed.

CHSWC Report:

A Guidebook for Injured Workers, 2nd Edition (2005)

<http://www.dir.ca.gov/chswc/Guidebook-2005.pdf>

Workers' Compensation Medical Care in California Fact Sheets

Status: Completed

Fact Sheets:

Workers' Compensation Medical Care in California: Quality of Care, Costs, Access to Care, System Overview

http://www.dir.ca.gov/chswc/CHSWC_WCFactSheets.htm

Workers' Compensation Carve-Out Booklet

Status: Completed

CHSWC Report:

How to Create a Workers' Compensation Carve-Out in California: Practical Advice for Unions and Employers (2006)

<http://www.dir.ca.gov/CHSWC/carve-out1.pdf>

INFORMATION NEEDS (continued)

Workers' Compensation Carve-Out Guidebook

Status: Completed

CHSWC Report:

Carve-Outs: A Guidebook for Unions and Employers in Workers' Compensation (2004)

www.dir.ca.gov/CHSWC/CARVEOUTSGuidebook2004.doc

"Carve-Outs" – Alternative Workers' Compensation Systems

Status: Completed

CHSWC Report:

"Carve-outs" in Workers' Comp: Analysis of Experience in the California Construction Industry (1999)

<http://www.dir.ca.gov/CHSWC/CarveOutReport/CarveoutReport.html>

MEDICAL CARE

Medical Study of Impact of Recent Reforms

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

Quality-of-Care Indicators: A Demonstration Project

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

Barriers to Occupational Health Services for Low-Wage Workers in California

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Recommendation on the Spinal Surgery Second-Opinion Process

Status. In process

CHSWC Report:

CHSWC Recommendation for the Spinal Surgery Second-Opinion Process Pursuant to Stats.
2003 ch. 639 (SB 228) §48 (2006)

CHSWC Study on Spinal Surgery Second-Opinion Process

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

State Disability Insurance Integration Project

Status: In process

For further information...

See the project synopsis in the Projects and Studies section.

Medical Treatment Study

Status: In peer review

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Study on Medical Treatment Protocols

Status: Completed

CHSWC Reports:

Evaluating Medical Treatment Guideline Sets for Injured Workers in California (RAND, April 2006)
<http://www.rand.org/pubs/monographs/MG400/index.html>

Updated and Revised CHSWC Recommendations to DWC on Workers' Compensation Medical Treatment Guidelines
http://www.dir.ca.gov/CHSWC/Reports/Medical_Treatment_Recommendations_Final_040606.pdf

CHSWC Recommendations to DWC on Workers' Compensation Medical Treatment Guidelines (2004)
http://www.dir.ca.gov/chswc/CHSWC_Med%20Treat_Nov2004.pdf

MEDICAL CARE (continued)

Working Paper: Evaluating Medical Treatment Guideline Sets for Injured Workers in California (RAND, 2004) <http://www.rand.org/publications/WR/WR203/>

Executive Summary (RAND, 2004)
http://www.dir.ca.gov/chswc/WR-203_ExSum_111504cd_FINAL.pdf

Estimating the Range of Savings from Introduction of Guidelines including ACOEM (revised, Frank Neuhauser, 2003)

<http://www.dir.ca.gov/CHSWC/EstimatingRangeSavingsGuidelinesACOEM.doc>

Health Care Organizations

Status: Completed

CHSWC Staff Report:

A Report on Health Care Organizations (HCOs) in Workers' Compensation (2006)
<http://www.dir.ca.gov/CHSWC/Reports/HCO-WC-Apr2006.pdf>

Repackaged Drugs Study

Status: Completed

CHSWC Issue Paper:

Paying for Repackaged Drugs under the California Workers' Compensation Official Medical Fee Schedule (May 2005)
http://www.dir.ca.gov/CHSWC/WR260-1050525_Repack.pdf

Pharmacy Reporting Impact Study

Status: Completed

CHSWC Report:

Impact of Physician Dispensing of Repackaged Drugs on California Workers' Compensation, Employers' Cost, and Workers' Access to Quality Care.

Workers' Compensation Pharmaceutical Costs Study

Status: Completed

CHSWC Report:

Study of the Cost of Pharmaceuticals in Workers' Compensation (June 2000)
<http://www.dir.ca.gov/CHSWC/Pharmacy/pharmacover.html>
Executive Summary (June 2000)
http://www.dir.ca.gov/chswc/CHSWC_WCFactSheets.htm

Payment for Hardware Study

Status: Completed

CHSWC Report:

Payment for Hardware Used in Complex Spinal Procedures Under California's Official Medical Injured Workers (RAND, 2005)
http://www.dir.ca.gov/CHSWC/Hardware_comp9.pdf

MEDICAL CARE (continued)

Burn Diagnostic Related Groups (DRGs) Study

Status: Completed

CHSWC Report:

Payments for Burn Patients under California's Official Medical Fee Schedule for Injured workers (May 2005)

<http://www.dir.ca.gov/CHSWC/WR-263.Burn050525.pdf>

Inpatient Hospital Fee Schedule and Outpatient Surgery Study

Status: Completed

CHSWC Report:

Inpatient Hospital Fee Schedule and Outpatient Surgery Study (Gardner and Kominski, 2002)

Summary of Findings of the Inpatient Hospital Fee Schedule and Outpatient Surgery Study (2002)

<http://www.dir.ca.gov/CHSWC/HospitalFeeSchedule2002/HospfeeschedulePage1.html>

California Research Colloquium on Workers' Compensation Medical Benefit Delivery and Return to Work

Status: Summary of proceedings in process.

For further information...

See the project synopsis in the Projects and Studies Section.

<http://www.dir.ca.gov/CHSWC/CAResearchColloquium/Colloquium.html>

Integrating Occupational and Non-Occupational Medical Treatment – Pilot Project: Union Janitors and Unionized Building-Maintenance Employers

Status: In Process

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Study on 24-Hour Care

Status: Completed

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Reports:

RAND Working Paper "Assessment of 24-Hour Care Options for California (RAND, January 2005)

<http://www.rand.org/publications/MG/MG280/>

CHSWC Background Paper: Twenty-four Hour Care (December 2003)

http://www.dir.ca.gov/CHSWC/CHSWC_24hCare.pdf

Workers' Compensation Medical Billing Process

Status: Completed

For further information...

CHSWC Background Paper

Background Information on Workers' Compensation Medical Billing Process, Prepared for The Honorable Richard Alarcón, Chair, California Senate Committee on Labor and Industrial Relations" (2003)

MEDICAL CARE (continued)

Workers' Compensation Medical Payment Systems

Status: Completed

CHSWC Staff Report:

Workers' Compensation Medical Payment Systems: A Proposal for Simplification and Administrative Efficiency, Prepared for The Honorable Richard Alarcón, Chair, California Senate Committee on Labor and Industrial Relations (2003)

http://www.dir.ca.gov/CHSWC/CHSWC_WCMedicalPaymentSystem/CHSWC_WCMedicalPaymentSystem.pdf

CHSWC Report:

Adopting Medicare Fee Schedules: Considerations for the California Workers' Compensation Program (RAND, 2003)

http://www.dir.ca.gov/CHSWC/MR-1776.0_070803_1.pdf

COMMUNITY CONCERNS

Public Access to Workers' Compensation Insurance Coverage Information

Status: Completed

CHSWC Staff Report:

CHSWC Issue Paper on Public Access to WC Insurance Coverage Information (April 2005)

<http://www.dir.ca.gov/CHSWC/ProofofCoverage.pdf>

U.S. Longshore and Harbor Workers' Compensation Market in California

Status: Completed

CHSWC Staff Report:

United States Longshore and Harbor Workers' Compensation Market in California (April 2005)

<http://www.dir.ca.gov/CHSWC/USLongshoreAndHarborPaper.pdf>

Benefit Simulation Model

Status: Completed

For further information...

A CD with the "Workers' Compensation Benefit Simulation Model," as well as instructions for its use, is available for purchase from CHSWC.

Workers' Compensation and the California Economy

Status: Completed

CHSWC Staff Report:

Update – Workers' Compensation and the California Economy (2000)

<http://www.dir.ca.gov/CHSWC/CalEconomy/CalEconomyCover.html>

Evaluation of Workers' Compensation Cost and Benefit Changes Since the Beginning of the 1989 and 1993 Reforms (*Special Study at the Request of the Legislature*)

Status: Completed

CHSWC Report:

Workers' Compensation Cost and Benefit Changes Since Beginning of Reform (1999)

<http://www.dir.ca.gov/CHSWC/Report.htm>

CHSWC Report:

Executive Summary Impact of the 1993 Reforms on Payments of Temporary and Permanent Disability (1999)

<http://www.dir.ca.gov/CHSWC/ExecutiveSummary.htm>

CHSWC Report:

Summary Estimating the Workers' Compensation Reform Impact on Employer Costs and Employee Benefits" (1999)

<http://www.dir.ca.gov/CHSWC/Summary.htm>

CHSWC 1998-99 Annual Report incorporates this report.

COMMUNITY CONCERNS (continued)

Workers' Compensation Anti-fraud Activities

Status: In process

CHSWC/FAC Study

Medical Payment Accuracy Study

For further information...

See the project synopsis in the Projects and Studies section.

Status: Completed

CHSWC Report:

Workers' Compensation Anti-Fraud Activities – Report on the CHSWC Public Fact-Finding Hearing" (1997)

<http://www.dir.ca.gov/CHSWC/Fraud/Fraudreport.html>

CHSWC Report:

Employers Illegally Uninsured for Workers' Compensation – CHSWC Recommendations to Identify Them and Bring Them Into Compliance (1998)

<http://www.dir.ca.gov/CHSWC/uefcover.html>

CHSWC Staff Report:

Report on the Campaign Against Workers' Compensation Fraud (2000)

<http://www.dir.ca.gov/CHSWC/Fraud/Fraudcover.html> (May 2000)

CHSWC Staff Report:

Report on the Workers' Compensation Anti-Fraud' Program (2001)

<http://www.dir.ca.gov/CHSWC/Finalfraudreport0801.html> (August 2001)

Attachments: <http://www.dir.ca.gov/CHSWC/WCSAntiFraudAttachment.html>

Illegally Uninsured Employers Study

Status: Completed

CHSWC Report:

Employers Illegally Uninsured for Workers' Compensation – CHSWC Recommendations to Identify Them and Bring Them Into Compliance (1998)

<http://www.dir.ca.gov/CHSWC/uefcover.html> (December 1998)

State of the California Workers' Compensation Insurance Industry

Status: Completed

CHSWC Background Paper:

State of the California Workers' Compensation Insurance Industry (2002)

<http://www.dir.ca.gov/CHSWC/StateInsuranceIndustry2002/Stateinsuranceindustry042002.html>

CHSWC ISSUE PAPERS

Study of Labor Code Section 132a

Status: Completed

CHSWC Background Paper:

Update on Labor Code Section 132a and Employer Termination of Health Insurance

Coverage: Calif. Supreme Court Decision in *State of California, Dept of Rehab v. WCAB (Lauher)* (2003)

<http://www.dir.ca.gov/chswc/Lauher132aUpdate.doc> or

<http://www.dir.ca.gov/chswc/Lauher132aUpdate.pdf>

Information on Industrial Medical Council's (IMC) Disciplinary Actions Taken on Qualified Medical Evaluators (QMEs)

Status: Completed

CHSWC Background Paper:

Recommendations for Improvement of the IMC's Protection of Injured Workers and Regulations of QMEs (July 2003)

http://www.dir.ca.gov/chswc/CHSWCReport_IMCDisciplinaryrevJuly2003.doc or

http://www.dir.ca.gov/chswc/CHSWCReport_IMCDisciplinaryrevJuly2003.pdf

School District Workers' Compensation Liability – Labor Code Section 3368

Status: Completed

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC White Paper on Cost/Benefit of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California

Status: Completed

For further information...

See the project synopsis in the Projects and Studies section.

CHSWC Staff Paper:

CHSWC White Paper on Cost/Benefit of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California (2004)

http://www.dir.ca.gov/chswc/CHSWC_Accesstofunds.doc

Proof of Coverage

Status: Completed

CHSWC Background Paper:

Workers' Compensation Compliance and Proof of Coverage (February 2006)

<http://www.dir.ca.gov/CHSWC/Papers/ProofOfCoverage2006.pdf>

Tax Status of Self-Insured Groups

Status: Completed

CHSWC Staff Issue Paper:

Issue Paper on Tax Status of Self-Insured Groups (April 2006)

<http://www.dir.ca.gov/CHSWC/Reports/SIG-TaxStatus.pdf>

CHSWC ISSUE PAPERS (continued)

Strategic Plan

Status: Completed

CHSWC Staff Report:

CHSWC Strategic Plan (2002)

<http://www.dir.ca.gov/CHSWC/StratPlanReport2002/Stratplan2002.html>

DISASTER PREPAREDNESS AND TERRORISM

Impact of Terrorism on Workers' Compensation

Status: Completed

CHSWC Issue Paper:

CHSWC Background Paper on the Impact of Terrorism and California Workers' Compensation (April 2006)

<http://www.dir.ca.gov/CHSWC/Reports/ImpactTerrorism-WC.pdf>

Forum on Catastrophe Preparedness: Partnering to Protect Workplaces (April 2006)

Status: In process

CHSWC Staff Report:

A Report on the Forum on Catastrophe Preparedness: Partnering to Protect Workplaces (2006)

<http://www.dir.ca.gov/chswc/forum2006.html>

SYNOPSIS OF CURRENT CHSWC PROJECTS AND STUDIES

PERMANENT DISABILITY

This section starts with a discussion of the comprehensive evaluation of permanent disability (PD) by the Commission on Health and Safety and Worker's Compensation (CHSWC) and continues with descriptions of CHSWC's other ongoing studies.

Background

The most extensive and potentially far-reaching effort undertaken by CHSWC is the ongoing study of workers' compensation PD in California. The CHSWC study incorporates public fact-finding hearings and public discussions with studies by RAND and other independent research organizations. The CHSWC study deals with major policy issues regarding the way that California workers are compensated for PD incurred on the job.

CHSWC realizes that the rating of PD is one of the most difficult tasks of the workers' compensation system, often leading to disputes and litigation. The manner in which California rates and compensates injured workers for temporary disability (TD) and partial permanent disability (PPD) has enormous impact on the adequacy of injured workers' benefits, their ability to return to gainful employment, the smooth operation of the Division of Workers' Compensation (DWC) adjudication system, and the cost of the workers' compensation system to employers.

The PD project consists of two phases. The focus of the first phase of the evaluation is on measuring the long-term earnings losses and other outcomes for workers with PD claims. The second phase is intended to refine these measures and, at the same time, provide policy makers with suggestions for reforms intended to improve outcomes for injured workers at reasonable cost to employers.

Permanent Disability – Phase 1

Initial Wage Loss Study

The initial report from the CHSWC study of PD, "Compensating Permanent Workplace Injuries: A Study of the California System," examines earnings losses and the replacement of earnings losses for workers with PPD claims at insured firms in California in 1991-92. The main findings of this report include:

- PPD claimants experienced large and sustained earnings losses over the five years following injury. These losses amounted to approximately 40 percent of the earnings these workers would have made if injury had not occurred.
- Workers' compensation benefits replaced only 40 percent of pre-tax earnings losses and only 50 percent of after-tax earnings losses.
- Losses are largely driven by lower employment rates among PPD claimants over the years following injury.
- Earnings losses and disability ratings are not closely related, particularly for low-rated claims. Replacement rates and the fraction of losses that remain uncompensated after benefits are paid were lowest for the lowest-rated claims.

For further information...



CHSWC Report: "Compensating Permanent Workplace Injuries: A Study of the California System" (RAND, 1998)

 CHSWC Report: "Findings and Recommendations on California's Permanent Partial Disability System-Executive Summary" (RAND, 1997)

 Check out: <http://www.rand.org/publications/MR/MR919/>

Policy Advisory Committee

A CHSWC Permanent Disability Policy Advisory Committee was established to review the RAND report and the community's responses and to recommend further action. The committee began meeting in November 1997.

Goals Established by the CHSWC Permanent Disability Policy Advisory Committee

- Decrease in an efficient way the uncompensated wage loss for disabled workers in California.
- Increase the number of injured workers promptly returning to sustained work.
- Reduce transaction and friction costs, including costs to injured workers.

The CHSWC Policy Advisory Committee raised additional questions about the wage loss study and other areas of the RAND report.

The workers' compensation community wanted additional information on how other factors, such as demographics and local economic conditions, affected the outcomes of the wage loss study. Observations were also made about the initial study parameters, as the study lacked data on employees of self-insured employers and data beyond the 1991-1993 period.

The Permanent Disability Policy Advisory Committee urged the Commission to study those issues further. The Commission

voted to continue the comprehensive evaluation of workers' compensation PD. Continuation of the evaluation of PD includes the following projects.

Enhancement of the Wage Loss Study to Include Self-Insureds

Stakeholders objected to the 1998 report, "Compensating Permanent Workplace Injuries: A Study of the California System," because they believed that self-insured employers, which account for one-third of claims in California, would have better outcomes for PPD claimants. Stakeholders felt that since self-insured employers are larger and higher-paying firms and since they directly bear the full cost of their workers' compensation claims, they should have more programs to encourage return to work (RTW) and a more motivated workforce.

