

# WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

## INTRODUCTION

The Commission on Health and Safety and Workers' Compensation (CHSWC) examines the overall performance of the health and safety and workers' compensation systems to determine whether they meet 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 participating in the workers' compensation system, 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 and safety and workers' compensation. Explanations of the data are included with the figures and tables.

- Workers' Compensation Appeals Board (WCAB) Workload
  - Division of Workers' Compensation (DWC) Opening Documents
  - DWC Hearings
  - DWC Decisions
  - DWC Lien Filings and Decisions
- DWC Audit and Enforcement Program
- DWC Medical Unit (MU)
- DWC Disability Evaluation Unit
- DWC Medical Provider Networks and Health Care Organizations
- DWC Information and Assistance Unit
- DWC Uninsured Employers Benefits Trust Fund
- DWC Adjudication Simplification Efforts
  - DWC Information System (WCIS)
  - DWC Electronic Adjudication Management System (EAMS)
  - Carve-outs—Alternative Workers' Compensation Systems
- Division of Labor Standards Enforcement (DLSE)
- Anti-Fraud Efforts

## WCAB WORKLOAD

### *Division of Workers' Compensation Opening Documents*

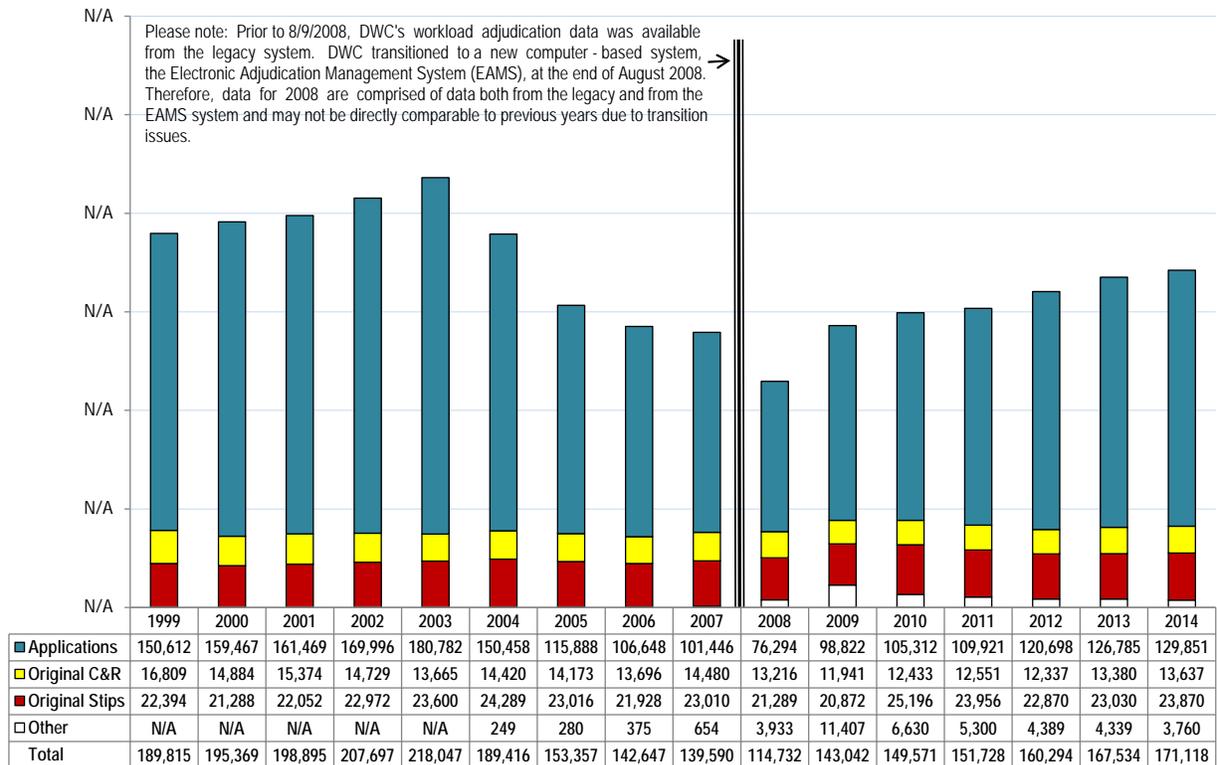
Three types of documents open a Workers' Compensation Appeals Board (WCAB) case. Figure 40 shows the numbers of Applications for Adjudication of Claim (Applications), Original Compromise and Releases (C&Rs), and Original Stipulations (Stips) received by the Division of Workers' Compensation (DWC).

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Prior to August 2008, DWC workload adjudication data were available from the legacy system. At the end of August 2008, DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS). Therefore, data for 2008 are comprised of data from both the legacy system and from EAMS and may not be directly comparable to previous years because of the transition.<sup>34</sup>

As Figure 40 shows, the total number of Opening Documents increased from 1999 to 2003 by 15 percent after a decline in the second half of the 1990s and then decreased by 36.4 percent from 2003 to 2007. The total number of Opening Documents after the transition in 2008 returned to the pre-EAMS level from 2009 to 2014.

**Figure 40: DWC Opening Documents**



Data Source: DWC

### **Mix of DWC Opening Documents**

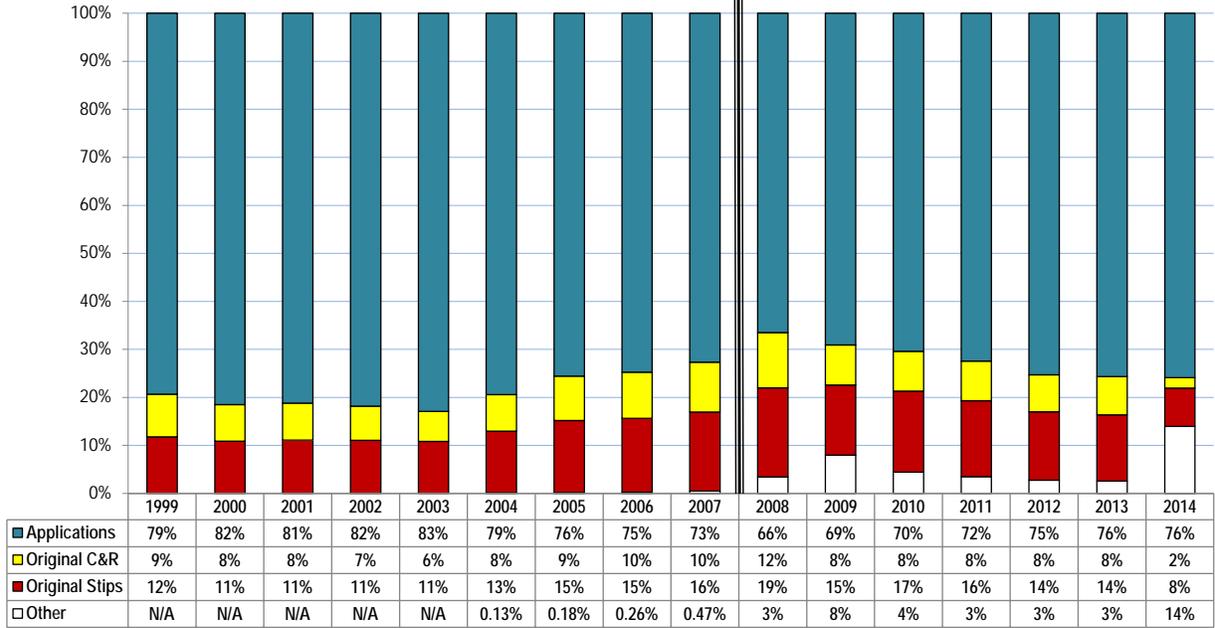
The proportion or mix of the types of case-opening documents received by DWC varied during the second half of the 1990s. As Figure 41 shows, the proportion of Applications rose from 1999 to 2003 and then declined slightly from 2003 to 2007. The proportion of Original (case-opening) Stips averaged 11 percent from 1999 to 2003 and then increased from 2003 to 2007. The proportion of original C&Rs declined from 1999 to 2003 and then increased from 2003 to 2007. The distribution of Opening documents by type did not change from the pre-EAMS distribution pattern during the period from 2009 to 2014 after the transition to EAMS, except for adding type "other."

<sup>34</sup> Analysis of trends for WCAB workload data include 2009 and 2010 EAMS calendar year data only for aggregate numbers, but the same analysis for categories within major types of WCAB workload use only legacy data available through 2007. Analysis of trends using both EAMS and legacy data within major types of WCAB workload through 2010 was not possible due to several reasons, including the introduction of new categories in EAMS and the redefinition of previously existing categories.

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Figure 41: Percentage by Type of Opening Documents

Please note: Prior to 8/9/2008, DWC's workload adjudication data was available from the legacy system. DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS), at the end of August 2008. Therefore, data for 2008 are comprised of data both from the legacy and from the EAMS system and may not be directly comparable to previous years due to transition issues.



Data Source: DWC

## Division of Workers' Compensation Hearings

### Numbers of Hearings

Labor Code Section 5502 hearings are the first hearings only. The hearings covered are expedited hearings, status conferences, priority conferences, mandatory settlement conferences, and trials that follow a mandatory settlement conference (MSC). The timelines are measured from the filing of a Declaration of Readiness to Proceed (DOR) to the hearing. The time frames for each of these hearings are prescribed as follows:

- A. Expedited Hearing and Decision. Labor Code Section 5502(b) directs the Court Administrator to establish a priority calendar for issues requiring an expedited hearing and decision. These cases must be heard and decided within 30 days following the filing of a DOR.
- B. Priority Conferences. Labor Code Section 5502(c) directs the Court Administrator to establish a priority conference calendar for cases when the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment (AOE) or in the course of employment (COE). The conference shall be conducted within 30 days after the filing of a DOR to proceed.
- C. For cases in which the employee is represented by an attorney and the issues in dispute are employment or injury arising out of employment or in the course of employment and good cause is shown why discovery is not complete for trial, then status conferences shall be held at regular

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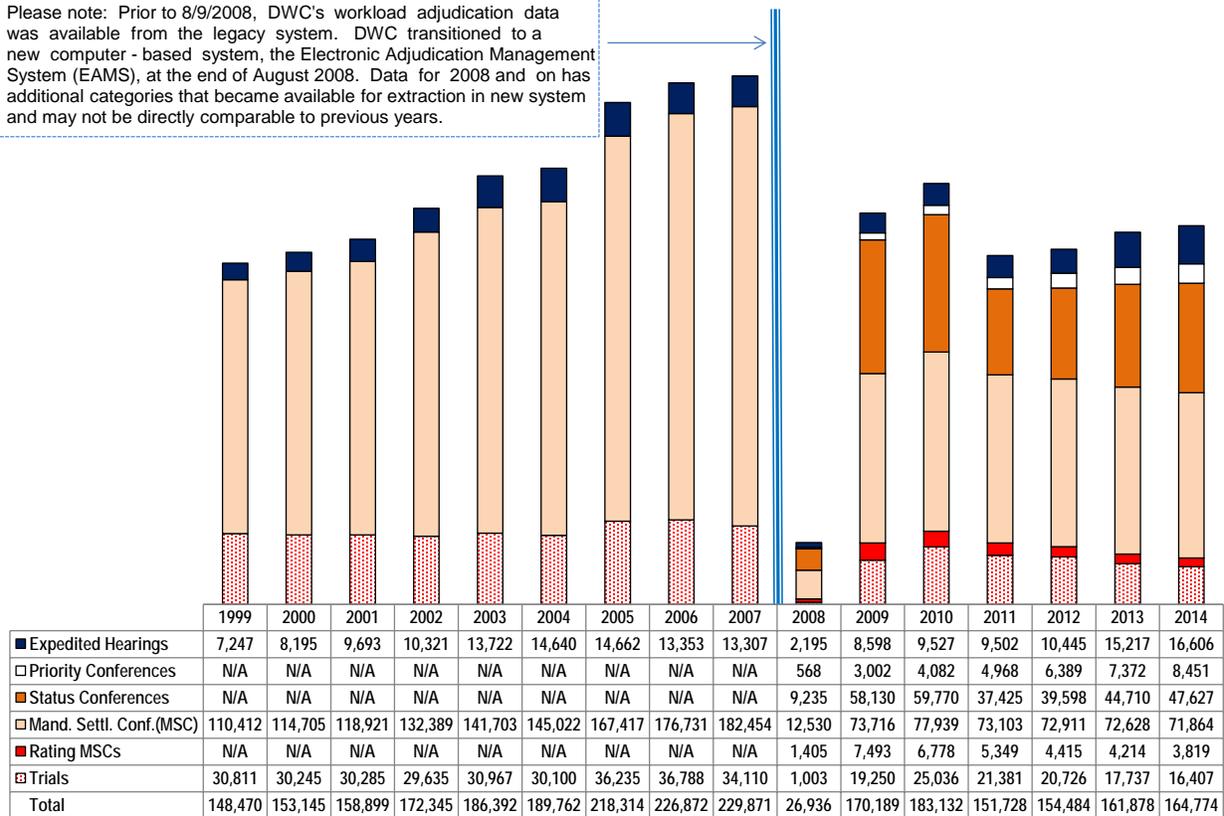
intervals.

- D. **MSC and Ratings MSC.** Labor Code Section 5502(e) establishes time frames to schedule MSCs and trials in cases involving injuries and illnesses occurring on and after January 1, 1990. MSCs are to be conducted not less than 10 days and not more than 30 days after filing a DOR.
- E. **Trials.** Labor Code Section 5502(e) mandates that if the dispute is not resolved at the MSC, a trial is to be held within 75 days after filing the DOR.

Figure 42 indicates the numbers of different types of hearings held in DWC from 1999 through 2014. The total number of hearings held increased by 55 percent from 1999 to 2007. After the transition year of 2008, the total number of hearings held averaged 164,360 hearings per year. From 2010 to 2014, the number of trials decreased by 34 percent, the number of status conferences decreased by 20 percent, mandatory settlement conferences (MSCs) decreased by 8 percent, and rating MSCs by 44 percent. During the same period, the number of expedited hearings increased by 74 percent and the number of priority conferences increased by 107 percent.

**Figure 42: DWC Labor Code 5502 Hearings Held**

Please note: Prior to 8/9/2008, DWC's workload adjudication data was available from the legacy system. DWC transitioned to a new computer - based system, the Electronic Adjudication Management System (EAMS), at the end of August 2008. Data for 2008 and on has additional categories that became available for extraction in new system and may not be directly comparable to previous years.



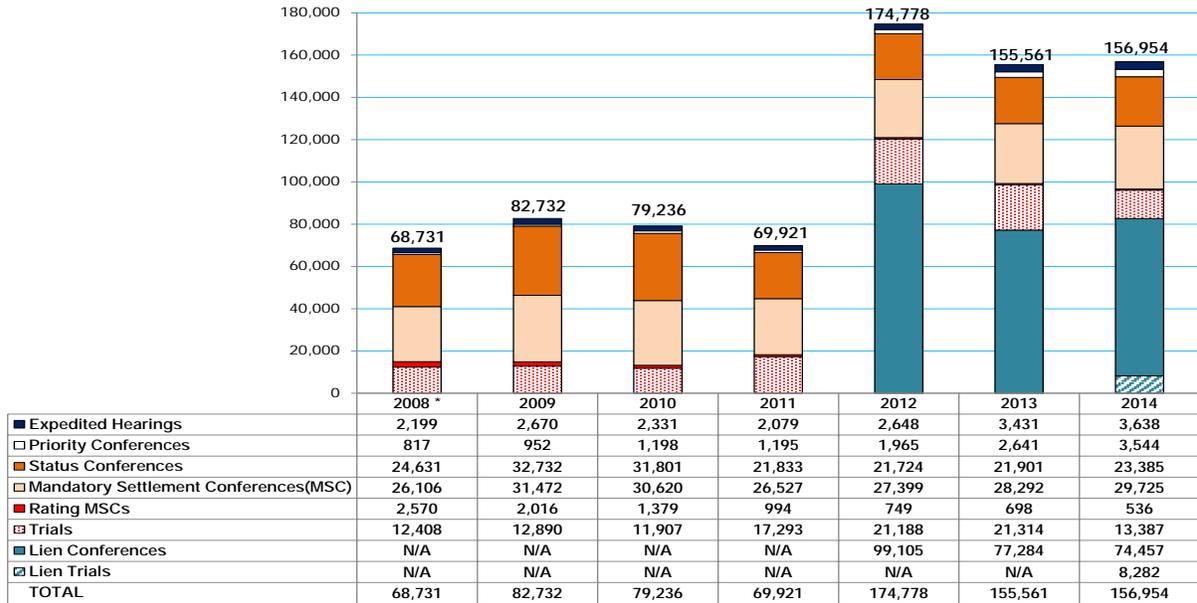
Data Source: DWC

The non-Section 5502 hearings are continuances or additional hearings after the first hearing. Figure 43 shows non-Section 5502 hearings held from 2008, when DWC transitioned to EAMS, to 2014.

From 2010 to 2014, the number of status conferences decreased by 26 percent, mandatory settlement conferences (MSCs) by 3 percent, and rating MSCs by 61 percent. During the same period, the number of trials increased overall by 12 percent, the number of expedited hearings by 56 percent, and the number of priority conferences increased almost threefold.

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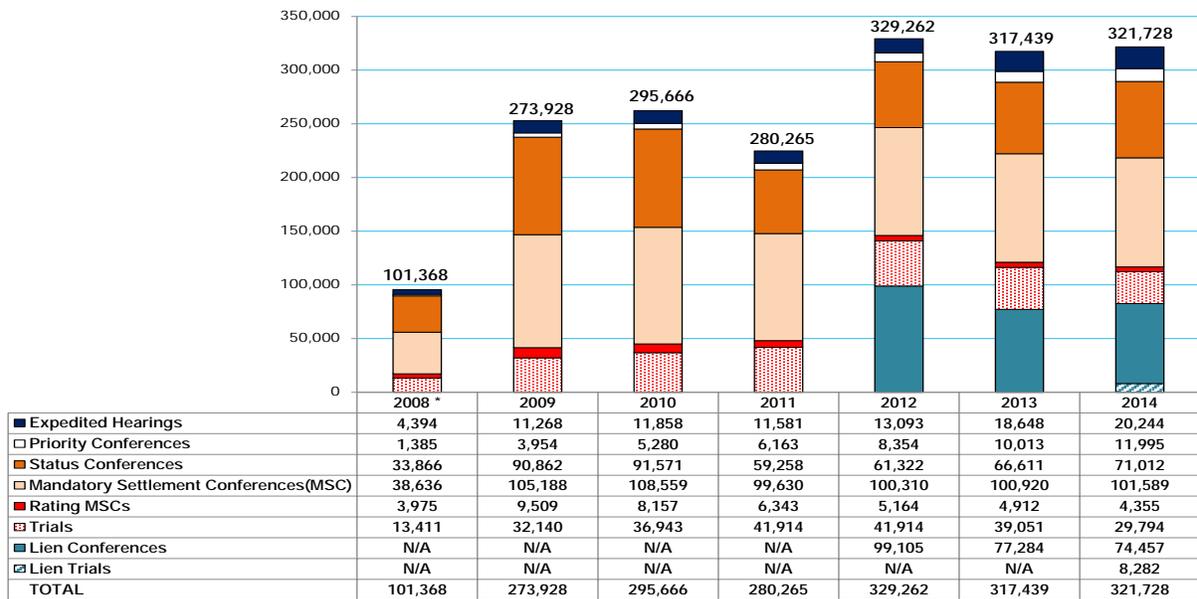
Figure 43: DWC Non-5502 Hearings Held



Data Source: DWC

Figure 44 shows the total hearings held from 2008 to 2014 including Labor Code Section 5502 hearings, non-Section 5502 hearings, and lien conferences.

Figure 44: DWC Total Number of Hearings Held (LC 5502 and non-5502)



Data Source: DWC

## Timeliness of Hearings

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

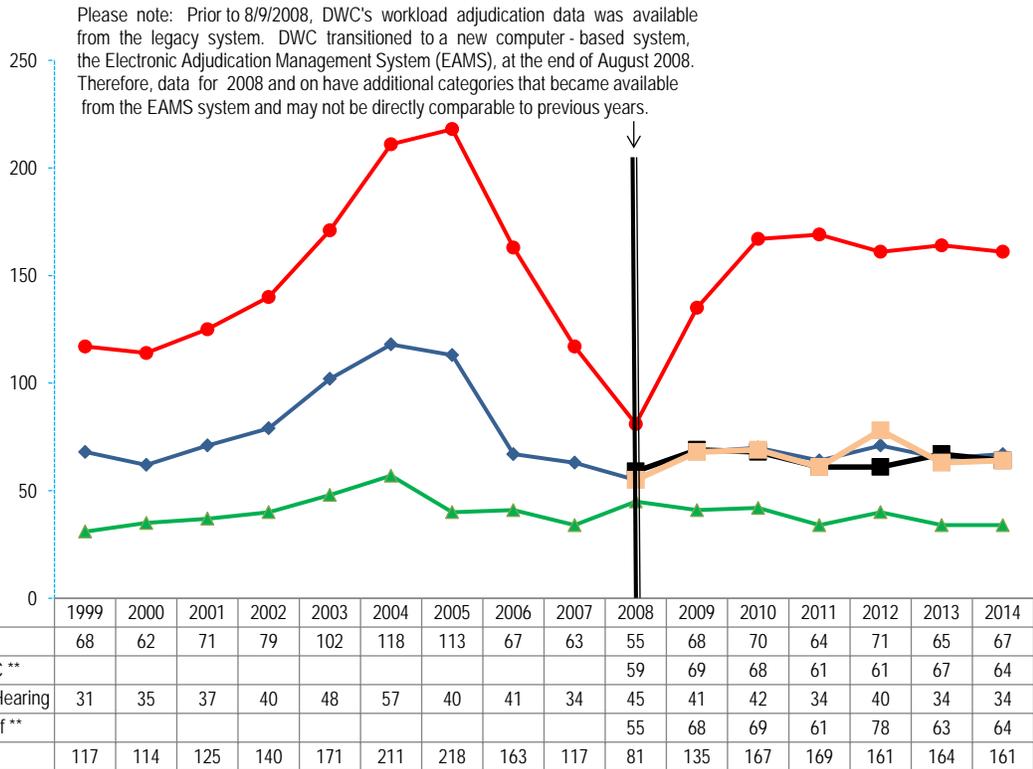
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- An expedited hearing must be held within 30 days of the receipt of a DOR.
- The conference shall be conducted within 30 days after the filing of a DOR.
- MSCs, rating MSCs, and priority conferences are required to be held within 30 days of the receipt of a request in the form of a DOR.
- A trial must be held within 75 days of the request if a settlement conference has not resolved the dispute.

Figure 45 shows the average elapsed time from a request to a DWC hearing in the fourth quarter of each year, from 1999 to 2014. From 2000 to 2004, all the average elapsed times increased from the previous year's quarter, and none were within the statutory requirements. However, between 2005 and 2007, the average elapsed time from the request to a trial decreased by 46 percent, the average elapsed time for conferences by 44 percent, and the average time for expedited hearings by 15 percent. After the transition in 2008, the average elapsed times from a request to a DWC hearing returned to the pre-EAMS level for MSCs and expedited hearings from 2009 to 2014. The average elapsed time from a request to a DWC trial was at the 2006 level from 2010 to 2014.

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**Figure 45: Elapsed Time in Days from Request to DWC Hearing (4th Quarter)**



\* Mandatory Settlement Conferences.

\*\* Data for the period from 1999 to 2007 are unavailable.

Data Source: DWC

From 2008 through 2011, the longer waiting times for regular trials (top red line) coincided with the reduction in available court hours due to hiring freezes and furloughs. Governor Arnold Schwarzenegger's July 31, 2008, Executive Order froze hiring and barred the use of retired annuitants. Beginning February 1, 2009, judges and staff were placed on furlough two days a month.<sup>35</sup> Effective July 1, 2009, the furloughs were increased to three days per month.<sup>36</sup> With just over 20 working days a month, the furloughs represented cuts of, first, 10 percent and, then, 15 percent of available hours for hearing and resolving cases. The fact that the time to expedited hearing (bottom green line) grew shorter from 2008 through 2011 shows that the courts gave priority to scheduling the urgent issues that are statutorily designated for expedited hearing. After 2008, the waiting time for MSCs and related hearings (rating and priority) was mostly within mandatory timelines.

## Division of Workers' Compensation Decisions

### DWC Case-Closing Decisions

The number of decisions made by DWC that are considered case-closing declined during the second half of the 1990s. As Figure 46 shows, the case-closing decisions increased overall from 2000 to 2005, and then decreased by 18.4 percent from 2005 to 2007. The total number of case-closing decisions increased to the 2004 level from 2009 to 2013, after the transition period to EAMS in 2008, and then decreased by 5 percent from 2013 to 2014. This decrease in the number of case-closing decisions was due to decreases

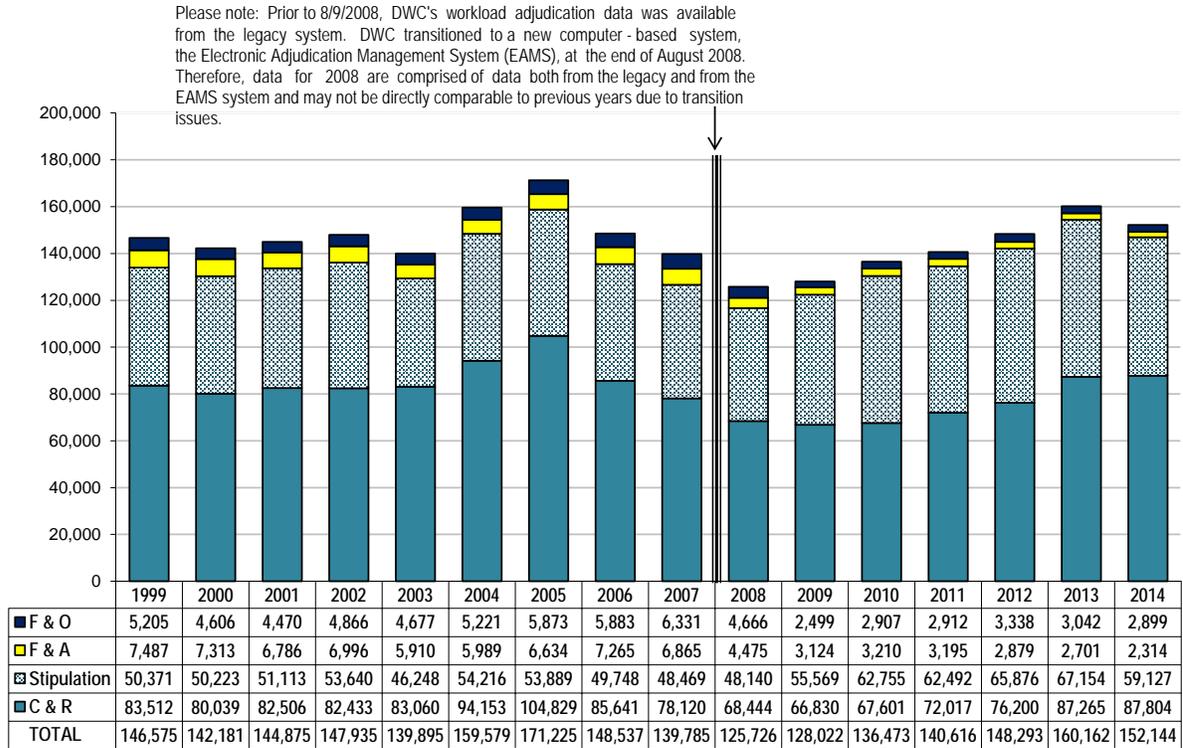
<sup>35</sup> Executive Order S-16-08.

<sup>36</sup> Executive Order S-13-09.

