

California Commission on Health and Safety and Workers' Compensation



CHSWC 2012 Annual Report

CHSWC Members

Angie Wei (2012 Chair)
Doug Bloch
Christy Bouma
Martin Brady
Faith Culbreath
Sean McNally
Kristen Schwenkmeyer
Robert B. Steinberg

Executive Officer

Lachlan Taylor (Acting Executive Officer)

State of California
Labor and Workforce Development Agency

Department of Industrial Relations

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**California Commission on Health and Safety
and Workers' Compensation**

2012 Annual Report

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ABOUT CHSWC

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

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

At the request of the Executive Branch, the Legislature and the Commission, CHSWC conducts research, releases public reports, presents findings, and provides information on the health and safety and workers' compensation systems.

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

CHSWC projects address several major areas, including permanent disability (PD) ratings and related benefits, State Disability Insurance (SDI), return to work, carve-outs and medical fee schedules. Additional projects address benefits, medical costs and quality, fraud and abuse, streamlining of administrative functions, informational services to injured workers, alternative workers' compensation systems, and injury and illness prevention. CHSWC also continually examines the impact of workers' compensation reforms.

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

CHSWC engages in a number of studies and projects in partnership with state agencies, foundations, and the health and safety and workers' compensation community including: the Labor and Workforce Development Agency (LWDA); the Department of Industrial Relations (DIR); the Division of Workers' Compensation (DWC); the California Department of Insurance (CDI); the Fraud Assessment Commission (FAC); the Governor's Office of Homeland Security (OHS); the Bureau of Labor Statistics (BLS); the Department of Fair Employment and Housing (DFEH); the California HealthCare Foundation (CHCF); RAND; the National Academy of Social Insurance (NASI); and the International Association of Industrial Accident Boards and Commissions (IAIABC). CHSWC projects and studies are described in this report.

CHSWC *Serving all Californians*

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

ABOUT CHSWC

CHSWC Members Representing Employers



Martin Brady

Martin Brady is executive director at Schools Insurance Authority, where he has worked since 1988.

Mr. Brady is a member of the California Joint Powers Authority, California Coalition on Workers' Compensation, Public Agency Risk Managers Association, Public School Risk Institute, Association of Governmental Risk Pools and the Public Risk Management Association.

Appointed by: Governor.



Sean McNally

Sean McNally is the President of KBA Engineering in Bakersfield, California. He has been certified by the State Bar of California as a specialist in workers' compensation law. He is a licensed general contractor and serves as a trustee for the Self Insurer's Security Fund. His community activities include serving on the Board of Directors of the Golden Empire Gleaners and the Board of Trustees for Garces Memorial High School. He is the past Vice President of Corporate and Government Affairs and past Vice President of Human Resources for Grimmway Farms.

Mr. McNally is a graduate of the University of the Pacific McGeorge School of Law and was a partner at the law firm of Hanna, Brophy, MacLean, McAleer and Jensen. He graduated from the University of San Francisco with Bachelor of Arts degrees in English and Theology. Following that, he did graduate studies at Hebrew University in Jerusalem, Israel.

Appointed by: Governor

ABOUT CHSWC

CHSWC Members Representing Employers

Kristen Schwenkmeyer

Kristen Schwenkmeyer is President of Gordon & Schwenkmeyer, Inc. (GSI), a telemarketing and fundraising firm that she founded with Mike Gordon in 1985. GSI has offices in Sacramento, San Diego and El Segundo, CA.