Private Self-Insureds

The report entitled "Permanent Disability at Private, Self-Insured Firms" was released in April 2001. This report includes an unprecedented data-collection effort on PD claims at self-insured firms in California. The findings of this report include:

- Better RTW at self-insured firms led to a lower proportion of earnings lost by PPD claimants. During the five years after injury, self-insured claimants lost a total of 23 percent of both pre- and post-tax earnings, compared to the insured claimants' proportional losses of about 32 percent.
- Since workers at self-insured firms have higher wages, they are more likely to have weekly wages that exceed the maximum temporary disability (TD) payment. Therefore,

workers' compensation benefits replaced a smaller fraction of losses at self-insured firms. Workers at these self-insured firms experienced lower five-year wage replacement rates (48 percent) than workers at insured firms (53 percent).

- At both insured and self-insured firms, replacement rates were very low for workers with the lowest indemnity claims. At the self-insured and insured firms, claimants with total indemnity falling below the 20th percentile had 14 percent and 11 percent of their lost earnings replaced by benefits, respectively.
- PPD claimants with high pre-injury earnings and high indemnity claims experienced large dollar losses that were not compensated by benefits.

Status

Completed.

For further information...



CHSWC Report: "Permanent Disability, Private Self-Insured Firms" (RAND, 2001)
Check out: <http://www.rand.org/publications/MR/MR1268/>

Public Self-Insureds

Although not part of the original proposal, but as a result of methodological and data difficulties associated with measuring replacement rates at public self-insured employers, a second report on earnings losses in this sector is planned, and this study component is ongoing. The report will include findings about the following topics:

- Earnings losses and replacement rates for public school teachers.
- Earnings losses and replacement rates for police officers and firefighters.
- Earnings losses and replacement rates for other public employees.
- An examination of Labor Code Section 4850: is full wage replacement during temporary disability (TD) a good policy for workers in occupations that involve risk-taking? does this policy improve public safety? and is this the approach used in other states?

Status

Currently under peer review.

Permanent Disability Rating Schedule Analysis

Background

Before Senate Bill (SB) 899, the California Permanent Disability Rating System (PDRS) came to be regarded as costly, inequitable, inconsistent, and prone to disputes. Workers who sustained similar earnings losses for different types of injuries received different amounts of compensation.

Prior to SB 899, CHSWC contracted with RAND to evaluate California's PDRS. The CHSWC Permanent Disability Study by RAND consisted of a detailed analysis of the disability rating schedule in order to provide empirical findings that could guide a revision that would be consistent with the economic losses experienced by permanently disabled workers. The study also empirically identified the components of the schedule that contribute to inconsistency and made recommendations to reduce it.

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RAND recommended:

- Basing the PD schedule on the American Medical Association (AMA) *Guides* with an adjustment to reflect average wage loss.
- Re-ordering of the PD schedule to ensure that injury severity was compensated appropriately.

With the enactment of SB 899 in 2004, the Governor and the Legislature intended to enact a PD rating system that would promote “consistency, uniformity, and objectivity.”²²

SB 899 made changes to:

- The goal of the rating schedule, giving consideration to diminished future earning capacity in place of consideration to diminished ability to compete in an open labor market [Section 4660(a)], as well as promoting consistency, uniformity and objectivity [Section 4660(d)].
- The criteria for medical evaluations using the *AMA Guides to the Evaluation of Permanent Impairment*, fifth edition (*AMA Guides*) in place of the often subjective criteria traditionally used in California [Section 4660(b) (1)].
- The adjustment factors to be included in the Schedule for Rating Permanent Disabilities, specifying that diminished future earning capacity be a numeric formula based on average long-term loss of income according to empirical studies [Section 4660(b)(2)].
- The apportionment of disability between industrial injuries and other causes when a disability is caused by the combination of two or more injuries or diseases, such as a knee strain with pre-existing arthritis (Sections 4663 and 4664).
- The number of weeks of PD benefits payable for each percentage point of PPD, reducing payments by up to 15 weeks on all awards of less than 70 percent PPD [Section 4658(d)(1)].
- The dollar amount of weekly PD benefits depending on whether the employer offers to continue to employ the permanently disabled worker, if the employer has 50 or more employees [Section 4658(d)(2) and (d)(3)].

Description

Senate President pro Tem Don Perata and Assembly Speaker Fabian Nuñez requested information regarding a change in the California workers' compensation Schedule for Rating Permanent Disabilities effective January 1, 2005. They requested that CHSWC report to the Legislature on the impact of the change in the schedule, as well as how the schedule could now be amended in compliance with Labor Code Section 4660(b)(2), which requires the use of findings from a specified RAND report and other available empirical studies of diminished future earning capacity.

In response to this Legislative request, CHSWC developed a paper that evaluated the impact of the changes in the Permanent Disability Rating Schedule (PDRS) using data from the Disability Evaluation Unit (DEU) that did not exist when the latest reform was adopted.

²² Labor Code Section 4660(d).

Findings

- At the time the 2005 schedule was adopted, adequate empirical studies did not exist to permit accurate calculation of the relationship between impairments evaluated according to the AMA *Guides* and diminished future earning capacity.
- The 2005 schedule has reduced average PD awards (dollar value of award based on rating) by more than 50 percent for unrepresented cases and by about 40 percent for represented cases.
- The 2005 schedule has reduced the average PD rating (rated percentage of disability) by about 43 percent for unrepresented cases and by about 40 percent for represented cases.
- Revisions of the schedule can be formulated immediately and revised periodically. (See CHSWC study “Permanent Disability Rating Schedule Analysis.”)

The CHSWC Permanent Disability report provides a methodology for updating the PDRS to obtain more consistent ratings for all types of injuries. The report recommends a new mathematic formula using administrative data from the Division of Workers’ Compensation (DWC) and the latest available wage loss data, to make all ratings calculations consistent. The ratings are then entered into the existing system to calculate the level of benefits. An important recommendation in the report is that periodic revision to the rating schedule be adopted such that any future trends in medical impairments and earnings losses can be detected and incorporated in the formula.

The report also suggests that, beyond using a consistent methodology, overall levels of ratings and compensation should be considered a separate public policy issue. The report acknowledges that issues of benefit adequacy and affordability are issues for policy makers to debate.

Status

Completed. CHSWC voted on February 9, 2006, to approve and release the report “Permanent Disability Rating Schedule Analysis.”

For further information...

-  CHSWC Report: “Permanent Disability Rating Schedule, February 23, 2006.
-  Check out: <http://www.dir.ca.gov/chswc> and <http://www.dir.ca.gov/CHSWC/Reports/CHSWC-PD-Report-Feb23-2006.pdf>

The Impact of Changes to the Temporary Disability Benefit

Background

The Commission on Health and Safety and Workers' Compensation (CHSWC) evaluates workers' compensation on an ongoing basis. This study would evaluate and identify the impact of changes to the system regarding the TD benefit.

The TD system was changed in Senate Bill (SB) 899 to limit TD to two years. Many other states limit TD; however, this limitation is spread over different timeframes in case of surgery or other factors. Current statute limits TD to being paid only for lost time during the first two years after injury.

The Legislature has asked that CHSWC provide information on what it would cost employers if the limits were relaxed to allow up to two years of TD to be paid within five years of injury. Data for the study will be requested from the California Workers' Compensation Institute (CWCI) and the Industry Claims Information System (ICIS).

Project Team

Christine Baker
CHSWC

D. Lachlan Taylor
CHSWC

Irina Nemirovsky
CHSWC

Frank Neuhauser
UC Berkeley

Status

In process.

RETURN TO WORK

Return-to-Work Study

Several provisions of recent workers' compensation legislation, Assembly Bill (AB) 227, Senate Bill (SB) 228, and SB 899 included important statutory and regulatory changes meant to encourage return to work (RTW) at the at-injury employer. Studying the impact of these changes is important for understanding how to construct appropriate incentives for both employers and employees. The significance of the research extends beyond California because the innovations in the recent reform legislation may offer a model for other states to follow when reforming their systems.

Thorough evaluations are critical for improving California's workers' compensation system, lowering employer costs related to temporary disability (TD) and permanent disability (PD), lowering employers' indirect costs, such as hiring and training, and reducing workers' wage losses associated with TD and PD.

In response to the need for further research and analysis, the Commission on Health and Safety and Workers' Compensation (CHSWC) has contracted with RAND to study the impact of recent RTW and vocational rehabilitation reforms on employer costs and injured-worker outcomes.

Objectives and Scope of the Study

The purpose and objectives of the RTW study are to comply with the request by Assembly Member Keene and Assembly Member Vargas to evaluate RTW efforts in California in light of the changes caused by current legislation, SB 899.

The study will include an evaluation of the current state of RTW and vocational rehabilitation or supplemental job displacement benefits (SJDB) of injured workers in California, and will identify issues, evaluate the impact of recent legislative changes, and make recommendations for how to construct appropriate incentives for both employers and employees.

The significance of the research extends beyond California because the innovations in the recent reform legislation may offer a model for other states to follow when reforming their systems.

The study shall focus on, but not be limited to, all of the following important research questions that involve evaluation of the recent legislation on RTW:

- What has been or will be the impact of the 15 percent “bump up, bump down” on disability benefits, the subsidy program for modifications by small businesses, and the RTW voucher program (which replaced the old vocational rehabilitation benefits) on the likelihood that a permanently disabled worker returns to work at the at-injury employer? With what frequency are these incentives applied?
- Have the reforms led to a change in the duration of cases that we see on TD, with or without ever receiving PD benefits? If so, what are the implications for injured-worker outcomes and employer costs?
- After the reforms, are there workers who remain out of work for a substantial period without receiving permanent partial disability (PPD)? If so, how long do they remain on

Project Team

Robert Reville, Ph.D.
RAND

CHSWC Staff

Christine Baker
CHSWC

D. Lachlan Taylor
CHSWC

Irina Nemirovsky
CHSWC

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TD, and what is the likelihood that they eventually return to work? Are these workers effectively targeted by RTW programs?

- What impact have the reforms had on employer efforts to promote RTW? Have the reforms made it more cost-effective to implement a formal RTW program?
- Are there other steps that policy makers in California can and should take to improve RTW outcomes for injured workers?
- Will educational vouchers in place of vocational rehabilitation services improve worker outcomes while lowering employer costs?

Study information will be organized around five central themes:

- Evaluation of the trends in use of various programs affecting RTW.
- Evaluation of the impact of the reforms on the adoption of RTW programs by employers.
- Estimation of the impact of the reforms on the duration of work absences due to workplace disabilities.
- Review of the changes in the distribution of TD and PD benefits received.
- Assessment of the overall impact of these reforms on workers' compensation benefit adequacy and affordability in California.

Status

The study began in August 2005 and is expected to be completed in 2008.

RETURN TO WORK

AB 1987 and Return to Work: Incentives and Alternatives

Background

In March 2006, Assembly Member Pedro Nava requested technical assistance from the Commission on Health and Safety and Workers' Compensation (CHSWC) regarding his bill Assembly Bill (AB) 1987 with respect to incentives, alternatives, and costs. In response to this legislative request, CHSWC staff developed the issue paper "AB 1987 and Return to Work: Incentives and Alternatives."

Description

AB 1987 proposes changes to the supplemental job displacement benefit (SJDB) of the workers' compensation system and addresses the issue of injured workers' return to work (RTW). This report discusses SJDB and RTW and also makes suggestions for modifications to AB 1987 for clarification and to facilitate early RTW for the benefit of both workers and employers.

Recommendations

- Provision of vouchers earlier in the claims process in order to allow the worker to begin the retraining process as soon as possible.
- Making the timing of the notice to injured workers regarding rights to the SJDB coincide with the timing of the notice about rights to permanent disability benefits: "together with the last payment of temporary disability or within 14 days of determining the amount of permanent disability payable, whichever is earlier."
- Considering a flat rate for the dollar amount of the vouchers that is within the range of the current benefit.

Status

Completed. At its April 6, 2006 meeting, the Commission members approved the release of the report to the public.

For further information...

-  CHSWC Issue Paper: "AB 1987 and Return to Work: Incentives and Alternatives."
-  Check out: <http://www.dir.ca.gov/chswc> and <http://www.dir.ca.gov/CHSWC/Reports/RTW-AB1987.pdf>

Project Team

Christine Baker
CHSWC

D. Lachlan Taylor
CHSWC

Irina Nemirovsky
CHSWC

Julian Sum
UC Berkeley

Charles Lawrence Swezey
Legal Consultant, CHSWC

RETURN TO WORK

Analysis of Wage Loss and Return to Work in Other States

The study entitled “Earnings Losses and Compensation for Permanent Disability in California and Four Other States” is part of an ongoing evaluation of the workers' compensation permanent partial disability (PPD) system in California that the Commission on Health and Safety and Workers' Compensation (CHSWC) began in 1996. The study examines the losses experienced by workers with permanent disability (PD) and the return-to-work (RTW) rates in New Mexico, Washington, Wisconsin, Oregon and California, and compares the adequacy of compensation received from the states' workers' compensation systems.

Findings

- California's PPD system, when compared to the other states mentioned above, had the highest losses, highest average benefits paid, and lowest RTW rates.
- Despite increases in benefits under the most recent workers' compensation legislation, Assembly Bill (AB) 749, the study projects that California's replacement rate is lower than three of the four comparison states studied.
- In looking at the replacement rates, after AB 749, California regained ground lost to inflation (benefits were not indexed to the state average weekly wage in California as in other states) but did not gain relative to other states.
- The researchers concluded that California is heading in the right direction through its AB 749 mandate which directs the Administrative Director (AD) of the Division of Workers' Compensation (DWC) to implement an RTW program focused on subsidies to employers for modified work or ergonomic changes.
- The researchers recommended that California could consider moving to a two-tier benefit system, which pays higher benefits for people who have not been offered jobs at all or suitable jobs with the pre-injury employer.
- The researchers noted that no states in the study had “adequate” benefits to replace two-thirds of lost wages.

Status

The final report is expected to be issued in 2006.

Project Team

Christine Baker
CHSWC

Jeff Biddle
RAND

Leslie I. Boden, PhD
Boston University – Public Health

Chris Mardesich
RAND

Robert T. Reville, PhD
RAND

RETURN TO WORK

Return-to-Work Practices

Background

Many firms in California have adopted practices to improve return to work (RTW) of injured employees. Policy makers may wish to encourage increased emphasis on RTW as a means to reduce uncompensated wage loss.

Description

This project collected data on the RTW practices of California firms and examined their effectiveness. Since there is significant overlap between this study and the Commission on Health and Safety and Workers' Compensation (CHSWC) Vocational Rehabilitation Study, RAND requested that the two studies be combined.

The report will cover the following topics:

- Valuing of RTW. How much better are replacement rates for workers who return to the at-injury employer? How often do workers who return to the at-injury employer continue to work at that employer? How severe are wage losses for workers who return to work at other employers?
- Description of RTW practices of self-insured employers: what works?
- RTW policies and regulations in other states.
- Vocational rehabilitation in California. Does it improve outcomes? Is it worth the cost?

Objectives

The objectives of this project are to:

- Provide information on the most effective RTW practices of California employers. This information is intended to assist employers and employees to determine which RTW practices may be applicable to their needs.
- Measure the impact of the reform changes on the vocational rehabilitation program and make available comparative data in future years regarding the number of workers undergoing vocational rehabilitation, the duration and costs of rehabilitation programs and services, and the results produced by those programs and services.

Findings

Preliminary findings indicate that the cost of the vocational rehabilitation benefit declined by \$274 million (49 percent) between 1993 and 1994.

The decline in average cost per vocational rehabilitation claim appears to be equally dramatic, dropping 40 percent from about \$14,200 in 1993 to \$8,600 in 1994. This downward trend appears to be continuing with 1995 costs declining an additional 10 percent.

Project Team

Christine Baker
CHSWC

Tricia Johnson
RAND

Niklas Krause, MD, PhD
UC San Francisco

Irina Nemirovs ky
CHSWC

Frank Neuhauser
SRC, UC Berkeley

Robert T. Reville, PhD
RAND

David Studdert
RAND

Lauren Sager Weinstein
RAND

Edward M. Welch
*Michigan State University – Labor
and Industrial Relations*

CHSWC PROJECTS AND STUDIES

Recent results indicate that the reform efforts apparently achieved one major goal, to encourage more employers to offer modified or alternative work and to pay these workers at or near their pre-injury wage. Offers of modified or alternative work increased by 50 percent to include nearly one-third of qualified injured workers. At the same time, nearly 80 percent of these workers received wages that were at least 85 percent of the pre-injury level, and nearly 60 percent received wages equal to or greater than the pre-injury level.

The costs of the rehabilitation benefit declined dramatically as a result of reform. At the same time, outcomes for qualified injured workers, as measured by work status and several income measures, are virtually identical despite this decrease in overall benefit costs.

The study also found that most firms have formal RTW programs. Such programs emphasize early contact of employees which may reduce disability and communication of policies to the treating physicians; however, the most frequent transitional strategy for returning the injured worker back to the workplace is modification of work tasks. Another preliminary finding is that worker participation in a formal RTW program decreases a worker's wage loss on average by \$1,500 in the year after injury.

Status

The draft report is expected in 2007.