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in Findings & Award (F&A) from 2010 to 2014, in Findings & Order (F&O) from 2012 to 2014, and in Stipulations from 2013 to 2014.

**Figure 46: DWC Case-Closing Decisions**



Data Source: DWC

### *Mix of DWC Decisions*

As shown in the previous figures and the figure below, again, the vast majority of the case-closing decisions rendered during the 2000s were in the form of a WCAB judge's approval of Stips and C&Rs, which were originally formulated by the case parties.

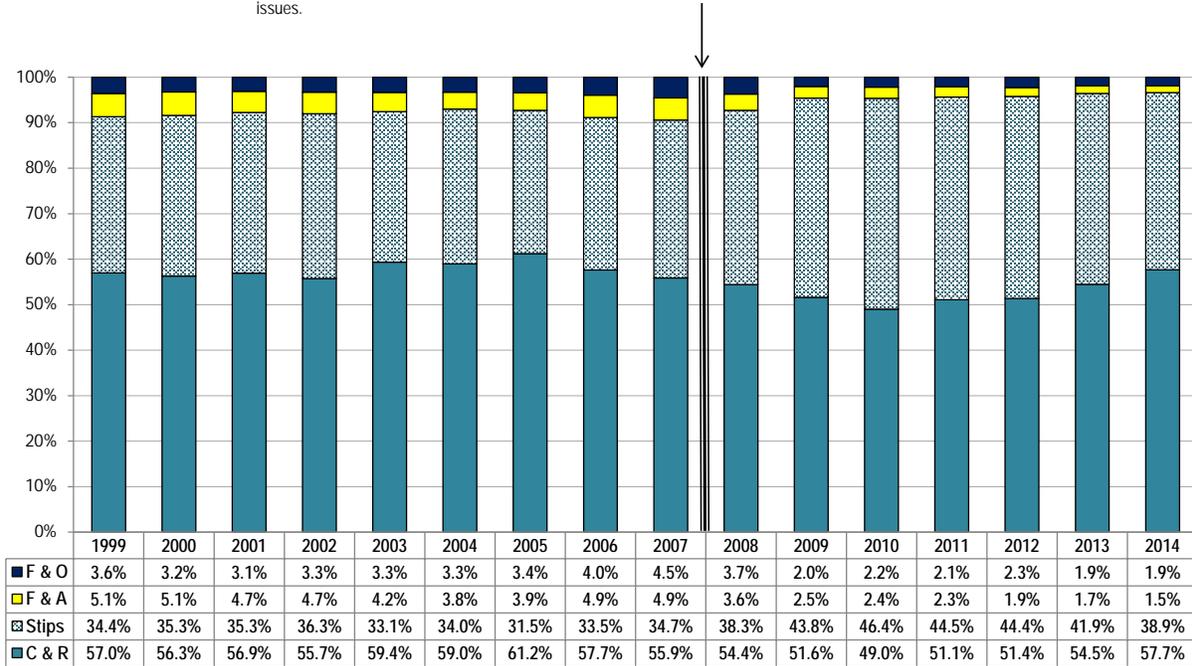
From 1999 to 2007, there was an overall increase in the proportion of Stips and overall decrease in the proportion of C&Rs. This reflects the large decrease in the issuance of C&Rs until the 1990s. This pattern continued until 2008 to 2010 and then reversed with a seven-percentage-point decrease in Stips and eight-point increase in C&Rs from 2010 to 2014.

In the figure that follows, only a small percentage of case-closing decisions evolved from an F&A or Finding & Order (F&O) issued by a WCAB judge after a hearing. That pattern continued with an overall decrease for both types of decisions from 2009 to 2014.

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**Figure 47: DWC Decisions: Percent Distribution by Type of Decisions**

Please note: Prior to 8/9/2008, DWC's workload adjudication data was available from the legacy system. DWC transitioned to a new computer-based system, the Electronic Adjudication Management System (EAMS), at the end of August 2008. Therefore, data for 2008 are comprised of data both from the legacy and from the EAMS system and may not be directly comparable to previous years due to transition issues.



Data Source: DWC

## Division of Workers' Compensation Lien Filings and Decisions

As Table 15 shows, from 2011 to 2012, the number of liens filed more than doubled in expectation of lien filing fees introduced by SB 863. The number of liens filed decreased by over 50 percent between 2011 and 2014 due to the introduction of SB 863 lien provisions. There has been an increase in lien filings between 2014 and 2015 and research is being conducted to determine the causes of the increase as well as if the rise is a temporary one.

From 2013 to 2015, the number of liens filed almost doubled. The number of decisions regarding liens filed on WCAB cases showed a significant increase of 59 percent from 2011 to 2013, thereby increasing concomitant expenditure of DWC staff resources on resolution of those liens. From 2013 to 2014, there was an 11 percent decrease in DWC lien decisions.

**Table 15: Numbers of Liens Filed and DWC Lien Decisions, 2011-2015**

	2011	2012	2013 (SB 863 Filing Fee Enacted)	2014	2015
Number of Liens Filed	469,190	1,236,704	206,858	229,730	398,940
Number of DWC Lien Decisions	41,395	64,300	65,800	58,321	NA

Source: DWC

See "Report on Liens" (CHSWC, 2011) for a complete description.  
[http://www.dir.ca.gov/chswc/Reports/2011/CHSWC\\_LienReport.pdf](http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReport.pdf)

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### **DIVISION OF WORKERS' COMPENSATION AUDIT AND ENFORCEMENT PROGRAM**

#### ***Background***

The 1989 California workers' compensation reform legislation established an audit function within the Division of Workers' Compensation (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 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 in the methodologies for file selection and assessment of penalties in the audit program.

Labor Code Sections 129 and 129.5 were amended to ensure 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 Administrative Director (AD) of the DWC 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 be required to pay penalties only for unpaid or late paid compensation.

Labor Code Section 129.5(e) was 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 is 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 WCAB's F&O is 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).

#### ***Overview of Audit Methodology***

##### ***Selection of Audit Subjects***

Audit subjects, including insurers, self-insured employers and third-party administrators, are selected randomly for routine audits.

The bases for selecting audit subjects for targeted audits are specified in California Code of Regulations (CCR) 8, Section 10106.1(c), effective January 1, 2003:

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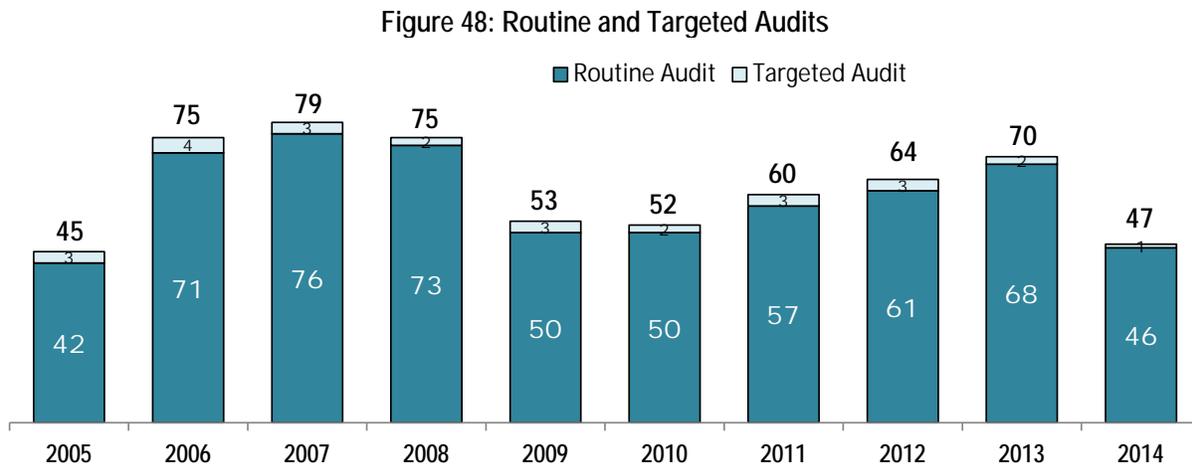
- Complaints regarding claims handling received by DWC.
- Failure to meet or exceed FCA performance standards.
- A high number of penalties awarded pursuant to Labor Code Section 5814.
- Information received from the Workers' Compensation Information System (WCIS).
- Failure to provide a claim file for a PAR.
- Failure to pay or appeal a Notice of Compensation Due ordered by the Audit Unit.

### ***Audit and Enforcement Unit Data***

Figures 48 to 54 depict workload data from 2004 through 2014 after the 2003 reform legislation changes to the Audit and Enforcement Program.

#### *Routine and Targeted Audits*

Figure 48 shows the number of routine audits and targeted audits and the total number of audits conducted each year.



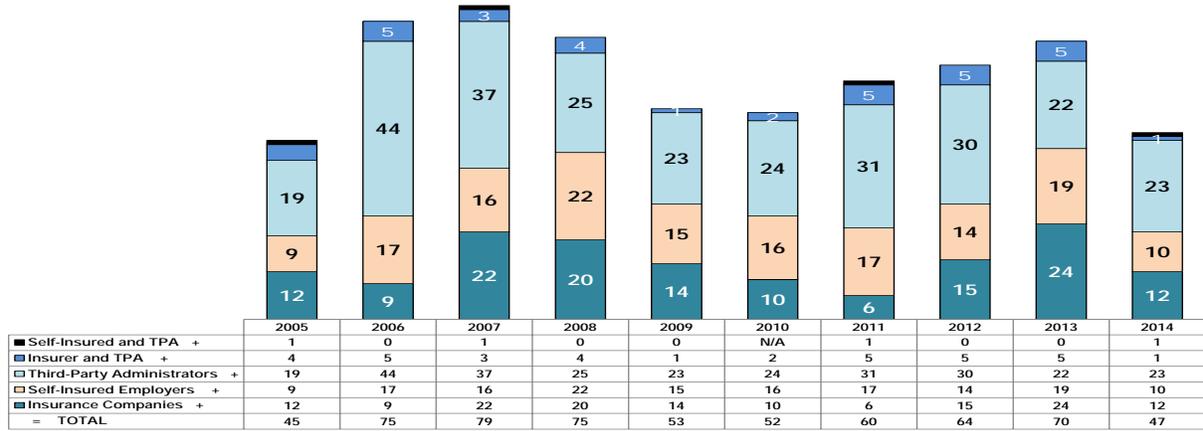
Data Source: DWC Audit and Enforcement Unit

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### Audits by Type of Audit Subject

Figure 49 depicts the total number of audit subjects each year, broken down by whether the subject is an insurance company (insurer), a self-insured employer, or a third-party administrator.

**Figure 49: DWC Audits by Type of Audit Subject**



Data Source: DWC Audit and Enforcement Unit

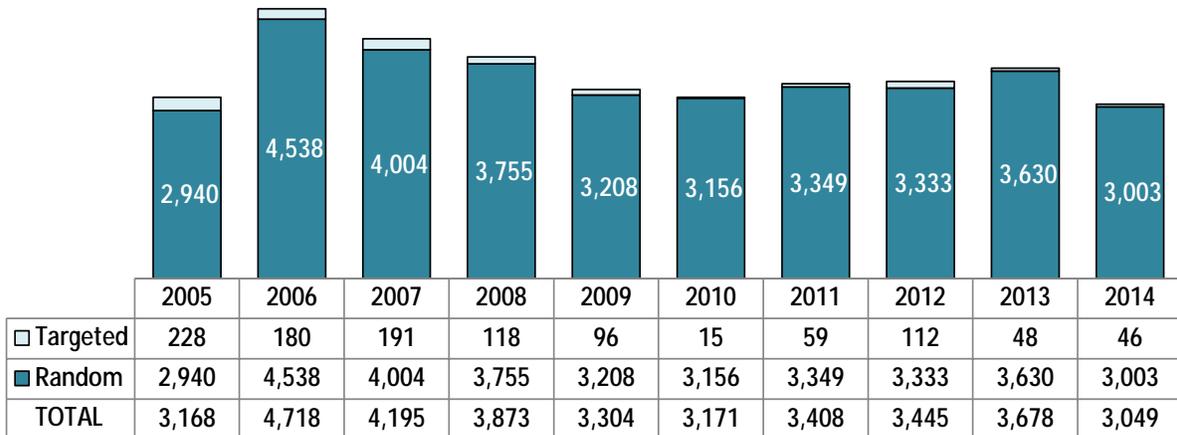
### Selection of Files to Be Audited

The majority of claim files are selected for audit on a random basis, with the number of indemnity and denied cases selected based on the number 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 targeted 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 DWC related to claims-handling practices. Types of claims include indemnity, medical-only, denied, complaint, and additional.

Figure 50 shows the total number of files audited each year broken down by the method used to select them.

**Figure 50: Files Audited by Method of Selection**



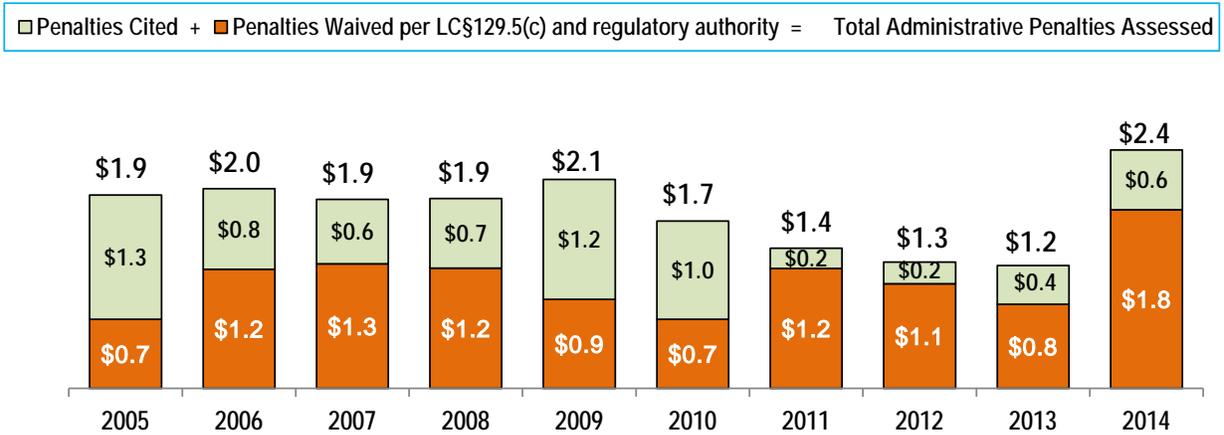
Data Source: DWC Audit and Enforcement Unit

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### Administrative Penalties

Figure 51 shows the administrative penalties cited from 2005 to 2014.

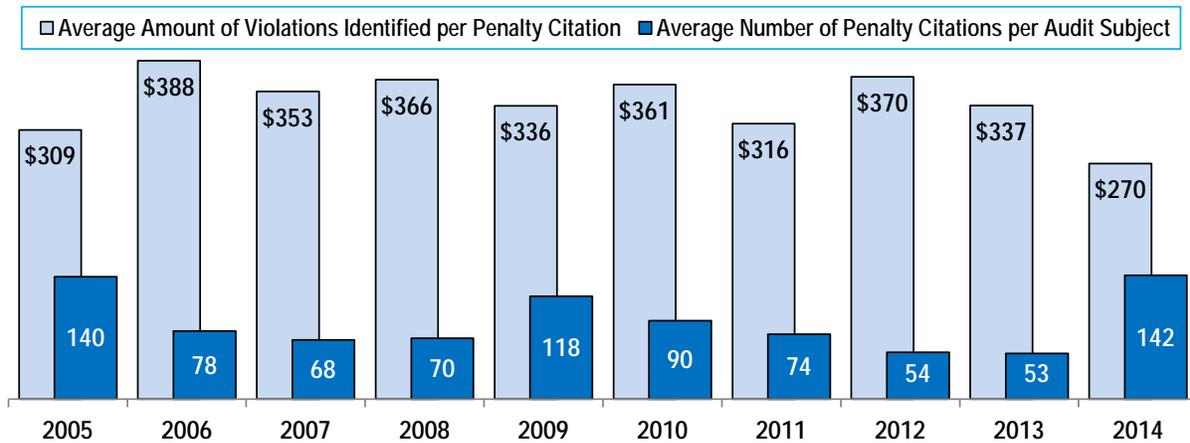
**Figure 51: DWC Audit Unit—Administrative Penalties (Million \$)**



Data Source: DWC Audit and Enforcement Unit

Figure 52 shows the average number of penalty citations per audit subject each year and the average dollar amount per penalty citation.

**Figure 52: Average Amount per Penalty Citation and Average Number of Penalty Citations per Audit Subject**



Data Source: Audit and Enforcement Unit

### Unpaid Compensation Due to Claimants

Audits identify claim files in which 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 WCARF. In these instances, application by an employee can be made to DWC for payment of monies deposited by administrators into this fund.

Figure 53 depicts the average number of claims per audit where unpaid compensation was found and the average dollar amount of compensation due per claim.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 53: Average Amount of Unpaid Compensation per Claim and Number of Notices of Compensation

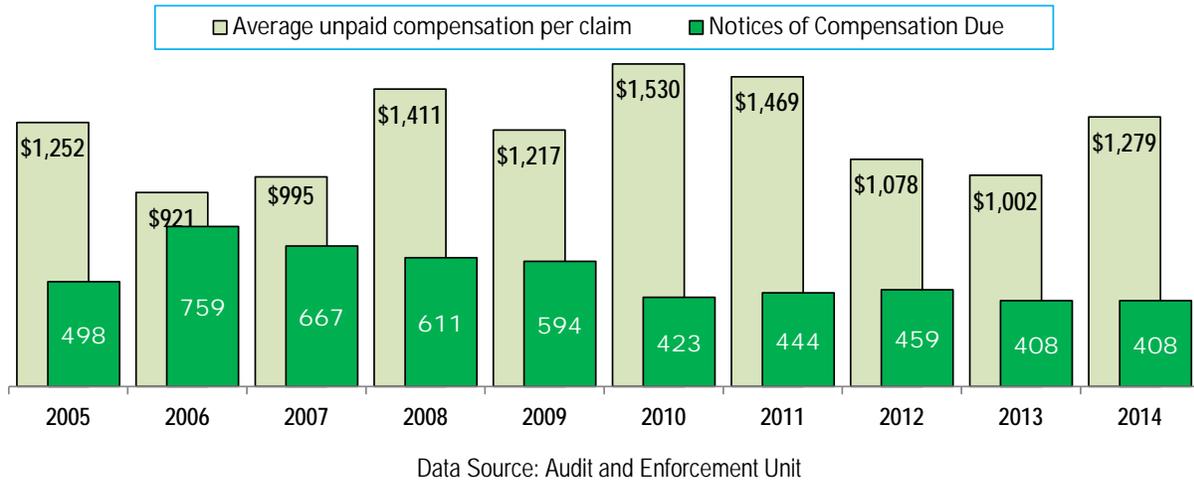
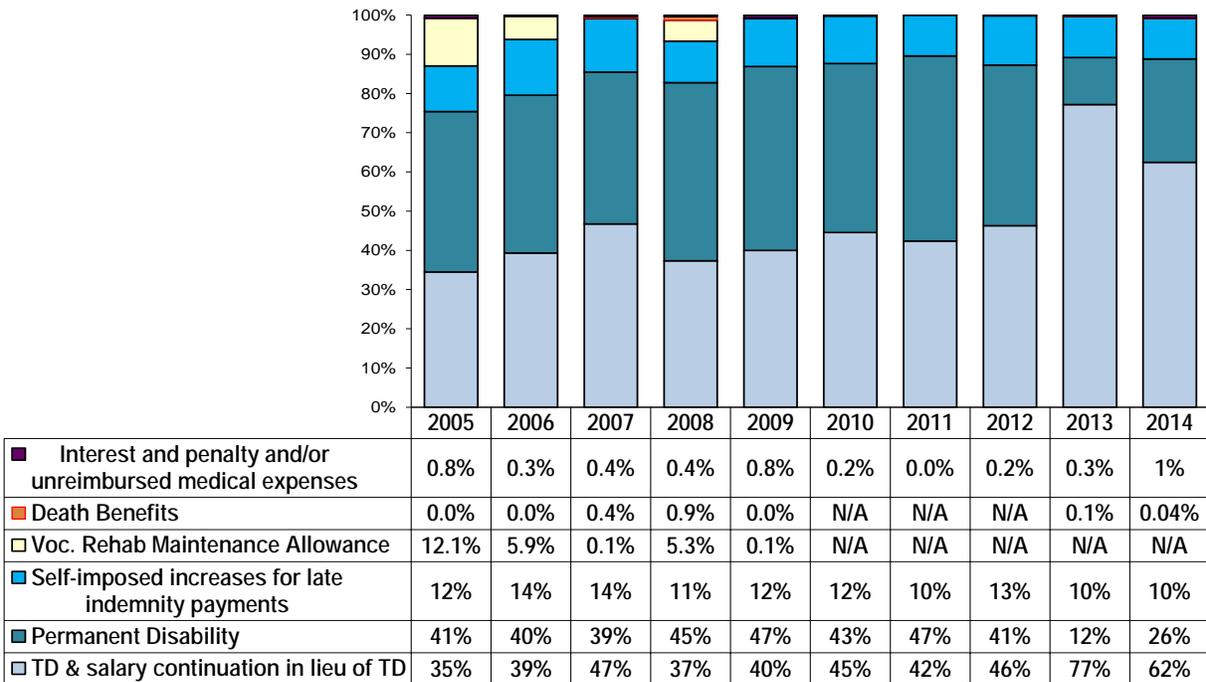


Figure 54 shows yearly distribution of unpaid compensation by specific type.

Figure 54: Distribution of Unpaid Compensation by Type



For further information ...

DWC Annual Audit Reports are available at <http://www.dir.ca.gov/dwc/audit.html>.

CHSWC "Report on the Division of Workers' Compensation Audit Function" (1998).  
<http://www.dir.ca.gov/CHSWC/FinalAuditReport.html>.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### DIVISION OF WORKERS' COMPENSATION DISABILITY EVALUATION UNIT

The DWC Disability Evaluation Unit (DEU) determines permanent disability ratings by assessing physical and mental impairments presented in medical reports. Physical impairments for injuries after 2005 are described in accordance with the *AMA Guide*, 5th ed., and disability is determined in accordance with the 2005 Permanent Disability Rating Schedule (PDRS). A final permanent disability rating (PDR) is obtained only after the whole person impairment rating obtained from a treating physician is adjusted for diminished future earning capacity (FEC), occupation and age at the time of injury. For injuries prior to 2005 and after April 1, 1997, the 1997 PDRS or an earlier edition is utilized, depending on date of injury. For injuries that occur on or after January 1, 2013, the FEC modifier has been replaced with a 1.4 modifier in accordance with changes to Labor Code Section 4660.1 as a result of SB 863.

The DEU's mission is to prepare timely and accurate ratings to facilitate the resolution of workers' compensation cases. Ratings are used by workers' compensation judges, injured workers, insurance claims administrators and attorneys to determine appropriate permanent disability benefits. DEU prepares three types of ratings:

- Formal Ratings—ratings per workers' compensation judges as part of expert testimony in a litigated case.
- Consultative Ratings—ratings on litigated cases at the request of an attorney, DWC Information & Assistance Officer, or other party to the case in order to advise parties to the level of permanent disability.
- Summary Ratings—ratings on non-litigated cases done at the request of a claims administrator or injured worker.

A permanent disability can range from 0 percent to 100 percent. Zero percent signifies no reduction of earning capacity, while 100 percent represents permanent total disability. A rating between 0 percent and 100 percent represents a partial loss of earning capacity. Partial permanent disability correlates to the number of weeks that an injured employee is entitled to permanent disability (PD) benefits, according to the percentage of PD.

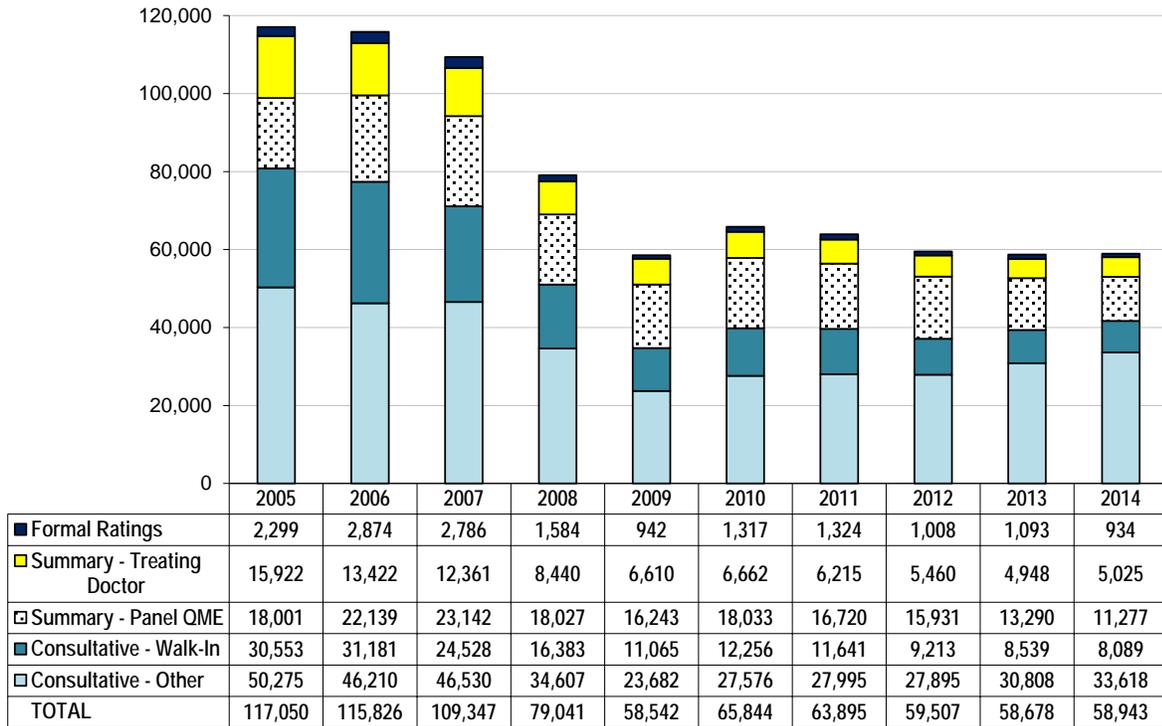
In addition to written ratings, DEU provides oral consultations on PD issues and commutations to determine the present value of future indemnity payments to assist in case settlements.

Figure 55 illustrates DEU's workload from 2005 through 2014 and shows the total ratings and ratings by type.

DEU written ratings leveled off between 2005 and 2006, and declined by 6.6 percent between 2006 and 2007. Between 2007 and 2009, the number of DEU written ratings declined by 46 percent. This decline is due to a number of factors, including: the introduction of *AMA Guides* and case decisions, such as *Ogilvie and Almaraz/Guzman* which increased rating complexity; the transition to a new electronic adjudication management system (EAMS), leading to a learning curve for personnel; hiring freezes that caused clerical shortages; and more consistent tabulation of rating production with the introduction of the EAMS system. A 12.5 percent increase in DEU written ratings in 2010, after the 2009 EAMS transition year, was followed by 10 percent decline from 2010 to 2014.

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Figure 55: DEU Written Ratings, 2005-2014



Data Source: DWC Disability Evaluation Unit

Table 16 shows the number of ratings issued in 2014 by type and rating schedules in effect.