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

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

Appointed by: Senate Rules Committee

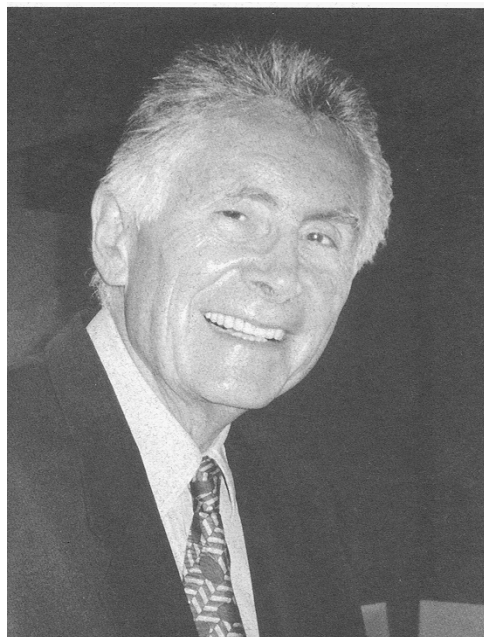


Robert B. Steinberg

Robert B. Steinberg is a partner in the law offices of Rose, Klein & Marias and specializes in employee injury, third-party civil damage construction, product liability, asbestos and toxic exposure litigation. He is a fellow of the American College of Trial Lawyers (ACTL), a member of the Board of Governors of the Association of Trial Lawyers of America (ATLA), an advocate of the American Board of Trial Advocates (ABOTA), and a trustee of the Asbestos Litigation Group (ALG). He is a past president of the California Trial Lawyers (CTLA) (1985) and a past trustee of the Los Angeles County Bar Association (1987). He is a past member of the Board of the Eagle-Picher and UNR Industries boards of directors and continues to serve as a Trustee advisor to the Manville, National Gypsum, Raytech, Eagle-Picher and UNR Industries asbestos victims trusts.

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

Appointed by: Speaker of the Assembly



ABOUT CHSWC

CHSWC Members Representing Labor



Doug Bloch

Doug Bloch has been political director at Teamsters Joint Council 7 since 2010. He was the Port of Oakland campaign director for Change to Win from 2006 to 2010 and a senior research analyst at Service Employees International Union (SEIU) Local 1877 from 2004 to 2006.

Mr. Bloch was statewide political director at the California Association of Community Organizations for Reform Now (ACORN) from 2003 to 2004 and ran several ACORN regional offices, including Seattle and Oakland, from 1999 to 2003. He was an organizer at the Non-Governmental Organization Coordinating Committee for Northeast Thailand from 1999 to 2003.

Appointed: Governor.



Christine Bouma

Christine Bouma has been president of Capitol Connection since 2000. She was a mathematics and computer science teacher at the Hesperia Unified School District from 1989 to 1999 and an instructor at Victor Valley Community College from 1991 to 1998.

Appointed: Governor.

CHSWC Members Representing Labor

Faith Culbreath

Faith Culbreath was asked in April 2009 by the Trustees of SEIU United Healthcare Workers West (UHW), a 150,000-member statewide local union, to head its External Affairs Department which includes building and promoting the Local's Political Power and Community Strength program. Ms. Culbreath has been President of Security Officers United in Los Angeles (SOULA), Local 2006, of the Service Employees International Union (SEIU) since 2007.

Previously, Ms. Culbreath was a Field Campaign Coordinator for the Property Services Division of SEIU and worked on various national and global campaigns. She also played a key role during the 2002 "Justice for Janitors" contract strike in Boston and was prominent in the development of the new SEIU Property and Service Local 3 in Ohio, Michigan, Pennsylvania and Indiana. She served dual roles as Secretary-Treasurer and Detroit City Director.