INFORMATION FOR WORKERS AND EMPLOYERS

Carve-Outs Booklet for Labor Unions and Employers

Background

Legislation enacted in the 1990s allows labor unions and employers in construction industries in California to "carve out" alternative systems for delivering workers' compensation benefits to injured workers and for resolving problems and disputes in claims. As a result, more than 30 labor-management groups in construction created workers' compensation carve-outs. The laws were expanded in 2003 and 2004 to include any unionized industry and to allow unions and employers to further restructure how workers' compensation medical and indemnity benefits are delivered to employees who are eligible for employment-based group health benefits and non-occupational disability benefits.

In 2004, the Commission on Health and Safety and Workers' Compensation (CHSWC) prepared "Carve-Outs: A Guidebook for Unions and Employers in Workers' Compensation." This guidebook describes the history and purpose of carve-outs, presents sample carve-out agreements, and answers questions.

Description

Many unions and employers have requested practical guidance on how to negotiate and create a carve-out. CHSWC voted to sponsor and produce an educational booklet to supplement the 2004 guidebook.

The project involved the writing and design of a booklet that delves into issues to consider in negotiating and creating carve-outs. The content is based on informational needs of unions and employers and includes provisions contained in existing carve-out agreements, advisory expertise concerning the practical implications of many of the key provisions, and legal analyses regarding alternative provisions.

Results to Date

In collaboration with CHSWC staff and members of the workers' compensation community, the University of California at Berkeley's Institute of Industrial Relations and Labor Occupational Health Program have produced, "How To Create a Workers' Compensation Carve-Out in California: Practical Advice for Unions and Employers," 2006. This booklet assists users in identifying problems and goals with their workers' compensation claims, designing a carve-out to meet their goals, hiring the best people, and staying involved in the operation of the carve-out. The booklet is available to the

Project Team

Juliann Sum
UC Berkeley

Christine Baker
CHSWC

D. Lachlan Taylor
CHSWC

Irina Nemirovsky
CHSWC

Project Consultants

Laura Stock
UC Berkeley

Betty Szudy
UC Berkeley

Steve Siemers
Basic Crafts Workers' Compensation

Patrick D'Antoni
National Electrical Contractors Association of San Mateo

Richard Robyn
American Ombudsman Enterprises

Barbara Shogren Lies
Shogren Careers

Frances Schreiber
WORKSAFE!

Michael Nolan
CWCI

Dennis Sheehy
SCIF

Scott Hauge
CAL Insurance & Associates, Inc.

Samuel Swift
Applicants' Attorney

Jose Ruiz
SCIF

Tim Mooney
Armstrong Robitaille Union Bank Insurance Services

CHSWC PROJECTS AND STUDIES

public and can be downloaded from websites of CHSWC and the Division of Workers' Compensation (DWC).

Status

Completed.

For further information...

 "How To Create a Workers' Compensation Carve-Out in California: Practical Advice for Unions and Employers," 2006.

 Check out: <http://www.dir.ca.gov/chswc> and <http://www.dir.ca.gov/dwc> or

 <http://www.dir.ca.gov/CHSWC/carve-out1.pdf>

MEDICAL CARE

Medical Study of Impact of Recent Reforms

A Commission on Health and Safety and Workers' Compensation (CHSWC) study by RAND will evaluate recent legislative changes affecting medical treatment provided to workers who have sustained industrial injuries and illnesses in California and will provide technical assistance in evaluating potential legislative and administrative refinements to the current system, including ways payment incentives might be used to improve the quality of care provided to injured workers.

Background

A series of legislative changes affecting medical care provided California's injured workers has been enacted over the past few years to address medical utilization and cost issues. While there is evidence that these changes are reducing medical expenses, the impact of these changes on access, quality and outcomes is unknown. The study will evaluate the impact of the changes both on an individual provision-by-provision basis and in combination. The four topics for evaluation are: medical-necessity determinations; medical networks; provision for early medical treatment; and adoption of Medicare-based fee schedules. The study will evaluate the impact of the new provisions on cost, quality, and access of injured workers to appropriate and timely medical care and will identify issues and make recommendations for addressing areas of potential concern.

Senate Bill (SB) 228 and SB 899 made a number of changes that affect how medical-necessity determinations are made for medical care furnished injured workers. Most notably, the changes included: the treating physician presumption was repealed; presumption is afforded the utilization schedule issued by the Administrative Director (AD) of the Division of Workers' Compensation (DWC) (i.e., the ACOEM guidelines); limits were placed on the number of chiropractic, physical therapy and occupational therapy visits per occupational injury; new utilization review requirements were established; and new appeals processes were created.

Effective January 1, 2005, employers may provide medical care through medical provider networks that injured workers will be required to use throughout the course of their treatment. The network must have a sufficient number of providers representing a variety of specialties in locations convenient to covered workers and must include physicians engaged in care of work-related injuries and illnesses, as well as physicians engaged primarily in care of non-occupational conditions. The network providers must agree to provide care in accordance with the utilization schedule adopted by the AD. A study funded by the DWC examining injured-worker access issues will presumably examine key questions regarding the impact of the

Project Team

Barbara Wynn
RAND

Melony Sorbero, Ph.D.
RAND

Beth Ann Griffin, Ph.D.
RAND

Lindsay Morse
RAND

Rebecca Noland
RAND

Soeren Mattke, M.D.
RAND

Cheryl Damberg, Ph.D.
RAND

Stephanie Teleki, Ph.D.
RAND

Rebecca Shaw
RAND

Teryl Nuckols Scott, M.D., MPH
RAND

Lisa Spear
RAND

Laura Zakaras
RAND

Project Consultants

Advent Consulting

Allard Dembe, Ph.D.
University of Massachusetts

Thomas Wickizer, Ph.D.
University of Washington

CHSWC and DWC staff

Christine Baker
CHSWC

Lachlan D. Taylor
DWC

Irina Nemirovsky
CHSWC

Anne Searcy, MD
DWC

networks on injured-worker access to care and patient satisfaction. This study, which is being conducted by the UCLA Center for Health Policy Research, will include a survey of injured workers and provider focus groups.

Additional research is required in three major areas to identify potential policy issues and “best practices” in network formation and operation:

- The process used to form medical networks, including the considerations affecting the employer decision to establish a medical provider network, the strategies used to form the network (pre-existing or new, narrow or broad), quality assurance and enrollment processes, profiling, fee discounting, etc.
- The capacity of the networks to meet injured-worker needs.
- The impact of the networks on medical utilization, costs, and outcomes.

Under California’s Labor Code, a claim is presumed compensable unless it is rejected within 90 days. Prior to SB 899, this contributed to treatment delays since employers had no incentive to accept liability before the 90-day period elapsed. SB 899 added a new requirement intended to facilitate prompt treatment for work injuries. An employer is required to authorize medical care in accordance with the medical treatment guidelines beginning within one working day after an injured worker files a claim and continuing until the claim is accepted or rejected. Until the compensability determination is made, liability is limited to \$10,000, and any treatment does not create a presumption of employer liability for the claim. The impact of this provision on access, costs, and quality needs to be examined, including:

- Time lapsed between date of injury, the date a claim is filed, the date initial treatment is obtained, and the date compensability is determined (initially and after any appeals).
- Employer medical costs (both treatment and medical-cost containment expenses and administrative expenses).
- Percentage of claims appealed and proportion ultimately determined compensable/non-compensable.

In evaluating these issues, other factors that might affect impact, such as whether the injured worker is also covered by group health insurance and whether the worker is represented by an attorney, etc., should be taken into account.

Under SB 228, the Official Medical Fee Schedule (OMFS) for services other than physician services furnished injured workers is linked to Medicare fee schedules (or, in the case of pharmaceuticals, MediCal). The aggregate payment for each type of service (e.g., inpatient hospital services, outpatient hospital services) is limited to 120 percent of the amount payable under Medicare for comparable services. For most services other than physician services, fee schedules tied to 120 percent of the amounts payable under Medicare were implemented in 2004. Physician services were reduced 5 percent (but not below the amount payable under Medicare). The impact of the fee-schedule changes on access and cost should be evaluated. In addition, any issues of concern that are identified should be assessed and options and recommendations for addressing them developed.

Medicare, group health insurance and managed care plans are devoting considerable effort to developing structured financial incentives to improve the safety and quality of care, i.e., paying for performance. Designing a pay-for-performance initiative is a complex undertaking that must pay equitably for medically necessary services, promote desired changes in the way care is delivered, and avoid unintended consequences.

Description

Information will be gathered for this study through the following activities:

- Review all workers' compensation legislation passed during the 2003 and 2004 legislative sessions to determine if it should be evaluated for purposes of this project. This includes but is not limited to provisions pertaining to medical care in Assembly Bill (AB) 227, SB 228 in 2003 and SB 899 in 2004.
- Review of the rulemaking record for regulations implementing the legislative provisions referenced above and other relevant literature and studies pertaining to implementation of the provisions.
- Interviews with key informants involved in providing medical treatment to injured workers, paying for services that are provided, representing injured workers, and regulating the workers' compensation program.
- Analysis of administrative data related to medical care. This includes the development of baseline and post-implementation data on medical expenditures that would allow an examination of the impact of the provisions on cost, utilization patterns and return to work. In addition, available statistics on bill-processing times, number and types of denials, number and types of appeals, medical cost-containment expenses, etc., should be analyzed.
- Case studies of at least four medical networks that examine the process of network formation and operation as well as the capacity of the networks to meet injured-worker needs. The networks chosen for study should be representative of the different models that have been established. The case study should include both key informant interviews and analysis of administrative data.
- Review of the literature pertaining to the use of financial incentives to encourage improvements in the quality and efficiency of care, with respect to both medical treatment provided injured workers and more generally within the health care system.

Status

Ongoing.

MEDICAL CARE

Medical Treatment Study

Background

The strengths and weaknesses of the medical care system for California's injured workers have been documented in studies addressing key dimensions of care: access; cost; utilization; quality; and stakeholder satisfaction. However, the studies were completed prior to the recent enactment of statutory provisions intended to slow the rate of growth in workers' compensation expenditures, and most of the studies have focused on particular aspects of medical treatment. With the significant changes that are being made in the California workers' compensation program, a broad-based study is needed that documents the major issues in medical care, discusses the likely implications of the new statutory provisions on incentives to provide high-quality care in an efficient manner, and analyzes the major policy issues that either have not been addressed or are likely to arise as the new legislation is implemented. The issues are complex, and addressing them requires an assessment of what can be learned from other workers' compensation programs, non-occupational health insurance programs, and managed care organizations about strategies to improve the efficiency and quality of medical care and how those strategies might be applied to the California workers' compensation program.

Description

Labor Code Section 127.6 of Assembly Bill (AB) 749 requires "the Administrative Director (AD) in consultation with the Commission on Health and Safety and Workers Compensation (CHSWC), the Industrial Medical Council, other state agencies, and researchers and research institutions with expertise in health care delivery and occupational health care service, conduct a study of medical treatment provided to workers who have sustained industrial injuries and illnesses."

In order to meet the above requirements of AB 749, CHSWC and the Division of Workers' Compensation (DWC) issued a request for proposal (RFP) for a study on medical treatment in December 2003.

The study focuses on strategies to improve the quality and efficiency of medical services furnished to California injured workers. The RAND study focused its analysis of cost containment and quality issues divided into five major tasks:

- Identify the most important utilization and cost drivers and quality-related issues affecting medical care provided to California injured workers.

Project Team

- Barbara Wynn
RAND
- Soeren Mattke
RAND
- Teryl Nuckols Scott, MD
RAND
- Rebecca Nolind
RAND
- Cheryl Damberg
RAND
- Yee-Wei Lim
RAND
- Michael D. Greenberg
RAND
- Giacomo Bergamo
RAND

Project Consultants

- Donna Farley
RAND
- Allard Dembe, MD
UC Massachusetts, Medical School
- Elizabeth McGlynn
RAND
- Philip Harber
UCLA
- Robert Reville, PhD
RAND
- Thomas Wickizer
University of Washington
- Francis Trottier
California Arbitration Association

CHSWC and DWC staff

- Christine Baker
CHSWC
- Andrea Hoch
DWC
- Anne Searcy, MD
DWC
- D. Lachlan Taylor
CHSWC
- Irina Nemirovsky
CHSWC

CHSWC PROJECTS AND STUDIES

- Analyze best practices in quality-assurance, quality-improvement and cost-containment strategies for applicability in California workers' compensation.
- Evaluate medical treatment guidelines:
A report evaluating medical treatment guidelines was issued on November 15, 2004.
- Analyze fee schedule issues:
As part of the CHSWC/DWC study, RAND has provided technical assistance to DWC on implementing and updating the Medicare-based fee schedules and physician fee schedule. It has also been examining special topics of repackaged drugs and burn cases in depth. Two CHSWC studies by RAND have been issued on these topics: Paying for Repackaged Drugs under the California Workers' Compensation Official Medical Fee Schedule; and Payments for Burn Patients under California's Official Medical Fee Schedule for Injured Workers.
- Establish a conceptual framework for monitoring medical care. The monitoring system will:
 - Provide information on state-level performance.
 - Allow the State to identify potential problems, ask questions and monitor the effect of policy interventions.

Status

The CHSWC/DWC Medical Treatment study is under peer review.

For further information...

 CHSWC Recommendations to DWC on Workers' Compensation Medical Treatment Guidelines (2004)

 Working Paper: Evaluating Medical Treatment Guideline Sets for Injured Workers in California (RAND, 2004)

 Working Paper: Evaluating Medical Treatment Guideline Sets for Injured Workers in California Executive Summary (RAND, 2004)

 Paying for Repackaged Drugs under the California Workers' Compensation Official Medical Fee Schedule (RAND, 2005)

 Payments for Burn Patients under the California Official Medical Fee Schedule for Injured Workers (RAND, 2005)

 http://www.dir.ca.gov/chswc/CHSWC_Med%20Treat_Nov2004.doc for CHSWC recommendations.

 http://www.dir.ca.gov/CHSWC/WR-203_111504cd_FINAL.pdf for full report

 http://www.dir.ca.gov/CHSWC/WR-203_ExSum_111504cd_FINAL.pdf for executive summary.

 http://www.dir.ca.gov/CHSWC/WR260-1050525_Repack.pdf

 <http://www.dir.ca.gov/CHSWC/WR-263.Burn050525.pdf>

MEDICAL CARE

CHSWC/DWC Study on Medical Treatment Protocols

Background

The cost of providing medical care to California workers with job injuries and illnesses has been steadily increasing in the past five years, skyrocketing in 2001 and 2002. From 1995 to 2002, workers' compensation medical costs more than doubled. The rise in medical care expenditures placed considerable strain on the entire workers' compensation system and prompted policy makers to consider proposals for improving the delivery of workers' compensation medical care in the California.

The high costs for workers' compensation medical care may be due to the fact that the numbers of medical visits in California are much higher than in many other states.

Description

Senate Bill (SB) 228 mandates that the Commission on Health and Safety and Workers' Compensation (CHSWC), on or before July 1, 2004, conduct a survey and evaluation of nationally recognized standards of care, including existing medical treatment utilization standards, including independent medical review, as used in other states, at the national level and in other medical-benefit systems.

In addition, SB 228 requires that the Administrative Director (AD) of the Division of Workers' Compensation (DWC), in consultation with CHSWC, adopt a medical treatment utilization schedule by December 1, 2004.

In order to meet the above requirements of SB 228, CHSWC and the DWC issued a request for proposal (RFP) for a study on medical treatment protocols in December 2003.

The RFP specified that the Medical Treatment Study, among other issues, provide an evaluation of utilization review (UR) guidelines that might be considered for the California workers' compensation program.

RAND conducted a survey of existing guidelines and provided comparative analysis of guidelines using a variety of measures. The CHSWC/DWC study by RAND followed the steps below in providing an analysis of medical treatment utilization guidelines appropriate for the California workers' compensation system:

- Screen guidelines for consistency with the legislative criteria and features preferred by the Department of Industrial Relations (DIR);

Project Team

Barbara Wynn
RAND

Teryl Nuckols Scott, MD
RAND

Soeren Mattke
RAND

Rebecca Nolind
RAND

Yee-Wei Lim
RAND

Cheryl Damberg
RAND

Giacomo Bergamo
RAND

Michael D. Greenberg
RAND

Project Consultants

Donna Farley
RAND

Allard Dembe, MD
UC Massachusetts, Medical School

Elizabeth McGlynn
RAND

Philip Harber
UCLA

Robert Reville, PhD
RAND

Thomas Wickizer
University of Washington

Francis Trottier
California Arbitration Association

CHSWC and DWC staff

Christine Baker
CHSWC

Andrea Hoch
DWC

Anne Searcy, MD
DWC

Irina Nemirovsky
CHSWC

guidelines that pass would go on for additional evaluation.

- Use an established guideline-appraisal instrument to evaluate the quality of guideline development.
- Assess whether guidelines contain the content required by the legislation, specifically that they “address, at a minimum, the frequency, duration, intensity, and appropriateness of all treatment procedures and modalities commonly performed in workers’ compensation cases.”
- Convene a multidisciplinary expert panel to assess the clinical validity of the guidelines overall and with regard to the content required by the legislation.
- Convene a stakeholder panel for discussion of the guidelines.

Recommendations

The CHSWC Study by RAND offered short-, intermediate- and long-term recommendations. The main recommendation is that the AD should adopt the American College of Occupational and Environmental Medicine (ACOEM) Guidelines supplemented by the American Association of Orthopedic Surgeons (AAOS) Guidelines for lumbar spinal fusion surgeries. The study also recommended that the state develop a consistent set of utilization criteria to be used by all payors.