Table 16: DEU Ratings in 2014 by Type and Rating Schedules in Effect

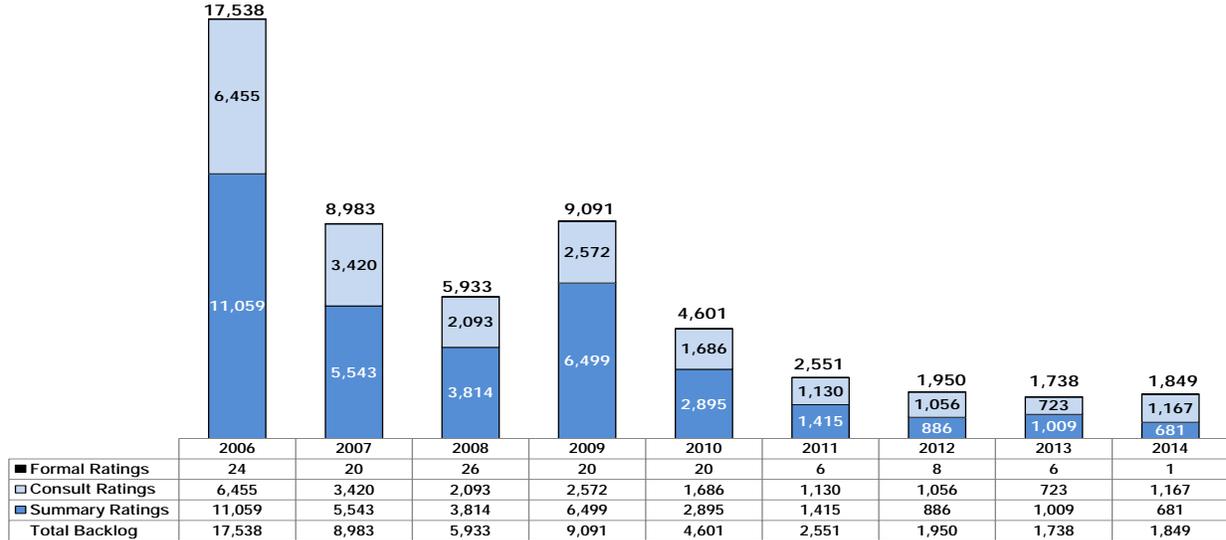
Year that rating schedules went into effect	1997	2005	2013
Summary rating based on QME report	66	10,348	863
Summary rating treating based on physician report	22	4,254	749
Walk-in consultative ratings	515	7,369	205
Other consultative ratings	2,643	29,575	1,400
Formal ratings requested by judge	190	739	5

Data Source: DWC Disability Evaluation Unit

DEU decreased the ratings backlog from 4,601 cases in 2010 to 1,849 cases in 2014, as seen in Figure 56. This represents a 60 percent reduction, including a 49 percent decrease from 2009 to 2010. The reduction in the backlog provides quicker delivery of benefits to injured workers and resolution of workers' compensation cases. From 2013 to 2014, there was a 6.4 percent increase in the ratings backlog.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 56: DEU Backlogs



Data Source: DWC Disability Evaluation Unit

DEU also performs commutations of future indemnity payments involving present-value calculations. These commutation calculations assist parties in the resolution of claims involving lump-sum settlements, including calculation of attorney fees on litigated cases.

For injuries that occurred on or after January 1, 2003, life pension and total PD payments are increased according to the annual increase of the state average weekly wage (SAWW) starting January 1 after the payment commences and each January thereafter. The increase in benefits based upon annual SAWW increases the complexity of commutation calculations. DEU performed 1,434 commutations, averaging 119.5 commutation calculations per month in 2013 and 1,346 commutations, averaging 112.2 commutation calculations per month in 2014.

The rating schedule has a profound impact on both employees and employers, as it forms the basis on which workers are compensated for the permanent effects of work-related injuries. Since the adoption of a new rating schedule effective January 1, 2005, DWC continues to collect data regarding the results of the new rating schedule.

### Staffing

Current staffing levels are 43 Disability Evaluators (WCC position), 3 supervisors, and 1 unit manager. DEU is supported clerically by staff assigned to the Adjudication Unit.

### DIVISION OF WORKERS' COMPENSATION MEDICAL UNIT

The Medical Unit is responsible for the oversight of the physicians who perform disability evaluations in the workers' compensation system, educating physicians on medical-legal issues, and advising the Administrative Director on various medical issues. The Medical Unit sets standards and issues regulations governing Qualified Medical Evaluators (QMEs) and enforces the regulations governing QME disciplinary actions. The Medical Unit issues panels of three randomly selected QMEs to both represented and unrepresented injured workers who need a medical/legal evaluation in order to resolve a claim.

The Medical Unit also reviews, certifies, monitors, and evaluates Health Care Organizations (HCOs) and Medical Provider Networks (MPNs). Additionally, the Medical Unit reviews utilization review (UR) plans from insurers and self-insured employers and develops and monitors treatment guidelines. The unit also

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

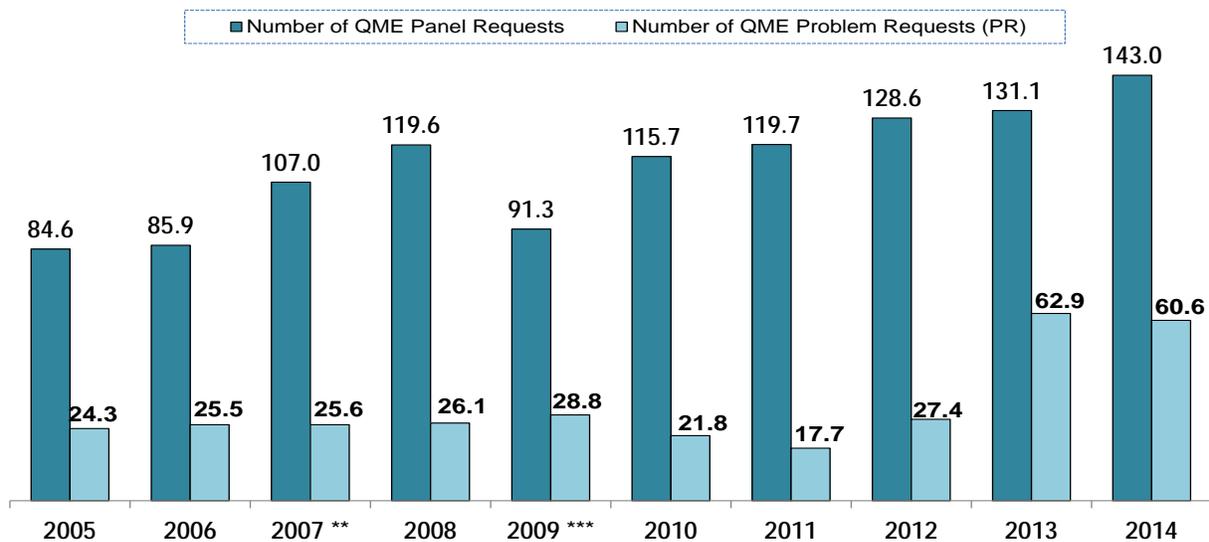
participates in studies to evaluate access to care, medical quality, treatment utilization, and costs. Finally, the Medical Unit recommends reasonable fee levels for various medical fee schedules.

### Qualified Medical Evaluator Panels

DWC assigns panels composed of three QMEs, from which an injured worker without an attorney selects an evaluator for a medical dispute. Beginning in 2005, a similar process became effective for cases where the worker has an attorney. This resulted in an increased number of QME panels. The changes contributed to a larger percentage of problems with the panel assignments.

Figure 57 indicates the number of QME Panel Requests issued each year and the number of problems with the original QME panel, which necessitated a replacement list. Some of the problems with panel assignment include parties not submitting documentation or submitting inadequate documentation, parties being ineligible for a QME panel, or DWC needing additional information to determine panel eligibility.

Figure 57: Number of Qualified Medical Evaluator (QME) Panel Requests\* and Problem Requests (Thousand)



\* The numbers account only for the incoming mail for initial panels. It does not include the count of additional specialty panels; replacement panel requests; Judge order panels; late report replacement panels; request to change the specialty panel needing the Medical Director's consent.

\*\* Data for 2007 was unavailable and is a forecast of previous years

\*\*\* Regulation was adopted in February 2009 to implement SB 899 that had impact on reporting the numbers of QME Panel Requests.

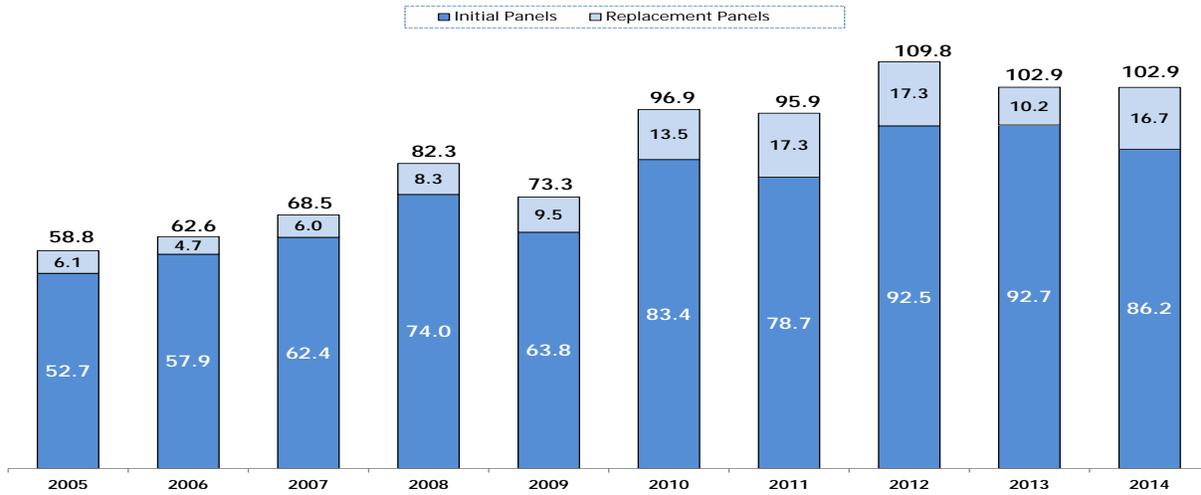
Data Source: DWC

Figure 58 shows the number of initial QME panels issued pursuant to the California Code of Regulations (CCR), Sections 30 and 31.7. Section 30 panel requests are submitted on Form 105 for unrepresented injured workers and on Form 106 for represented injured workers, requiring additional documentation to meet conditions under this section. Section 31.7 applies to requests to obtain additional specialty panels under certain specified conditions and is applicable only after the "initial" QME panel has been issued. Replacement QME panels<sup>37</sup> are issued pursuant to CCR, Section 31.5, which applies to requests to replace one or more QMEs from an "initial" panel that meets the conditions specified under this section.

<sup>37</sup> The term "replacement" is referenced as "second" panels in-house to communicate the type of handling needed for the panel request.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Figure 58: Number of QME Initial Panels and Replacement Panels Issued (Thousand)**



Data Source: DWC

### Utilization Review

The utilization review (UR) process includes utilization management functions that prospectively, retrospectively or concurrently review and approve, modify, delay, or deny, based in whole or in part on medical necessity to cure or relieve, treatment recommendations by physicians, as defined in Labor Code Section 3209.3, prior to, retrospectively, or concurrent with the provision of medical treatment services pursuant to Labor Code Section 4600. UR begins when the completed DWC Form RFA (requests for treatment), or a request for authorization accepted as complete under Labor Code section 9792.9.1(c)(2), is first received by the claims administrator, or in the case of prior authorization, when the treating physician satisfies the conditions described in the utilization review plan for prior authorization (§ 9792.6.1(y)).

A Utilization Review Plan is the written plan filed with the Administrative Director (AD) pursuant to Labor Code Section 4610, setting forth the policies and procedures and a description of the UR process (Section 9792.6.1(x)).

Effective January 1, 2004, each employer is required to file a UR plan with the AD. UR is a review of the treating physician's requests for treatment (RFAs) and the decisions made about the medical necessity of the requests. The Utilization Review Organization (URO) can be an internal or external group (from the claims administrator or employer) that performs most of the utilization reviews. The UR regulations (8 CCR Section 9792.6 et seq.) were adopted on September 22, 2005, and UR enforcement regulations were adopted on June 7, 2007. The enforcement regulations (8 CCR Section 9792.11–9792.15) gave DWC the authority to investigate all UROs that have submitted a UR plan. New regulations were introduced as Emergency Regulations on January 1, 2013, and adopted on February 12, 2014, in response to the adoption of SB 863. These new regulations include the enforcement sections 9792.11, .12, and .15. Sections 9792.13 and .14 were not changed and therefore are not found in the newly adopted regulations, but are still considered part of the UR enforcement regulations, just as section 9792.8 is still considered viable, even though it is also not included in the newly adopted regulations. Currently, the DWC Medical Unit UR Program Section has finished an investigation of all UROs that were active when the Enforcement Regulations were adopted. In 2014, DWC began repeat routine investigations on the UROs that were first investigated in 2007 and 2008. Investigations are done by randomly selecting files from all UR requests that the specific URO has received within a three-month period. The period selected is the previous three full months from the start of the investigation. DWC notifies the URO by sending a Notice of Utilization Review Investigation (NURI); generally these will also say "Routine," unless performing a specific target investigation. Once DWC has the information

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

requested, including a list of all requests for authorization (RFAs) for the three-month period, files are randomly selected for review and a list of those files is sent to the URO with the Notice of Investigation Commencement (NIC). The URO has 14 days from receipt of the NIC to provide copies of each selected file. The DWC Medical Unit UR program section triages the files and eliminates files that DWC considers "not complete," even if the URO has accepted the RFA as complete. When the correct number of UR files is obtained, they are reviewed to determine whether:

- The requests were answered on time.
- Decisions were made with the required criteria and rationale.
- The decision is communicated on time and to the appropriate parties.
- Independent Medical Review (IMR) application is sent to appropriate parties with all denial or modification decisions.
- The 2013 Emergency regulations and the 2014 adopted regulations are followed.

Those files found to have violations are given a set penalty. The entire investigation is given a score, depending on how many violations are cited. The passing score is 85 percent or higher. After the score is determined, the URO is notified through a Preliminary Report with all exhibits to verify how the score was compiled and any next steps to be taken. The URO may request a post-investigation conference and may send further documentation to verify that it actually performed the UR correctly. After the conference and review of additional documentation, DWC completes the Final Investigation Report. If the URO has a failing score or has any mandatory violation (Sections 9792.12(a)(1-17) and (c)(1-4)), DWC also sends an Order to Show Cause (OSC) and a Stipulation and Order, with the Final Report.

**Table 17: Status of UR Investigations**

	2013	2014	2015 (as of May 2015)
Number of UR investigations completed	7	6	10
Number of UR investigations pending	14	0	6
Number of failed investigations	0	0	0
Amount of UR penalty assessments	\$2,000	\$0	\$0

Source: DWC

### Independent Medical Review

Senate Bill (SB) 863 adopted several provisions that affect how medical necessity determinations are made for medical care provided to injured workers. One of the key provisions was putting in place the Independent Medical Review (IMR) process for resolving medical treatment disputes. Effective January 1, 2013, for injuries occurring on or after that date, and effective July 1, 2013, for all dates of injury, IMR is being used to decide disputes between the physician and claims administrator about necessary medical treatment for injured workers. DWC administers the IMR program with costs borne by the employer and it is similar to the group health process for medical treatment dispute resolution.

Table 18 and Figure 59 show correspondingly the monthly and quarterly numbers of IMR applications with duplicates, numbers of unique medical review requests, and IMR determinations completed at initial stages and in the whole period between January 2013 and August 2015. The total number of unique IMR requests received as of August 2015 was 372,950.

According to the table below, at the initial stages, the monthly number of unique IMR requests received increased from 8 in January 2013 to 335 in June 2013. Then, in one month, the number of unique IMR requests received increased substantially from 335 in June 2013 to 3,854 in July 2013, an increase of more than 11-fold, because after July 1, 2013, IMR was applied to medical necessity disputes for all dates of injury.

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**Table 18: Sharp Increase in Monthly Number of Independent Medical Review (IMR) Requests from January to July of 2013**

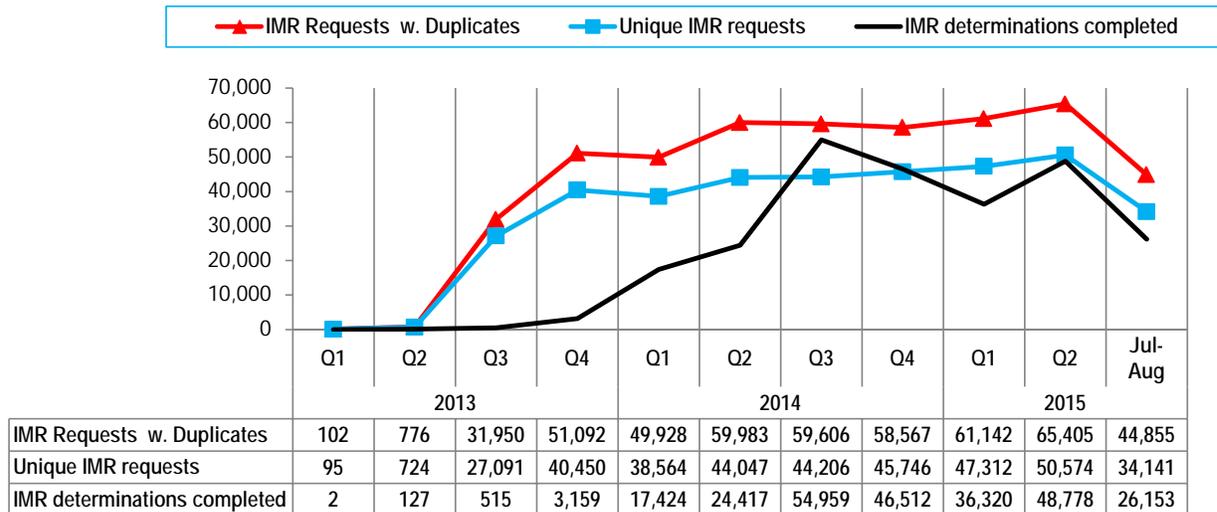
	January	February	March	April	May	June	July
IMR Requests with Duplicates	8	21	73	172	254	350	4,549
Unique IMR Requests	8	18	69	146	243	335	3,854
Number of IMR determinations completed	0	2	0	15	45	67	167

Data Source: DWC

The Figure 59 shows the quarterly numbers of IMR requests and IMR determinations completed from January 2013, when IMR became effective, to August 2015. The quarterly numbers of unique IMR requests received increased 426 times from 95 requests in Q1 to 40,450 in Q4 of 2013. In Q4 of 2013 and Q1 of 2014 the number of unique IMR requests received averaged at around 39,500 requests per quarter, and then gradually increased by 28 percent from Q1 of 2014 to Q2 of 2015.

The quarterly number of IMR determinations completed increased from 2 determinations in Q1 of 2013 to 3,159 determinations in Q4 of 2013. The number of IMR determinations increased 17 times to its peak of 54,959 determinations between Q4 of 2013 and Q3 of 2014. There was a 34 percent decrease in number of IMR determinations completed from Q3 of 2014 to Q1 of 2015, and then again a 34 percent increase in quarterly completed IMR determinations from Q1 to Q2 of 2015.

**Figure 59: Quarterly Number of Independent Medical Review Requests (IMR) Received and Determinations Completed between January 2013 and August 2015**



Data Source: DWC

**Independent Bill Review**

Senate Bill (SB) 863 adopted several provisions to provide a quick, efficient way of resolving disputes over medical billing and eliminate litigation at the appeals board over billing disputes. One of the key provisions was putting in place the Independent Bill Review (IBR) process for resolving medical treatment and medical-legal billing disputes. Effective January 1, 2013, for medical services provided on or after that date and where the fee was determined by a fee schedule established by the DWC, the IBR is being used to decide disputes when a medical provider disagrees with the amount paid by a claims administrator. DWC administers the IBR program, which refers applicants to an independent bill review organization (IBRO). The reasonable fees for IBR are paid by the applying physician. If the independent

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

bill reviewer determines that the claims administrator owes the physician additional payment on the bill, the claims administrator must reimburse the physician for the review fee.

The total number of IBR requests received as of August 2015 was 4,444. According to Figure 60, the quarterly number of IBR requests received increased from 5 requests in Q1 to 445 in Q4 of 2013. From Q4 of 2013 to Q2 of 2015 the number of IBR requests received fluctuated in the range of 425 to 580 requests per quarter.

Figure 60: Quarterly Number of Independent Bill Review Requests Received between January 2013 and August 2015



Data Source: DWC

### Medical Provider Networks and Health Care Organizations<sup>38</sup>

#### Medical Provider Networks

##### Background

In recent years, the California workers' compensation system had significant increases in medical costs. Between 1997 and 2003, workers' compensation medical treatment expenses in California increased by an estimated 138 percent,<sup>39</sup> outpacing the costs for equivalent medical treatment provided in non-industrial settings. To abate this rise in costs, major reforms were made in 2003 and 2004. One such effort was the signing into law of Senate Bill (SB) 899 in April 2004. A major component of SB 899 was the option to establish a medical provider network (MPN), as promulgated in Labor Code Section 4616 et seq. MPNs were implemented beginning January 1, 2005. On September 18, 2012, another round of major workers' compensation reforms was signed into law with SB 863. SB 863 incorporates significant changes to MPNs, including but not limited to: expanding who can qualify to become an MPN applicant; limiting the MPN approval period to four-years and requiring a re-approval process for MPN plans; providing the right to petition for MPN suspension or revocation; and authorizing the adoption of administrative penalties to ensure MPN applicants comply with regulations. Most of these changes took effect in January 1, 2014.

An MPN is a network of providers established by an insurer, self-insured employer, a Joint Powers Authority (JPA), the State, a group of self-insured employers, a self-insurer security fund, or the California Insurance Guarantee Association (CIGA) or entities that provide physician network services to treat work-related injuries.

The establishment of an MPN gives employers significant medical control. With the exception of employees who have a pre-designated physician, according to California Labor Code Section 4600, employers that have established an MPN control the medical treatment of employees injured at work for the life of the claim, as opposed to 30 days of employer medical control they had prior to the passage of

<sup>38</sup> The information in this section was provided by the DWC Medical Unit, with minor edits by CHSWC staff.

<sup>39</sup> Based on the WCIRB annual report *California Workers' Compensation Losses and Expenses Report*, prepared pursuant to § 11759.1 of the California Insurance Code.

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SB 899. Having an MPN means the employer has more control with regard to who is in the network and who the injured worker sees for care for the life of the claim. The employer chooses who the injured worker goes to on the first visit; after the first visit, the injured worker can go to a doctor of his/her choice in the MPN.

Before the implementation of an MPN, insurers, employers or entities that provide physician network services are required to file an MPN application with the Division of Workers' Compensation (DWC) for review and approval, pursuant to 8 CCR Section 9767.1 et seq.

DWC provides all the data on MPNs and HCOs in this section.

### *Application Review Process*

California Labor Code Section 4616(b) mandates that the Division of Workers' Compensation (DWC) review and either approve or disapprove MPN plans submitted within 60 days of plan submission. If DWC does not act on the plan within 60 days, the plan is deemed approved by default.

Upon receipt of an MPN application, DWC does an initial cursory review of all applications received. The result of the review is communicated to each applicant in a "complete" or "incomplete" letter, as applicable. Applicants with sections missing in their application will be asked to complete the missing part(s). Applicants with a complete application will receive a "complete" letter, indicating the target date for when the full review of their application will be completed. The clock for the 60-day time frame within which DWC should act starts from the day a complete application is received by DWC.

The full review of an application involves thorough scrutiny, using a standard checklist, to see whether the application followed the statutory and regulatory requirements set forth in California Labor Code Section 4616 et seq. and CCR Sections 9767.1 et seq. The full review culminates with an approval letter if no deficiency is discovered in the submitted application. Applicants with deficient applications are sent a disapproval letter, listing deficiencies that need to be corrected. This process is repeated until the application is approved or withdrawn.

Material modification filings go through a review process similar to the one for an initial application. Except in cases where an applicant was approved under the emergency regulations and is now updating the application to comply with the permanent regulations, reviews of material modifications are done only for those sections of the applications affected by the material change.

### *Applications Received and Approved*

Table 19 summarizes the number of MPN activities from their inception in November 1, 2004, to December 31, 2014. During this time, the MPN program received 2,363 MPN applications. Of these, 42 were ineligible, as they were erroneously submitted by employers, insurers, or other entities that, under the MPN regulations, are not eligible to set up an MPN. As of December 31, 2014, 2,180 applications were approved. Of these, 986 were approved under the emergency regulations, and the remaining 1,109 under the permanent regulations. DWC revoked thirty-two (32) approved applications. The reason for revocation was the applicants' erroneous reporting of their status as self-insured when in fact they were insured entities or an insurer no longer eligible to transact workers' compensation in California. Two hundred and fifty-eight (258) were withdrawn after approval, and 81 were withdrawn before approval. Withdrawn MPNs have never been implemented. The reasons for the withdrawals were either that the applicant decided not to pursue an MPN or there was a duplicative submission of the same application. Three hundred and eighteen (318) applications were terminated after approval. The reason for the termination was the applicant's decision to stop using the MPN.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

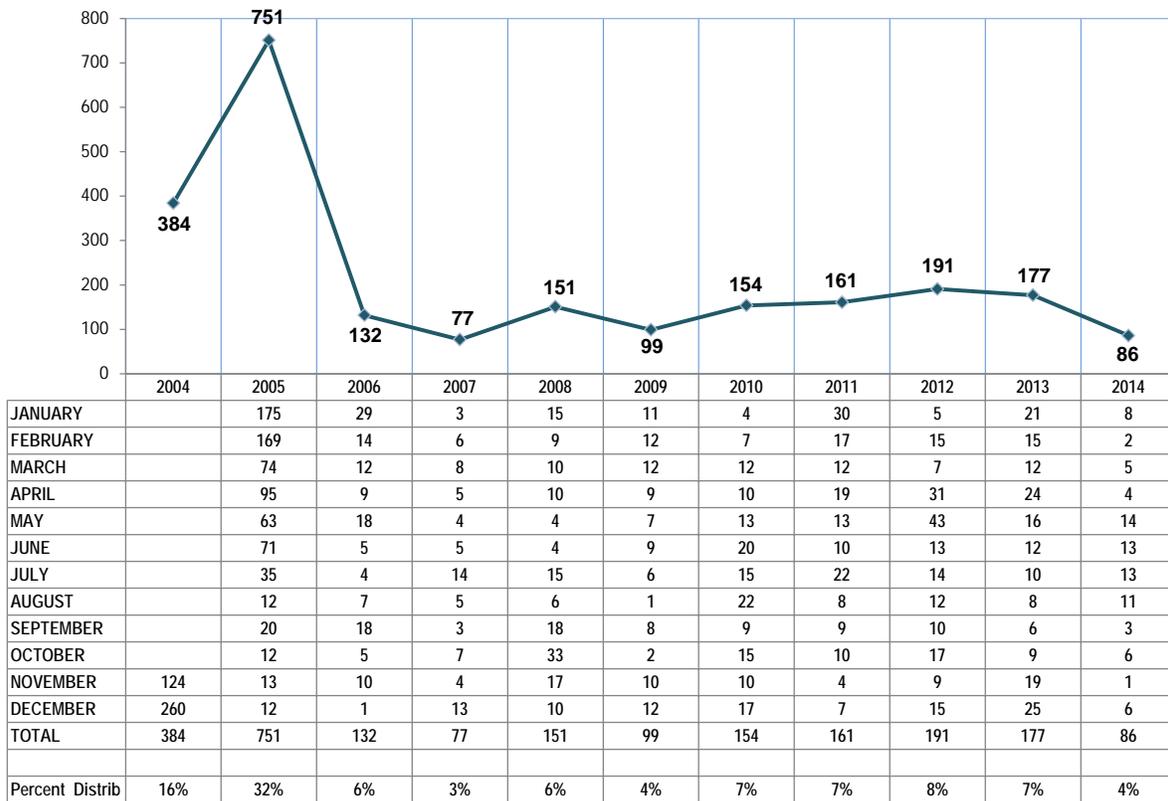
**Table 19: MPN Program Activities from November 1, 2004, to December 31, 2014**

MPN Application Status:	Number
Received	2,363
Approved	2,180
Material Modifications	3,093
Withdrawn	339
Revoked	32
Ineligible	42
Terminated	318

Source: DWC

Figure 61 shows the receipt of MPN applications by month and year. The bulk of applications, 48 percent, were received in the last two months of 2004 (384) and in 2005 (751). The number of applications decreased by 82 percent from 751 in 2005 to 132 in 2006 and then averaged 136 applications per year from 2006 to 2014.