Appointed by: Speaker of the Assembly



Angie Wei

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

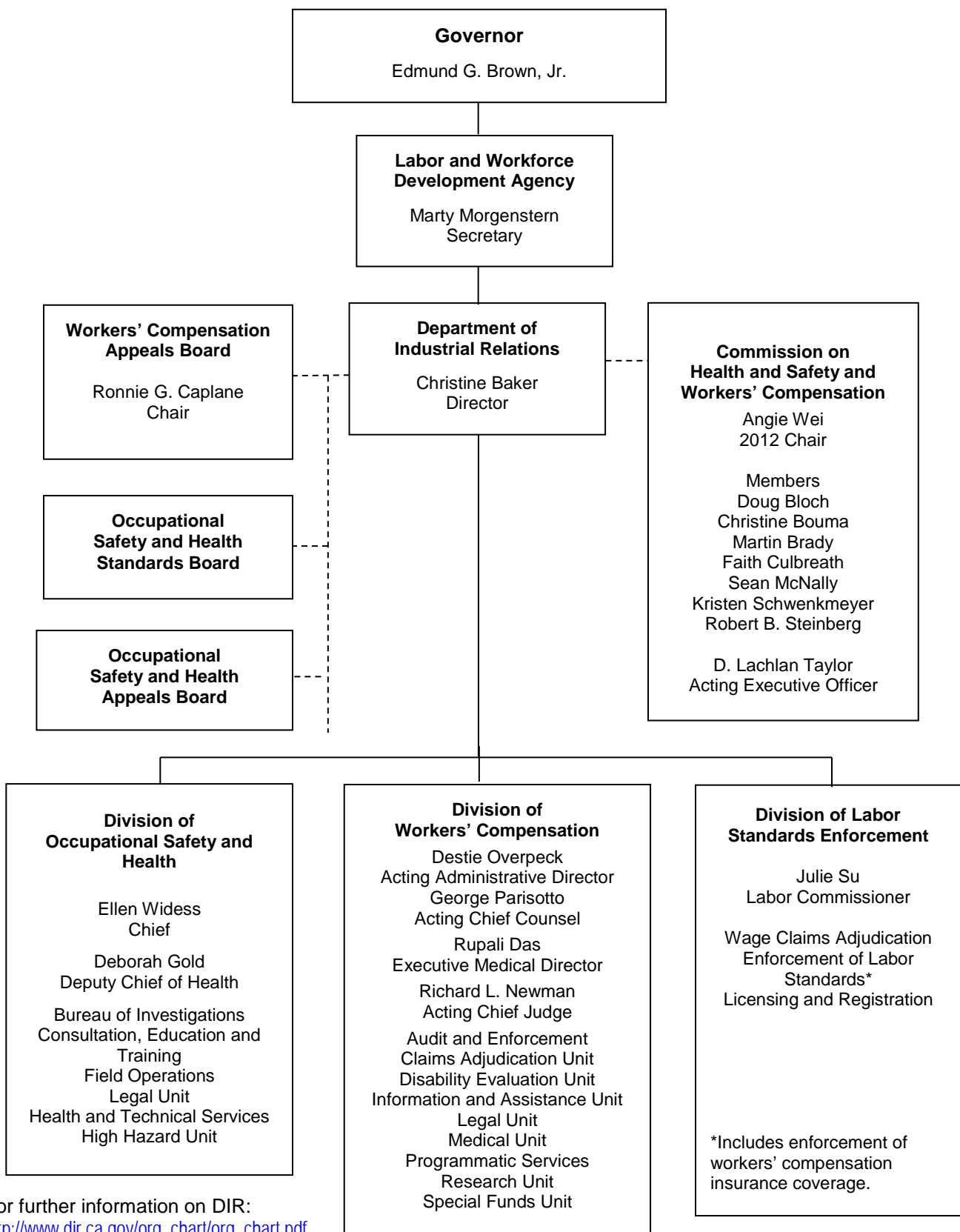
Ms. Wei holds a Bachelor of Arts degree in Political Science and Asian American Studies from the University of California, Berkeley, and a Master of Arts degree in Public Policy from the Kennedy School of Government at Harvard University.

Appointed by: Senate Rules Committee



ABOUT CHSWC

State of California Health and Safety and Workers' Compensation Functions



For further information on DIR:
http://www.dir.ca.gov/org_chart/org_chart.pdf

CHSWC RECOMMENDATIONS

In the interest of California's workers and employers, the Commission on Health and Safety and Workers' Compensation (CHSWC) recommends ensuring the adequate and timely delivery of indemnity and medical benefits and eliminating unnecessary costs.

In addition, CHSWC strongly recommends that the State of California move toward developing an overall "culture of safety" in the workplace.

WORKERS' COMPENSATION INDEMNITY AND MEDICAL BENEFITS AND ADMINISTRATION

The 2012 workers' compensation reform legislation incorporated many of CHSWC's previous recommendations for statutory improvements in the workers' compensation system, while other recommendations were considered and set aside. Many of CHSWC's recommendations for administrative improvements are being carried out by the Division of Workers' Compensation. Therefore, the Commission need not repeat those previous recommendations.

The Commission now recommends that the system be thoroughly reexamined in light of legislative and administrative changes. Research is underway in the Department of Industrial Relations, the Division of Workers' Compensation, and the Commission, all of which will inform future recommendations.

Specific recommendations will await the results of pending research in these areas:

- Permanent Disability Compensation
- Stay-at-Work/Return-to-Work
- Medical Care Quality, Accessibility, Timeliness and Cost
- Timeliness and Cost of Dispute Resolution
- Evaluation of the Public Self-Insurance Sector

The Commission continues its recommendations with regard to the insurance industry, fraud and the underground economy, and workplace health and safety.