In response to the foregoing, CHSWC recommends the following course of action:

- Present RAND report to the AD of the DWC for the AD’s consideration.
- Recommend consideration of RAND findings in the adoption of medical treatment utilization schedule.
- Recommend establishing an ad hoc advisory group.
- Recommend further studies to be conducted jointly by DWC and CHSWC.

Status

A report on the evaluation of guidelines for use in utilization review was presented in November 2004 and is completed.

CHSWC voted in April 2006 to explore the feasibility of identifying other medical- treatment guidelines to fill gaps in the ACOEM guidelines.

For further information...



Updated and Revised CHSWC Recommendations to DWC on Workers’ Compensation Medical Treatment Guidelines (2006)



CHSWC Recommendations to DWC on Workers’ Compensation Medical Treatment Guidelines (2004)



Working Paper: Evaluating Medical Treatment Guideline Sets for Injured Workers in California (RAND, 2004)



Working Paper: Evaluating Medical Treatment Guideline Sets for Injured Workers in California Executive Summary (RAND, 2004)



http://www.dir.ca.gov/CHSWC/Reports/Medical_Treatment_Recommendations_Final_040606.pdf
for Updated and Revised CHSWC Recommendations

CHSWC PROJECTS AND STUDIES

 http://www.dir.ca.gov/chswc/CHSWC_Med%20Treat_Nov2004.doc for CHSWC Recommendations

 http://www.dir.ca.gov/CHSWC/WR-203_111504cd_FINAL.pdf for full report

 http://www.dir.ca.gov/CHSWC/WR-203_ExSum_111504cd_FINAL.pdf for executive summary

 http://www.dir.ca.gov/CHSWC/Reports/Medical_Treatment_Recommendations_Final_040606.pdf

MEDICAL CARE

Pharmacy Repackaging Impact Study

Background

Pharmaceutical costs are one of the fastest-rising medical costs in California’s workers’ compensation system. According to the Workers’ Compensation Rating Bureau (WCIRB), medical payments to pharmacists increased from 5.1 percent to 10.4 percent of total paid medical costs between 1995 and 2004. The use of repackaged drugs by workers’ compensation medical providers has been raised as an issue leading to high and increasing prescription-drug costs.

Repackaged drugs are drugs that have been purchased in bulk and repackaged into individual prescription sizes for dispensing in physicians’ offices. Reimbursement for most pharmaceuticals is tied to the Medi-Cal Pharmacy Fee Schedule. However, since repackaged drugs are not found in the MediCal Pharmacy database, they may be reimbursed at a higher rate.

Description

On April 28, 2005, the Commission on Health and Safety and Workers’ Compensation (CHSWC) voted to engage in a study of the impact of repackaged drugs on workers’ compensation costs.

Issues related to repackaged drugs were highlighted in a report to CHSWC by Barbara Wynn of the RAND Corporation. This study used the CHSWC report by RAND as a basis to provide an analysis on the following:

- Do repackaged drugs lead to higher prescription costs for the same or similar drugs than dispensing by pharmacies?
If so, how much higher are costs, both average prescription costs and the total cost to the system?
- Are there alternative fee schedule policies, such as applying Medicare Maximum Allowable Ingredient Cost (MAIC) and Federal Allowable Cost (FAC) pricing rules that could appropriately price these repackaged drugs if regulatory or statutory changes were introduced?
- Do the profit incentives connected to repackaged drugs cause physicians to change their prescribing practices?
If so, are the changes for the type of drug, the amount prescribed, and/or the frequency of prescriptions? In addition, what effect do any changes in provider practice have on workers’ compensation pharmaceutical costs?

The CHSWC study was conducted jointly by University of California Berkeley and RAND using data from the California Workers’ Compensation Institute (CWCi).

Project Team

Barbara Wynn
RAND

Frank Neuhauser
UC Berkeley

CHSWC Staff

Christine Baker
CHSWC

D. Lachlan Taylor
CHSWC

Irina Nemirovsky
CHSWC

Data Provision

Michael Nolan
CWCi

Alex Swedlow
CWCi

Findings

Findings of the study include:

- Physician dispensing is much more common than most observers expected. In fact, 30.3 percent of prescriptions dispensed in the California workers' compensation system are dispensed by physicians directly from their offices.
- Approximately half (50.8 percent) of the total cost of pharmaceuticals in the workers' compensation system is paid to physicians for prescriptions dispensed from their offices.
- Because of the structure of the Official Medical Fee Schedule (OMFS), physician-dispensed pharmaceuticals are much more costly than the same drugs dispensed by a pharmacy. On average, physician-dispensed drugs cost 490 percent of what is paid to pharmacies. In some cases, including the most commonly prescribed drug dispensed by physicians, the mark-up exceeds 1000 percent.
- It is estimated that for calendar-year 2006, insurers and self-insured employers will pay \$649 million for prescription drugs. Of this paid amount, \$263 million will be paid to dispensing physicians in excess of what would have been paid for the same drugs if dispensed by a pharmacy.
- It is estimated that insured employers will face premiums for policy-year 2006 which are \$490 million dollars higher than if all drugs were dispensed through pharmacies. This represents 2.2 percent of premium for the policy year.

Status

Completed.

For further information...



<http://www.dir.ca.gov/CHSWC/Reports/Physician-Dispensed-Pharmaceuticals.pdf>

MEDICAL CARE

Paying for Repackaged Drugs

Background

Assembly Bill (AB) 749 and Senate Bill (SB) 228 made several changes affecting workers' compensation pharmaceutical costs that were intended to control the cost of pharmaceuticals. Some of these changes specified that:

- Pharmacies and other providers that dispense medicine and medical supplies will dispense a generic drug equivalent, unless the prescribing doctor states otherwise in writing or a generic equivalent is unavailable.
- The Administrative Director (AD) of the Division of Workers' Compensation (DWC) will also adopt an official pharmaceutical fee schedule establishing maximum fees for medicines and medical supplies provided to injured workers. The schedule will be based on the Medi-Cal payment system.

Project Team

Barbara Wynn
RAND

CHSWC Staff

Christine Baker
CHSWC
D. Lachlan Taylor
CHSWC
Irina Nemirovsky
CHSWC

Pursuant to SB 228, the current pharmaceutical fee schedule became effective January 1, 2004, and is based on 100 percent of Medi-Cal reimbursement rates. This schedule will be in effect until the AD adopts an official pharmaceutical fee schedule.

However, the Medi-Cal fee database does not include repackaged drugs; therefore, these drugs are still reimbursed at the rates of the pre-SB 228 Official Medical Fee Schedule (OMFS) that was not tied to Medi-Cal reimbursement rates.

Description

Labor Code Section 127.6 of AB 749 requires "the Administrative Director (AD) in consultation with the Commission on Health and Safety and Workers Compensation, the Industrial Medical Council, other state agencies, and researchers and research institutions with expertise in health care delivery and occupational health care service, conduct a study of medical treatment provided to workers who have sustained industrial injuries and illnesses."

In order to meet the above requirements of AB 749, the Commission on Health and Safety and Workers' Compensation (CHSWC) and the DWC issued a request for proposal (RFP) for a study on medical treatment in December 2003. One part of the study focuses on analyzing appropriate maximum allowable fees for repackaged drugs.

Findings

According to the RAND study prepared for CHSWC and DWC:

- The payments for repackaged drugs dispensed by physicians based on the pre-existing OMFS schedule are higher than the pharmacy-dispensed drugs which are reimbursed according to the Medi-Cal formula.
- The OMFS fee schedule formula that applies to repackaged drugs was designed to encourage dispensing of generic drugs and reflected the assumption that the Average

CHSWC PROJECTS AND STUDIES

Wholesale Price (AWP) for generic drugs was significantly lower than the brand-name equivalent. However, the AWP prices reported by the repackagers do not appear to be related to their own acquisition costs, and the differential between the brand name and generic AWP for repackaged drugs is less than expected.

- The dispensing fee of the repackagers is unnecessary and could create inappropriate financial incentives for prescribing patterns. The dispensing fee is intended for pharmacist consultation, and the physician is generally reimbursed for evaluation and management services.

Recommendations

The Repackaging Drug study prepared by RAND for CHSWC and DWC recommends that the following options be considered in establishing a fee schedule amount for repackaged drugs:

- Use the Medi-Cal fee schedule payment amounts for pharmacy-dispensed drugs to reimburse repackaged drugs dispensed by physicians.
- Use the Medi-Cal fee schedule payment amounts for pharmacy-dispensed drugs minus the dispensing fee.
- Establish a premium for physician-dispensed drugs in place of the dispensing fee.

Status

A final report was approved by CHSWC at the April 2005 meeting.

For further information ...

 Paying for Repackaged Drugs under the California Workers' Compensation Official Medical Fee Schedule (RAND, 2005)

 http://www.dir.ca.gov/CHSWC/WR260-1050525_Repack.pdf

MEDICAL CARE

CHSWC Study on Spinal Surgery Second-Opinion Process

Background

Labor Code Section 4062 provides a procedure for a second opinion if the employer objects to the doctor's recommendation for spinal surgery in the workers' compensation system. The employer has ten days from the receipt of the report to object to the report of the treating physician recommending that spinal surgery be performed.

Description

An uncodified provision of Senate Bill (SB) 228 (Alarcón) requires that the Commission on Health and Safety and Workers' Compensation (CHSWC) conduct a study on the spinal surgery second-opinion process (SSSOP) and issue a report concerning the findings of the study and recommendations for further legislation.

At its August 19, 2004 meeting, the Commission voted to approve plans for a study to evaluate the SSSOP in the workers' compensation system. The study has reviewed the requests that are coming in on the SSSOP and has looked at the rate of cases meeting the statutory time frames, the reasons for denials, the operational impact of the process, and the access-to-care issues.

The project team obtained data on the request for second-opinion spinal surgeries from the Division of Workers' Compensation (DWC) Medical Unit. Data from the California Workers' Compensation Institute (CWCI) was used to analyze if the list of second-opinion surgery evaluators met the geographic requirements established in the DWC's regulation on the SSSOP.

Preliminary Findings

- Spinal surgery appears to be more heavily utilized in the California workers' compensation system than in workers' compensation systems nation-wide. California's injured workers with back conditions were 60-110 percent more likely to undergo spinal surgery than in other workers' compensation systems or group health nationally.
- Between 9 percent and 12 percent of spinal surgeries were being challenged by employers and insurers (850-1,150 of an average 9,500 surgeries done annually).
- Initially, the minimum estimate of the percent of workers that fail to complete the SSSOP process and therefore do not receive surgery is 29 percent. At the completion of the study, over 85 percent of workers completed the SSSOP when requested. (Reasons for not completing the process could include a choice to pursue non-surgical treatments.)
- One hurdle for these workers might be the distance they can be required to travel to the SSSOP evaluator. Especially in rural areas, this distance will frequently exceed significantly the 30-mile radius suggested by regulation. In a follow-up survey of injured workers, however, not one of the workers reported missing a second opinion exam because of the distance.

Project Team

- Christine Baker
CHSWC
 - Frank Neuhauser
UC Berkeley
 - Irina Nemirovsky
CHSWC
 - Chris Bailey
CHWC
 - Nurgul Toktotonova
CHSWC
 - Brenda Welling
UCLA
 - Lucie Garcia
UCLA
 - Brianna Luu
UCLA
- Note: Data provided by DWC Medical Unit and CWCI*

CHSWC PROJECTS AND STUDIES

- Although early results showed about half of spinal surgery second opinions rejected the need for surgery, by the end of the second year about one-third of the second opinions rejected the need for surgery. Interestingly, in cases where second opinions were obtained by some means other than the SSSOP, also about one-third of those opinions rejected the need for surgery.

Status

In process. Final report expected in 2006.

MEDICAL CARE

Health Care Organizations (HCOs)

Background

In October 2005, Assembly Member Rick Keene requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) provide information on the effectiveness and viability of health care organizations (HCOs) and a comparison of this model for medical-care delivery with medical provider networks (MPNs) and the employee-choice model for provision of medical treatment in workers' compensation.

<p><i>Project Team</i></p> <p>Christine Baker CHSWC</p> <p>D. Lachlan Taylor CHSWC</p> <p>Irina Nemirovsky CHSWC</p> <p>Chris Bailey CHSWC</p>

HCOs have never been more than a niche market, never exceeding a 3 percent market share in the annual December 31st census of enrollees. HCOs were about to break out of that niche in late 2003 with the State Compensation Insurance Fund (SCIF) initiating an HCO pilot. In early 2004, the number of HCO enrollees rose as high as 750,000 just before passage of Senate Bill (SB) 899 and the introduction of MPNs. In the short time that MPNs have been available, HCO market share has declined to just over 1 percent.²³ HCOs are likely to disappear altogether unless they are relieved of some of their competitive disadvantages compared to MPNs.

Description

Under existing law, an employer cannot use both an HCO and an MPN. One of the attractions of HCOs was the ability for employers to retain medical control for 90 or 180 days instead of the default 30 days. This advantage of HCOs now pales in comparison to the lifetime control of medical treatment that is possible with an MPN. The reason the employer cannot use the two options sequentially is that the employee's return to the default path (or return to employee-choice) was written into the HCO statutes. MPNs have now been created as another alternative to the default path, but there is no coordination between the two statutory options.

Other competitive disadvantages for HCOs are requirements that now appear inconsistent when compared with MPNs, specifically the high cost of administrative fees, data-reporting requirements, and annual employee notifications.

- Administrative fees for HCOs include a \$20,000 application fee, a \$10,000 three-year renewal fee, an annual charge of \$1.50 per enrollee (covered worker), and billable-hour staffing charges for the Division of Workers' Compensation (DWC) to process material modifications. No fees are imposed on MPNs.
- Data reports for HCOs are intended to provide all the information that would be useful for measuring the performance of the system. The data elements are not all within the knowledge of the organization, however, so compliance requires obtaining information from other sources such as the employer or insurer. Some of the data are buried in medical records and not routinely reported in a machine-readable fashion to administrators. None of these regular data reports were required of MPNs. The special data-reporting requirement on HCOs will soon be lifted, however, as Rule 9778(c) (8 Cal. Code of Regulations. §9778) relieves the HCOs of data reporting when the Workers'

²³ Percentages are calculated based on a peak enrollment of 475,000 and the latest reported enrollment of 200,000 out of a workforce of 15 million employees, as reported by the DWC.

Compensation Information System (WCIS) begins collecting similar data from all claims administrators regardless of medical-delivery options.

- Annual notices are required for all workers covered by HCOs. The process is called enrollment, but the employees covered by an HCO are enrolled by default unless they opt out of the HCO by pre-designating a personal physician. The annual notice to every covered employee is a costly process that is distinct from the notices required in connection with individual claims. MPNs may only be required to give one notice to every covered employee, apart from the notices in connection with individual claims or material modifications in the MPN. (8 Cal. Code of Regulations, §9767.12.) It appears inconsistent and disproportionately burdensome to require costly annual notices of a right to opt out of 180-day employer control in an HCO while requiring only a one-time notice of a right to opt out of lifetime employer control in an MPN.

Another example of inconsistency and competitive disadvantage is how an employee's right of predesignation under an HCO has become different from the right under an MPN. The general right of predesignation under Labor Code Section 4600 as it existed in 1993 was mirrored in Section 4600.3 for HCOs. Eligibility to pre-designate was subsequently restricted by the 2004 amendments of Section 4600. The provisions of the HCO statutes were not amended to conform, so employees who would not otherwise be eligible to pre-designate a personal physician may become eligible if their employers adopt an HCO. An HCO may lose medical control more frequently than an MPN due to this lack of conformity in the statute.

Comparisons of HCO results with MPN results are not possible without additional research. Comparisons with MPNs are not possible because MPNs are too new to have developed a meaningful track record. Even comparisons with the employee-choice model and with predesignation are uncertain because of the many changes in California law governing the provision of medical care.²⁴ Treatment guidelines and utilization review may now be applied to all medical treatment in workers' compensation, and caps on chiropractic and physical therapy visits have been adopted for injuries occurring on and after January 1, 2004. (Labor Code Section 4604.5.) Medical costs were dropping for the system as a whole in 2004.²⁵ Savings attributed to MPNs, which began in 2005, cannot be readily distinguished from system-wide savings. Likewise, the savings reported by HCOs when compared to the employee-choice model might be diminished now that these system-wide controls are also applicable to employee-choice care.

Further research is necessary before the Commission on Health and Safety and Workers' Compensation (CHSWC) will be able to identify the benefits of HCOs as compared to MPNs or the benefits of either model as compared to the employee-choice model. The reports available at this time support the conclusion that HCOs are a potentially valuable option for employers.

Findings

- HCOs have the potential to reduce costs for employers.
- HCOs have the potential to improve the quality of medical care and reduce time lost from work for employees.

²⁴ One recent report of mention is Victor, R., P. Barth and D. Neumark. November 2005. The Impact of Provider Choice on Workers' Compensation Costs and Outcomes. A Joint Publication between Workers' Compensation Research Institute (Cambridge, MA) and the Public Policy Institute of California (San Francisco).

²⁵ WCIRB, 2004 California Workers' Compensation Losses and Expenses. June 7, 2005, Paid Medical Costs Table, page 6, <http://wcirbonline.org/index2.asp?section=5&subsection=0>; and CHSWC, 2005 Annual Report, December 2005, System-wide Estimated Costs – Medical Benefits Paid Chart and Average Claim Costs Chart, pages 40 and 44, <http://www.dir.ca.gov/CHSWC/Reports/AnnualReport2005.pdf>.