**Figure 61: Number of MPN Applications Received by Month and Year of Receipt, 2005-2014 (Total = 2,363)**

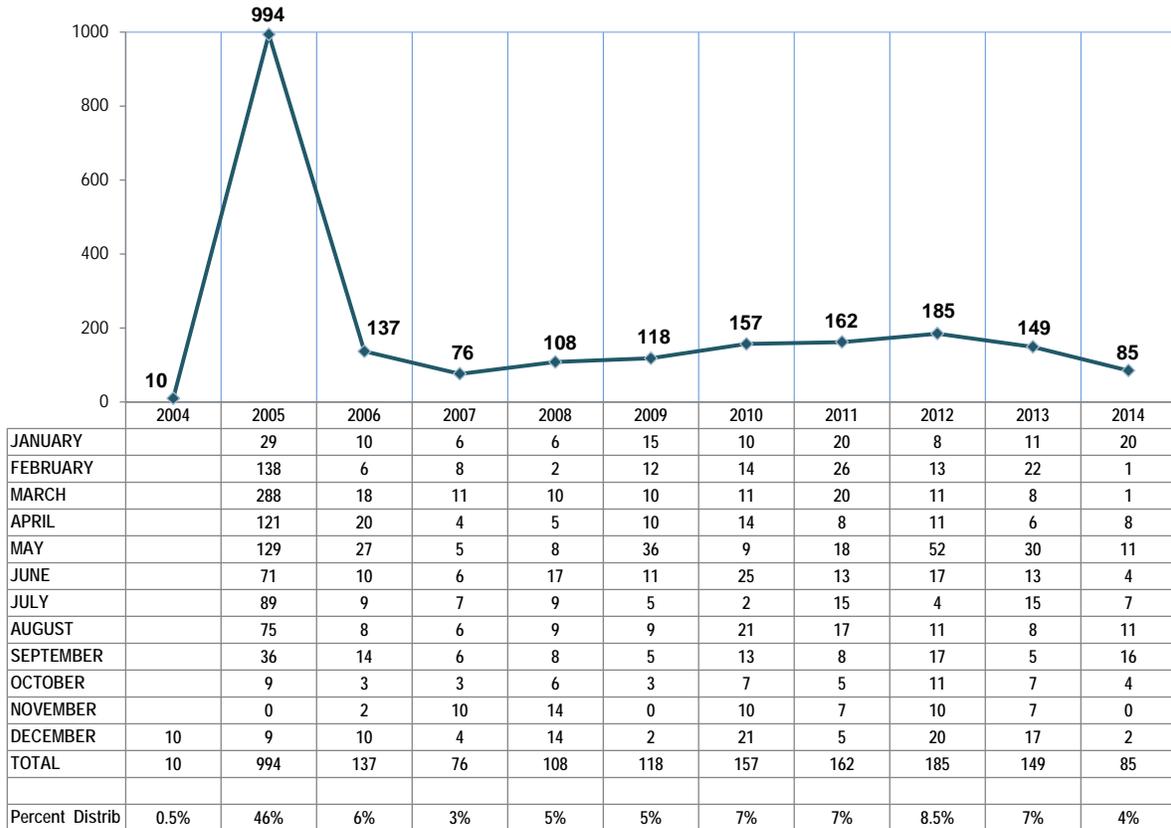


Data Source: DWC

Figure 62 shows the MPN applications approved by month and year. To recap, 48 percent (994) of MPN applications were approved in 2005. The number of MPN applications approved decreased by 86 percent from 994 in 2005 to 137 in 2006 and then averaged 131 approvals per each year from 2006 to 2014.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Figure 62: Number of MPN Applications Approved by Month, 2004-2014**  
(Total = 2,180)



Data Source: DWC

### *Material Modifications*

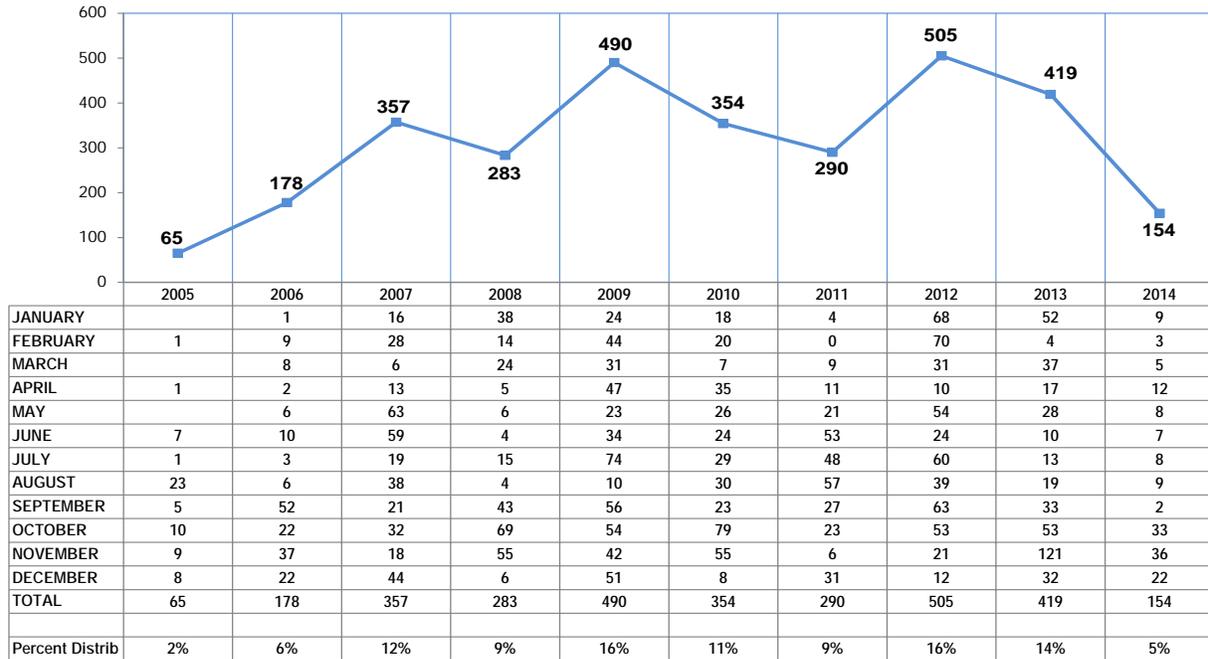
MPN applicants are required by 8 CCR Section 9767.8 to provide notice to DWC for required material changes to their approved MPN application. Modifications are required when there is a change in MPN Liaison or Authorized Individual, or a change in the employee notification material, among other reasons. Modifications go through a review and approval process similar to the one for a new application, within the same regulatory time frame.

As of December 31, 2014, 1,319 applicants have filed material modifications with DWC. Some applicants have filed more than one material modification. Seven hundred and fifty-two (752) applicants have filed 2 or more material modification filings, while 1 applicant had 38 filings.

Figure 63 and its accompanying table show the number of material modification filings received at DWC. From 2005 to 2007, the number of material modifications received increased from 65 to 357, and then fluctuated between 280 and 500 from 2008 to 2013. There was a 63 percent decrease in the number of material modifications received from 2013 to 2014.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Figure 63: Number of MPN Material Modifications Received by Month, 2005-2014  
(Total = 3,095)**



\* Monthly data are not available

Data Source: DWC

### *Plan for Reapproval Process*

Beginning January 1, 2014, SB 863 introduced the four-year approval period for existing and newly approved MPN plans. The MPN applicant is required to submit a complete plan to the DWC for reapproval at least six months before the expiration of the four-year approval period. The amended MPN regulations that became effective August 27, 2014, set the expiration date for those MPN plans with a most recent application approval date or most recent material modification approval date prior to January 1, 2011, to December 31, 2014. For all plans with an application approval date on or after January 1, 2014, the expiration date is four years from the application approval date.

The MPN application plan for reapproval review process is similar to the application review process except that the administrative director has 180 days rather than 60 days to act from the date an MPN application plan for reapproval was received by the DWC.

As in the original application review process, a full review of a plan for reapproval application involves a thorough scrutiny, using a standard checklist, to see whether the application followed the statutory and regulatory requirements set forth in California Labor Code Section 4616 et seq. and the CCR Sections 9767.1 et seq. The full review culminates with an approval letter if no deficiency is discovered in the submitted application; if there are deficiencies, the MPN applicant is sent a disapproval letter, listing the deficiencies that need to be corrected. A correct and complete resubmission is required to ensure that the MPN approval does not expire, which will result in corrective action initiated by the DWC for a noncompliant plan.

As of August 27, 2014, the DWC identified 1,574 approved MPN plans, of which the approval for 352 MPNs would expire as of December 31, 2014. The DWC received 74 application plans for reapproval filings between October 20, 2014, and December 31, 2014. Of these filings, 30 were approved, 17 were pending review, 18 were incomplete or ineligible filings, and 9 were withdrawn by the applicant because expiration of MPN approval would occur in 2016 and 2017.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

A discrepancy in the numbers exists because the DWC anticipates that many of the existing approved MPNs have and will be consolidating into the new approved MPN plans created by the entities that provide physician network services. This consolidation will include the process to end coverage under the existing MPN and begin or transfer coverage into the new MPN. Once the consolidation is complete, the MPN applicant will submit a request to terminate the existing MPN, which will eliminate the requirement to file a plan for reapproval.

Table 20 shows the number of MPN approved plans that will require a filing for a plan for reapproval through 2018. These numbers are expected to change as approved MPNs are terminated due to consolidation into new approved MPNs created by entities that provide physician network services.

**Table 20: Expiring MPN Application Plans by Quarter and Year  
Through December 31, 2018 (Total = 1,598)**

Quarter	2014	2015	2016	2017	2018
<b>Q1</b>		19	155	94	22
<b>Q2</b>		54	140	98	23
<b>Q3</b>		90	88	70	34
<b>Q4</b>	352	31	100	222	6
<b>SUBTOTAL</b>	<b>352</b>	<b>194</b>	<b>483</b>	<b>484</b>	<b>85</b>

Source: DWC

Table 21 shows the number of MPN application plans for reapprovals received and approved at DWC in 2014.

**Table 21: MPN Application Plans for Reapproval Received and Approved by Month  
Through December 31, 2014**

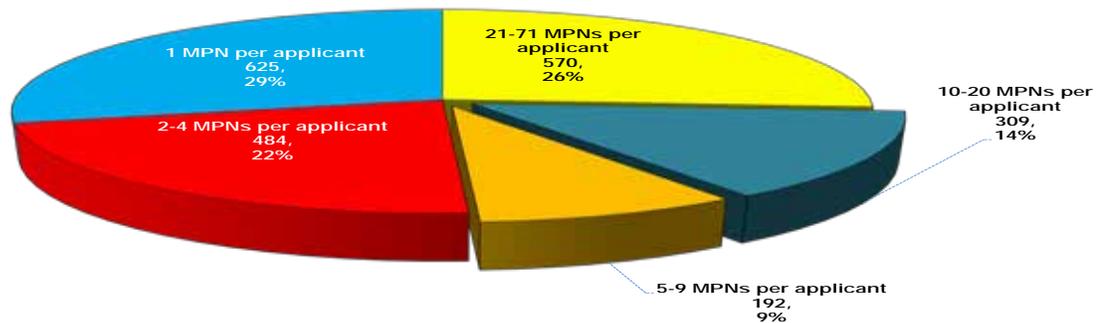
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	TOTAL
<b>Received</b>										15	17	42	<b>74</b>
<b>Approved</b>												30	<b>30</b>

Source: DWC

### *MPN Applicants*

MPN applicants are allowed to have more than one MPN. As a result, the MPN applicants with more than one MPN account for 71 percent of all MPNs, including 570 applicants with 21 to 71 MPNs (see Figure 64). The names of MPN applicants with 10 or more approved MPNs are shown in the Table 22. ACE American Insurance Company leads with 71 MPNs, followed by Zurich American Insurance Company with 46 MPNs, and American Home Assurance Company with 41 MPNs.

**Figure 64: Distribution of Approved MPNs by Number of MPNs per Applicant, 2014**



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**Table 22: Names of MPN Applicants with 10 or More Approved MPNs**

Name of Applicant	Number of MPNs
ACE American Insurance Company	71
Zurich American Insurance Company	46
American Home Assurance Company	41
National Union Fire Insurance Company of Pittsburgh, PA	39
Federal Insurance Company	35
The Insurance Company of the State of Pennsylvania	34
Fidelity and Guaranty Insurance Company	32
Old Republic Insurance Company	32
Safety National Casualty Corporation	32
New Hampshire Insurance Company	29
ARCH Insurance Company	28
Discover Property & Casualty Insurance Company	27
United States Fidelity and Guaranty Company	26
Fidelity and Guaranty Insurance Underwriters, Inc.	25
Hartford Accident and Indemnity Company	25
XL Specialty Insurance Company	25
American Zurich Insurance Company	23
Hartford Insurance Company of the Midwest	20
Commerce and Industry Insurance Company	19
AIG Property Casualty Company	18
American Guarantee and Liability Insurance Company	16
Travelers Property Casualty Company of America	16
Twin City Fire Insurance Company	16
Continental Casualty Company	15
Granite State Insurance Company	15
Hartford Underwriters Insurance Company	15
Hartford Fire Insurance Company	14
Praetorian Insurance Company	14
Greenwich Insurance Company	13
Landmark Insurance Company	12
United States Fire Insurance Company	12
American Casualty Company of Reading, Pennsylvania	11
Indemnity Insurance Company of North America	11
Sentinel Insurance Company, Ltd.	11
Zurich American Insurance Company of Illinois	11
SPARTA American Insurance Company	10
SPARTA Insurance Company	10
St. Paul Fire and Marine Insurance Company	10
The North River Insurance Company	10
Tokio Marine & Nichido Fire Insurance Co., Ltd.	10

Source: DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 23 shows the number of MPN applicants by the type of applicant. The majority (65 percent) of MPN applications were filed by insurers, followed by self-insured employers (29 percent).

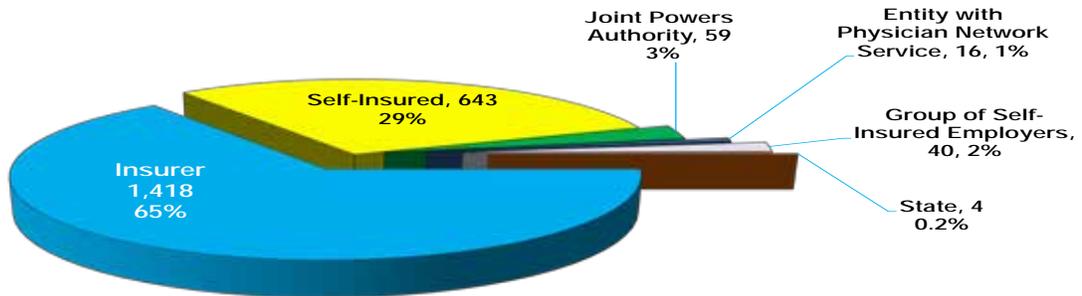
**Table 23: Distribution of Approved MPN Applications by Type of Applicant, 2004–2014**

Type of Applicant	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	Total
Insurer	7	611	68	32	80	91	66	122	146	110	39	<b>1,418</b>
Self-Insured	3	346	55	37	23	19	28	36	32	37	29	<b>643</b>
Joint Powers Authority		33	4	4	3	2	4	2	0	0	3	<b>59</b>
State		3						1	0	0		<b>4</b>
Group of Self-Insured Employers		2	10	3	2	6	7	1	7	2		<b>40</b>
Entity with Physician Network		2									14	<b>16</b>
<b>Total</b>	<b>10</b>	<b>994</b>	<b>137</b>	<b>76</b>	<b>108</b>	<b>118</b>	<b>105</b>	<b>162</b>	<b>185</b>	<b>149</b>	<b>85</b>	<b>2,180</b>

Source: DWC

Figure 65 shows the distribution of MPN applications approved from 2004 to 2014 by the type of applicant.

**Figure 65: Distribution of All Approved MPN Applications by Type of Applicant  
(Total for 2004 through 2014 = 2,180)**



Data Source: DWC

### **MPN Plans Using HCO Networks**

HCO networks are used by 375 (17.1 percent) of the approved MPNs. This number excludes MPNs that were revoked, terminated, or withdrawn after approval. The distribution of MPNs by HCOs is shown in the Table 24. First Health HCO has an 8.3 percent MPN market share, followed by Corvel HCO, which has 4.8 percent, and Medex, which has 3.8 percent.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Table 24: Number of MPN Applicants Using HCO Networks**

<b>Name of HCO</b>	<b>Approved MPN Plans Using HCO Network</b>	<b>Percentage of Applications Received</b>	<b>Percentage of Applications Approved</b>
CompAmerica (First Health)	182	7.7%	8.3%
Corvel	105	4.4%	4.8%
Medex	83	3.5%	3.8%
CompPartners	4	0.2%	0.2%
Promesa	1	0.0%	0.0%
Net-Work	0	0.0%	0.0%
<b>Total Using HCO</b>	<b>375</b>	<b>15.8%</b>	<b>17.1%</b>

Source: DWC

*Employers/Insurers with MPN*

Neither the number nor the name of insured employers using MPNs can be obtained from MPN applications. Insurers are not required to report who among their insured employers is using their MPN. The list of self-insured employers with a self-reported number of covered employees of more than 5,000 is shown below. This list includes some large self-insured companies such as Albertsons, AT&T, Intel, Safeway, Home Depot, Target Corporation, Raley's and Lowe's.

**Table 25: Self-Insured MPN Applicants with Covered Employees of 5,000 or More, December 2014**

<b>Name of Applicant</b>	<b>Name of MPN</b>	<b>Number of Covered employees</b>
Los Angeles Unified School District	Sedgwick CMS Extended Medical Provider Network	138,000
California Restaurant Mutual Benefit Corporation	One Source Medical Network	130,000
County of Los Angeles	County of Los Angeles/CorVel MPN	102,000
County of Los Angeles	First Health CompAmerica Select HCO	102,000
County of Los Angeles	Interplan Health Group	102,000
California Agricultural Network, Inc.	California Agricultural Network, Inc MPN	92,523
California Farm Management, Inc.	California Farm Management, Inc MPN	92,523
Target Corporation	Target Medical Provider Network	75,300
CSAC Excess Insurance Authority	EIA Medical Provider Network	72,000
Safeway Inc.	Safeway MPN	60,000
The Kroger Co.	Sedgwick/Harbor MPN—Kroger	60,000
Target Corporation	Sedgwick CMS/Harbor Net-Target	59,700
San Diego/Imperial County Schools Joint Power Authority	Interplan through CompPartners	54,000
Self-Insured Schools of California (SISC)	Self-Insured Schools of California(SISC)/California Foundation for Medical Care Network	45,474
San Diego County Schools Risk Management Joint Powers Authority	San Diego County Schools JPA MPN	42,000
Home Depot U.S.A., Inc.	The Home Depot Medical Provider Network	41,306
Costco Wholesale Corporation	Costco Wholesale MPN	35,813
Pacific Bell Telephone Company	Sedgwick/Harbor 2 MPN	35,000
Southern California Permanente Medical Group (a partnership)	Kaiser Permanente/Harbor Net MPN	32,117

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

<b>Name of Applicant</b>	<b>Name of MPN</b>	<b>Number of Covered employees</b>
The Kroger Co.	CorVel/Kroger Select MPN	32,000
Kaiser Foundation Hospitals, a California Corporation	Kaiser Permanente MPN	29,880
City and County of San Francisco	City and County of San Francisco MPN	29,750
University of Southern California	USC/Harbor MPN	26,634
Kmart Corporation	Sedgwick CMS Extended Medical Provider Network	26,460
Southern California Permanente Medical Group	Kaiser Permanente MPN	26,353
Pacific Gas and Electric Company	PG&E /Blue Cross Medical Provider Network	25,663
CBS Operations Inc.	First Health Comp America HCO Select Network	25,276
California Contractors Network, Inc.	ACM/California Contractors Network MPN	25,000
Kaiser Foundation Hospitals	Kaiser Permanente/Harbor Net MPN	23,260
AT&T Inc.	Sedgwick CMS Extended Medical Provider Network	22,000
Pacific Bell Telephone Company	Sedgwick CMS Extended Medical Provider Network	22,000
Walt Disney Parks and Resort US, Inc.	Walt Disney Parks and Resort US, Inc. MPN	22,000
County of Orange	Intracorp	21,400
San Diego Unified School District	WellComp Medical Provider Network	20,762
The County of Riverside	First Health Comp America Select	20,173
New Albertson's Inc. (A SuperValu Company)	Sedgwick CMS Extended Medical Provider Network	20,000
Oracle America, Inc.	First Health Select MPN	20,000
Ventura County Schools Self-Funding Authority	WellComp Medical Provider Network	19,566
County of Riverside	CorVel MPN/County of Riverside	19,000
County of Riverside	County of Riverside Workers' Compensation Division MPN	19,000
Manpower, Inc.	Sedgwick CMS MPN	19,000
Securitas Security Services USA, Inc.	Sedgwick CMS Extended MPN	19,000
Viacom International Services, Inc.	First Health Comp America HCO Select Network	18,913
County of Orange	WellComp Medical Provider Network	17,700
Schools Insurance Group	Allied Managed Care/SIG MPN	17,500
Nonprofits' United Workers Compensation Group	WellComp MPN	16,800
Lowe's Home Centers, LLC	Lowe's Home Centers/Bunch MPN	16,678
Hewlett-Packard Company	Sedgwick CMS Extended Medical Provider Network	16,550
Marriott International, Inc.	Marriott's Medical Provider Network	16,304
Alameda County Schools Insurance Group	ACSIG/AccessMedical Provider Network	16,000
Cornerstone Comp, Inc.	Monument MPN	16,000

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Name of Applicant	Name of MPN	Number of Covered employees
Corporation of the Presiding Bishop of The Church of Jesus Christ of the Latter-day Saints	Deseret Signature MPN	16,000
Elite Golf Club Program, Inc.	Monument MPN	16,000
Guardian Comp, Inc.	Monument MPN	16,000
Quality Comp, Inc.	Monument MPN	16,000
Victory Comp, Inc.	Monument MPN	16,000
Southern California Edison Company	SCE Select	15,514
Raley's	Athens MPN	15,000
Nordstrom, Inc.	Nordstrom Medical Provider Network	14,479
County of San Bernardino	CorVel MPN	14,000
Intel Corporation	Sedgwick/Harbor 2 MPN	14,000
North Bay Schools Insurance Authority	TriCounty MPN	14,000
Alliance of Schools for Cooperative Insurance Programs (ASCIP)	WellComp Medical Provider Network	13,920
Central Region School Insurance Group	WellComp Medical Provider Network	13,679
Scripps Health	Sedgwick CMS/Harbor MPN-Scripps	13,586
Lockheed Martin Corporation	GENEX/Lockheed Martin MPN	13,400
Intel Corporation	Broadspire Signature MPN	13,223
Central Region Schools Insurance Group	CRSIG MPN	12,500
Kimco Staffing Services, Inc.	First Health CompAmerica Primary Network	12,500
Tenet Healthcare Corporation	Sedgwick/Harbor MPN—Tenet	12,200
Federal Express Corporation	GENEX-Federal Express Corporation Medical Provider Network	12,129
Barrett Business Services, Inc.	BBSI MPN	12,000
Securitas Security Services USA, Inc.	Sedgwick/Harbor MPN	12,000
Cedars-Sinai Medical Center	Cedars-Sinai Medical Provider Network (CSMPN)	11,000
K-Mart Corporation	Sedgwick CMS-Harbor MPN—Sears Holdings Management Corporation	11,000
North Bay Schools Insurance Authority	NBSIA/ CorVel Custom MPN	11,000
Los Angeles Community College District	WellComp Medical Provider Network	10,948
Memorial Health Services	TRISTAR MPN	10,827
Tenet Healthcare Corporation	First Health CompAmerica Primary HCO Network (or "First Health Primary")	10,642
Special District Risk Management Authority	WellComp Medical Provider Network	10,413
Dole Food Company, Inc.	Sedgwick CMS Extended MPN	10,200
99 Cent Only Stores	Broadspire Signature MPN	10,100
Chevron Corporation	Chevron Medical Provider Network	10,076
Chevron Stations, Inc.	Chevron Stations Medical Provider Network	10,076
El Camino Hospital	ACM/ El Camino Hospital MPN	10,000
Foster Farms	CorVel Custom MPN	10,000
Healthcare Industry Self-Insurance Program	Medex	10,000
LFP, Inc. and Affiliates	CorVel/LFP, Inc and Affiliates MPN	10,000
Monterey County Schools Workers' Compensation Joint Powers Authority	Monterey County Schools MPN	10,000

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Name of Applicant	Name of MPN	Number of Covered employees
Park and Recreation District Employee Compensation	PARDEC MPN	10,000
Hilton Worldwide, Inc.	Sedgwick/Harbor 2 MPN	9,700
United Air Lines, Inc.	CorVel/UAL/Kaiser MPN	9,500
Foster Poultry Farms	Foster Farms Custom CorVel MPN	9,200
ABM Industries, Incorporated	ABM MPN	9,100
Preferred Auto Dealers Self-Insurance Program	Medex	9,000
Smart & Final, Inc.	Sedgwick CMS Extended Medical Provider Network	9,000
BCI Coca-Cola Bottling Company of Los Angeles (Coca-Cola Enterprises, Inc.)	Sedgwick CMS Medical Provider Network	8,500
Kiewit Infrastructure West Co.	Sedgwick CMS Extended MPN	8,500
Providence Health System-Southern California	Genex-Providence Medical Provider Network	8,500
Kaiser Foundation Health Plan, Inc., a California Corporation	Kaiser Permanente MPN	8,448
County of Kern	County of Kern Medical Provider Network	8,447
Save Mart Supermarkets	Status MPN-Save Mart	8,000
Fresno County Self-Insurance Group	TRISTAR MPN	7,817
Quality Comp, Inc.	Monument MPN	7,541
San Gabriel Valley School Districts' Self-Insurance Authority	WellComp Medical Provider Network	7,489
Benefit & Liability Programs of California	WellComp Medical Provider Network	7,132
International Paper Company	Sedgwick CMS Medical Provider Network	7,000
Valley Insurance Program (VIP)	WellComp Medical Provider Network	6,763
County of Fresno	County of Fresno MPN 1211	6,750
Santa Ana Unified School District	WellComp Medical Provider Network	6,677
AmerisourceBergen Corporation	Broadspire Signature MPN	6,500
Cornerstone Comp, Inc.	Monument MPN	6,249
Alliance of Schools for Cooperative Insurance Programs (ASCIP)	ASCIP-Athens MPN	6,200
City of San Jose	Athens MPN	6,000
Wm. Bolthouse Farms, Inc.	Broadspire Signature MPN	6,000
Kaiser Foundation Health Plan, Inc.	Kaiser Permanente/Harbor Net MPN	5,682
New United Motor Manufacturers, Inc.	NUMMI MPN	5,536
Northern California Cities Self-Insurance Fund	NCCSIF MPN	5,500
City of Long Beach	City of Long Beach MPN	5,481
Big 5 Corp.	CorVel MPN	5,300
Frito-Lay, Inc.	Sedgwick CMS Medical Provider Network	5,300
Oakland Unified School District	Oakland Unified School District MPN	5,217
County of San Mateo	San Mateo County MPN	5,200
John Muir Health	TRISTAR MPN	5,102
THE PEP Boys Manny, Moe and Jack of California	TCT CA MPN	5,064

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Name of Applicant	Name of MPN	Number of Covered employees
Los Angeles County Office of Education	LACOE- WellComp Medical Provider Network	5,055
FedEx Freight Inc.	Sedgwick CMS Extended MPN	5,000
Foster Farms, LLC	Foster Farms Custom CorVel MPN	5,000
Yellow Transportation, Inc.	CorVel MPN	5,000
Yellow Transportation, Inc.	Yellow Transportation GBMCS MPN	5,000

Data Source: DWC

### *Status of the MPN Program*

The MPN program is in its tenth year and continues to develop as more MPNs are being used. The MPN plan monitoring and review processes have evolved with the regulations and as agency resources permit. SB 863 brought about important changes to the MPNs to improve efficiencies, promote greater accuracy, and ensure regulatory compliance.