ANTI-FRAUD EFFORTS

Insurance fraud, including failure to carry workers' compensation insurance, is a growing problem in our society, representing over \$15 billion in losses each year in California alone, according to the Department of Insurance (CDI) Fraud Task Force Report May 2008. Most people believe that insurance fraud is a victimless crime that does not affect them. In fact, it is a crime that costs lives and also funds criminal enterprises. Ultimately, fraud contributes to higher premium costs for everyone. Cutting the cost of fraud makes economic sense for California. Despite this, fraud is elusive and increasingly difficult to detect as criminals become more sophisticated in their practices.

Ultimately, fraud must be prosecuted in the criminal justice system; however, there are many opportunities to detect potential fraud through various indicators. CHSWC participates in research and activities that identify and measure potential fraud by working closely with the Fraud Assessment Commission (FAC) and CDI to examine the extent of potential fraud in the workers' compensation system and to make recommendations.

Workers' Compensation Payroll Reporting by Employers

The cost of workers' compensation insurance premium is based on the amount of an employer's payroll. By misreporting payroll costs, some employers avoid the higher premiums they would incur with full reporting of payroll. Employers can also misreport total payroll or the number of workers in specific high-risk, high-premium occupation classifications by simply reporting them in lower-risk, lower-premium

CHSWC RECOMMENDATIONS

occupations. A 2009 follow-up study to CHSWC's 2007 study found that between \$15 and \$68 billion of payroll annually are under-reported. A related study on split class codes found that 25 percent to 30 percent of low-wage payroll is under-reported or misreported.

Recommendations

- Focus more FAC funding on premium fraud enforcement.
- Develop a more systematic approach to detecting premium fraud.

Accuracy of Workers' Compensation Insurance Coverage Information

Two previous CHSWC recommendations have been enacted to help enforce the requirement for all employers to secure the payment of compensation. Both programs require accurate data.

Pursuant to CHSWC recommendations, Senate Bill (SB) 869 was enacted in 2007, amending Labor Code Section 90.3 to establish a records-matching program in the Division of Labor Standards Enforcement (DLSE) to identify employers who do not have a record of workers' compensation coverage. Initial reports from that program show considerable success in indentifying uninsured employers and targeting them for enforcement actions. There are a number of errors, however, where insured employers are mistakenly identified as having no record of coverage.

Pursuant to CHSWC recommendations, Assembly Bill (AB) 483 was enacted in 2009 to establish an Internet site where viewers can determine if an employer has insurance. One of the concerns about this proposal has been the possibility of an employer being mistakenly reported as uninsured.

To optimize both of these programs and to facilitate enforcement of the requirement for all employers to secure the payment of compensation, the reasons for missing or mismatched information should be examined and processes should be adopted to assure the timeliness and accuracy of coverage data.

Recommendation

CHSWC recommends continuing examination of data-quality problems and improvement of the reporting of employers' coverage for workers' compensation.

Definition of First Aid

Injuries that do not require treatment beyond first aid do not necessitate an employer report of injury for worker's compensation or a Cal/OSHA log. The definitions of first aid for those two purposes are different, however, resulting in a degree of uncertainty about when a minor injury is reportable. Even criminal evasion of workers' compensation obligations may hide behind that uncertainty. Employers have identified the conflicting definitions as a barrier to compliance, and prosecutors have identified the conflicting definitions as a barrier to prosecution of willful violations. The definition of first aid is only pertinent to reporting requirements, so a change in the definition would not change an injured workers' right to receive treatment.

Recommendation

CHSWC recommends that the definition of first aid for purposes of workers' compensation reporting be amended to align with the definition used for Cal/OSHA purposes.

CHSWC RECOMMENDATIONS

CALIFORNIA INSURANCE INDUSTRY

Workers' compensation premiums fell after the early 1990s reforms, only to rise sharply, almost tripling by the second half of 2003, before dropping back by early 2009 to match the 1999 low. As prices were climbing, however, more than two dozen insurers became insolvent. Assembly Bill (AB) 316, enacted in 2007, mandates CHSWC to conduct a study of the causes of those insolvencies. In June 2008, CHSWC awarded a contract to RAND to conduct the study. The final report of the study was published in 2009.