CHSWC PROJECTS AND STUDIES

- The data reported by some HCOs suggest that HCOs can fulfill the potential to reduce costs and reduce time lost from work.
- Sufficient data have not been systematically collected by the State to definitively evaluate the costs and benefits of HCOs.
- The market viability of HCOs is jeopardized by the introduction of MPNs that allow employers longer control over medical costs through Preferred Provider Organization (PPO) containment without the regulatory fees that are currently imposed on HCOs.

Recommendations

CHSWC recommends legislative changes to make HCOs more competitive and compatible with MPNs so that both options remain open to employers until research and experience can demonstrate the preferred system for providing medical treatment.

Status

At its April 6, 2006 meeting, CHSWC approved the release of the Issue Paper on HCOs to the public.

For further information...

 CHSWC Issue Paper: "Health Care Organizations (HCOs) in Workers' Compensation," April 2006.

 Check out: <http://www.dir.ca.gov/chswc> or
<http://www.dir.ca.gov/CHSWC/Reports/HCO-WC-Apr2006.pdf>

MEDICAL CARE

Quality-of-Care Indicators: A Demonstration Project

Background

Ensuring that workers receive high-quality medical care would benefit both workers and employers. Better medical care would enable workers to make faster and more complete recoveries and reduce time off work which drives economic losses for injured workers. In addition, reducing temporary (TD) and permanent disability (PD) would also financially benefit workers. From the employers' perspective, a lack of a recovery can create a need for more medical care over time, thereby increasing medical costs. Reducing TD and PD would decrease economic losses for employees.

The Commission on Health and Safety and Workers' Compensation (CHSWC) demonstration project by RAND would attempt to suggest a mechanism for monitoring and improving the quality of care provided to injured workers.

Project Team

Teryl Nuckols-Scott
RAND

CHSWC Staff

Christine Baker
CHSWC

D. Lachlan Taylor
CHSWC

Irina Nemirovsky
CHSWC

Description

A recent landmark study by RAND found that across all healthcare settings, adults in the U.S. receive only about half of the care recommended by published literature and experts. Researchers on the project also found that quality-of-care problems are pervasive for back and joint injuries, for which a third to half of U.S. patients do not receive appropriate care. The poor quality care generally provided for back and joint injuries suggests that many injured workers probably do not receive the appropriate care either.

The goal of the project would be to demonstrate quality measurement in a workers' compensation setting and would involve four objectives:

- Develop quality-of-care indicators for one work-related disorder, carpal tunnel syndrome.
- Apply the quality-of-care indicators to patients from several medical networks.
- Publish an anonymous report card comparing quality across networks.
- Consider how to translate the project into an ongoing quality-monitoring system.

Status

At its April 6, 2006 meeting, the Commission members approved moving ahead with phase one of the project, the development of quality-of-care indicators for carpal tunnel syndrome.

MEDICAL CARE

**Integrating Occupational and Non-Occupational Medical Treatment—Pilot Project:
Union Janitors and Unionized Building-Maintenance Employers**

Background

The rapid rise in health care cost has placed significant pressure on many employers to increase employee contributions, limit benefits, or discontinue employer-based group health coverage entirely. For an important fraction of employers, those in industries with a high risk of occupational medical conditions, California workers' compensation medical costs per claim have been rising more quickly than U.S. per capita expenditures. The reduction of medical costs for employers and workers requires innovative approaches to controlling occupational and non-occupational medical costs.

Description

The California Healthcare Foundation awarded a grant to the Commission on Health and Safety and Workers' Compensation (CHSWC) to develop a proposal to integrate occupational and non-occupational medical treatment, an alternative that could offer savings on medical utilization, unit pricing, and administrative expenses while potentially offering improvements in the quality of health care. As a secondary advantage, the project is expected to expand access to affordable medical insurance.

The Service Employees International Union (SEIU), representing approximately 5,500 union janitors and unionized building-maintenance contractors in the San Francisco Bay Area, has requested assistance from CHSWC and the University of California, Berkeley (UC Berkeley) with negotiating a collective bargaining agreement that would integrate both occupational and non-occupational medical treatment under the union's Taft-Hartley Health and Welfare Trust (H&WT). Aside from the primary negotiating parties, CHSWC is coordinating with other stakeholders to develop the integration plan for this project. Kaiser Permanente is supplying technical expertise on medical care and information necessary to help determine proper pricing levels, as well as helping to resolve barriers to integrating medical care. In addition, the State Compensation Insurance Fund (SCIF) is lending expertise on pricing the residual workers' compensation liability, and UC Berkeley will be conducting data analysis for pricing issues and developing the evaluation strategy.

Status

In process. CHSWC and UC Berkeley are meeting with the janitorial union, the building-maintenance contractors of the San Francisco Bay Area, Kaiser, and SCIF to develop an integration plan. CHSWC and UC Berkeley will co-produce the final report including the implementation plan.

California Healthcare Foundation

Marian Mulkey
CHCF

Rena David
CHCF

Project Co-Directors

Christine Baker
CHSWC

Frank Neuhauser
UC Berkeley

CHSWC Team

Irina Nemirovsky
CHSWC

D. Lachlan Taylor
CHSWC

Project Team

Douglas Benner
Kaiser Permanente

Andrea Dehlendorf
SEIU Local 1877

James Neary
SCIF

Ross Pike
Diversified Maintenance Services

Juliann Sum
LOHP

MEDICAL CARE

State Disability Insurance Integration Project

Background

State Disability Insurance (SDI) makes support payments to people in the labor force who have disabilities resulting from non-work causes that preclude working. Workers' compensation makes support payments to workers who are off work as a result of occupational-related disabilities. Substantial overlap between these two systems results in a significant amount of litigation. Also, the systems try to accomplish the same objectives, but the objectives are complicated by the need to parse the cause of disability between occupational and non-occupational origins.

The integration of the two systems into a single seamless system could reduce the costs to both workers and employers while improving outcomes.

Description

In November 2003, Senator Alarcón requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) study the integration of SDI and workers' compensation temporary disability (TD) insurance.

The current study covers the years 2000 to 2002. The proposed study design would extend these data to include the years 1993 to 2005 and cover a broad range of issues important to labor and management. The study would highlight the following issues:

- How recent changes to overall workers' compensation benefits, particularly permanent partial disability, apportionment and medical treatment, have affected the fraction of occupational injuries (employer-paid) being shifted to SDI (employee-paid).
- How the recent run-up in workers' compensation premiums may have affected whether claims are made in workers' compensation or SDI. It has been observed that workers' compensation claims were declining rapidly over this period while SDI claims were increasing.
- Over the period 1993 to 2005, benefit levels in workers' compensation and SDI changed periodically by significant amounts and generally at different times in each system. The study will test whether the differences in the benefit rates affected the system in which claims were filed.
- Whether serious occupational injuries, those involving permanent disability (PD), have consequences for social safety-net programs, such as Medi-Cal, Supplemental Security Income, Temporary Assistance for Needy Families (TANF), etc.

Project Team

Christine Baker
CHSWC

Frank Neuhauser
UC Berkeley

Irina Nemirovsky
CHSWC

Technical Assistance & Contributors

Mary Manderson
Ohio Bureau of Workers' Compensation

Ken Marks
Employment Development Department

Ralph Morgan
Ohio Bureau of Workers' Compensation

Jeanne Nesbit
Iowa Dept. of Human Services

Frank Neuhauser
UC Berkeley

Ann Rezarch
Iowa Dept. of Human Services

Kipp Sonnentag
Wisconsin Dept. of Workforce Development

Alex Swedlow
California Workers' Compensation Institute

John Tafarella
Employment Development Department

Richard Vancil
Employment Development Department

Pam Wilson
State Controller's Office

CHSWC PROJECTS AND STUDIES

This would be the first study of its kind to estimate the effects of occupational injuries on the broad spectrum of social-welfare and social-insurance programs.

Findings

Preliminary findings in the current CHSWC study on the relationship between occupational-injury rates and SDI suggest that SDI may be paying benefits for a substantial fraction of conditions that are actually work-related, at least during periods of high workers' compensation premiums.

Status

The final report on the integration of SDI and workers' compensation TD benefits is expected to be available in 2006.

COMMUNITY CONCERNS

Fraud

Background

The California State Auditor Report on Workers' Compensation Fraud in 2004 indicated that:

- Currently, over 30 million dollars a year is spent on anti-fraud activities.
- Baselines for measuring the level of fraud need to be developed to evaluate if anti-fraud efforts have reduced the overall cost that fraud adds to the system by as much or more than what is spent annually to fight it.
- Efforts to detect and prevent workers' compensation fraud need to be adequate.
- Cooperation between agencies to improve efforts to detect and prevent workers' compensation fraud is critical.

At the December 10, 2004 meeting of the Commission on Health and Safety and Workers' Compensation (CHSWC), William Zachry, Chair of the Fraud Assessment Commission (FAC), requested that CHSWC assist with anti-fraud research.

On February 4, 2005, a working group met and decided that the FAC and CHSWC would partner with agencies, including the Department of Insurance, to put together a study design on how to measure workers' compensation medical-provider fraud and other types of suspected workers' compensation fraud in California and then would issue a request for proposal (RFP) on the study.

Funds were allocated by the FAC in 2006 to conduct a study of medical overpayments and underpayments as a way to benchmark medical-provider fraud and develop detection and measurement methods. An RFP was made public in May 2006, and proposals were submitted in June 2006. Navigant was selected to conduct the Medical Payment Accuracy Study.

Description

There are five objectives in the fraud studies:

- Determine the extent of workers' compensation medical overpayments and underpayments of all types, including suspected fraud, waste, abuse, billing and processing errors, in order to allocate the appropriate level of resources to detect and evaluate suspected medical-provider fraud in California. This study will be carried out jointly by the FAC and CHSWC
- Estimate the percent or number of uninsured employers.

Project Team

- John Wilson
CHSWC
- William Zachry
FAC
- Christine Baker
CHSWC
- Dale Banda
DOI, Fraud Division
- Dave Bellusci
WCIRB
- Les Boden
Boston University
- Paula Douglass
Navigant Consulting
- Donna Gallagher
SCIF
- Irina Nemirovsky
CHSWC
- Frank Neuhauser
UC Berkeley, Survey Research Center
- Malcolm Sparrow, Ph.D.
Harvard University
- Catherine Sreckovich
Navigant Consulting
- D. Lachlan Taylor
CHSWC

CHSWC PROJECTS AND STUDIES

- Identify uninsured employers operating in the underground or “gray” economy.
- Determine under-reporting of injuries.
- Estimate the degree of premium avoidance by insured employers.

Status

The joint FAC/CHSWC study is due by March 2008.

Fraud Working Group

Douglas Benner, M.D.
Regional Occupational Health - Kaiser Permanente

Ray Black
Medi-Cal Fraud Prevention Bureau

Laura Clifford
Employers' Fraud Task Force

Dominic Dugo
San Diego County DA's Office

Gary R. Fagan
*County of San Bernardino,
Office of the District Attorney*

Deborah Gonzales
Senator Poochigan's Office

Suzanne Guyan
Costco Wholesale

Lynn Hartzell
Lynn Hartzell and Associates

Elizabeth Henderson
Orange County DA's Office

Vanessa Himelbla
Department of Insurance, Fraud Division

Kristie Hutchinson
Los Angeles County DA's Office

Janet D. Jamieson
Health Policy and Research - Medata, Inc.

David Labahn
CA District Attorney's Association

Hung T. Le
Department of Insurance, Fraud Division

Don Marshall
Zenith Insurance

John Massucco
San Diego County DA's Office

Fraud Working Group (continued)

Caitlin McCune
California Labor Federation

Sean McNally
Grimmway Farms

Robert Mike
Workers' Compensation Insurance Rating Bureau

James Neary
State Compensation Insurance Fund

Michael Nolan
California Workers' Compensation Institute

Rick Plein
Department of Insurance, Fraud Division

John Portillo
*Bureau of Fraud and Corruption
Prosecution WC Fraud Division*

Lauren Weis
Los Angeles County, DA's Office

Susan Wright
California Self-Insurers Association

Robert K. Yee
Department of Insurance, Fraud Division

CHSWC ISSUE PAPERS

Public Access to Workers' Compensation Insurance Coverage Information

Background

In April 2005, Assembly member Keith Richman requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) prepare an issue paper regarding public access to workers' compensation insurance coverage information or proof of coverage (POC) as part of an enforcement effort at compliance.

Labor Code 90.3 provides for a targeted program of workers' compensation insurance-coverage enforcement that was never implemented. In an effort to demonstrate how that part of the Labor Code could be implemented, CHSWC conducted a pilot study to match records from the Employment Development Department (EDD) and the Workers' Compensation Insurance Rating Bureau (WCIRB) of California. The pilot study found a significant number of uninsured employers and recovered penalties in excess of the costs of the pilot.

Project Team

Christine Baker
CHSWC

Chris Bailey
CHSWC

Irina Nemirovsky
CHSWC

D. Lachlan Taylor
CHSWC

Insurance Codes 11751.5 and 11752.5(d) require interagency cooperation with data requests for the purposes of enforcing compliance, as well as cooperation with data requests from the licensed rating agency. There is no Labor Code that requires cooperation with data requests from the licensed rating agency; rather, the Department of Industrial Relations (DIR) relies on the statutory authority of the Department of Insurance.

Many states currently permit public access to workers' compensation data for verification purposes. Likewise, many states conduct ongoing data matching for the purposes of enforcement.

Subsequent to the drafting of this report, amendments to Assembly Bill (AB) 510 (Richman) were proposed and AB 1883 (De La Torre) was introduced.

Description

The WCIRB is the only current source of workers' compensation verification data; it acts as the "statistical agent" and licensed rating agency of the Department of Insurance. Workers' compensation insurance policy data are supplied by insurers to the WCIRB using a "WCPols" data file format developed by the International Association of Industrial Accident Boards and Commissions (IAIABC). Current practice in California does not allow the supply of coverage data from insurers directly to the DIR. The DIR and the Department of Insurance rely on the WCIRB to provide coverage data upon request. POC information is only available to "parties to a claim," that is, once litigation has begun. The public at large does not have any mechanism by which to verify if an employer is indeed covered by workers' compensation insurance.

The WCIRB's mainframe system does not allow for easy conversion to a relational database; therefore, making queries for lapsed coverage or sorts by employer identification number or other unique identifier is a manual process as opposed to an automated one.

The Division of Labor Standards Enforcement (DLSE) is responsible for verifying POC, but they do so as part of all the wage and labor standards laws that are enforced. The DLSE neither singles out insurance coverage for specific enforcement actions nor uses a data-driven

methodology to identify uninsured employers. The DLSE has primitive access to WCIRB records through an unreliable phone modem but cannot download a database or otherwise manipulate the data for investigative purposes. DLSE has access only to simple yes/no queries, and these queries must be manually entered one at a time.

Findings

There are many advantages to improved public access to workers' compensation data:

- Better access to POC should change the behavior of some employers who believe the risks of going without coverage are worth the savings until, or if, they are ever identified; it is an added deterrent.
- Workers are protected from lack of workers' compensation coverage; employees and/or their representatives may verify that an employer is covered for workers' compensation above and beyond the law.
- The State of California and the WCIRB would save time and money on resources spent handling inquiries and requests for data via forms, letters and phone calls. While the State does not directly provide such information, it would still save additional resources spent on handling misdirected inquiries and requests.

There are also many advantages to a more robust program of enforcement through data matching:

- The State could identify illegally uninsured employers more easily, which could reduce the Uninsured Employers Fund (UEF) payout of over \$20 million each year, saving employers from such surcharges to compensate for the "free riders."
- Insured employers are placed at a competitive disadvantage with respect to uninsured employers. This levels the economic playing field for insured employers by identifying illegally uninsured employers and bringing them into compliance.
- Taxpayer money is saved by reducing the need for injured workers to use other social and benefit systems because the employer is illegally uninsured.
- Workers would be safer, knowing that enforcement of workers' compensation coverage keeps employers in all sectors of the economy in compliance with the law.

Recommendations

Recommendations for Public Access

- Determine the desirability and legality, in particular given the referenced case law with respect to the confidential and proprietary nature of policy effective dates, of making POC data available to the public in California, regardless of whether or not someone is a party to a claim.
- Determine whether the WCIRB should be mandated to make public access of POC via the Internet, or whether the WCIRB will deem the service valuable enough to WCIRB members and the related workers' compensation community to host it on its own.
- Determine how such public access will be funded. The costs of hosting an online public-access database may be recoverable, especially when manual paper requests currently require \$8 administrative fees to cover overhead (\$8 x 38,000 requests equals \$304,000 per year). Public access may reduce many of these paper requests and lower costs.

Recommendations for Enforcement

- That the WCIRB adopt what many other states are doing by providing daily POC database downloads so that the State may carry out its mandate to enforce employer compliance by conducting a program of matching EDD records with WCIRB records.
- That the EDD provide monthly database downloads of employer-identification data, including federal employer identification numbers (FEINs), business names and addresses, so that the State may carry out its mandate to enforce employer compliance by conducting a program of matching EDD records with WCIRB records.
- Provide the DLSE with funding to create and conduct an ongoing data-matching program to identify uninsured employers, contact uninsured employers, assess penalties, and bring the uninsured into compliance. Such a program may be funded by fines once started, with most of the penalties returned to the UEF fund. Such a program should create periodic reports on results, including fines levied, to the Department of Insurance.