To implement the important changes brought about by the passage of SB 863, the MPN regulations were amended, and these amendments took effect August 27, 2014. The changes to the MPN regulations include a more efficient streamlined application process that allows electronic submission of MPN applications, modifications, and re-approvals. The regulatory amendments also include the requirements for an MPN to qualify as an entity that provides physician network services. Allowing these entities to qualify as an MPN applicant better aligns legal responsibility with operational responsibility. Additional changes to the MPN regulations include the assignment of unique MPN identification numbers to each MPN in order to easily identify a specific MPN. The amended MPN regulations establish the standards MPNs must meet with the MPN Medical Access Assistants to properly assist injured workers find and schedule medical appointments with MPN physicians. The amended regulations clarify access standards and now require an MPN to have at least three available physicians from which an injured worker can choose, and if the time and location standards are not met, MPNs shall have a written policy permitting out-of-network treatment. Moreover, the amended MPN regulations set forth the physician acknowledgment requirements to ensure physicians in the MPN have affirmatively elected to be a member of the network and a streamlined process for obtaining acknowledgments from medical groups. To promote greater accuracy and ensure statutory and regulatory compliance, MPNs are approved for a period of four years and must file a re-approval before the expiration of this four-year period. Finally, DWC's oversight of MPNs is strengthened with the formal complaint process, the Petition for Suspension or Revocation of MPNs, the ability to conduct random reviews of MPNs and the authority to assess administrative penalties against MPNs to ensure regulatory compliance.

### **Health Care Organization Program**

Health Care Organizations (HCOs) were created by the 1993 workers' compensation reforms. The laws governing HCOs are California Labor Code, Sections 4600.3 through 4600.7, and 8 CCR Sections 9770 through 9779.8.

HCOs are managed care organizations established to provide health care to employees injured at work. A health-care service plan (HMO), disability insurer, workers' compensation insurer, or a workers' compensation third-party administrator can be certified as an HCO.

Qualified employers who contract with an HCO can direct treatment of injured workers from 90 to 180 days.

An HCO must file an application and be certified by DWC according to Labor Code Section 4600.3 et seq. and 8 CCR Sections 9770 et seq. Due to regulatory changes in 2010, HCOs now pay a fee of \$2,500 at the time of initial certification and a fee of \$1,000 at the time of each three-year certification thereafter. In

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addition, HCOs are required to pay an annual assessment of \$250, \$300 or \$500 based on their enrollments of covered employees as of December 31 of each year.

Currently, the HCO program has nine certified HCOs, only five of them have enrollees; the rest are keeping their certification and using their HCO provider network as a deemed network for MPNs. Certified HCOs and their most recent certification/recertification date are listed in Table 26.

**Table 26: Currently Certified HCOs by Date of Certification/Recertification**

Name of HCO	Date of Certification/Recertification
CompPartners	07/24/2008
Corvel Corporation	12/30/2008
First Health/ CompAmerica Primary	10/05/2007
First Health/ CompAmerica Select	10/05/2007
Kaiser On The Job HCO	12/03/2012
MedeEx Health Care	03/16/2010
MedEx 2 Health Care	10/10/2009
Network HCO	04/16/2007
Promesa Inc. HCO	04/12/2010

Source: DWC

**HCO Enrollment**

At its maximum in mid-2004, HCO enrollment reached approximately half a million enrollees. However, with the enactment of MPNs, employee enrollment under the large HCOs, such as First Health and Corvel, declined considerably. Compared to the 2004 enrollment, First Health lost 100 percent of its enrollees, while CorVel's enrollment declined by 96.6 percent to 3,384 by December 2008. As of December 2011, the total employee enrollment under HCOs fell by 66.4 percent to 161,413 from 481,337 in 2004. Table 27 shows the number of enrollees as of December 31 of each year from 2004 through 2014.

**Table 27: HCOs by Number of Enrollees as of December 31, 2004 Through 2014**

Name of HCO	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CompPartners	60,935	61,403	53,279	13,210	1,765	1,729	2,884	4,200	11,561	554	396
CorVel/ Corvel Select	100,080	20,403	3,719	3,050	3,384	1,983	435	467	405	0	0
CompAmerica Primary/ Select ( First Health)	218,919	2,403	0	0	0	0	0	0	0	0	0
Intracorp	6,329	3,186	2,976	2,870	0	0	0	0	n/a	n/a	n/a
Kaiser	30,086	67,147	66,138	69,602	77,567	72,469	74,223	76,263	75,253	74,122	73,939
Medex/ Medex 2	62,154	66,304	46,085	69,410	69,783	34,378	46,838	61,442	67,606	75,183	86,550
Net Work HCO	1,204	0	0	0	0	0	0	0	0	0	0
Promesa	na	na	na	na	21,197	16,467	17,602	19,041	23,772	28,222	30,701
Prudent Buyer (Blue Cross)	1,390	0	0	0	0	0	0	0	n/a	n/a	n/a
Sierra	240	0	0	0	0	0	0	0	n/a	n/a	n/a
<b>TOTAL</b>	<b>481,337</b>	<b>220,846</b>	<b>172,197</b>	<b>158,142</b>	<b>173,696</b>	<b>126,593</b>	<b>138,504</b>	<b>161,413</b>	<b>178,597</b>	<b>178,081</b>	<b>191,190</b>

Source: DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### **Health Care Organization Program Status**

According to Table 27, the HCO enrollment increased by 7.4 percent between 2013 and 2014. Like MPNs, HCOs are still being certified for use of their networks. DWC is attempting to complete recertification of the following HCOs: CompPartners, CorVel, First Health CompAmerica Primary, First Health CompAmerica Select, Medex, Medex 2, NetWork, and Promesa.

For further information ...

[www.dir.ca.gov/dwc](http://www.dir.ca.gov/dwc) and [http://www.dir.ca.gov/dwc/MPN/DWC\\_MPN\\_Main.html](http://www.dir.ca.gov/dwc/MPN/DWC_MPN_Main.html)

## **DIVISION OF WORKERS' COMPENSATION MEDICAL ACCESS STUDY**

### **Access to Medical Treatment for Injured Workers**

#### **Background**

The Division of Workers' Compensation (DWC) is required to complete annual access studies in accordance with Labor Code Section 5307.2, which was enacted by Senate Bill (SB) 228 (Chapter 639, Statutes of 2003). DWC contracted with the Berkeley Research Group (BRG) to conduct the "Study of Access to Medical Treatment for Injured Workers."

#### **Objectives**

The main objectives of the study are to: (1) evaluate the adequacy of access to quality health care for injured workers; (2) assess changes in access to quality health care since the 2006 UCLA and 2008 University of Washington studies; and (3) make recommendations to ensure continued access.

#### **Description**

This study is published in 2015, the third in a series, in which Workers' Compensation Information System (WCIS) data were reviewed to measure changes in access to medical care for injured workers.

The first-year study included WCIS data through 2011 and results from injured worker surveys conducted in 2011 and 2012. Like earlier studies, the first-year study found that workers were satisfied with their access to care; approximately 85 percent of the injured workers in the California workers' compensation system were satisfied. The second-year study included data through 2012.

The current study gathered WCIS data for 2013 and additional data for prior years. Over 10 million medical bills were added for 2013, bringing the total for the period from 2007 to 2013 to over 70 million bills. These data were used to assess injured workers' access to medical care primarily by assessing provider participation, utilization of services, and the types of services provided.

#### **Findings of the 2015 Medical Access Study**

The study findings included the following information from WCIS:

- The number of injured workers declined by 30 percent from 2007 to 2012 but increased by 5 percent from 2012 to 2013.
- From 2012 to 2013, the number of injured workers increased nationally (1 percent) but at a much lower rate than in California.
- The number of providers treating injured workers followed the same pattern as the number of injured workers. The number of providers treating injured workers declined 25.8 percent from 2007 and 2012 and increased 1.4 percent from 2012 to 2013. The ratio of injured workers to

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providers declined by 5.4 percent from 2007 to 2012 and increased by 3.8 percent from 2012 to 2013.

- The number of medical bills per injured worker increased 16.9 percent from 2007 to 2012 and then increased by a further 13.2 percent from 2012 to 2013.
- The number of out-of-state providers decreased, but the number of bills these providers submitted increased by 97.7 percent.
- Report preparation and drug testing services substantially increased from 2007 to 2013.
- Pain medications had the highest rate of increase in use, with prescriptions for Oxycontin growing more rapidly than those for any other drug.
- The average amount paid per medical bill was at its lowest (compared to 2007) in 2013. However, the amount paid per injured worker was higher in 2013 than in all but two other years (2008 and 2010) because of an increase in the number of medical bills submitted per injured worker.
- Comparing payment rates for specific services, the California Workers' Compensation program paid 176 percent of Medi-Cal and 104 percent of Medicare, although the Medicare comparison is affected by differences in payment methods.

*For further information...*

"2013 Study of Access to Medical Treatment for Injured Workers" (April, 2013).

<http://www.dir.ca.gov/dwc/AccessMedTreatmentReport2013/AccessToMedicalTreatmentCAWC2013.pdf>

"2014 Study of Access to Medical Treatment for Injured Workers" (February, 2014).

<http://www.dir.ca.gov/dwc/Reports/AccessToMedicalTreatmentInCAWC2014.pdf>

### **DIVISION OF WORKERS' COMPENSATION INFORMATION & ASSISTANCE UNIT**

The DWC Information & Assistance (I&A) Unit provides information and assistance to employees, employers, labor unions, insurance carriers, physicians, attorneys and other interested parties concerning rights, benefits and obligations under California's workers' compensation laws. The I&A Unit, often the first DWC contact for injured workers, plays a major role in reducing litigation before the WCAB. The Unit gets approximately 1,500 calls a week on its toll-free line, 800-736-7401, or 78,000 calls a year. These callers get prerecorded messages in English and Spanish about the workers' compensation system and can request forms and fact sheets.

**Table 28: Information & Assistance Unit Workload**

Number of:	2008	2009	2010	2011	2012	2013	2014
Calls from public handled	323,520	362,581	312,511	296,983	301,517	300,515	308,221
Outgoing calls placed	36,806	37,905	37,905	33,649	35,985	33,965	33,015
Settlements reviewed and assisted	16,320	18,757	14,757	12,743	13,515	13,055	14,129
Face-to-face meetings with walk-ins	22,818	23,757	26,219	23,218	25,911	24,588	25,105
Injured Worker Workshop presentations	199	256	219	254	217	243	239
Workshops for injured workers attended	1,981	1,611	3,191	3,875	3,215	3,013	2,615
Workshops for employers held	2	4	5	NA	NA	NA	
Correspondence written	14,442	15,212	12,713	10,899	12,983	13,005	12,996
Conference with Workers' Compensat. Judge to resolve issue or settlement	NA	NA	NA	NA	NA	NA	9,125
Audit Unit referrals	NA	NA	NA	NA	NA	NA	70

Source: DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Spanish Outreach Attendance data by type of outreach was available only for 2013 (see Table 29). In 2014, the bilingual staff of I&A Unit participated in 65 workshops, fairs, and consulate presentations. No attendance figures are available for 2014, as many of these presentations were organized by other entities.

**Table 29: Spanish Outreach Attendance, 2013**

	Number of Events	Average Number of Attendees per Event
Mexican Consulates	42	40–60
Radio	46	
Workshops	9	50–75
Farmworker-related fairs/events	15	500–900

Source: DWC

**Table 30: DWC Educational Conferences Attendance, 2010–2014**

	Los Angeles					Oakland				
	2010	2011	2012	2013	2014	2010	2011	2012	2013	2014
Attendees	861	861	1,015	1,091	1,162	754	754	939	762	832
Exhibitors	54	54	64	87	89	56	56	59	53	61

Source: DWC

After the enactment of SB 899 in April 2004, DWC held a special three-day statewide training seminar for all I&A officers, as well as other DWC staff, to provide early guidance on implementing the new reform law.

The I&A Unit provides the DWC Tele-Learning classes on different workers' compensation issues for the Department of Industrial Relations (DIR) employees. The enrollment numbers in these classes are as following:

**Table 31: Number of Enrollees in DWC Tele-Learning Classes for DIR employees**

Courses	2014	2015
Disability Management/RTW	Not offered	12
Basic Claims	24	23
Basic PD	6	12
Medical Management	27	Not offered
Advanced Claims	Not offered	17
Advanced PD	15	3
<b>Total</b>	<b>72</b>	<b>67</b>

Source: DWC

### **DIVISION OF WORKERS' COMPENSATION INFORMATION SERVICE CENTER**

The DWC Information Service Center (ISC) is located in San Bernardino. The main function of the ISC is to screen all incoming calls for all 24 DWC District offices. Any combination of a district office's main number and I&A Unit, Disability Evaluation Unit, and Rehabilitation Unit lines are directed through ISC, which answers questions and provides information in both English and Spanish on workers' compensation and EAMS issues for the general public. In addition, all EAMS help desk emails and Notice of Representation (NOR) questions go through ISC. ISC staff members monitor and resolve questions sent via email to the EAMS Help Desk, process NOR updates received through the e-File system, and

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

answer Virtual EAMS Support Team (VEST Issue Tracker) questions sent by both internal and external users. In September 2014, some members of DWC ISC's staff started participating in the new DIR Cloud call center several days a week. No statistics are available yet on DIR Cloud call center's workload.

**Table 32: DWC's Information Service Center Workload**

Activities	2013	2014
Incoming calls	131,628	174,398
Outgoing calls	4,100	5,325
Calls in Spanish	8,695	13,359
Calls transferred to district offices	31,158	27,365
EAMS Help Desk emails	11,925	20,222
Correspondence mailed out	5,076	5,233
NOR-related questions processed	39,123	39,524
VEST/Issue tracker of EAMS related problems	278	103

Source: DWC

### **DIVISION OF WORKERS' COMPENSATION UNINSURED EMPLOYERS BENEFITS TRUST FUND**

#### **Introduction**

All California employers except the State are required to provide workers' compensation coverage for their employees through the purchase of workers' compensation insurance or by being certified by the State as permissibly self-insured. However, not all employers comply with the law to obtain workers' compensation coverage for their employees.

The Uninsured Employers Benefits Trust Fund (UEBTF) was established to provide payment of workers' compensation benefits to injured employees of illegally uninsured employers. Labor Code Sections 3710-3732 describe the operation of the Fund, and Labor Code Section 62.5 describes the funding mechanism for UEBTF.

The director of the Department of Industrial Relations (DIR) administers the UEBTF. Claims are adjusted for the DIR director by the Special Funds Unit in DWC. UEBTF pursues reimbursement of expenditures from the responsible employers through all available avenues, including filing liens against their property. Litigation for UEBTF is conducted in the name of the director of DIR represented by the Office of the Director Legal Unit.

#### **Funding Liabilities and Collections**

##### ***UEBTF Funding Mechanisms***

UEBTF funding comes from annual assessments on all insured and self-insured employers, from fines and penalties imposed on illegally uninsured employers when they get caught, and from recoveries from illegally uninsured employers when the UEBTF has paid benefits and is able to obtain reimbursement from responsible employers. According to Labor Code Section 62.5(e), the "total amount of the assessment is allocated between the employers in proportion to the payroll paid in the most recent year for which payroll information is available."<sup>40</sup>

The assessment for insured employers is based on a percentage of the premium, while the percentage for self-insured employers is based on a percentage of indemnity paid during the most recent year. The

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<sup>40</sup> Prior to the workers' compensation reforms of 2004, the funding for UEBTF came from the General Fund.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

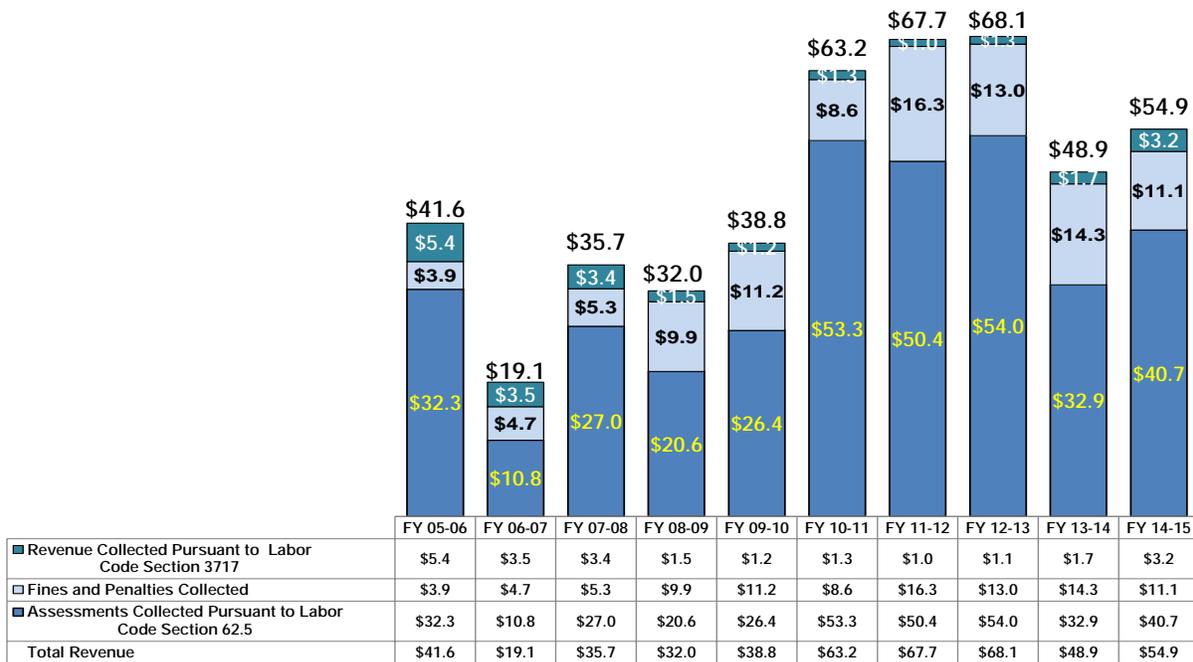
total assessment collected pursuant to Labor Code Section 62.5 was \$32.9 million for fiscal year (FY) 2013-2014 and \$40.7 million for FY 2014-2015.

Apart from the assessments on employers required by Labor Code Section 62.5, UEBTF is funded by two other sources:

- Fines and penalties collected by DIR. These include both the Division of Labor Standards Enforcement (DLSE) penalties as well as Labor Code Section 3701.7 penalties on self-insured employers.
- Recoveries from illegally uninsured employers per Labor Code Section 3717.

Figure 66 shows monies collected by the source of the revenue.<sup>41</sup>

Figure 66: UEBTF Revenues, FY 2005-2006 to FY 2014-2015 (Million \$)



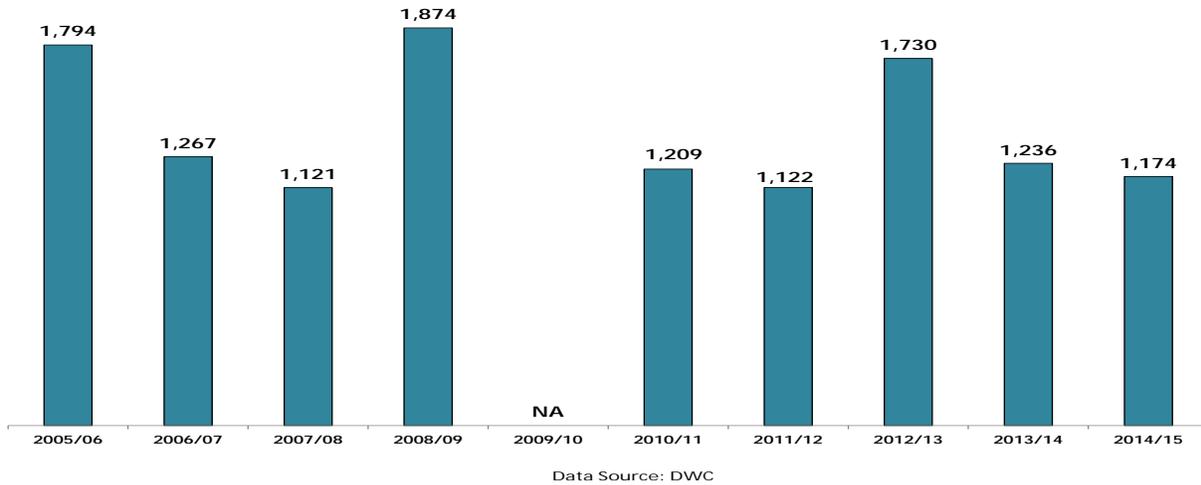
Data Source: DWC

<sup>41</sup> The data in Figure 66 found at the DWC/Special Funds Unit/UEBTF website are updated on an ongoing basis, [http://www.dir.ca.gov/dwc/UEF/UEF\\_LC3716\\_1.pdf](http://www.dir.ca.gov/dwc/UEF/UEF_LC3716_1.pdf).

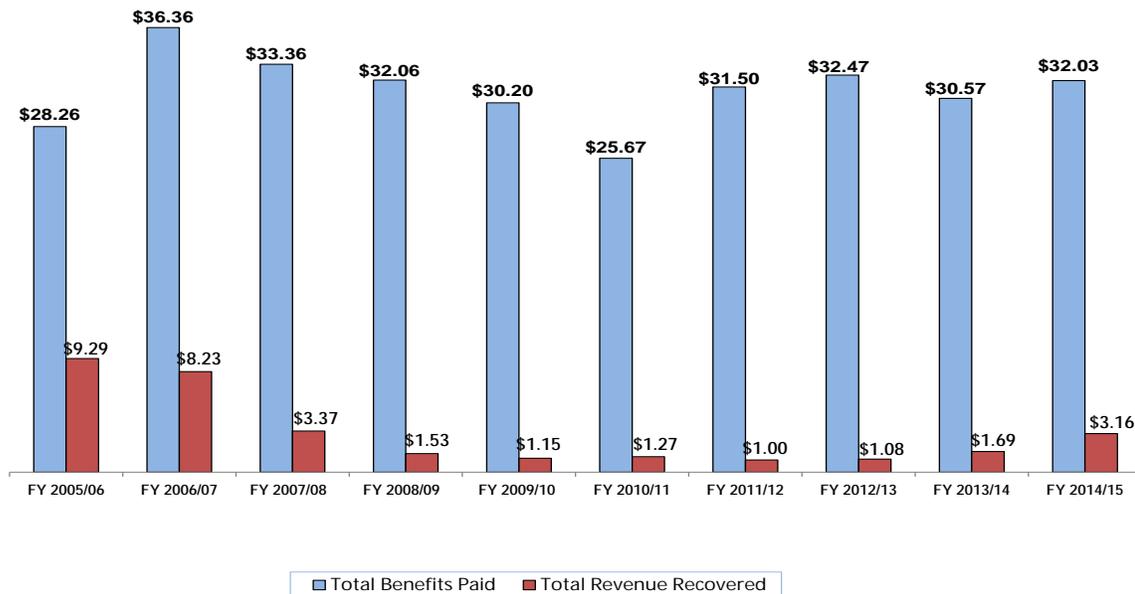
## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The number of new UEBTF cases and dollar amounts associated with new opened claims are shown in Figures 67 and 68.

**Figure 67: New UEBTF Cases Opened, FY 2005-2006 to FY 2014-2015**



**Figure 68: UEBTF Total Benefits Paid and Total Revenue Recovered, FY 2005-2006 to FY 2014-2015 (Million \$)**



\* Includes collections, DLSE penalties, and inmates without dependents

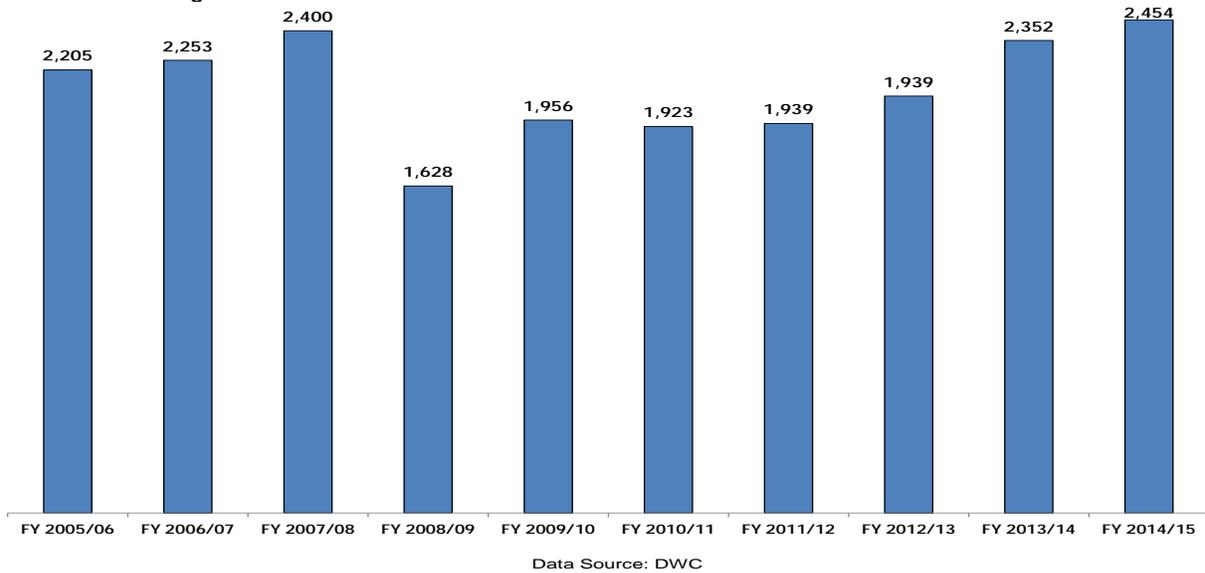
Data Source: DWC

### ***Costs of the Uninsured Employers Benefits Trust Fund***

According to Figure 69, the number of uninsured claims paid increased by 9 percent from 2,205 in FY 2005-2006 to 2,400 in FY 2007-2008, decreased by 32 percent from FY 2007-2008 to FY 2008-2009, and then increased by 51 percent from FY 2008-2009 to FY 2014-2015.