Recommendations

Findings from the CHSWC/RAND study identified six key factors that contributed to the insolvencies and volatility over the past 15 years:

- Inaccurate projections of claim costs.
- Pricing below projected costs.
- Reinsurance contracts that gave insurers and reinsurers insufficient stake in the profitability of the policies they wrote.
- Managing general agents who had little financial interest in the ultimate profitability of policies.
- Under-reserving for claim costs by insurers.
- Insurer surplus and capital that were inadequate to provide a cushion against adverse events.

CHSWC considers the first key factor, inaccurate projections of claims costs, to be the most important, and the one which remains a concern whether in a hard or soft market. The other factors to a large extent were unique to the price-competitive environment at the time and the new, uncharted or inexperienced environment surrounding the introduction of the open rating system in California.

Related to inaccurate projections of claim costs, RAND identified a problem at the Workers' Compensation Insurance Rating Bureau (WCIRB) in that it does not have direct access to transaction-level data on claims payments in order to better detect and then project more accurate claim costs. According to RAND, WCIRB is developing plans to collect transaction-level data directly from insurers in the future.

CHSWC supports a recommendation that helps WCIRB collect and analyze transaction-level data from insurers.

RAND made six recommendations aimed at improving the reliability of projecting costs which are noted below. The first three recommendations aim to make the system more predictable and the next three help WCIRB, CDI and insurers do a better job of predicting costs:

- Increase clarity of legislative intent.
- Expeditiously release guidance and regulation on issues when there are important disagreements among stakeholders.
- Review the Workers' Compensation Appeals Board (WCAB) system.
- Explore the most appropriate way for WCIRB to take advantage of transaction-level data.
- Increase the comprehensiveness of data provided to WCIRB.

CHSWC RECOMMENDATIONS

- Fast-track analyses of the impact of important legislative and judicial opinions.

CHSWC acknowledges that many of these recommendations highlight the importance of the insurance regulators to do more, but they also highlight the responsibility of the Department of Industrial Relations (DIR) and the Legislature to help create an environment where WCIRB and CDI are not engaged in a guessing game as to the real and potential cost drivers in the system, as well as when those cost drivers will actually take effect.

Overall, CHSWC supports the four themes underlying the RAND recommendations, those of predictability, transparency, incentives, and CDI oversight.

HEALTH AND SAFETY

CHSWC recognizes that injury and illness prevention is the best way to preserve workers' earnings and to limit increases in workers' compensation costs to employers.

One of the most proactive efforts undertaken by CHSWC is the Worker Occupational Safety and Health Training and Education Program (WOSHTEP) which trains and educates workers, including young workers, in the fields and in a wide range of workplaces on proven injury and illness prevention measures. WOSHTEP has recently expanded its presence into Central California and is a statewide program that deserves continued support by employers and the health and safety and workers' compensation community.

CHSWC also recognizes that there will always be more that can be done to improve the injury and illness prevention culture and understand safety and health behaviors, especially in traditionally or emerging high-risk environments/occupations. As a result of CHSWC convening health and safety experts in 2008 to develop a safety and health research agenda, California is one step closer to understanding obstacles and opportunities in improved safety and health.

In 2012, the following projects and studies by leading researchers in the country will be completed:

- The Impact of Worker's Compensation Experience Modification Rating (Ex-mod) and Firm Age on Safety Behavior and Risk.
- Evaluation of the Effectiveness of California's Injury and Illness Prevention Program (IIPP) and Compliance Officers' Inspections.

CHSWC expects that the results of these projects and studies will yield important recommendations which may be adopted in full or in part to inform future research and action, leading to policy or administrative change to improve the health and safety and workers' compensation systems in California.

INTEGRATION OF WORKERS' COMPENSATION MEDICAL CARE WITH OTHER SYSTEMS

Group health costs have been rising much more quickly than inflation and wages. Worker's compensation medical costs have been rising even more quickly. These costs create financial challenges for employers, especially those in industries with already high workers' compensation costs. Furthermore, group health care and workers' compensation medical care are typically delivered through separate provider systems, resulting in unnecessary, duplicative and contraindicated treatment and inefficient administration.

Suggestions have been made to integrate workers' compensation medical care with the general medical care provided to patients by group health insurers in order to improve the quality and coordination of care, lower overall medical expenditure, reduce administrative costs, and derive other efficiencies in care. Research also supports the contention that an integrated 24-hour care system could potentially provide medical cost savings, as well as shorten the duration of disability for workers.