Status

CHSWC approved the release of this study in February 2006.

For further information...

 CHSWC Report: "Workers Compensation Compliance and Proof of Coverage," February 2006. <http://www.dir.ca.gov/CHSWC/Papers/ProofOfCoverage2006.pdf>

 CHSWC Report: "CHSWC Recommendations to Identify Illegally Uninsured Employers and Bring Them into Compliance," 1998. <http://www.dir.ca.gov/CHSWC/uefintro.html>

CHSWC ISSUE PAPERS**Tax Status of Self-Insurance Groups (SIGs)*****Background***

All employers except the State are required to secure the payment of workers' compensation by either insurance or self-insurance, according to Labor Code Section 3700. Prior to 1993, private companies and public entities were allowed to self-insure. Private companies could only self-insure if they met the qualifications individually. Public entities could self-insure either individually or under pooling arrangements known as Joint Powers Authorities (JPAs).

Project Team

Christine Baker
CHSWC
D. Lachlan Taylor
CHSWC

In 1993, the Legislature authorized the establishment of private-industry Selfinsured Groups (SIGs) for workers' compensation. The amendment was part of Chapter 121 of Statutes of 1993, which was one piece of a major workers' compensation reform package passed by the Legislature in that year.

According to the Department of Industrial Relations (DIR) Office of Self-Insurance Plans, "During 2001, group self insurers began forming in the private sector for the first time. As of November 3, 2005, there were 22 selfinsured groups listed on the roster of the Office of Self-Insurance Plans."²⁶ SIGs are an established and increasingly available alternative for employers to comply with the obligation to secure the payment of compensation. As SIGs have begun to proliferate, an unexpected tax consequence is becoming evident.

Description

On March 23, 2006, Senator Abel Maldonado requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) evaluate issues of contributions, reserves, and taxation, and the possible need for tax exemption for SIGs formed under Labor Code Section 3700 et seq.

In response to this, CHSWC prepared an issue paper on the tax status of SIGs. The paper includes a discussion of the tax consequences of SIGs and makes recommendations regarding their taxation.

CHSWC Findings and Recommendations

SIGs are placed at an unnecessary disadvantage by the existing tax effects. The Legislature authorized SIGs as a cost-saving alternative for employers, but the benefits of that alternative are limited by taxation at a rate higher than the rate for conventional insurance. The current tax structure creates incentives that are contrary to the safety and security of both employers and workers. CHSWC recommends relieving the disproportional tax burden on SIGs.

Three approaches appear to be worthy of consideration:

- Tax exemption. Exemption from state income taxation would allow more of the members' contributions to be devoted to securing the payment of compensation to injured workers. This solution would provide the greatest savings to employers and the lowest risk that employers would be unable to meet assessments required to maintain the solvency of the SIG. This solution is consistent with the intention of the

²⁶ <http://sip.dir.ca.gov/GroupRoster.pdf>

CHSWC PROJECTS AND STUDIES

State in establishing the program. This solution also entails the simplest legislative language.

- Taxation equivalent to insurance companies. One might argue that SIGs are acting like insurance companies and should be taxed under the same 2.35 percent premium tax as insurance companies. There are substantial differences between SIGs and insurance companies, however, such as insurance companies' requirements for and accounting of capital and surplus and how the companies are licensed and regulated. Furthermore, this alternative is complex and possibly would require an amendment to the state Constitution. This does not appear to be the best choice.
- Deductibility of additions to reserves and payment of dividends. SIGs could be allowed to calculate taxable income for the California franchise tax according to Subchapter L of the Internal Revenue Code. This solution would not have all of the advantages of tax exemption but it would relieve the worst of the problems under existing law.

Status

CHSWC has approved the release of the paper at the April 6, 2006 Commission meeting.

For further information...

-  CHSWC "Issue Paper on Tax Status of Self-Insured Groups (SIGs)," April 2006.
-  Check out: <http://www.dir.ca.gov/chswc> and <http://www.dir.ca.gov/CHSWC/Reports/SIG-TaxStatus.pdf>

OCCUPATIONAL SAFETY AND HEALTH

Worker Occupational Safety and Health Training and Education Program

Background

Labor Code Section 6354.7 establishes a Workers' Occupational Safety and Health Education Fund (WOSHEF) for the purpose of establishing and maintaining a statewide worker-training program. The Commission on Health and Safety and Workers' Compensation (CHSWC) has developed a Worker Occupational Safety and Health Training and Education Program (WOSHTEP) to raise awareness and promote injury and illness prevention through training and dissemination of materials by a statewide network of providers. This program is designed to prepare workers in California to take a leadership role in health and safety programs at work.

Description

CHSWC has taken the following steps in implementing this program:

- **Prepared a Survey of State, National and International Worker Health and Safety Training Programs.** This Survey includes websites and descriptions of available programs and lists courses for each program. The Survey can be found as a link on CHSWC's website.
- **Established a labor-management advisory board as mandated by legislation** which meets bi-annually. The role of the board is to guide development of curricula, assist in providing links to the target audience, board partnerships, and prepare an Annual Report evaluating the use and impact of WOSHTEP.
- **Conducted needs assessments with stakeholders that will continue on an ongoing basis.** Needs assessments are conducted with workers and their representatives, employers, insurers, community-based organizations serving hard-to-reach workers, and potential training providers.
- **Designed a core curriculum** and supplemental training materials based on the results of the needs assessment. This 24-hour curriculum is aimed primarily at "workers who are able to train other workers and workers who have significant health and safety responsibilities, such as those serving on a health and safety committee or serving as a designated safety representative." Participants who complete six core modules and three supplemental

Project Team

- Christine Baker
CHSWC
- Irina Nemirovsky
CHSWC
- Selma Meyerowitz
CHSWC
- Nurgul Toktogonova
CHSWC
- Chellah Yanga
CHSWC
- Robin Baker
UCB-LOHP
- Linda Delp
UCLA-LOSH
- Laura Stock
LOHP
- Robin Dewey
LOHP
- Diane Bush
LOHP
- Elaine El-Askari
LOHP
- Suzanne Teran
LOHP
- Valeria Velazquez
LOHP
- Fredda Olivares
LOHP
- Laurie Kominski
LOSH
- Deogracia Cornelio
LOSH
- Carol Frischman
LOSH
- Aleyda Moran
LOSH
- Jessica Martinez
LOSH
- Jan Tokumaru
WOSHTEP Community Liaison

CHSWC PROJECTS AND STUDIES

modules become Worker Occupational Safety and Health (WOSH) Specialists.

- **Developed a training-of-trainers curriculum to train a statewide network of trainers as mandated by the statute.** Four training-of-trainer sessions were held in northern and southern California in 2005 and 2006, and network trainers have begun co-teaching with mentor trainers from the Labor Occupational Health Program (LOHP) at the University of California Berkeley and the Labor Occupational Safety and Health (LOSH) Program at University of California Los Angeles.
- **Established resource libraries** that house and distribute training materials and additional health and safety resources. These resource libraries are located at LOHP and LOSH.
- **Prepared a Multilingual Health and Safety Resource Guide to Worker Training Materials on the Web** for WOSHTEP. This Guide, prepared by LOHP, is a collection of worker training materials, such as fact sheets, checklists and other educational resources that are available. It can be found as a link on CHSWC's website and can be printed to distribute to workers participating in workplace injury and illness prevention programs.
- **Created a labor-management Advisory Board** to oversee program activities that meets semi-annually. The WOSHTEP Advisory Board consists of employers and workers who assist in guiding development of curricula and broadening partnerships with worker-based organizations, labor studies programs, employers, insurance companies and other stakeholders in the workers' compensation community.
- **Created Small Business Resources** to target very small employers who do not have the resources to send employees to 24 hours of training. Current curriculum and outreach are focused on owners and managers of small restaurants.

Next Steps

CHSWC has assessed fees to California workers' compensation insurance carriers pursuant to Labor Code Section 6354.7 for the next fiscal year. Next steps include:

- **Continued WOSH Specialist training by LOHP and LOSH** in a variety of industries for participants in diverse occupations and work settings. Courses are taught through community colleges, at employers' places of business, and in many other settings.
- **Continued refresher courses** to update WOSH Specialists on health and safety information to assist them in carrying out activities they choose to do in their workplaces after completion of the WOSH Specialist training. Courses are taught in English, Spanish, and Chinese.
- **Continued awareness trainings** drawing on the WOSH Specialist curriculum to help promote awareness of and interest in the WOSH Specialist courses. These trainings are presented in English and Spanish.
- **Ongoing evaluation of courses** to identify accomplishments and outcomes.
- **Ongoing development of a state-wide network of trainers** who will partner with mentor trainers from LOHP and LOSH to deliver WOSH Specialist courses.
- **Geographic expansion to the Central Valley and other areas of Northern and Southern California.**
- **Identification of an additional industry targeted for the Small Business Resources curriculum.**
- **Ongoing Young Worker Leadership Academies and young worker programs**
- **Additional outreach to ensure wider use of Resource Centers** in Northern and Southern California and wider distribution of multilingual resource training materials.

CHSWC PROJECTS AND STUDIES

For further information...

-  CHSWC Report: "Workplace Health and Safety Worker Training Materials: An Electronic Multilingual Resource List" (LOHP, 2005)
-  CHSWC Report: "California's Worker Occupational Safety and Health Training and Education Program: A Model for Other States" (IAIABC Journal, Spring, 2005 Vol. 42, No. 1)
-  WOSHTEP Advisory Board Annual Reports, 2004, 2005, and 2006.
-  Check out: <http://www.dir.ca.gov/chswc/WOSHTEP.html>
-  WOSHTEP Advisory Board Annual Reports, 2004 and 2005.
<http://www.dir.ca.gov/CHSWC/WOSHTEPReportNov2004.pdf> and
<http://www.dir.ca.gov/CHSWC/Reports/WOSHTEP-2005AdvBrdAnnualReport.pdf>

OCCUPATIONAL SAFETY AND HEALTH

California Partnership for Young Worker Health and Safety

Background

Every year, about 70 adolescents die from work injuries in the United States, and approximately 84,000 are injured severely enough to require treatment in hospital emergency rooms. Most of these injuries are preventable.

Description

The Commission on Health and Safety and Workers' Compensation (CHSWC) continues to put California in the forefront as a nationwide leader in protecting and educating teen workers. Over the past several years, CHSWC has sponsored and convened the California Partnership for Young Worker Health and Safety, established by Assembly Bill (AB) 1599 in September 2000. In addition to serving California, these efforts have inspired similar activity throughout the United States.

The California Partnership for Young Worker Health and Safety is composed of agencies and organizations dealing with youth employment and education issues, as well as others who can play a role in educating and protecting young workers. Members represent educators, parents, employers, youth training programs, governmental agencies and others.

The purpose of the Partnership is to identify potential strategies to:

- Reduce work-related injuries and illnesses among youth in the California workforce.
- Foster awareness and skills in health and safety that will remain with youth throughout their working lives and allow them to take an active role in shaping safe work environments.
- Promote positive, healthy employment for youth.

Status

During the past year, the Partnership met three times. In addition, subcommittees held telephone meetings to develop and implement the following activities:

- **Promote the eighth annual Safe Jobs for Youth Month public-awareness campaign**, which was established by former Governor Gray Davis's proclamation starting in 1999. This year's public-awareness and education activities have included a teen poster contest, distribution of a resource kit to over 11,000 educators and community groups (by 10,800 downloads from the website and 300 hard copies requested to date), a photography and poster exhibit in downtown Oakland, activities by 12 youth teams throughout the State who attended Young Worker Leadership Academies (see below), and a media campaign.
- **Plan and conduct two Young Worker Leadership Academies.** Young Worker Leadership Academies were held in Sacramento in January and in Los Angeles in February 2006. The Academies are part of the CHSWC Worker Occupational Safety and Health Education and Training Program (WOSHTEP). Academies included active participation by Partnership members. Young people from 13 different organizations

Project Team
Christine Baker CHSWC
Robin Baker LOHP
Diane Bush LOHP
Donna Iverson LOHP
Carol Frischman LOSH
Aleyda Moran LOSH
Selma Meyerowitz CHSWC
Irina Nemirovsky CHSWC
Janice R. Yapdiangco CHSWC

around the State attended the Academies in 2006. The goals of each Academy were: to teach youth about workplace health and safety and their rights on the job; to help youth start thinking about ways to help ensure that young people do not get hurt on the job; and to provide a forum for these youth to plan for specific actions they could take in the own communities to promote young worker safety. During May and June 2006, 12 teams successfully conducted their specific projects, which included activities such as designing informational brochures to distribute at schools, conducting workshops on job rights for teens at school and in the community, hosting an informational booth at a local farmers' market, and getting a school to agree to require that students receive information on young worker health and safety and rights and responsibilities and then take and pass a short quiz before being given a work permit.

- **Disseminate health and safety training materials for restaurant owners and managers.** In 2004 and 2005, the Restaurant Safety Training Program was developed in partnership with the State Compensation Insurance Fund (SCIF), and the California Restaurant Association (CRA). The project was developed in part with funding from SCIF and is part of the Small Business Resources program within WOSHTEP. The Partnership has helped explore ways to work specifically with restaurant franchises that hire youth, as well as culinary programs that might use these materials in the classroom. The Partnership will continue to identify ways to make these new materials available to employers and programs that can reach young restaurant workers.
- **Make presentations at several prominent national meetings** highlighting the innovative approaches being taken in California to protect young workers, including: a national meeting of the Young Worker Safety Resource Center; the annual meeting of the Interstate Labor Standards Association; the NIOSH-sponsored Town Hall meeting on their National Occupational Research Agenda; and the annual American Public Health Association Conference.
- **Coordinate the provision of information and resources on young worker health and safety by Partnership members.**

Partnership members work together to provide coordinated outreach and information services to and on behalf of existing programs for youth.

**California Partnership for
Young Worker Health and Safety**

V. Toni Adams
Alameda County Office of Education

Renee Bacchini
Department of Industrial Relations

Ellen Braff-Guajardo
California Rural Legal Assistance, Inc.

Yvette Brittain
State Compensation Insurance Fund

Julianne Broyles
CA Chamber of Commerce

Jenny Chomori
California Teachers' Association

Rebecca Clark
U.S. Department of Labor

*Rupali Das
California Department of Health Services

Carol Frischman
LOSH, UCLA

Fred Glass
California Federation of Teachers

Karen Hamm
California Teachers Association

Greg Heguiagaray
Elk Grove Unified School District

Kelly Howard
DIR, Cal/OSHA

Jonathan Hughes
UFCW Local 428

Adriana Iglesias
U.S. Department of Labor

Pat Klotz
California State PTA

Chandra Larsen
*New Ways to Work**

David Lawrence
Calif. Ctr. for Childhood Injury Prevention

CHSWC PROJECTS AND STUDIES

Over the past year, Partnership members with direct access to teachers, employers, and youth, jointly reached and served hundreds of thousands of organizations and individuals throughout California with important health and safety information. Partnership members helped with promoting and recruiting for the Young Worker Leadership Academies, the poster contest, and Safe Jobs for Youth month resources and activities, as well as with providing ongoing links to young worker health and safety information. Information and training are offered in both English and Spanish.

Partnership accomplishments include:

- More than 2,300 teachers, employers and youth received direct training.
- Approximately 6,000 teachers, employers and youth received written information, such as the fact sheets for teens and for employers or the Safe Jobs for Youth Month Resource Kit produced by the University of California Berkeley Labor Occupational Health Program (LOHP). Thousands more received information through listserv postings and email announcements.
- About 70 teachers, employers and youth received direct technical assistance via phone or via the <http://www.youngworkers.org> website.
- The average number of “hits” per day on the www.youngworkers.org website increased by 80 percent for a total of 153,000 hits during the past year. This represents an average of 421 hits per day. This has included over 30,000 requests for document downloads.
- The most popular downloads included: the Safe Jobs for Youth Month Resource Kit (11,000 for the current year, plus over 7,000 downloads of kit activities from previous years); the PowerPoint presentation, Why is Job Health and Safety Important for Teens? (12,200); and the facts sheets for youth (1,600), employers (1,400) and young agricultural workers (1,100).
- At least 12 newsletter, newspaper, or web-based articles were published, in addition to at least four radio and television spots. KTOP, the public cable channel for the City of Oakland, produced a half-hour program highlighting Safe Jobs for Youth Month, with a focus on the photography exhibit (see next section) and the Young Worker Leadership Academies.

Health and safety information continues to be integrated into ongoing state-wide activities of many of the partners, including regular in-service training for work experience and WorkAbility educators, widespread use of health and safety curricula in job training and work experience programs, and extensive organizational links to the <http://www.youngworkers.org> website.

In the coming year, priorities are to:

- Strengthen and expand youth involvement by holding two more Young Worker Leadership Academies and integrating this year’s participants as leaders/mentors.
- Continue to strengthen activities of Partnership members, with a focus on outreach and information tools for the employer community, in particular, the new restaurant health and safety training materials.