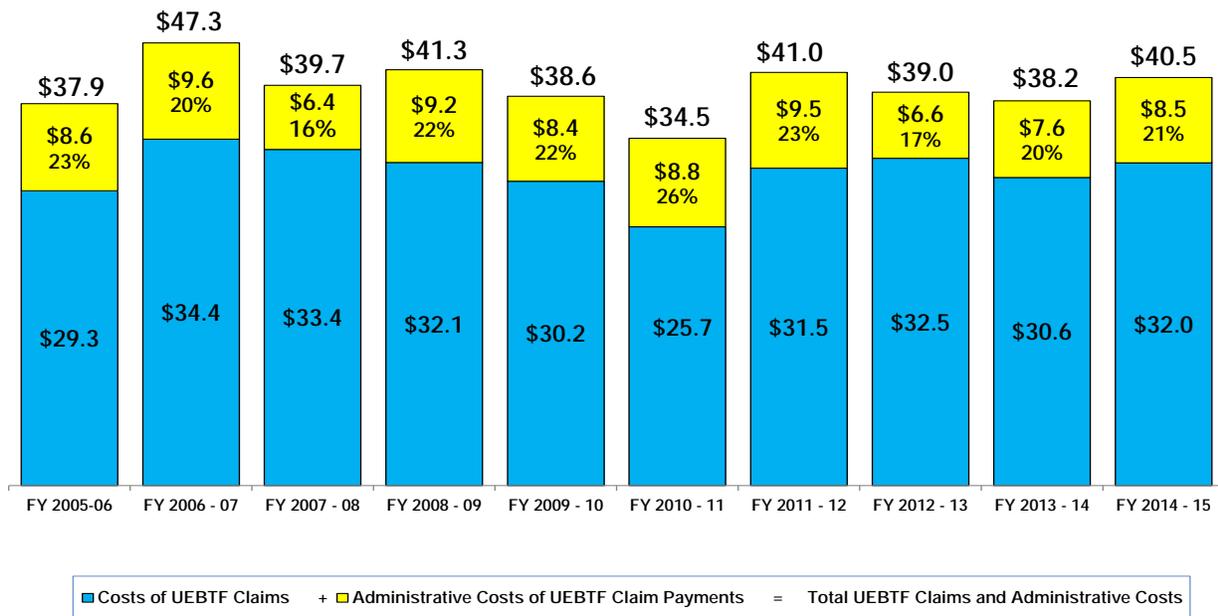
## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Figure 69: Number of Uninsured Claims Paid, FY 2005-2006 to FY 2014-2015**



The cost of claims increased by 25 percent from FY 2005-2006 to FY 2006-2007, decreased 23 percent from FY 2006-2007 to FY 2010-2011, increased by 22.5 percent from FY 2010-2011 to FY 2011-2012, and then averaged \$40 million from FY 2011-2012 to FY 2014-2015. Administrative costs associated with claim payment activities fluctuated between \$6.5 million in FY 2005-2006 and \$9.5 million in FY 2014-2015.

**Figure 70: UEBTF Amounts Paid and Administrative Costs, FY 2005-2006 to FY 2014-2015 (Million \$)**



## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The most recent available projected UEBTF annual program cost is for FY 2011-2012 \$40.4 million.<sup>42</sup> This cost includes the administrative costs associated with claims-payment activities, as well as the payout on claims filed by injured workers of illegally uninsured employers.

### **ADJUDICATION SIMPLIFICATION EFFORTS**

#### **Division of Workers' Compensation Information System**

California's Workers' Compensation Information System (WCIS) uses electronic data interchange (EDI) to collect comprehensive information from claims administrators to help oversee the state's workers' compensation system. The information collected facilitates evaluation of the system and helps measure the adequacy of benefits for injured workers and their dependents and provides statistical data for internal and external research. Electronic transmission of first reports of injury (FROI) was required beginning March 1, 2000, and electronic versions of benefit notices (subsequent reports of injury, SROI) were mandated as of July 1, 2000. Electronic reporting of medical billing data was required for medical services beginning September 22, 2006.

WCIS operates with joint efforts from DIR's Office of Information Services (OIS) staff and DIR/DWC's Research Unit staff. The OIS staff provides technical support while the Research Unit staff provides business knowledge and research support.

Currently, WCIS is actively receiving FROI/SROI data from 200 senders, medical bill data from 52 senders (claims administrators and bill review companies sending data on behalf of claims administrators). Since December 2014, electronic reports have been received for approximately 10.6 million claims and 102 million medical bill payment records.

#### ***Maintenance and Improvements to the System***

System improvement continued. The development work for 12 change requests (CRs) to improve system operation and efficiency has been completed and tested and is now in production. Among the CRs is one that allowed WCIS to be able to receive the newly adopted ICD-10 diagnosis and procedure codes.

A plan to switch file transfer from FTP (file transfer protocol) to SFTP (secure file transfer protocol) commences in 2016. The development work for this started in 2014.

The WCIS team updated the California EDI Implementation Guide for FROI/SROI Reporting to version 3.1 to simplify FROI/SROI reporting and worked with the DWC legal team on updating the proposed regulations.

#### ***New Projects***

Work toward implementing the California EDI Implementation Guide for Medical Bill Payment Records Version 2.0, which is based on the IAIABC Medical Release 2.0, continued. Version 2.0 allows the Department to collect medical bill data using ANSI X12 837 5010 standard formats, in sync with the DWC electronic bills regulations, which also adopted ANSI X12 837 5010 standard formats for electronic medical billing. The California medical version 2.0 allows the WCIS trading partners to report medical bill data to WCIS using the ANSI 837 file and received acknowledgment for their file using ANSI 999 and 824 acknowledgment files.

The DIR/DWC research team and OIS completed requirements gathering for programming the WCIS system according to the California Version 2.0 guide. The design and development work of the 824 acknowledgment was completed and unit tested.

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<sup>42</sup> Division of Workers' Compensation, "Report of the Uninsured Employers Benefit Trust Fund in Compliance with Labor Code Section 3716.1(c) for Fiscal Year 2008-09" at [http://www.dir.ca.gov/dwc/UEF/UEF\\_LC3716\\_1.pdf](http://www.dir.ca.gov/dwc/UEF/UEF_LC3716_1.pdf).

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

In addition, a proof of concept to replace GENTRAN, an off-the-shelf ANSI file translator, with an in-house developed translator was completed. The proof of concept was accepted, and it was further developed to become the 999 acknowledgment, which will be used in CA version 2.0 in 2016. The design and development work for the 999 is completed and unit testing completed.

Each trading partner must sign a trading partner agreement form and file a profile with the department prior to starting data reporting to WCIS. Currently the trading partner profile is sent on paper. In 2014 a proof of concept was developed to change the paper filing of trading partner profiles to a web-based format.

### **Data Extracts**

In 2014, WCIS data extracts were provided to several state organizations, researchers in academia, and other government organizations.

The WCIS continues to supply regular data extracts for the California Division of Occupational Safety and Health (Cal/OSHA), the California Department of Public Health, and the California Department of Health Care Services. The WCIS also provided data to the DIR Directors Office on several subjects related to legislative efforts.

The RAND Corporation studies on the Evaluation of SB863 Medical Care Reform Study, and Disability Evaluation and Medical Treatment in California used the WCIS data.

The WCIS data was also provided to numerous research organizations and the public at large. Organizations that received WCIS data include:

- The University of San Francisco
- The University of California–San Francisco
- The University of Oregon
- The Workers' Compensation Insurance Rating Bureau of California
- The Kaiser Foundation Health Plan, Inc.

### **Data Quality**

The WCIS team continues to work on improving the quality and completeness of data being reported by claims administrators. To this end, the WCIS team developed reports to send out to data senders and communicated with data senders using meetings and electronic media. WCIS holds an annual advisory meeting to discuss trends, issues, and proposed system changes with trading partners and other stakeholders. WCIS staff have continued to answer data sender questions, distribute Online Training Bulletins, and provide one-on-one training to trading partners to improve their FROI/SROI reporting. During the coming year, WCIS staff will be working with DWC's legal unit to develop, draft, and engage in the regulatory process to implement WCIS penalty provisions.

*For further information...*

<http://www.dir.ca.gov/dwc/WCIS.htm>

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### **Division of Workers' Compensation Electronic Adjudication Management System**

Senate Bill (SB) 863 requires electronic lien filing as well as electronic payment of filing fees or activation fees on some liens. The Division of Workers' Compensation (DWC)/Department of Industrial Relations (DIR) Electronic Adjudication Management System (EAMS) team successfully deployed the lien filing fee and activation fee processes to eForms, Jet, and Public Search on January 1, 2013.

Upgrades to the new payment processes, including a shopping cart function and increased capacity, were rolled out in March, April, and June 2013. Improvements to these processes are continuing.

The electronic Notice and Request for Allowance of Lien and the Declaration of Readiness forms have been revised, and a new form, Request for Factual Correction of an Unrepresented Panel Qualified Medical Examiner (QME) Report, was created.

EAMS regulations for e-Form filing, Jet filing, and lien fees were approved. Due to a preliminary injunction ordered by a federal district judge in *Angelotti Chiropractic, Inc., et al. v. Baker, et al.*, effective November 19, 2013, the DWC/DIR EAMS team suspended the collection of activation fees for liens filed before January 1, 2013. An appeal of the injunction and other aspects of the judge's ruling are pending. Through EAMS, DWC continues to collect the filing fee for liens filed after January 1, 2013.

Check processing for the Uninsured Employers Benefit Trust Fund (UEBTF) shifted from DIR Accounting to the State Controller's Office.

Check processing for the Subsequent Injuries Benefit Trust Fund (SIBTF) shifted from DIR Accounting to the State Controller's Office.

To better track Senate Bill (SB) 863 changes, modifications were made to Expedited Hearings, Liens, and reasons for filing Liens.

Tools were created to reschedule multiple court hearings at the same time and change Uniform Assigned Name addresses on multiple cases. The improved Notice of Hearing data mailer shows all cases set for hearing when companion cases are scheduled.

New software tools enable EAMS staff to systematically add or change law firms and claims administrators on multiple cases.

Venue adjustments made allow case assignment and hearing scheduling at the Santa Barbara satellite district office.

The upgraded EAMS Case Participants list shows internal and external users the complete addresses of all case parties on a single page.

The EAMS staff is working to better incorporate other portions of SB 863, including Independent Medical Review (IMR) and Independent Bill Review (IBR). Many requests for changes to improve EAMS have been implemented.

### **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. In 2003, the Legislature extended the program to cover alternative dispute resolution labor-management agreements outside the construction industry. This is codified in Labor Code Section 3201.7.

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

#### **CHSWC Study of Carve-Outs**

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

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 return to work (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).*

<http://www.dir.ca.gov/CHSWC/carve-out1.pdf>

#### **Impact of Senate Bill 228 (2003)**

Senate Bill (SB) 228 added 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 program 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 DWC Administrative Director (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:

- 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 recognized or certified as the exclusive bargaining representative that establishes any of the following:
  - An ADR 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 medical treatment providers that may be the exclusive source of all medical treatment provided under this division.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- The use of an agreed, limited list of Qualified Medical Evaluators (QMEs) and Agreed Medical Evaluators (AMEs) that will be the exclusive source of QMEs and AMEs under this division.
  - A joint labor-management safety committee.
  - A light-duty, modified job, or return-to-work program.
  - A vocational rehabilitation or retraining program using an agreed list of rehabilitation services providers that will be the exclusive source of rehabilitation services providers under this division.
- The minimum annual employer premium for the carve-out program for employers with 50 employees or more is \$50,000, and the maximum group premium is \$500,000.
  - Any agreement must include right of counsel throughout the ADR process.

### ***Impact of Senate Bill 899 (2004)***

In 2004, the 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 eligible for group health benefits and non-occupational disability benefits through their employer.

Recognizing that many cities and counties, as well as private industries, are interested in knowing more about carve-outs and about health and safety training and education within a carve-out, CHSWC hosted a conference devoted to carve-outs/alternative dispute resolution on August 2, 2007, in Emeryville, California. The conference was for all stakeholders in the workers' compensation system, including: those in existing carve-outs; those considering establishing a carve-out; unions and employers; risk managers; government agencies; third-party administrators; insurers; policymakers; attorneys; and health-care providers.

The conference provided an opportunity for the health and safety and workers' compensation communities and the public to share ideas for establishing carve-outs, which have the potential to: improve safety programs and reduce injury and illness claims; achieve cost savings for employers; provide effective medical delivery and improved quality of medical care; improve collaboration between unions and employers; and increase the satisfaction of all parties.

### ***Requirements of ADR Program Reports to DWC Under 8 CCR Section 10203***

The ADR data-reporting requirements, initially adopted by DWC in 1996, can be found in the CCR, Title 8, Section 10203. Section 10203 requires that every employer subject to either Labor Code Section 3201.5 or 3201.7 shall provide DWC with the required information for the previous calendar year on or before March 31 of each year. For each claim with a date of injury on or after January 1, 2004, the information shall be updated annually for the previous four calendar years, thereby allowing longer-term claims trajectories and costs to be determined. In order to fulfill the reporting requirement, groups of employers must, on behalf of their members, either submit data directly to DWC, or "(a)(2)(B) provide the Administrative Director with written authorization to collect the information from the appropriate claims administrator. However, if the Administrative Director is unable to obtain the information with the written authorization, the employer shall remain responsible for obtaining and submitting the information." Employers are required to submit data using the Aggregate Employer Annual Report (DWC Form GV-1) (8 CCR Section 10103.1) and the Individual Employer Annual Report (DWC Form GV-2) (8 CCR Section 10103.2).

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### **Aggregate Data Analysis of Carve-Out Programs**

Due to a lack of available historical data and a discrepancy between the reporting requirements of Labor Code Section 3201.9 and the data collection requirements of CCR Section 10203, the earliest data available are from 2004. All data presented on carve-outs are total figures for both construction and non-construction programs.

### **Comparability of Data Presented in Department of Workers' Compensation Carve-out Report**

Except for person-hours worked, payroll, and other data presented in Table 35 and Tables 41 and 42 on safety history, the carve-out data presented were derived at two different levels of data maturity. The first level of data maturity is the first-year reported data. These data are the least mature data because it is the first of the four annual submissions of carve-out claims data DWC receives.

The number of carve-out programs reporting first-year data for this analysis changes per calendar year. As Table 33 shows, from 2007 to 2014, the number and percentage of programs for which first-year data are available have increased from 21 (84 percent) to 27 (100 percent).

**Table 33: Number of Reporting Carve-Out Programs (First-Year Reporting Data), 2007-2014**

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
Reporting Programs	21	23	23	24	24	25	22	27
Total Number of Programs	25	23	24	25	25	25	25	27
Percentage of Programs Reporting	84%	100%	96%	96%	96%	100%	88%	100%

Data Source: DWC

The second stage of maturity presented in this report is the latest reporting year available. These data are DWC's most mature carve-out data available for each calendar year. The years included in this latest reporting year available analysis are 2004-2014. The 2004-2011 data presented in the latest reporting year available are fourth-year data. These data are the most mature data collected as part of the carve-out reporting regulations. Because different levels of maturity accompany each year, the data are not strictly comparable.

Table 34 shows that from 2004 to 2011, the number and percentage of programs for which fourth-year data are available have increased from 13 (52 percent) to 22 (88 percent).

**Table 34: Number of Reporting Carve-Out Programs (Latest Reporting Data Available), 2004-2014**

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4th)	2011 (4th)	2012 (3d)	2013 (2nd)	2014 (1st)
Reporting Programs	13	19	21	21	23	22	20	22	22	25	27
Total Number of Programs	25	23	24	25	25	25	25	25	25	25	27
Percentage of Reporters	52%	83%	88%	84%	92%	88%	80%	88%	88%	100%	100%

Data Source: DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### **Carve-Out Program from 2004 to 2014**

#### *Carve-Out Participation*

CCR, Title 8, Sections 10203(b)(6) and 10203(b)(7), require ADR/carve-outs to report employees' hours worked and payroll in accordance with Workers' Compensation Insurance Rating Bureau (WCIRB) class codes (Table 35). Unlike all the other reporting requirements, person-hours worked and payroll are only reported once on an annual basis and the data are not updated in subsequent years. Additionally, whereas data for other reporting requirements are available only from 2004 to 2014, the person-hours worked and payroll data are available from 2006 to 2014. Therefore, all the data for person-hours worked and payroll are for only one year of maturity and do not receive three additional years of updated information.

**Table 35: Estimated Person-Hours Worked and Payroll, 2006-2014 (first-year reporting)**

Calendar Year (Reporting Year)	2006 (1st)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
Reporting Programs (Total)	19	16	19	21	19	22	25	22	27
Employers	981	1,087	1,274	876	1,177	1,586	1,508	1,815	1,901
Payroll (\$ Billion)	\$1.4	\$1.8	\$2.8	\$3.4	\$2.0	\$2.4	\$1.8	\$1.2	\$3.3
Person-Hours (Mln)	55.6	56.0	92.5	99.2	67.2	78.0	69	51	122
FTE* (estimated)	27,785	28,028	46,252	49,618	33,625	38,968	34,500	25,600	60,900
Hourly Wage	\$25	\$32	\$30	\$34	\$29	\$31	\$27	\$24	\$27

\* FTE—Full Time Employees

Data Source: DWC

#### *Person-Hours and Payroll Covered by Agreements Filed*

For calendar year 2014, carve-out programs reported that they covered 122 million work hours and \$3.3 billion in payroll. The reported average wage per carve-out FTE is \$27 per hour.

For calendar year 2013, carve-out programs reported that they covered 51 million work hours and \$1.2 billion in payroll.

A majority of the 2013 reductions in payroll and person-hours are due to a changing mix of carve-outs and a lack of reporting by four programs. The ending of one program and the four non-reporting programs accounted for \$319 million in payroll and 24 million person-hours.

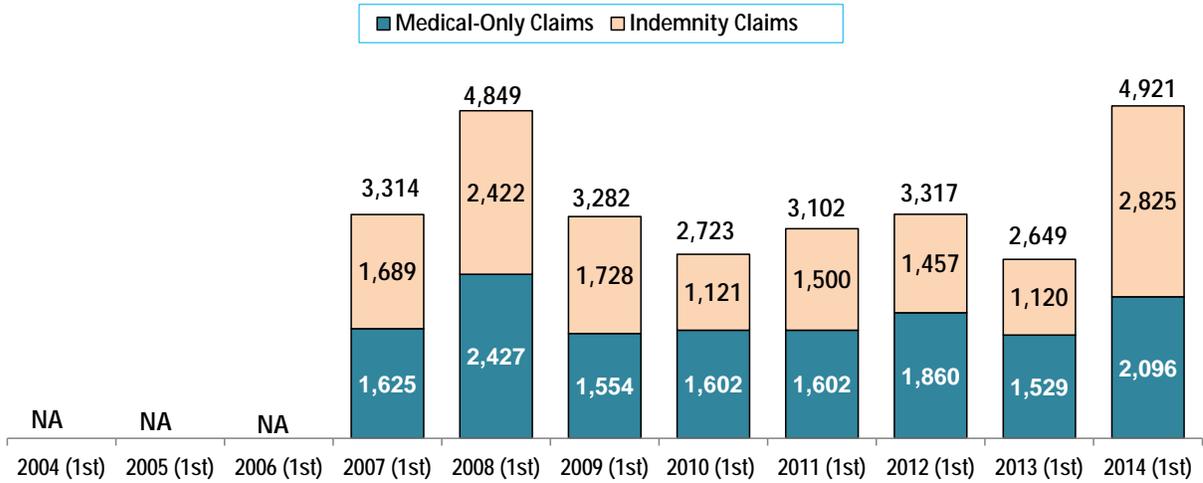
For calendar year 2012, carve-out programs reported that they covered 69 million work hours and \$1.8 billion in payroll.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### Number of Claims Filed

According to Figure 71, in 2014, a total of 4,921 claims were filed, of which 2,096 (42 percent) were medical-only claims and 2,825 (58 percent) were indemnity claims. There were 182 claims filed per carve-out program in 2014.

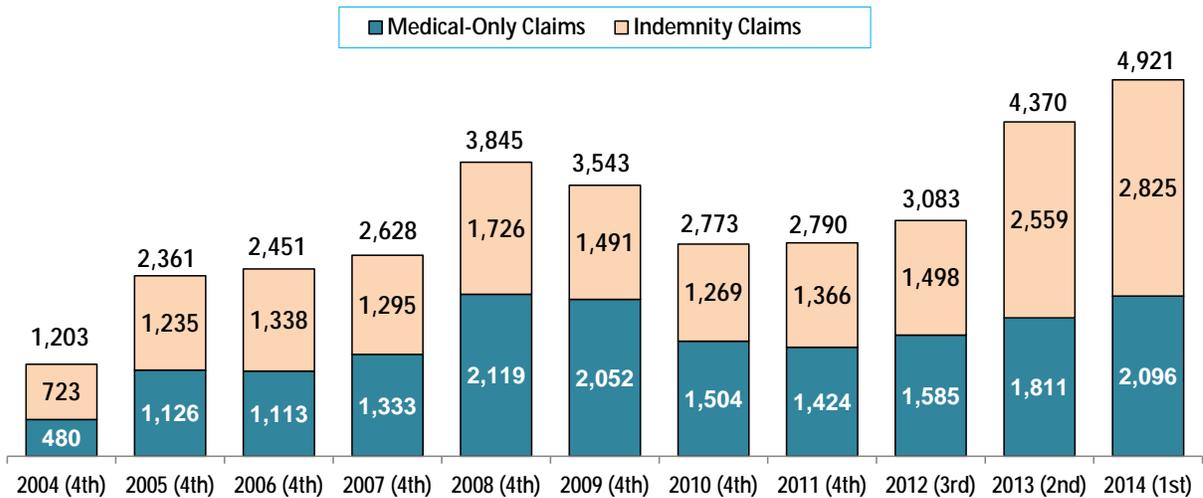
Figure 71: Number of Claims Filed by Type, 2007-2014 (first-year reporting)



Data Source: DWC

According to Figure 72, for 2004 to 2011 fourth-year data, the number of claims filed increased overall from 1,203 to 2,790. This represents an increase from 92 to 127 claims filed per carve-out program.

Figure 72: Number of Claims Filed by Type, 2004–2014 (latest reporting year available)



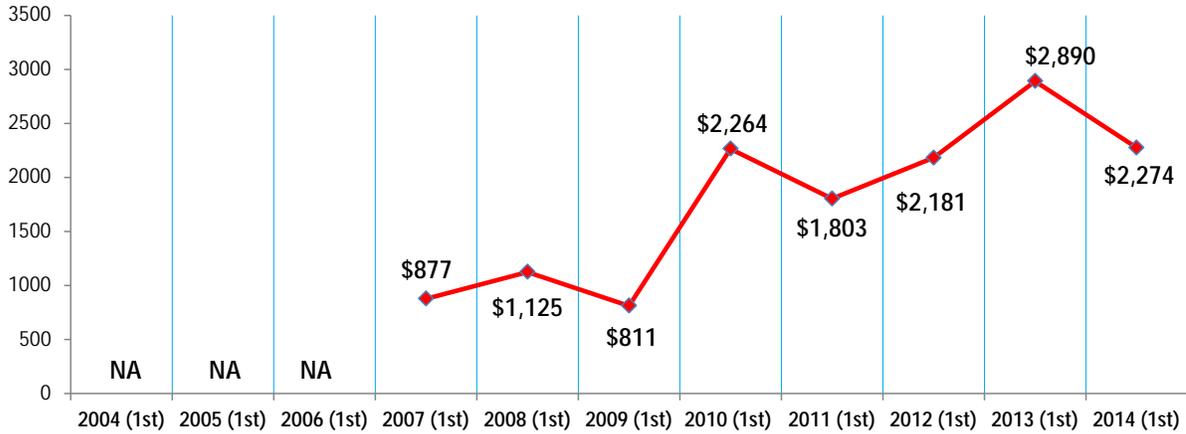
Data Source: DWC

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

### Average Incurred Costs per Medical-Only Claim

Figure 73 shows the average incurred cost per medical-only claims. According to first-year data, the average incurred costs per medical-only claim filed in 2014 was \$2,274.

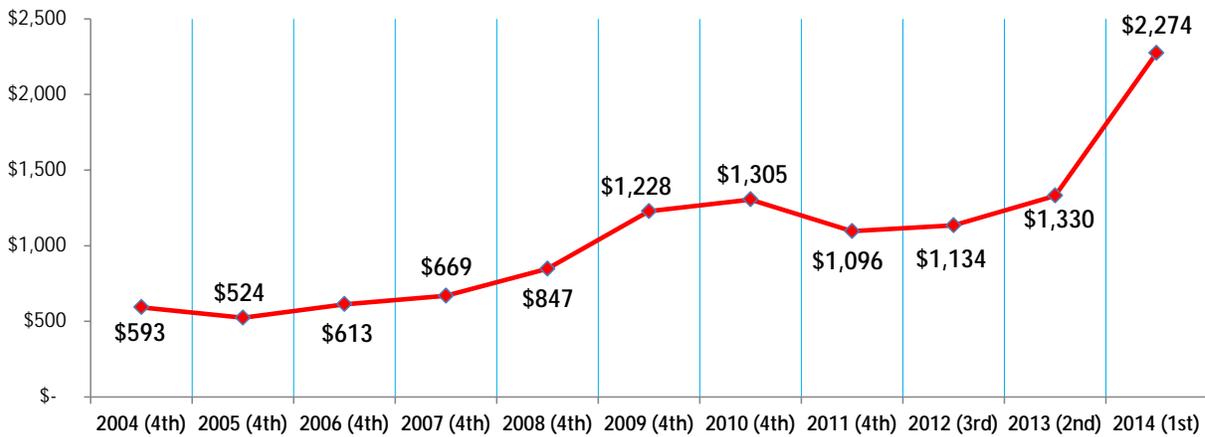
Figure 73: Average Incurred Costs for Medical-only Claims, 2007-2014 (first-year reporting)



Data Source: DWC

According to the latest available data in Figure 74, the average incurred costs per medical-only claim filed in 2011 was \$1,096. For medical-only claims, the average incurred cost per claim is higher at initial stages of a claim's life cycle.

Figure 74: Average Incurred Costs for Medical-only Claims, 2004-2014 (latest reporting year available)



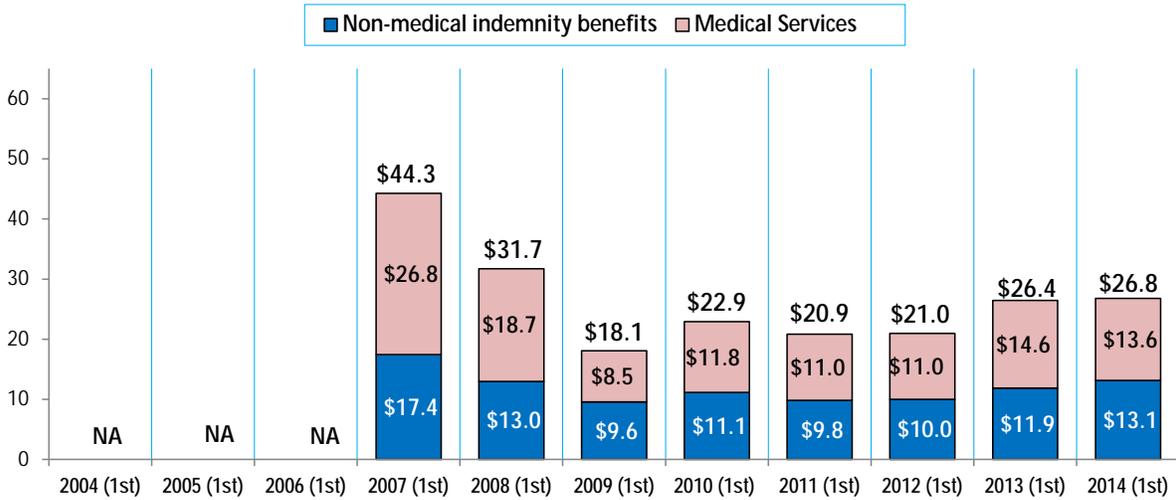
Data Source: DWC

### Average Incurred Costs per Indemnity Claim

Figures 75 and 76 present averages for two main components of the incurred cost per indemnity claim. For the first-year report, nonmedical indemnity benefits averaged \$13,142 per indemnity claim and medical services averaged \$13,641 per indemnity claim in 2014. The latest available data in Figure 76 show that, in 2011, the average cost for nonmedical indemnity was \$24,580 and the incurred cost for medical services \$17,819. The carve-out program claim costs experience significant increase as a claim matures. The fourth-year projected total loss per indemnity claim in 2011 averaged \$42,399.