California Partnership for Young Worker Health and Safety (continued)

Rubin Mayorga
U.S. Department of Labor

Rick Mejia
California Dept. of Education

Jim Muldavin
CA Center for Civic Participation

John Pierson
CAWEE

Ed Rendon
Teamsters Joint Council 42

Nance Steffan
DIR, DLSE

Linda Tubach
California Federation of Teachers

Al Tweltridge
California Dept. of Education

Nancy Uber-Kellog
New Ways to Work

Rolene Walker
*Director of Enforcement, Wage and
Hour Division, U.S. Department of Labor,
Western Region*

CHSWC PROJECTS AND STUDIES

- Expand the membership of the Partnership to include greater representation from employers and youth organizations.
- Continue to share the California Partnership for Young Worker Health and Safety model with other states and assist them to replicate this model.

For further information...



Check out: <http://www.youngworkers.org> for California Young Worker Resource Network, providing information for teens, teen workers in agriculture, employers, parents, and educators.



Keeping California's Youth Safe on the Job – Updated Recommendations of the California Partnership for Young Worker Health and Safety, 2004.



“Protecting and Educating California's Young Workers – Report of the California Partnership for Young Worker Health and Safety,” 1998.
<http://www.dir.ca.gov/chswc/studgrp.html>

OCCUPATIONAL SAFETY AND HEALTH

Photography Exhibit and Teen Workshops

Each year, the Governor of California makes a declaration that the month of May commemorates Safe Jobs for Youth Month. In recognition of this, over the past four years, the Commission on Health and Safety and Workers' Compensation (CHSWC) has brought photography and poster exhibitions to San Francisco, Los Angeles, San Jose, and Oakland. The exhibits highlighted child labor issues by showing historical photographs by Lewis Wickes Hine and posters by winners of the annual Safe Jobs for Youth Month teen poster competition. In 2005 and 2006, photographs from Child Labor and the Global Village: Photography for Social Change were shown jointly with the Lewis Wickes Hine photographs.

This year's Oakland event, held in downtown Oakland at 250 Frank Ogawa Plaza, was co-sponsored by CHSWC, the Department of Industrial Relations (DIR), the University of California at Berkeley Labor Occupational Health Program (LOHP), the United States Department of Labor (DOL), the California Partnership for Young Worker Health and Safety, Child Labor and the Global Village: Photography for Social Change, and the George Eastman House, Rochester, New York. The exhibit included a letter of support from Governor Arnold Schwarzenegger for Safe Jobs for Youth Month, emphasizing efforts by the California Partnership for Young Worker Health and Safety to include year-round education for schools, parents, employers and job trainers on safety measures designed to prevent workplace injuries for young workers. The cities of San Francisco, San Jose and Oakland also issued Proclamations emphasizing the importance of health and safety issues in the workplace for young workers and young worker rights and responsibilities. Community members attended the exhibit opening receptions in 2004, 2005, and 2006.

Lewis Wickes Hine's (American, 1874-1940) work is a traveling exhibition organized by The International Museum of Photography at George Eastman House in Rochester, New York. The exhibit is entitled, "Let Children Be Children, Lewis Wickes Hine's Crusade Against Child Labor." Hine was a sociologist/photographer hired by the National Child Labor Committee (NCLC) from 1906 to 1912 to document the harsh conditions of child labor in the United States. Hine photographed children working in agricultural fields, manufacturing plants, canneries, mills, coal mines and sweatshops, and selling newspapers; these photographs illustrated that children were

Oakland Exhibit Sponsors

The California Labor and Workforce Development Agency

Department of Industrial Relations
 Dean Fryer, Public Information Officer
 Renee Bacchini, Public Information Officer

Commission on Health and Safety and Workers' Compensation
 Angie Wei, Chair
 Christine Baker, Executive Officer
 Selma Meyerowitz, Associate Governmental Program Analyst
 Irina Nemirovsky, Research Specialist II

Labor Occupational Health Program, University of California at Berkeley
 Robin Baker, Director
 Diane Bush, Coordinator of Public Programs
 Donna Iverson, Program Assistant

George Eastman House, Rochester, N.Y.
 Jeanne Verhulst, Associate Curator of Exhibitions

United States Department of Labor
 Rolene Walker, Director of Enforcement, Wage & Hour Division, Western Region
 Rebecca Clark, Investigator, Wage & Hour Division

Child Labor and the Global Village: Photography For Social Change
 Sarah Bachman, Associate
 Chivy Sok, Human Rights Activist

CHSWC PROJECTS AND STUDIES

subjected to conditions that damaged their health and deprived them of an education and a safe and healthy future. The exhibit is a telling visual insight into the industrialization of America and the unsafe and unhealthy circumstances endured by poor, working-class children until legislation against child labor prevailed in 1938.

The exhibits in San Jose and Oakland provided an opportunity to focus on global child labor issues in addition to historical U.S. child labor experience and legislation. Child Labor and the Global Village: Photography for Social Change, a collective of photographers who focus on child labor around the world, contributed photographs of child labor in a number of countries.

Still another focus of the exhibit was the winning posters from the teen poster contest on young worker health and safety and rights and responsibilities. The first-place and second-place winners attended and were honored at the opening receptions for the exhibit. While the 2006 exhibit was on display during the month of May 2006, 100 students from several local high schools attended workshops to learn about historical and international child labor and the connection to their own workplace rights.

Next Steps

CHSWC looks forward to working again with our partners in 2007 to educate youth and the public on historical child labor and current young worker issues.

OCCUPATIONAL SAFETY AND HEALTH

Forum on Catastrophe Preparedness

Background

At its December 9, 2005 meeting, the Commission on Health and Safety and Workers' Compensation (CHSWC) voted to approve an educational forum on workplace safety for employees and first responders during natural and man-made terrorist catastrophes. The forum was organized to be a public/private partnership to provide key information on this issue.

Description

A one-day "Forum on Catastrophe Preparedness: Partnering to Protect Workplaces," was held on April 7, 2006, at the South San Francisco Conference Center for about 200 participants. The forum was sponsored by CHSWC, RAND, the Labor and Workforce Development Agency; the Department of Industrial Relations (DIR); the Service Employees International Union (SEIU); the California Labor Federation; Risk Management Solutions (RMS); Swiss RE; the United States Geological Survey (USGS); the National Institute for Occupational Safety and Health (NIOSH); and the Center for Occupational and Environmental Health (COEH) at the University of California Berkeley.

Topics for the forum included:

- Impact of a 1906 Earthquake Today
- Profile of Risk to California Workers from a Variety of Catastrophe Scenarios
- Is California Prepared if a Disaster Strikes at Work
- Employer and Worker Preparedness for Natural Disasters and Terrorist Attack
- Workers Protecting the Workplace: The Safety and Health of Emergency Responders
- Roles of Federal, State and Local Agencies in Disaster Preparedness and Response

Findings

Findings include:

- Disaster preparedness is an occupational safety and health issue.
- Occupational safety and health during disasters is about labor and employer cooperation and communication, as well as public and private partnerships.
- Preparedness includes first-responder safety; the definition of first responder has been broadened to include employees themselves.

Project Team

Christine Baker
CHSWC

Robert Reville
RAND

Irina Nemirovsky
CHSWC

Janice Yapdiangco
CHWC

Chris Bailey
CHSWC

Amy Coombe
RAND

CHSWC PROJECTS AND STUDIES

- The insurance system is a critical part of preparedness; compensation is necessary for rebuilding and for support for the families of the deceased and seriously injured.

Status

A Special Report on the forum was approved for release at the October 5, 2006 Commission meeting.

For further information...

 Check out: <http://www.dir.ca.gov/chswc> or
http://www.dir.ca.gov/CHSWC/Reports/Report_On_Catastrophe_Preparedness.pdf

OCCUPATIONAL SAFETY AND HEALTH

The Relationship Between Employer Health-Promotion Measures and Workplace Injury and Illness Prevention: a CHSWC-NIOSH Study

Background

Poor health habits, such as smoking, problem drinking, unhealthy nutrition and sedentary lifestyles, have been identified as major causes of preventable illness and death in the United States and worldwide. These habits are associated with substantial medical costs and morbidity, making them prime targets of health-promotion activities. Currently, relatively little is known about the distribution of these costs to employers and how they differentially affect health care, disability, and workers' compensation.

Recently, the National Institute of Occupational Safety and Health (NIOSH) has begun a large, multi-year initiative to help employers build programs to reduce occupational injuries and promote the health of workers.

Description

A number of possible explanations exist as to why workplace health promotion and injury prevention could be related. Healthier individuals are more resilient to workplace injuries and less likely to miss time from work if they suffer a workplace injury. This issue is particularly important considering the prominent role of chronic conditions in workers' compensation. Poor health habits that make individuals more susceptible to chronic back pain, for example, could result in higher health care expenditures, higher workers' compensation expenditures, or both.

As part of the NIOSH initiative and the Commission on Health and Safety and Workers' Compensation (CHSWC) study on employer costs, RAND is undertaking an analysis for CHSWC that will provide a first look into the relationship between observable health habits and the onset of workplace injuries and illnesses and the possible effect of this relationship on employer costs. This analysis is part of the CHSWC study on identifying full employer costs of workplace injuries. The goal of the study is to lower employer cost and improve worker health.

As part of the analysis to be prepared by RAND, past studies on the effectiveness of injury-prevention and health-promotion activities will be reviewed, and the results of each in light of a descriptive analysis of the relationship between health habits and workplace injuries, if any, will be discussed. This information will be used to formulate the potential magnitude of the impact of health-promotion activities on total payroll costs. This research should both provide policy makers with new information on an important public health concern and pave the way for new research into the relationship between health and work.

Status

In process.

Project Team

Robert Reville
RAND

Seth Seabury
RAND

Darius Lakdawalla
RAND

CHSWC Staff

Christine Baker
CHSWC

Irina Nemirovsky
CHSWC

OCCUPATIONAL SAFETY AND HEALTH

Disability Retirement Benefits for Public Safety Officers

Background

The provision of public safety is one of the most important responsibilities of government. Workers charged with protecting the public routinely put their lives and well-being at risk. It is documented that, in general, public safety employees tend to have much higher-than-average rates of work-related injuries and illnesses, both fatal and non-fatal, as compared to other sectors. Because public safety occupations inherently entail significant risk and because of the social importance of the services these employees provide, public safety employees are usually rewarded with comparatively higher compensation in the event of a work-related injury.

The high incidence and high cost of injuries sustained by public safety employees raise a number of important policy questions. For instance, do workers' compensation and disability-retirement benefits provided to public safety employees adequately compensate them for disabling injuries? Could specific safety interventions reduce the frequency of injuries to public safety employees and thereby lower the cost of providing workers' compensation and disability retirement benefits to these workers? What types of injuries do public safety employees suffer and at what ages, as compared to other public employees?

Description

The high rate of injury and disability sustained by vital public safety employees, particularly police and firefighters, is of great concern to the workers' compensation community. In October 2004, Assembly members Juan Vargas and Rick Keene requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) conduct a study of public-sector injury prevention. In particular, they have requested a comprehensive evaluation and development of recommendations on effective public safety employee injury and illness prevention measures.

In response to the above bi-partisan request, CHSWC contracted with RAND in September 2005 to conduct a study that will assist the legislature in its goals to minimize injuries incurred by public safety employees and provide adequate workers' compensation and disability benefits to those who are injured. The study would address the following topics:

- Describe the incidence and types of injuries suffered by public safety employees and assess how the distribution of these injuries differs from that of other public (and potentially private) employees.
- Explore which aspects of public safety employment lead to the greatest injury and disability rates and whether specific interventions could reduce the risk of injury among those workers.
- Estimate the impact of disability on earnings of public safety employees and assess the adequacy of workers' compensation and disability benefits provided to these injured workers.

Project Team

Elyce Biddle
NIOSH

Seth Seabury
RAND

Dave Loughran
RAND

Tom LaTourrette
RAND

CHSWC Staff

Christine Baker
CHSWC

D. Lachlan Taylor
CHSWC

Irina Nemirovsky
CHSWC

CHSWC PROJECTS AND STUDIES

- Examine the extent to which disability retirements for public safety employees have changed over time and what factors have contributed to any observed trends.

Status

A joint CHSWC/ NIOSH report is expected to be completed in 2007.

OCCUPATIONAL SAFETY AND HEALTH

ISO 9000

Background

There are a number of programs that might affect occupational health and safety, including: US OSHA – the Voluntary Protection Program (VPP) and the Strategic Partnership Program (OSPP); the US EPA – Audit Policy; International Standards Organization (ISO) 9000 Quality Management Standard, the most widely known certification program; and ISO 14001, the Environmental Management Standards. Thousands of California workplaces are certified in ISO 9000, which means that products coming out of these workplaces use standard procedures certified to meet ISO 9000 standards. There have been evaluations of how ISO 9000 affects companies and customers but little evaluation of how this standard affects workers. This study will be the first to evaluate the effect of ISO 9000 on occupational health and safety.

Description

The purpose of this project is to evaluate the extent to which ISO 9000, the most widely known certification program, and the Environmental Management System Standard, ISO 14001, affect occupational health and safety records and workers' compensation costs. The study will also evaluate the extent to which such voluntary management programs attract facilities with better-than-average or worse-than-average occupational health and safety records and workers' compensation costs for the purpose of assuring the safety and health of California employees. Data will be provided by the WCIRB.

Preliminary Findings

Preliminary findings indicate that in comparison with similar, single-plant firms in California:

- ISO adopting companies tend to be slightly safer workplaces.
- ISO adopting companies do not experience a change in workers' compensation costs and do not lower their injury rates.
- Despite emphasis on writing and following strict procedures in a manufacturing setting, ISO adopting companies do not appear to raise cumulative repetitive motion injuries.
- Results may demonstrate that the mandatory Illness and Injury Prevention Program (IIPP) in California has more influence on workers' compensation costs and worker safety than ISO certification; Cal/OSHA and IIPPs require a lot in terms of communications, inspections, evaluations, procedures, and training documentation for health and safety.
- Other effects may introduce bias in the preliminary results, requiring additional research.

Status

In process.

Project Team

David Levine, Ph.D.
University of California, Berkeley

Mike Toffel, Ph.D.
Harvard University Business School

CHSWC Staff

Christine Baker
CHSWC

Irina Nemirovsky
CHSWC

Technical Assistance

Dave Bellusci
WCIRB

OCCUPATIONAL SAFETY AND HEALTH

Barriers to Occupational Health Services for Low-Wage Workers in California

Background

In California, over 5 million workers are employed in occupations whose median wage is less than \$10 an hour. The report looks at three interrelated topics: (1) low-wage workers and the issues they face in accessing the workers' compensation system; (2) prevention efforts in a typical industry that employs low-wage workers; and (3) the involvement of community health clinics in providing care to injured workers. The report also presents recommendations for introducing systemic changes through prevention efforts and increasing access to medical treatment and workers' compensation benefits for low-wage workers.

Description

Researchers from the University of California San Francisco (UCSF), Division of Occupational and Environmental Medicine and the School of Nursing Department of Community Health Systems, in conjunction with researchers at the California Department of Health Services, utilized interviews, case studies, focus groups, analyses of existing data and worksite surveys in selected industries to address the topics of the study mentioned above. Focus groups and interviews were held with six groups of immigrant workers with representation from janitors, farm workers, restaurant workers, day laborers, electronics workers, hotel housekeepers, garment workers and newer refugees working in a variety of low-paid occupations. Interviews were also conducted with a wide variety of organizations, including labor unions, community groups and social service agencies that assist these workers. Site visits and interviews with ten employers in the garment industry were completed, and visits to building-maintenance companies were conducted. Further interviews were held with organizations that assist these small businesses and with companies that manufacture janitorial cleaning products and equipment to assess chemical constituents, the variety of cleaning chemicals, and whether any ergonomic considerations are included in the design of cleaning equipment.

Information collected from these companies aided the development of recommendations to these contractors on overcoming barriers to prevention programs. Preliminary interviews with medical providers were completed in preparation for a survey with community health clinics, emergency departments and private occupational health clinics conducted during 2003. A literature review was completed, and supplemental data were obtained from a variety of sources, including the State Compensation Insurance Fund (SCIF), the Office of Statewide Health Planning, and the Bureau of Labor Statistics (BLS). An Advisory Committee, consisting of representatives from industry, labor, the community, and the legal and health care fields, was established and met as a group and in subcommittee to provide advice and links to appropriate resources.

Project Team

Christine Baker
CHSWC

Robert Harrison, MD MPH
UC San Francisco

Nanette Lashuay, MA
UC San Francisco

Barbara Burgel, RN, MS
UC San Francisco

Leslie Israel, DO MPH
UC San Francisco

Jacqueline Chan, MPH
UC San Francisco

Claudia Renee Praglin, RN, ANP
UC San Francisco

Findings

Many low-wage workers perform jobs that require considerable physical exertion and which frequently involve repetitive and high-speed tasks, and accidents are common. Some low-wage occupations are at high risk for work-related fatalities. Official reported figures for injuries and illnesses therefore underestimate the actual numbers of occupational injuries and illnesses occurring among all workers and low-wage workers. Numerous barriers exist which inhibit the reporting of injuries and the effective use of the workers' compensation system, as well as the access to appropriate occupational health care by injured workers. Chief among these barriers is fear of retaliation by employers if workers file claims or seek health care. Of equal importance is the lack of knowledge about the workers' compensation system and workplace health and safety rights among this population and the limited assistance available to them in using the system.

Small businesses predominate in industries that employ low-wage workers and report far fewer occupational injuries and illnesses than large businesses. Small businesses may be less likely to be fully covered by workers' compensation insurance or less familiar with the workers' compensation process, which may lead to underreporting. Some owners of new businesses, especially some first-time business owners, who are confronted with a profusion of state, local and federal requirements, including environmental and health and safety requirements, may not be in compliance with regulations.

Site visits to garment factories and building-maintenance companies and interviews with workers and employers have indicated that on-the-job-safety training, ergonomic programs, the use of personal protective equipment, and efforts at prevention are limited at best. Employers interviewed cited barriers to prevention programs such as cultural and language barriers, high worker turnover, and lack of knowledge about where to get assistance. Garment employers also cited the difficulties of staying in business in a rapidly declining industry in the United States as one of the barriers. Researchers from the California Department of Health Services are developing an educational packet that will assist in the development of prevention programs to be disseminated to both the garment and janitorial employers after the end of the study.

The study revealed that many of the most vulnerable workers do not have access to health care providers with expertise in recognizing and treating occupational injuries and illnesses and that care is often not sought for chronic conditions (e.g., musculoskeletal disorders).

Project Advisory Committee

- Douglas Benner, MD
Kaiser Permanente
- Patricia Breslin
Golden Gate Restaurant Association
- Helen Chen, Esq.
Asian Law Caucus
- Andrea Dehlendorf
SEIU Local 1877
- Jim DuPont
Hotel Employees and Restaurant Employee International Union
- Lilia Garcia
Maintenance Cooperation Trust Fund
- Paul Gill, former Executive Director
Made by the Bay and San Francisco Fashion Association
- Marion Gillen, RN, MPH, PhD
University of California San Francisco
- Martha Guzman
United Farm Workers
- Kimi Lee
Garment Worker Center
- Gideon Letz, MD, MPH
SCIF
- Dennise K. Martin
California Association of Public Hospitals and Health Systems
- Irina Nemirovsky
CHSWC
- Jack L. Neureuter
Alliance Medical Center
- Scott Robinson
ABM Industries, Inc.
- Ray Selle
Monterey Mushroom
- Leland Swenson
Community Alliance with Family Farmers

Recommendations

The study recommendations include the following:

- Promote efforts by community-based organizations to assist workers with filing claims, obtaining medical services and negotiating the workers' compensation claim process.
- Encourage advisory boards to include representation from community-based organizations.
- Encourage development of an outreach campaign to communicate worker rights and responsibilities and resources in vulnerable communities.
- Provide understandable health and safety information and workers' compensation information in the language and at the literacy level appropriate for low-wage workers.
- Increase inspections of health and safety conditions in target industries.
- Provide web-based public access to workers' compensation insurance-coverage information for California businesses.
- Strengthen the ability of public and community health clinics to provide occupational health care for low-wage workers.
- Determine if the medical treatment provided under Senate Bill (SB) 899 works effectively and efficiently for low-wage workers.
- Enhance health and safety prevention efforts in low-wage industries.
- Explore the feasibility of implementing a regular reporting mechanism beyond the Workers' Compensation Information System (WCIS) and the annual survey by the Department of Labor Statistics and Research (DLSR) of the Bureau of Labor Statistics (BLS), as well as a study of surveillance efforts and recommended improvements for tracking injuries and illnesses among low-wage workers.
- Provide publicly accessible county-level data on injuries to facilitate local involvement.

Status

Completed.

For further information...

 CHSWC Study: "Barriers to Occupational Health Services for Low-Wage Workers in California," April 2006.

 Check out: <http://www.dir.ca.gov/chswc> or http://www.dir.ca.gov/CHSWC/Reports/Barriers_To_OHS.pdf

CHSWC AND THE COMMUNITY

For Information about the Commission on Health and Safety and Workers' Compensation (CHSWC) and its activities:

Write:

California Commission on Health and Safety and Workers' Compensation
1515 Clay Street, Room 901
Oakland, CA 94612

Phone:

510-622-3959

FAX:

510-622-3265

E-mail:

chswc@dir.ca.gov

Internet:

Check out www.dir.ca.gov/chswc for:

- What's New
- Research Studies and Reports
- Information Bulletins
- Commission Members
- Meeting Schedules and Minutes
- DIR Young Workers Website
- Information for Workers and Employers
- WOSHTEP
- Conferences
- Public Comments and Feedback
- Resources

CHSWC Publications

In addition to the many reports listed in the CHSWC Projects and Studies section of this report, CHSWC has published:

CHSWC Annual Reports
1994 through 2005

CHSWC Strategic Plan 2002

Community Activities

CHSWC is pleased to report that its members and staff have had the privilege of participating in several activities of the health and safety and workers' compensation community.

California Coalition on Workers' Compensation

2nd Annual Legislative Conference

California Joint Powers Association

Fall Conference
Executive Officer presentation

California Workers' Compensation Forum

4th Annual Conference

California Workers' Compensation Institute

Annual meeting

Department of Corrections

Return-to-Work conference
Executive officer speech/presentation

Department of Insurance

Fraud Assessment Commission Meeting

Hollywood Chamber of Commerce

Executive officer presentation

International Association of Industrial Accident Boards and Commissions

92nd Annual Convention
All Committee Conference

Keenan & Associates

Workers' Compensation Symposium
Executive officer and staff presentation

LRP Publications National Workers' Compensation and Disability Conference & Expo

15th Annual Conference
Executive officer presentation

National Academy of Social Insurance

18th Annual Conference
Steering Committee

North Valley Employer Advisory Council

CHSWC staff presentation

URAC

7th Annual Quality Summit & Exhibit

Workers' Compensation Research Institute
Annual Issues and Research Conference

Workers' Compensation Research Group
Advisory Group meeting

CHSWC Awards

The Commission on Health and Safety and Workers' Compensation (CHSWC) was presented the International Association of Industrial Accident Boards and Commissions (IAIABC)/Workers' Compensation Research Institute (WCRI) 2003 Workers' Compensation Research Award for its Medical Payment Systems Study. The award honored "the best workers' compensation agency research product using data and analysis to answer an important public policy question of national interest."

Acknowledgements

CHSWC is pleased to acknowledge and thank the following individuals and organizations from the California health, safety and workers' compensation communities.

Their willingness to share the insight and knowledge derived from their years of experience has assisted CHSWC immeasurably in its mission to oversee and recommend improvements in the workers' compensation and health and safety programs in California.

Boeing

Christine Coakley, Regulatory and Legislative Analyst

Boston University

Leslie I. Boden, Ph.D., Professor, School of Public Health

California Applicants' Attorneys Association (CAAA)

David N. Rockwell, President
Linda Atcherley, President-elect
Mark Gerlach, Esq.
Doug Kim, Esq.
Lloyd Rowe, Esq.
Frank D. Russo, Esq.

California Chamber of Commerce (CCC)

Marti Fisher, Legislative Advocate
Moirra Topp, Legislative Advocate

California Coalition on Workers' Compensation (CCWC)

Scott Lipton, Managing Director

California Department of Corrections and Rehabilitation

Bonnie Kolesar, Assistant Secretary Office of Risk Management
CDCR staff

California Department of Industrial Relations (DIR)

John Rea, Acting Director/Chief Deputy Director
Dean Fryer, CAL/OSHA Spokesman
Renee Bacchini, Deputy Director of Communications
OD staff

California Department of Insurance (DOI and/or CDI)

John Garamendi, Insurance Commissioner
Dale Banda, Deputy Commissioner
Rick Plein, Bureau Chief
Vanessa Himelblau, Esq.
Chris Citko, Senior Staff Counsel
Luciano B. Gobbo, Research Program Specialist II
Hung Le, Research Program Specialist II
CDI staff

California Department of Insurance, Fraud Assessment Commission

William Zachry, Chair
Donna Gallagher, Commission member
Mary Spaid, Staff Services Manager

California Employment Development Department (EDD)

Patrick W. Henning, Director
Pam Harris, Chief Deputy Director
EDD staff

California Healthcare Foundation

Jill Yegian, Director

California Labor and Workforce Development Agency (LWDA)

Victoria L. Bradshaw, Secretary
Rick Rice, Undersecretary
LWDA staff

California Labor Federation, AFL-CIO

Angie Wei, Legislative Director

California Legislature

The Honorable Don Perata, President pro Tempore, California Senate
The Honorable Fabian Nuñez, Speaker of the Assembly
Senator Jackie Speier, Chair, Insurance Committee
Assembly Member Rick Keene
Assembly Member Pedro Nava
Don Moulds, Director, Senate Office of Research
Greg Campbell, Consultant, Senator Office Fabian Nuñez
Chris Clay, Consult, Assembly Insurance Committee
Rodger Dillon, Consultant Senate Labor & Industrial Relations Committee
Christine Ebbink, Consultant, Assembly Insurance Committee
Nancy Hatamiya, Staff to Assembly Member Nava Pedro Nava
Francis Low, Consultant, Senate Labor & Industrial Relations Committee
Brian Perkins, Senator Dutton's Office
Charles Wright, Consultant, Senator Office pro-Tem

California Manufacturers and Technology Association (CMTA)

Jack M. Stewart, President
Jason Schmelzer, Legislative Director, Human Resources, Workers' Compensation,
Safety and Health
Willie Washington, Consultant

California Medical Association (CMA)

Elizabeth McNeil, Director of Federal Issues and Workers' Compensation Advocacy

California Orthopedic Association (COA)

Diane Przepiorski, Director

California Self-Insurers Association (CSIA)

Susan Wright, Executive Director

California Society of Industrial Medicine and Surgery (CSIMS)

Carlyle R. Brakensiek, Executive Vice President

California Workers' Compensation Defense Attorneys Association (CWCDAA)

Philip E. Dunn, President

California Workers' Compensation Institute (CWCI)

Michael Nolan, President

Richard B. Anderson, Executive Vice President

Brenda Ramirez, Director, Claims and Medical

Michael J. McClain, General Counsel

Mark Miller, Research Associate

Alex Swedlow, Executive Vice President, Research and Development

Robert Young, Communications Director

Perla Medrano, Administrative Assistant

CalPers

David Lamoreaux, Senior Pension Actuary, Actuarial and Employer Services Branch

Centers for Medicare and Medicaid Services (CMS)

Bob Ulikowski, California Regional Office of CMS

Chuck Braver, Health Insurance Specialist

Costco

Suzanne Guyan, Director of Employee Benefits

Division of Administration (DOA)

Ann Rose, Chief

Kären Dickerson, Budget Officer

DOA staff

Division of Apprenticeship Standards (DAS)

DAS staff

Division of Labor Standards & Enforcement (DLSE)

DLSE staff

Division of Labor Statistics & Research (DLSR)

Ramon Cruz, Manager

DLSR staff

Division of Occupational Safety & Health (DOSH)

Len Welsh, Acting Chief

DOSH staff

Division of Workers' Compensation (DWC)

Carrie Nevans, Acting Administrative Director

Keven Star, Court Administrator

Mark Kahn, Associate Chief Judge

Anne Searcy, MD, Associate Medical Director

Destie Overpeck, Chief Counsel
Otis Byrd, Rehabilitation Manager
Ramon Cruz, Manager
Shirley H. James, Manager
Blair Megowan, Disability Evaluation Manager
William Kahley, Research Unit Manager
Robert Walensa, Audit Unit Manager
Bob Wong, Information & Assistance Manager
Linda Tejada, Manager
Genet Daba, Research Scientist I
DWC staff

East San Jose Community Law Center

Harvard Business School

Michael Toffel, Professor

Information Systems Unit (IS)

Jim Culbeaux, Chief Information Technology Officer
Jack Chu, Senior Programmer, Supervisor
Arthur Tunik, Web Group
Russ Roeckel, IDMS
Elizabeth Nisperos, IDMS
Trevor D'sa, Web Group
Jose Nevarez, Technical Support
Jesse Gomez, Technical Support
IS staff

International Association of Industrial Accident Boards and Commissions (IAIABC)

Gregory Krohm, Executive Director
IAIABC staff

Kaiser Permanente

Doug Benner, MD, Coordinator of Occupational Health

Kammerer and Company

Lori Kammerer, Lobbyist

Law Office of Barry Broad

Barry Broad, Esq.
Libby Sanchez, Esq.

Liberty Mutual Insurance

Barry Hoschek, Division Manager
Kathleen Bissell, Regional Director, Assistant Vice President of Public Affairs

Marriott International

Jill Dulich, Regional Manager

Medical Services International

Gary Hagen, Associates

Members of the Public

Participants in CHSWC meetings, fact-finding hearings and public forums
Participants in CHSWC project advisory committees

National Institute of Occupational Safety and Health (NIOSH)

John Howard, MD, Director

Occupational Safety and Health Standards Board (OSHSB)

Office of Self-insurance Plans (SIP)

Mark Johnson, Manager
Jamie Meyers, Audit Supervisor
Tina Freese, Associate Governmental Program Analyst
SIP staff

Office of Statewide Health Planning and Development (OSHPD)

Ginger Cox, Research Analyst II
Irene Ogbonna, Analyst
Jim Winter, Data Analyst

RAND

Robert T. Reville, PhD, Director for Civil Justice
Donna Farley, Senior Health Policy Analyst
Barbara Wynn, Senior Scientist
Teryl Nuckols, M.D., M.S.H.S.
Seth Seabury, Associate Economist
Tom Latourrette, Physical Scientist
Steven Asch, M.D., M.P.H.
Soeren Mattke, D. Sc., Health Policy and Management
RAND staff

Rutgers University

John F. Burton, Jr., Ph.D., Professor, School of Management & Labor Relations

Service Employees International Union (SEIU) California State Council

Allen Davenport, Director

Small Business California

Scott Hauge, President

State Compensation Insurance Fund (SCIF)

James C. Tudor, Acting President
Jim Neary, Executive Vice President
Donna Gallagher, Manager, Fraud Investigation Program
Gideon Letz, Medical Director
Don Smith, Manager, Claims Rehabilitation
Pat Quintana, Government Relations Officer
Lauren Mayfield, Manager, Safety and Health Services
Yvette Brittain, Research and Development

University of California Berkeley (UCB)

Robin Baker, Director, Labor Occupational Health Program (LOHP)
Diane Bush, Program Coordinator, LOHP
Robin Dewey, Program Coordinator, LOHP
Elaine El-Askari, Program Coordinator, LOHP
Frank Neuhauser, Project Director, UC Data/Survey Research Center (SRC)
Laura Stock, Associate Director, LOHP
Juliann Sum, Esq., Institute of Industrial Relations (IIR)
Robert C. Spear, Ph.D., Director, COEH
Barbara Plog, Program Director, COEH – Continuing Education Program
Linda Ellwood, Coordinator, COEH – Continuing Education Program
Laura Volk, Program Representative, COEH – Continuing Education Program
Betty Szudy, Consultant, LOHP
Suzanne Teran, Program Coordinator, LOHP
Valeria Velasquez, Program Coordinator, LOHP
David Levine, Haas School of Business
Support staff

University of California Los Angeles (UCLA)

Linda Delp, Director, Labor Occupational Safety and Health (LOSH) Program
Deogracia Cornelio, Associate Director of Education, LOSH Program
Laurie Kominski, Associate Director of Program Administration, LOSH Program
Carol Frischman, Youth Project Director, LOSH Program
Jan Tokumaru, WOSHTEP Community Liaison, LOSH Program
Jessica Martinez, WOSHTEP Course Coordinator, LOSH Program
Aleyda Moran, Program Representative, LOSH Program
Jessica Barcellona, WOSHTEP Course Coordinator, LOSH Program
Cinthia Flores, Student Worker, LOSH Program
Nicole Gil, Student Worker, LOSH Program

University of California, San Francisco (UCSF)

Robert Harrison, M.D., MPH, Division of Occupational and Environmental Medicine
Nanette Lashuay, MA, School of Nursing, Department of Community Health Systems

University of Massachusetts Medical School

Jay S. Himmelstein, MD., MPH, Program Director
Allard E. Dembe, Sc.D., Associate Professor and Senior Research Scientist

Workers' Compensation Appeals Board (WCAB)

Joseph M. Miller, Chairman
Frank M. Brass, Commissioner
Ronnie Caplane, Commissioner
James C. Cuneo, Commissioner
Janice Murray, Commissioner
William K. O'Brien, Commissioner
Merle Rabine, Commissioner
Dennis J. Hannigan, Secretary
Rick Dietrich, Assistant Secretary
Neil P. Sullivan, Assistant Secretary
WCAB staff

Workers' Compensation Insurance Rating Bureau of California (WCIRB)

Robert G. Mike, President

David Bellusci, Senior Vice President and Chief Actuary

Workers' Compensation Research Institute (WCRI)

Richard A. Victor, Esq., Ph.D., Executive Director

WCRI staff

Zenith Insurance

Stanley Zax, Chairman and CEO

Bernyce Peplowski, Medical Director

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D. Lachlan Taylor, Workers' Compensation Judge

CHSWC AND THE COMMUNITY

Kirsten Strömberg, Research Program Specialist II

Irina Nemirovsky, Research Program Specialist II

Janice R. Yapdiangco, Associate Governmental Program Analyst

Selma Meyerowitz, Associate Governmental Program Analyst

Chris Bailey, Research Analyst

Oliva A. Vela, Staff Services Analyst

Chellah A. Yanga, Management Services Technician

Charles L. Swezey, Industrial Relations Counsel, Legal Consultant