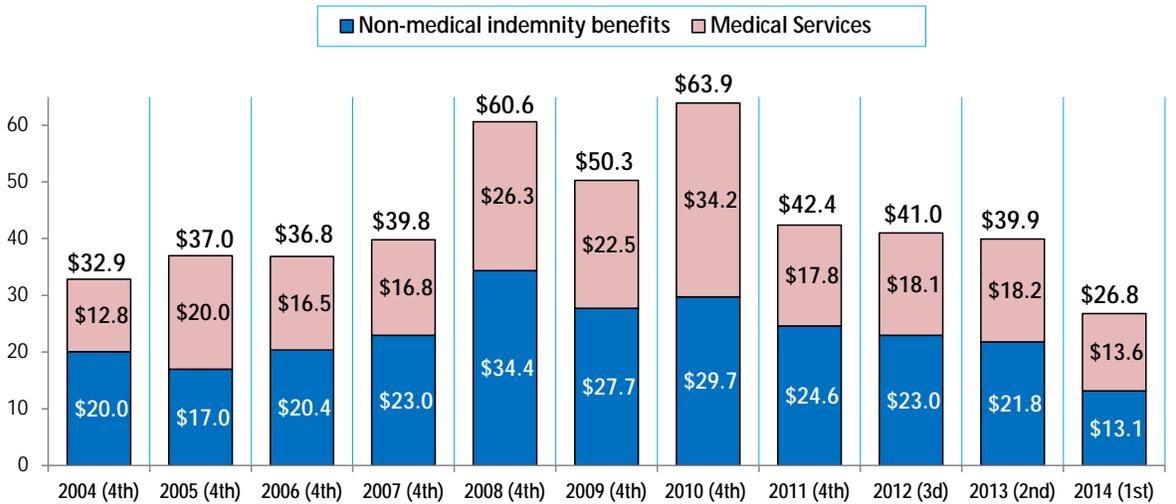
## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 75: Average Incurred Costs per Indemnity Claim, 2007-2014 (first-year reporting)  
(Thousand \$)



Data Source: DWC

Figure 76: Average Incurred Costs per Indemnity Claim, 2004-2014 (latest reporting year available) (Thousand \$)



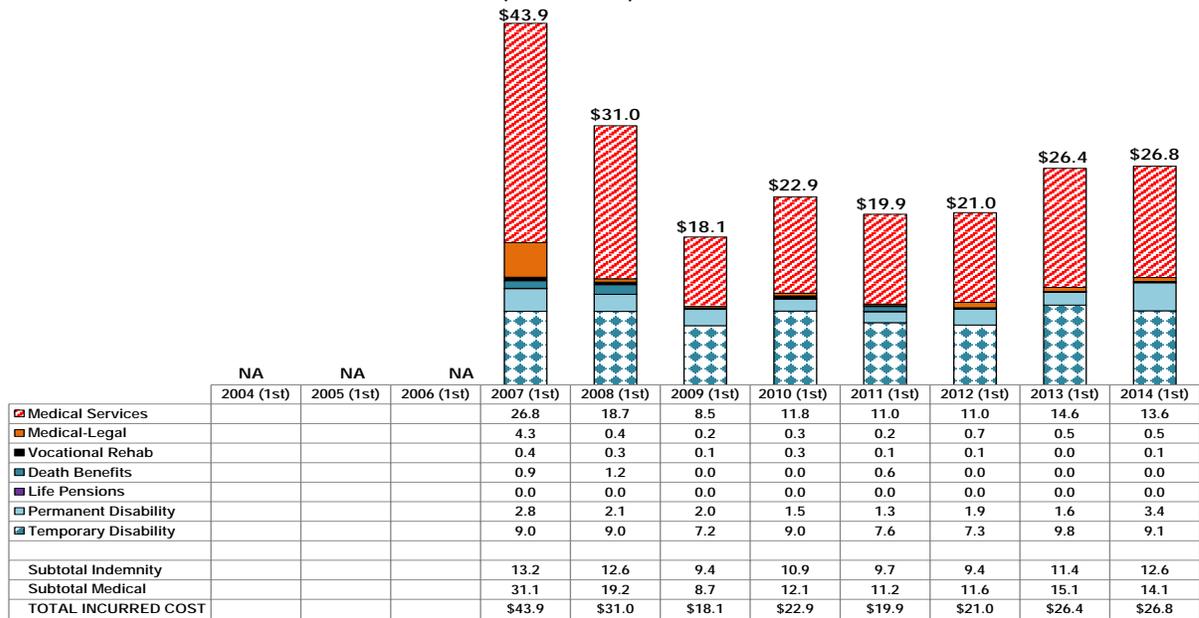
Data Source: DWC

### Average Incurred Costs per Indemnity Claim by Medical and Indemnity Components

Figures 77 and 78 project incurred costs per indemnity claim by the type of benefit. In 2014, for the first-year report, the nonmedical incurred indemnity costs per claim were \$9,062 for temporary disability, \$3,448 for permanent disability, \$0 for life pensions, \$0 for death benefits, and \$138 for vocational rehabilitation. The medical incurred indemnity costs per indemnity claim were \$13,641 for medical services and \$494 for medical-legal examinations (Figure 77).

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

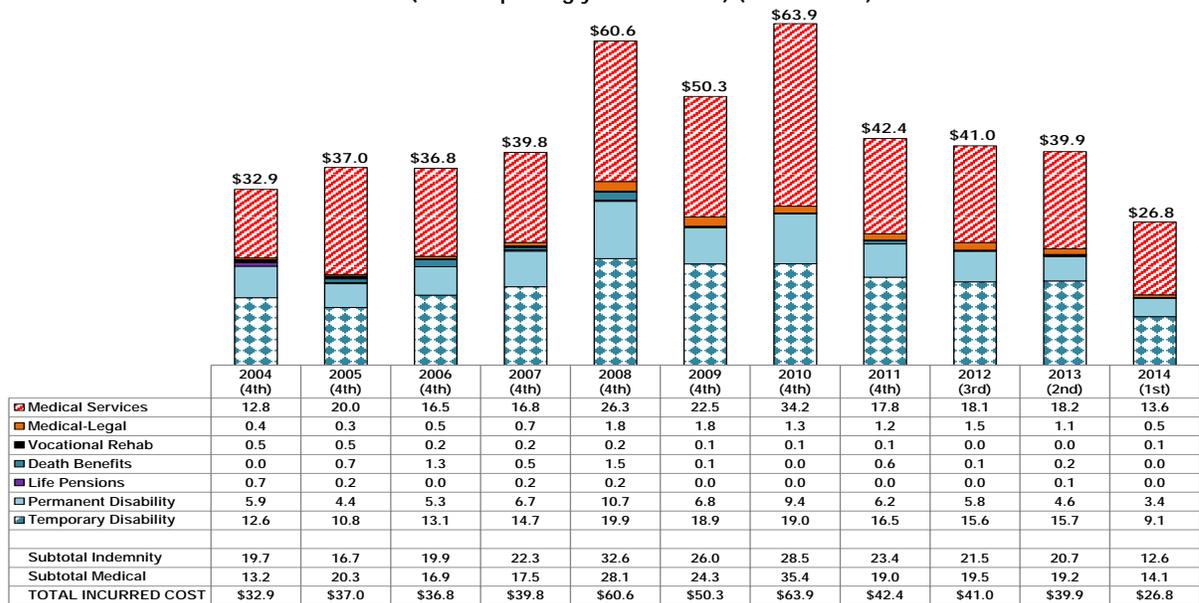
Figure 77: Average Incurred Costs per Indemnity Claim by Benefit Components, 2007-2014 (first-year reporting), (Thousand \$)



Data Source: DWC

The latest reporting-year available data in Figure 78 indicate that carve-out program indemnity claims experience significant gains in all categories as a claim matures. For 2011 fourth-year data, the nonmedical incurred indemnity costs per claim were \$16,453 for temporary disability, \$6,223 for permanent disability, \$0 for life pensions, \$631 for death benefits, and \$69 for vocational rehabilitation. The average carve-out claim saw a 31 percent increase in the amounts incurred for medical services from \$12,819 in 2004 to \$17,819 per indemnity claim in 2011. From 2004 to 2011, the fourth-year averages for medical-legal expenses reached their peak in 2008 and declined 33 percent in 2011.

Figure 78: Average Incurred Costs per Indemnity Claim by Benefit Components, 2004-2014 (latest reporting year available) (Thousand \$)



Data Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Dispute Resolution**

California Code of Regulations, Title 8, Section 10203(b)(11) requires carve-outs to submit data on the number of claims resolved before mediation, at or after mediation, at or after arbitration, at or after the Workers' Compensation Appeals Board (WCAB), and at or after the Court of Appeals (see Tables 36 and 37). A resolved claim for the purpose of this report is defined in Section 10203(b)(9) as one in which ultimate liability has been determined, even though payments may be made beyond the reporting period.

**Table 36: Resolved, Disputed, and Unresolved Claims, 2007-2014 (first-year reporting)**

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
Number of Programs Reporting	20	22	23	24	25	25	22	27
Number of Claims Filed	3,314	4,849	3,282	2,723	3,102	3,317	2,649	4,921
Number of Claims Resolved	2,752	3,472	2,923	2,409	2,752	2,797	2,436	4,169
Percentage of Claims Filed and Resolved	83%	72%	89%	88%	89%	84%	92%	85%
Number of Claims Resolved without Dispute (Before Mediation)	2,300	3,380	2,847	2,348	2,733	2,703	2,408	4,068
Percentage of Claims Resolved without Dispute (Before Mediation)	84%	97%	97%	97%	99%	97%	99%	98%
Number of Claims Resolved with Dispute	452	92	76	61	19	94	28	101
Percentage of Claims Resolved with Dispute	16%	3%	3%	3%	1%	3%	1%	2%
Number of Claims Unresolved	562	1,377	359	314	350	520	213	752
Percentage of Claims Unresolved	17%	28%	11%	12%	11%	16%	8%	15%

Data Source: DWC

**Table 37: Resolved, Disputed, and Unresolved Claims, 2004-2014 (latest reporting year available)**

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4th)	2011 (4th)	2012 (3rd)	2013 (2nd)	2014 (1st)
No. of Programs Reporting	13	16	19	20	22	23	20	20	20	22	27
No. of Claims Filed	1,203	2,361	2,451	2,879	3,845	3,543	2,773	2,790	3,083	4,370	4,921
No. of Claims Resolved	1,134	2,138	2,190	2,690	3,486	3,418	2,663	2,724	2,918	4,197	4,169
Percent of Claims Filed and Resolved	94%	91%	89%	93%	91%	96%	96%	98%	95%	96%	85%
No. of Claims Resolved without Dispute (Before Mediation)	1,103	2,098	2,079	2,500	3,352	3,277	2,565	2,681	2,862	4,141	4,068
Percent of Claims Resolved without Dispute (Before Mediation)	97%	98%	95%	93%	96%	96%	96%	98%	98%	99%	98%
No. of Claims Resolved with Dispute	31	40	111	190	134	141	41	43	56	56	101
Percentage of Claims Resolved with Dispute	3%	2%	5%	7%	4%	4%	2%	2%	2%	1%	2%
No. of Claims Unresolved	69	223	261	189	359	125	110	66	165	173	752
Percent of Claims Unresolved	6%	9%	11%	7%	9%	4%	4%	2%	5%	4%	15%

Data Source: DWC

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

In 2014, carve-out programs reported resolving 101 claims through litigation. Forty-four (44) claims were resolved through mediation, 54 through arbitration, 3 at the WCAB, and 0 at the Court of Appeals (Tables 38 through 41). Twenty (20) claims were resolved through mediation, 1 through arbitration, 7 at the WCAB, and 0 at the Court of Appeals.

**Table 38: Number of Disputed Claims by Type of Resolution, 2007-2014 (first-year data)**

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
At Mediation	432	64	59	54	14	85	20	44
At Arbitration	20	27	12	3	1	4	1	54
At WCAB	0	1	5	4	4	5	7	3
At Court of Appeals	0	0	0	0	0	0	0	0
Total Disputed Claims	452	92	76	61	19	94	28	101

Data Source: DWC

**Table 39: Distribution of Disputed Claims by Type of Resolution, 2007-2014 (first-year data)**

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
At Mediation	96%	70%	78%	89%	74%	90%	71%	44%
At Arbitration	4%	29%	16%	5%	5%	4%	4%	53%
At WCAB	0%	1%	7%	7%	21%	5%	25%	3%
At Court of Appeals	0%	0%	0%	0%	0%	0%	0%	0%

Data Source: DWC

**Table 40: Number of Disputed Claims by Type of Resolution, 2004-2014 (latest reporting year available)**

Calendar Year (Rep Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4th)	2011 (4th)	2012 (3d)	2013 (2nd)	2014 (1st)
At Mediation	20	29	71	152	83	118	35	29	47	34	44
At Arbitration	7	6	32	23	36	16	5	5	3	3	54
At WCAB	4	5	8	15	14	7	1	5	5	15	3
At Court of Appeals	0	0	0	0	1	0	0	4	1	4	0
Total Disputed Claims	31	40	111	190	134	141	41	43	56	56	101

Data Source: DWC

**Table 41: Distribution of Disputed Claims by Type of Resolution, 2004-2014 (latest reporting year available)**

Calendar Year (Rep Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4th)	2011 (4th)	2012 (3d)	2013 (2nd)	2014 (1st)
At Mediation	65%	73%	64%	80%	62%	84%	85%	67%	84%	61%	44%
At Arbitration	23%	15%	29%	12%	27%	11%	12%	12%	5%	5%	53%
At WCAB	13%	13%	7%	8%	10%	5%	2%	12%	9%	27%	3%
At Court of Appeals	0%	0%	0%	0%	1%	0%	0%	9%	2%	7%	0%

Data Source: DWC

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### Safety History

To determine safety history, CCR, Title 8 Section 10203(b)(14) requires that ADR programs report safety ratings (incidence rates) based on the number of injuries and illnesses per 100 full-time employees. To calculate an incidence rate, ADR programs must multiply the number of injuries and illnesses reported on the United States Department of Labor Occupational Safety and Health Administration (OSHA) Form 300 by 200,000,<sup>43</sup> then divide by the number of person-hours worked reported under CCR, Title 8, Section 10203(b)(6).

ADR programs, however, experience under-reporting of injuries and illnesses on OSHA Form 300 when compared to the number of claims filed (see Table 42).

**Table 42: Number of OSHA Form 300 Injuries and Illnesses and Total Claims, 2010-2014<sup>44</sup> (first-year data)**

Calendar Year (Reporting Cycle)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
<b>3201.5 and 3201.7 Programs</b>					
Number of Programs Reporting (#)	24	25	25	22	27
OSHA Form 300 Injuries and Illnesses (#)	2,243	2,287	2,321	2,056	3,073
Total Claims Reported to Program(#)	2,723	3,102	3,317	2,649	4,921
Percentage of OSHA Incidents to Program Claims Filed	82%	74%	70%	78%	62%
<b>3201.5 Construction Programs</b>					
Number of Programs Reporting (#)	21	21	20	18	18
OSHA Form 300 Injuries and Illnesses (#)	640	427	439	556	466
Total Claims (#)	1,045	1,060	874	1,095	954
Percentage of OSHA Incidents to Claims Filed	61%	40%	50%	51%	49%
<b>3201.7 Non-Construction Programs</b>					
Number of Programs Reporting (#)	3	4	5	4	9
OSHA Form 300 Injuries and Illnesses (#)	1,603	1,860	1,882	1,500	2,607
Total Claims (#)	1,678	2,042	2,443	1,554	3,967
Percentage of OSHA Incidents to Claims Filed	96%	91%	77%	97%	66%

Data Source: DWC

The DWC calculates an incidence rate based on the number of claims per 100 full-time employees. To calculate both incidence rates for all programs, adjustments are made to the number of injuries and illnesses and the number of claims to compensate for the ADR programs that did not report person-hours worked (see Table 43). In 2014, the U.S. Bureau of Labor Statistics (BLS) injury and illness incidence rate for all California workers was 3.8; construction workers had an incidence rate of 4.8.<sup>45</sup>

<sup>43</sup> The 200,000 hours in the formula represents the equivalent of 100 employees working 40 hours per week, 50 weeks per year, and provides the standard base for the incidence rates. Bureau of Labor Statistics, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses, 2010, "How To Compute a Firm's Incidence Rate for Safety Management," <http://www.bls.gov/iif/osheval.htm>.

<sup>44</sup> To protect the confidentiality of ADR programs, the safety history analysis excludes include 2007-2009 first-year data.

<sup>45</sup> Bureau of Labor Statistics, U.S. Department of Labor, "Table 6. Incidence rates of nonfatal occupational injuries and illnesses by industry and case types, 2014," <http://www.bls.gov/iif/oshwc/osh/os/pr146ca.pdf> or <http://www.bls.gov/iif/oshstate.htm#CA>.

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**Table 43: Number of OSHA Form 300 Injuries and Illnesses and Reported Claims, 2010-2014<sup>46</sup>  
(first-year data)**

Calendar Year (Reporting Year)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
<b>3201.5 and 3201.7 Total Programs</b>					
Reporting Programs (#)	19	22	25	22	27
Number of Person-Hours Worked (million)	67.2	77.9	69.0	51.2	121.7
OSHA Form 300 Injuries and Illnesses (#)	2,136	2,287	2,321	2,056	3,073
Total Claims Reported to Program (#)	2,521	3,089	3,317	2,649	4,921
Percentage of OSHA Incidents to Program Claims Filed	85%	74%	70%	78%	62%
Safety Rating Based on OSHA Form 300 Injuries and Illnesses (#)	6.4	5.9	6.7	8.0	5.0
Safety Rating Based on Reported Claims (#)	7.5	7.9	9.6	10.4	8.1
<b>3201.5 Construction Programs</b>					
Reporting Programs (#)	16	18	20	18	18
Number of Person-Hours Worked (million)	50.2	46.7	34.9	30.7	34.4
OSHA Form 300 Injuries and Illnesses (#)	571	427	439	556	466
Total Claims Reported to Program (#)	888	1,049	874	1,095	954
Percentage of OSHA Incidents to Program Claims Filed	64%	41%	50%	51%	49%
Safety Rating Based on OSHA Form 300 Injuries and Illnesses (#)	2.3	1.8	2.5	3.6	2.7
Safety Rating Based on Reported Claims (#)	3.5	4.5	5.0	7.1	5.5
<b>3201.7 Non-Construction Programs</b>					
Reporting Programs (#)	3	4	5	4	9
Number of Person-Hours Worked (million)	17.0	31.2	34.1	20.5	87.3
OSHA Form 300 Injuries and Illnesses (#)	1,565	1,860	1,882	1,500	2,607
Total Claims Reported to Program (#)	1,633	2,040	2,443	1,554	3,967
Percentage of OSHA Incidents to Program Claims Filed	96%	91%	77%	97%	66%
Safety Rating Based on OSHA Form 300 Injuries and Illnesses (#)	18.4	11.9	11.0	14.7	6.0
Safety Rating Based on Reported Claims (#)	19.2	13.1	14.3	15.2	9.1

Data Source: DWC

**Return to Work**

CCR, Title 8, Section 10203(b)(16), requires carve-outs to report the number of workers participating in light-duty or modified return-to-work programs. In 2014, 985 workers participated in light-duty or modified work programs, including both construction-program and non-construction-program workers. The overall ratio of claims filed per each light-duty or modified work participant was 5 to 1 (Tables 44 and 45).

<sup>46</sup> To protect the confidentiality of ADR programs, the safety history analysis excludes include 2007-2009 first-year data.

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**Table 44: Number of Workers Participating in Light-Duty or Modified Return-to-Work Programs, 2007-2014 (first-year reporting)**

Calendar Year (Reporting Cycle)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)	2012 (1st)	2013 (1st)	2014 (1st)
Reporting Programs (#)	21	23	23	24	24	25	22	27
Total Claims Filed	3,314	4,849	3,282	2,723	3,102	3,317	2,649	4,921
Light-Duty and Modified Work Participants	113	212	881	730	839	926	721	985
Ratio Claims Filed to Light-Duty or Modified Work Participant	29.3	22.9	3.7	3.7	3.7	3.6	3.7	5.0

Data Source: DWC

**Table 45: Number of Workers Participating in Light-Duty or Modified Return-to-Work Programs, 2004-2014 (latest reporting year available)**

Calendar Year (Reporting Cycle)	2004 (4th)	2005 (4th)	2006 (4th)	2007 (4th)	2008 (4th)	2009 (4th)	2010 (4rd)	2011 (4th)	2012 (3d)	2013 (2nd)	2014 (1st)
Reporting Programs (#)	13	19	21	22	23	22	23	24	22	25	27
Total Claims Filed	1,203	2,361	2,451	2,628	3,845	3,543	2,793	3,102	3,083	4,370	4,921
Light-Duty and Modified Work Participants	2	61	265	179	965	1,021	869	839	617	618	619
Ratio Claims Filed to Light-Duty or Modified Work Participant	601.5	38.7	9.2	14.7	4.0	3.5	3.2	3.7	5.0	7.1	7.9

Data Source: DWC

**Worker Satisfaction**

In order to fulfill the reporting requirements of Section 10203, non-construction carve-out programs are required to submit the results of a self-administered worker-satisfaction survey.

In 2014, of the nine reporting 3201.7 programs, one program submitted results. This program found that 40 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out programs. Eight other 3201.7 programs failed to report the results of a worker satisfaction survey.

In 2013, of the four reporting 3201.7 programs, one program submitted results. This program found that 42 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out programs. Three other 3201.7 programs failed to report the results of a worker-satisfaction survey.

For 2012, of the five reporting 3201.7 programs, one program submitted results. This program found that 52 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out programs. One 3201.7 program failed to report the results of a worker satisfaction survey due to staffing shortages. Three programs failed to report results because they had not yet developed and implemented a worker-satisfaction survey.

For 2011, of the four reporting 3201.7 programs, one program submitted results. This program found that 42 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out program. One 3201.7 program failed to report the results of a worker satisfaction survey due to staffing shortages. A second program failed to report results because they had not yet developed and implemented a worker-satisfaction survey. A third program failed to report results as survey requests sent out to employees were not returned.

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**Status of Carve-Out Agreements**

Tables 46 to 52, show the current status of carve-out agreements pursuant to Labor Code Sections 3201.5 and 3201.7, as reported by DWC.

**Table 46: Construction Industry Carve-out Participants as of August, 2015  
Labor Code Section 3201.5 (active programs)**

No.	Union	Company	Agreement Type	Expiration Date
2	International Brotherhood of Electrical Workers (IBEW)	National Electrical Contractors Association (NECA)	1 Union, Multiple Employers	8/14/2016
3	So. CA District of Carpenters & 19 local unions	6 multi-employer groups—1000 contractors	1 Union, Multiple Employers	8/14/2016
4	So. CA Pipe Trades Council 16	Multi employer—Plumbing & Piping Industry Council	1 Union, Multiple Employers	8/24/2016
6	International Union of Petroleum & Industrial Workers	TIMEC Co., Inc./TIMEC So. CA., Inc.	1 Union, 1 Employer	7/31/2018
8	So. CA District Council of Laborers	Assoc. General Contractors of CA, Building Industry Assoc.; So. CA, So. CA Contractors' Assoc.; Engineering Contractors' Assoc.	1 Union, Multiple Employers	7/31/2017
11	District Council of Painters	LA Painting & Decorating Contractors' Association	1 Union, Multiple Employers	10/28/2015
14	Operating Engineers Local 12	So. CA Contractors' Association	1 Union, Multiple Employers	4/1/2017
15	Sheet Metal International Union	Sheet Metal-A/C Contractors National Association	1 Union, Multiple Employers	4/1/2017
16	Building & Construction Trades Council San Diego	San Diego County Water Authority Emergency Storage Project	Project Labor Agreement	2/20/2018
21	District Council of Iron Workers—State CA & Vicinity	California Ironworker Employers Council	1 Union, Multiple Employers	2/25/2018
22	Sheet Metal Workers International Association #105	Sheet Metal & A/C Labor Management Safety Oversight Committee (LMSOC)	1 Union, Multiple Employers	4/17/2015
23	United Union of Roofers, Waterproofers & Allied workers, Local 36 and 220	Union Roofing Contractors Association	1 Union, Multiple Employers	7/31/2017
24	United Union of Roofers, Waterproofers & Allied Workers, Locals 27, 40, 81 & 95	Associated Roofing Contractors of the Bay Area Counties	1 Union, Multiple Employers	7/31/2017
26	Operatives Plasterers & Cement Masons International Association, Local 500 & 600	So. CA Contractors Association, Inc.	1 Union, Multiple Employers	4/1/2017
27	International Unions Public & Industrial Workers	Irwin Industries, Inc.	1 Union, 1 Employer	3/23/2016
29	No. CA Carpenters Regional Council	Basic Crafts Workers' Compensation Benefits Trust	1 Union, Multiple Employers	8/30/2016
30	No. CA District Council of Laborers	Basic Crafts Workers' Compensation Benefits Trust	1 Union, Multiple Employers	8/30/2016
31	Operating Engineers Local 3	Basic Crafts Workers' Compensation Benefits Trust	1 Union, Multiple Employers	8/30/2016
32	Industrial, Professional & Technical Workers	Irish Construction	1 Union, 1 Employer	12/04/2016
33	Building Trades Council of Los Angeles-Orange County	L.A. Comm. College District Construction Program	Project Labor Agreement	5/6/2017
34	Santa Clara & San Benito Counties Bldg. & Construction Trades	Santa Clara Valley Med'I Cntr-Seismic Safety Project, OCIP	Project Labor Agreement	2/2/2016

Source: DWC, <http://www.dir.ca.gov/dwc/Carveout/ConstructionCarveOut.htm>

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**Table 47: Completed, Ended, or Expired Construction Industry Carve-Out Programs\***

No.	Union	Company	Agreement Type	Expiration Date
1	CA Building & Construction Trades Council	Metropolitan Water District So. CA—Diamond Valley Lake	Project Labor Agreement	Expired 11/07/2006
5	Steamfitters Local 250	Cherne—two projects completed in 1996	1 Union, 1 Employer	Completed 1996
7	Contra Costa Building & Construction Trades Council	Contra Costa Water District—Los Vaqueros	Project Labor Agreement	Completed
9	CA Building & Construction Trades Council	Metropolitan Water District So. CA Inland Feeder Parsons	Project Labor Agreement	Ended 12/31/2002
10	Building & Construction Trades Council of Alameda County	Parsons Constructors, Inc. Nat'l Ignition Facility—Lawrence Livermore	Project Labor Agreement	Ended 7/02/2006
12	Plumbing & Pipefitting Local 342	Cherne Contracting—Chevron Base Oil 2000 project	1 Union, 1 Employer	Completed
13	LA Building & Construction Trades Council AFL-CIO	Cherne Contracting—ARCO	Project Labor Agreement	Completed
17	LA/Orange Counties Building & Construction Trade Council	Cherne Contracting—Chevron Refinery—El Segundo	Project Labor Agreement	Expired 7/26/2005
18	Plumbers & Steamfitters	Cherne Contracting—Chevron Refinery—Richmond	Project Labor Agreement	Expired 7/1/2005
19	Plumbers & Steamfitters	Cherne Contracting—Tesoro Refinery—Martinez	Project Labor Agreement	Expired 7/1/2005
20	LA County Building & Construction Trades Council	Cherne Contracting—Equilon Refinery—Wilmington	Project Labor Agreement	Expired 3/1/2007
25	United Association - Journeyman & Apprentices—Plumbers & Pipefitters, Local #447	No. CA Mechanical Contractors Association & Association Plumbing & Mechanical Contractors of Sacramento. Inc.	1 Union, Multiple Employers	Expired 11/7/2012
28	PIPE Trades District Council.# 36	Mechanical Contractors Council of Central CA	1 Union, Multiple Employers	Expired 4/14/2013

\*A completed, ended, or expired designation does not exclude a carve-out program from responsibility for any workplace injuries or illnesses that may have occurred during operation.

Source: DWC, <http://www.dir.ca.gov/dwc/Carveout/ConstructionCarveOut.htm>

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Non-Construction Industry Carve-Out Participants as of August 2015  
(Labor Code Section 3201.7)**

**Table 48: Non-Construction Carve-Out Active Programs**

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N14	Long Beach Peace Officers' Association & Long Beach Fire Fighters' Association Local 372	City of Long Beach	12/11/2006	12/11/2007	11/2/2007	11/13/2007
N15	SEIU Local 1877	Various Maintenance Companies	4/13/2007	4/13/2008	2/12/2008	2/28/2008
N16	SEIU Local 721	City of Los Angeles	6/18/2007	6/18/2008	4/15/2008	5/8/2008
N20	Kern County Firefighters' Union	County of Kern	6/3/2010	6/3/2011	1/14/2014	1/14/2014
N21	Kern County Law Enforcement Association	County of Kern	6/3/2010	6/3/2011	1/14/2014	1/14/2014
N28	SEIU United Service Workers West	No. CA Maintenance Contractors Assoc.	1/12/2011	1/12/2012	3/3/2011	3/8/2011
N29	LA County Firefighters' Local 1014	LA County Fire Department	3/23/2011	3/23/2013	10/24/2012	10/24/2012
N30	SEIU Local 87	SF Maintenance Contractors Assoc.	3/28/2011	3/28/2012	5/31/2011	6/7/2011
N31	SEIU United Service Workers West	No. CA Safeway Contractors	4/15/2011	4/15/2012	5/24/2011	6/3/2011
N32	SEIU United Service Workers West	ABM-non-food retail-LA County	6/10/2011	6/10/2012	6/13/2011	6/15/2011
N33	SEIU United Service Workers West	ABM-non-food retail-San Diego & Imperial Counties	6/10/2011	6/10/2012	6/13/2011	6/15/2011
N34	SEIU United Service Workers West	ABM-retail food-All CA counties	6/10/2011	6/10/2012	6/13/2011	6/15/2011
N35	Huntington Beach Police Officers' Assoc.	City of Huntington Beach	7/1/2011	7/1/2013	5/13/2013	5/13/2013
N36	Huntington Beach Firefighters Assoc.	City of Huntington Beach	7/27/2011	7/27/2013	5/13/2013	5/13/2013
N37	Huntington Beach Police Management Assoc.	City of Huntington Beach	7/12/2011	7/12/2013	5/13/2013	5/13/2013
N38	Huntington Beach Fire Management Assoc.	City of Huntington Beach	7/5/2011	7/5/2013	5/13/2013	5/13/2013
N40	Orange County Professional Firefighters Assoc.	Orange County Fire Authority	11/30/2011	12/5/2013	8/14/2014	8/14/2014
N41	SEIU-USWW and SEIU 87	ABLE Services	2/9/2012	2/9/2013	2/16/2012	2/23/2012
N42	UFCW 8 Locals	Von's and Super A	10/26/2011	10/26/2013	10/23/2013	10/23/2013

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No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N43	City of Glendale Police Officers' Association	City of Glendale	7/10/2013	7/10/2014	2/25/2015	2/25/2015
N44	Bakersfield Police Officers' Association	City of Bakersfield	1/27/2014	1/27/2015	3/27/2015	3/27/2015
N45	Bakersfield City Firefighters' Association Local 246	City of Bakersfield	2/18/2014	2/18/2015	3/27/2015	3/27/2015
N46	Madera Police Officers Association	City of Madera	2/18/2014	2/18/2016	3/27/2015	3/27/2015
N47	Rialto Firefighters Local 3688	City of Rialto	7/31/2014	7/31/2015	5/29/2015	5/29/2015
N50	Rialto Police Benefit Association	City of Rialto	5/16/2014	5/16/2015	5/29/2015	5/29/2015
N51	Fresno Police Officers' Association	City of Fresno	8/14/2014	8/14/2015	6/26/2015	6/26/2015

Source: DWC, <http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm>.

**Table 49: Non-Construction Carve-Out Programs with Permission to Operate (not Currently Active)**

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N6	No. CA Carpenters Regional Council Non-Construction	Basic Crafts Workers' Compensation Benefits Trust	12/9/2004	12/9/2005	2/15/2005	2/28/2005
N7	No. CA District Council of Laborers Non-Construction	Basic Crafts Workers' Compensation Benefits Trust	12/9/2004	12/9/2005	2/15/2005	2/28/2005
N8	Operating Engineers Local 3 Non-Construction	Basic Crafts Workers' Compensation Benefits Trust	12/9/2004	12/9/2005	2/15/2005	2/28/2005

Source: DWC, <http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm>.

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**Table 50: Non-Construction Carve-Out Programs with Open Permission to Negotiate**

No.	Union	Company	Negotiate Start Date	Negotiate End Date
N48	Amalgamated Transit Union, Local 1027	City of Fresno	3/25/2014	3/25/2015
N52	Porterville Operating Engineers	City of Porterville	9/24/2014	9/29/2015
N53	Porterville City Employees Association	City of Porterville	9/24/2014	9/29/2015
N54	Porterville Police Officers' Association	City of Porterville	9/24/2014	9/29/2015
N55	Porterville Firefighters' Association	City of Porterville	3/26/2015	3/26/2016
N56	Porterville Manager and Confidential Series	City of Porterville	3/26/2015	3/26/2016
N57	Porterville Fire Officer Series	City of Porterville	3/26/2015	3/26/2016
N58	Amalgamated Transit Union, Local 1575	Golden Gate Transit	6/23/2015	6/23/2016
N59	Richmond Police Officers' Association	City of Richmond	8/15/2015	8/15/2016

Source: DWC, <http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm>

**Table 51: Non-Construction Carve-Out Programs with Expired Permission to Negotiate**

No.	Union	Company	Negotiate Start Date	Negotiate End Date
N1	UFCW Local 324	Super A Foods—2 locations—~ 76 members	9/1/2004	9/1/2005
N2	UFCW Local 1167	Super A Foods—Meat Department ~8 employees	9/1/2004	9/1/2005
N3	Teamsters CA State Council-Cannery & Food Processing Unions, IBT, AFL-CIO	CA Processors, Inc. Multi-Employer Bargaining Representative	7/6/2004	7/5/2005
N4	UFCW Local 770	Super A Foods—10 locations- ~283 members	9/1/2004	9/1/2005
N5	UFCF Local 1036	Super A Foods—All employees, except those engaged in janitorial work or covered under a CBA w/Culinary Workers and demonstrators	9/1/2004	9/1/2005 Withdrawn 7/28/2009
N10	Teamsters Local 952	Orange County Transportation Authority Coach Operators	4/17/2006	4/17/2007 Withdrawn 7/28/2009
N10A	Teamsters Local 952	Orange County Transportation Authority Maintenance Workers	7/31/2006	7/31/2007
N11	Teamsters Local 630	SYSCO Food Service	6/22/2007	6/22/2008 Withdrawn 7/30/2009
N12	Teamsters Local 848	SYSCO Food Service	6/22/2007	6/22/2008 Withdrawn 7/30/2009
N16	UFCW Local 5	Berkeley Bowl	7/7/2008	7/7/2009
N17	UFCW Local 5	Smoked Prime Meats, Inc.	7/7/2008	7/7/2009
N18	UFCW Local 5	Milan Salami	7/7/2008	7/7/2009
N22	United Food & Commercial Workers Local 8	Save Mart Supermarkets dba Yosemite Wholesale	8/11/2010	8/11/2011
N23	Teamsters Local 150	Save Mart Supermarkets dba Roseville Distribution Center	9/13/2010	9/13/2011
N27	Automotive Machinists Lodge 1173	Save Mart Supermarkets dba Vacaville Distribution Center	11/30/2010	11/30/2011
N49	UFCW Locals 5, 8-GS and 648	Safeway	4/18/2014	4/18/2015

Source: DWC, <http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm>

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**Table 52: Completed, Ended or Expired Non-Construction Carve-Out Programs\***

No.	Union	Company	Permission to Negotiate Start Date	Permission to Negotiate End Date	Recognition of Agreement Date	Agreement Recognition Letter Date
N9	United Food & Commercial Workers Union Local 588	Mainstay Business Solutions	8/11/2005	8/11/2006	9/2/2005	9/12/2005

\* A completed, ended, or expired designation does not exclude a carve-out program from responsibility for any workplace injuries or illnesses that may have occurred during operation.

Source: DWC, <http://www.dir.ca.gov/dwc/Carveout/NonConstructionCarveOut.htm>

*For further information ...*

The latest information on carve-outs may be obtained at:  
<http://www.dir.ca.gov/dwc/carveout.html>

*How to Create a Workers' Compensation Carve-Out in California: Practical Advice for Unions and Employers.* CHSWC (2006).  
<http://www.dir.ca.gov/CHSWC/carve-out1.pdf>

*Carve-Outs: A Guidebook for Unions and Employers in Workers' Compensation.* CHSWC (2004).  
<http://www.dir.ca.gov/chswc/CARVEOUTSGuidebook2004.pdf>

*Carve-Outs in Workers' Compensation: An Analysis of Experience in the California Construction Industry* (1999).  
<http://www.dir.ca.gov/CHSWC/CarveOutReport/Carveoutcover.html>

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**DIVISION OF LABOR STANDARDS ENFORCEMENT BUREAU OF FIELD ENFORCEMENT**

The Bureau of Field Enforcement (BOFE) in the Division of Labor Standards Enforcement (DLSE) is responsible for investigation and enforcement of statutes covering workers' compensation insurance coverage, child labor, cash pay, unlicensed contractors, and Industrial Welfare Commission orders, as well as group claims involving minimum wage and overtime claims. BOFE also handles criminal investigations involving these group claims.

Table 53 lists the citations from 2013-2014 enforcement actions. It illustrates the Bureau's performance inclusive of all special programs, such as non-public works field enforcement and prevailing wage enforcement through the Public Works Unit.

**Table 53: DLSE Citations by Category, 2013–2014**

Citation Category	Number of Citations	Penalties Assessed	Penalties Collected
<b>Workers' Compensation</b>	<b>1,224</b>	<b>\$30,108,340</b>	<b>\$4,011,771</b>
Itemized Statement	630	\$7,870,513	\$3,062,563
Non-registration*	112	\$802,600	\$278,517
Unlicensed Construction Contractor	79	\$966,800	\$59,760
Minimum Wage	178	\$845,850	\$122,618
Overtime	199	\$879,044	\$168,344
Child Labor	76	\$95,000	\$62,940
Garment	39	\$61,100	\$22,506
Rest and Meal Period	115	\$732,613	\$65,765
Unlicensed Farm Labor Contractor	7	\$70,000	\$21,700
Misclassification	1	\$5,000	\$5,000
Other	4	\$3,400	\$200
<b>Subtotal</b>	<b>2,664</b>	<b>\$42,440,259</b>	<b>\$7,881,683</b>
Public Works	406	\$13,420,728**	\$3,521,696
<i>LESS citations dismissed/modified</i>		<i>(\$14,656,948)</i>	
<b>TOTAL</b>	<b>3,070</b>	<b>\$41,204,039</b>	<b>\$11,403,380</b>
* "Non-registration" includes penalties for non-registration issued for car washes and garment manufacturers. ** Includes the assessment of \$4,744,115 in Labor Code Section 1777.7.			

Source: DLSE

For further information ...

[http://www.dir.ca.gov/dlse/BOFE\\_LegReport2014.pdf](http://www.dir.ca.gov/dlse/BOFE_LegReport2014.pdf)

**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).

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The former Insurance Commissioner Steve Poizner convened an Advisory Task Force on Insurance Fraud in May 2007 to address major issues relating to insurance fraud. Former Executive Officer of CHSWC Christine Baker, currently the director of DIR, chaired the Task Force's Workers' Compensation Expert Working Group. The Task Force completed a comprehensive review of the anti-fraud insurance programs and identified 18 recommendations to consider in reducing insurance fraud in California.

The recommendations are consolidated into the following five categories identified by the Task Force:

- Organization and Efficiency of the CDI Fraud Division Enforcement Branch.
- Industry Role in Fighting Fraud.
- Public Role in Fighting Fraud.
- Fraud Statutes and Regulations.
- Technologies.

The Fraud Division is currently implementing the following recommendations:

- Placing personnel in existing fusion centers in the State so that law enforcement can share information more efficiently and quickly identify emerging trends and crime patterns.
- Developing and providing better training for the Special Investigation Units (SIU) on the recognition, documentation and reporting of suspected insurance fraud claims.
- Recognizing insurance companies that go beyond compliance for their greater commitment to fighting fraud.
- Increasing the CDI's outreach efforts about the consequences of fraud and how the public can recognize and report it.

### **Suspected Fraudulent Claims**

Suspected Fraudulent Claims (SFCs) 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 SFCs represents only a small portion 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 CDI Fraud Division data, the quality of SFCs continues to improve each fiscal year. Several reasons for this trend include:<sup>47</sup>

- 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 the FD-1 Form electronically on the Internet.
- Promulgating 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 was 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.

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<sup>47</sup> 2014 Annual Report of the Insurance Commissioner, August 1, 2015.

## WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

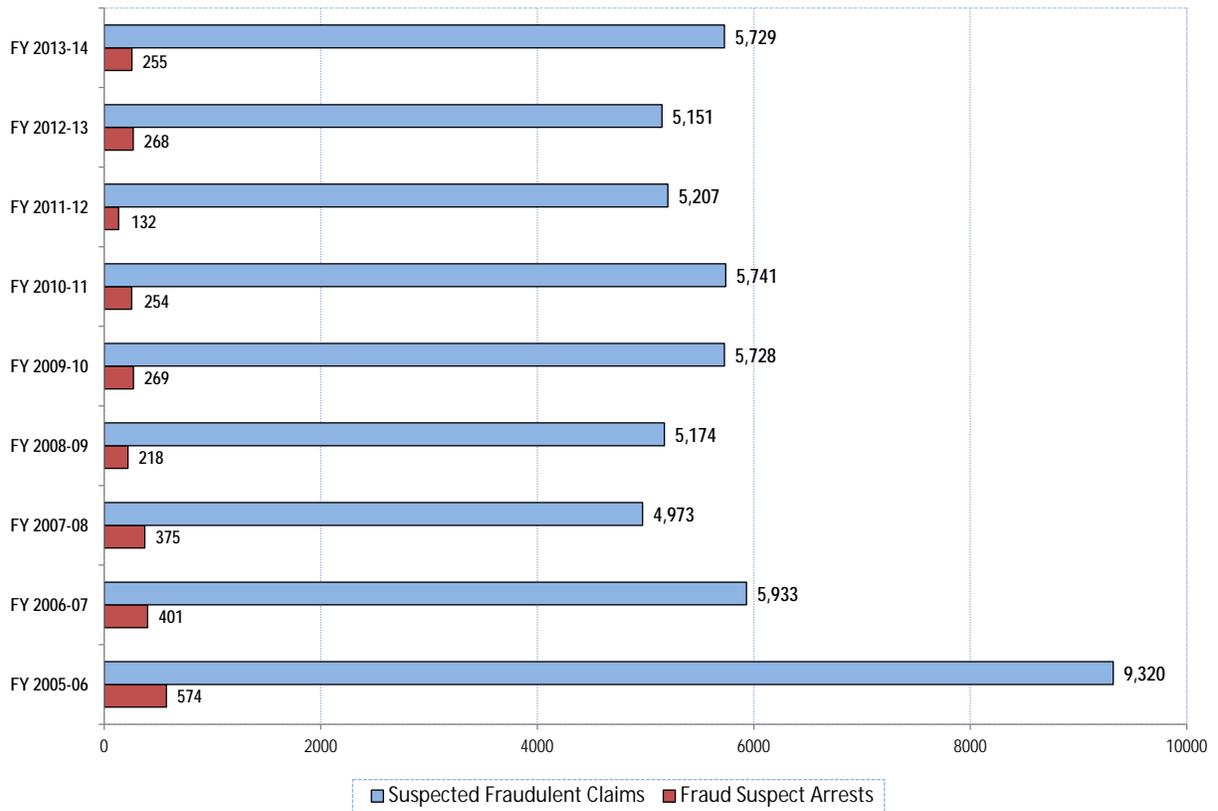
- CDI is strengthening its working relationship with the Workers' Compensation Insurance Rating Bureau (WCIRB) to support the Department's anti-fraud efforts.

For fiscal year 2013-2014, the total number of SFCs reported is 5,729.

### 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 (see Figure 79).

Figure 79: Suspected Workers' Compensation Fraudulent Claims and Suspect Arrests

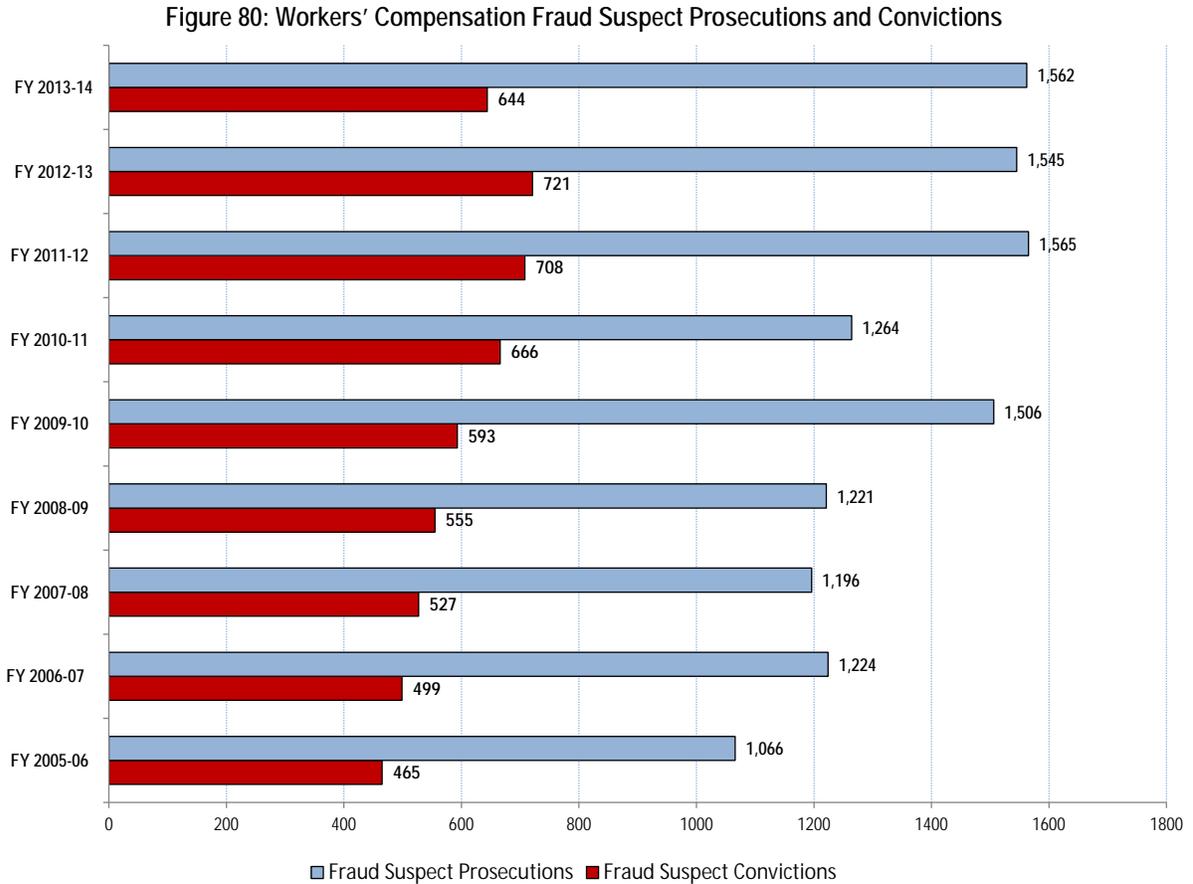


Data Source: CDI - Fraud Division and CWCI

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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 while many cases are still pending in court is reported in Figure 80.



Data Source: CDI - Fraud Division and CWCI

### Workers' Compensation Fraud Investigations

#### *Types of Workers' Compensation Fraud Investigations*

Figures 81 and 82 indicate the number and types of investigations opened and carried from fiscal years (FY) 2005-2006 to FY 2013-2014 that were reported by district attorneys. Applicant fraud appears to be the area generating the most cases followed by premium fraud and uninsured employer fraud.

Some of the categories for fraud-related investigations were changed in FY 2005-2006, FY 2006-2007, and FY 2007-2008 as reflected in Figures 81 and 82. In 2008, two new categories, Legal Provider and Pharmacy, were introduced as separate categories.

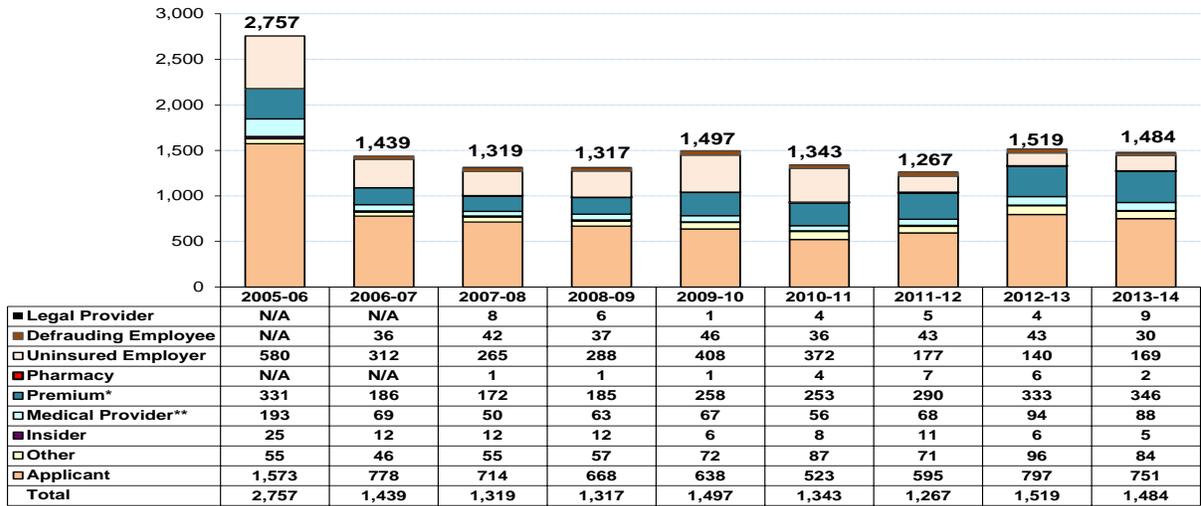
#### *Trends in Workers' Compensation Fraud Investigations*

Figure 81 shows that, after reaching its peak in FY 2005-2006, the workers' compensation fraud investigations showed a 48 percent decline in FY 2006-2007. From FY 2006-2007 to FY 2011-2012, the number of workers' compensation fraud investigations averaged 1,364. The workers' compensation fraud

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investigations increased by 20 percent from FY 2011-2012 to FY 2012-2013 and averaged 1,500 investigations per year in FY 2012-2013 and FY 2013-2014.

**Figure 81: Caseload by Type of Fraud Investigations, FY 2005-2006–FY 2013-2014**

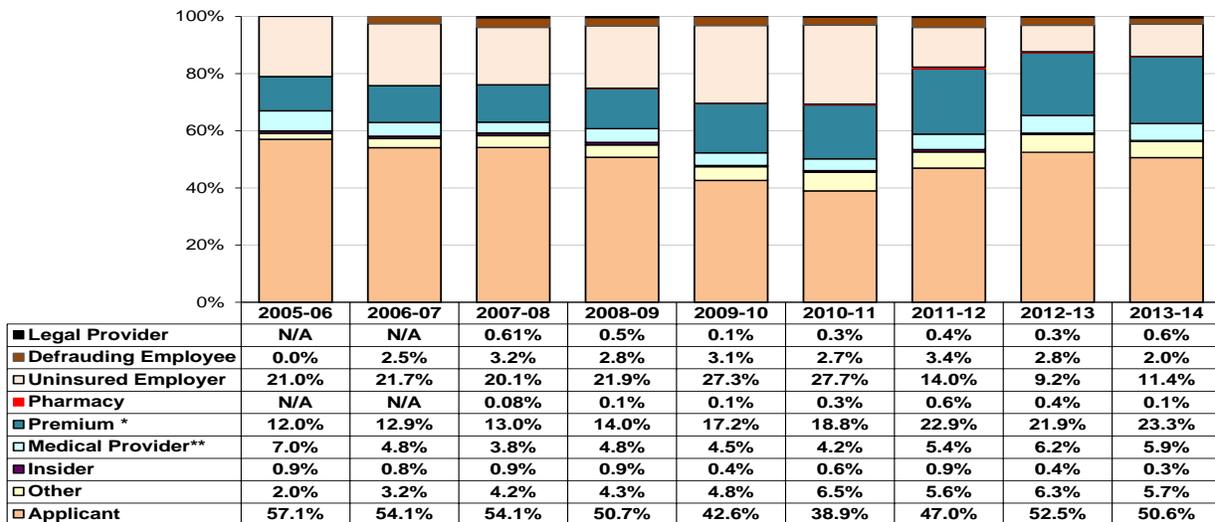


\* From 2007-2008 on, Includes Misclassification, Underreported Wages, and X-Mod Evasion  
 \*\* From FY 2005-06, includes Capping and Fraud Rings that had been separate categories before, and for 2006-07, includes Legal Provider and Treatment frauds

Data Source: California Department of Insurance, Fraud Division

As seen in Figure 82, the focus of the investigations has been different in different periods. Applicant fraud investigations dropped from 57 percent of the total in FY 2005-2006 to about 39 percent in FY 2010-2011. During the same period, the percentage of investigations of premium and uninsured employer frauds increased. From FY 2010-2011 to FY 2013-2014, investigations of applicant fraud increased again, premium fraud continued an overall increase from the previous period, and investigations of uninsured employers fell from 28 percent to 11 percent.

**Figure 82: Type of Fraud Investigations by Percentage of Total, FY 2005-2006–FY 2013-2014**



\* From FY 2006-2007 on, Includes Misclassification, Underreported Wages, and X-Mod evasion  
 \*\* From FY 2005-06, includes Capping and Fraud Rings that had been separate categories before, and for 2006-07, includes Legal Provider and Treatment frauds

Data Source: California Department of Insurance, Fraud Division

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In addition, the *2014 Annual Report of the Insurance Commissioner* notes that the majority of suspected fraudulent claims in calendar year 2014 came from Los Angeles County (2,374, or 40 percent of total cases) followed by Orange County (576, or 10 percent) and San Diego County (348, or 6 percent).

### **Underground Economy**

Although most California businesses comply with health, safety, and workers' compensation regulations, some do not and operate in the "underground economy." Such businesses may not have all their employees on the official company payroll or may not report wages paid to employees that reflect their real job duties. Businesses in the underground economy are therefore competing unfairly with those that comply with the laws. According to the Employment Development Department (EDD), the California underground economy is estimated at \$60 billion to \$140 billion annually.<sup>48</sup>

### **Potential Areas for Improvement in Workers' Compensation Anti-Fraud Efforts**

CHSWC has conducted many studies that focus on improving workers' compensation anti-fraud efforts. For further information on these studies, please see the "Projects and Studies" section of this report.

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<sup>48</sup> <http://www.bettzedek.org/wp-content/uploads/voicesfromtheunderground.pdf>.