CHSWC RECOMMENDATIONS

Recommendations

- Evaluate the administrative and overhead cost of delivering occupational medical care under workers' compensation insurance.
- Disseminate the results of the evaluation and the opportunities and challenges of implementing an integrated occupational and non-occupational medical treatment and insurance product.
- Develop and provide specific details and resources on integrated care for unions and employers interested in carve-out programs.
- Evaluate the impact of Medicare's implementation of its secondary payor rights with regard to settlements of workers' compensation claims, and examine alternative ways to coordinate benefits between the two systems.

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS ON HEALTH AND SAFETY AND WORKERS' COMPENSATION

This Special Report outlines the 2012 legislation and regulations on health and safety and workers' compensation.

HEALTH AND SAFETY

Health and Safety Legislation

No health and safety bills were signed into law in 2012, as reported on the website of the Legislative Counsel of California at www.leginfo.ca.gov. To research legislation enacted into law in previous years, please consult prior year CHSWC annual reports which are available online at <http://www.dir.ca.gov/chswc/AnnualReportpage1.html>

Health and Safety Regulations

The regulatory activities of the Occupational Safety and Health Standards Board (OSHSB) are outlined below. Formal rulemaking is preceded by a notice, the release of a draft rule, and an announcement for a public hearing. This update covers only recent administrative regulations.

Approved Occupational Safety and Health Standards Board (OSHSB) standards are at: <http://www.dir.ca.gov/OSHSB/apprvd.html>

Proposed OSHSB standards and rulemaking updates are available at: <http://www.dir.ca.gov/OSHSB/proposedregulations.html>

Any proposed Division of Occupational Safety and Health (DOSH) regulations can be found online at: <http://www.dir.ca.gov/dosh/doshreg/mainregs.html>

Regulations in Title 8 of the California Code of Regulations (CCR) can be found online at: <http://www.dir.ca.gov/samples/search/query.htm>.

In 2010, the Occupational Safety & Health Standards Board (OSHSB) launched the Title 8 index at: <http://www.dir.ca.gov/title8/index/t8index.html>

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

2012 OSHSB Regulations	Status of Regulations (as of November 14, 2012)
<p>Vehicle Exhaust Retrofits</p>	<p>Status: Public hearing February 17, 2011. Adopted December 15, 2011. Effective March 2, 2012.</p> <p>CONSTRUCTION SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 4</i> <i>Article 2, Section 1504</i> <i>Article 10, Section 1591, New Appendix A</i> <i>Article 11, Section 1597</i></p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 7</i> <i>Article 25, Section 3363</i> <i>Article 93, New Section 4925.1</i></p> <p>MINE SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 17, Article 17</i> <i>Section 7016</i></p> <p>Specifies what constitutes vehicle exhaust retrofits.</p> <p>http://www.dir.ca.gov/oshsb/Diesel_Retrofits.html</p>
<p>First Aid for Electrical Workers-Application & Scope</p>	<p>Status: Public hearing June 21, 2012. Adopted July 19, 2012. Effective October 5, 2012.</p> <p>CONSTRUCTION SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 4, Article 3</i> <i>Section 1512</i></p> <p>ELECTRICAL SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 5,</i> <i>Group 1, Article 3, Section 2320.10 (Low-Voltage Electrical Safety Orders)</i> <i>Group 2, Article 36, Section 2940.10 (High-Voltage Electrical Safety Orders)</i></p> <p>Specifies first aid for electrical workers-application and scope.</p> <p>http://www.dir.ca.gov/oshsb/ESO_First_Aid_Electrical_Workers_Application_&_Scope.html</p>
<p>Federal Final Rule, Standards Completion Project--Phase III (Horcher)</p>	<p>Status: Public hearing November 17, 2011. Adopted December 15, 2011. Effective January 18, 2012.</p> <p>CONSTRUCTION SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 4</i> <i>Article 4, Section 1532.1</i> <i>Article 15, Section 1615.7</i></p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 7</i> <i>Article 9, Section 3361</i> <i>Article 101, Sections 5042, 5044, 5045, 5047, and 5049</i> <i>Article 107, Section 5144</i> <i>Article 109, Sections 5191, 5198, and 5209</i></p>

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

2012 OSHSB Regulations	Status of Regulations (as of November 14, 2012)
	<p>SHIP BUILDING, SHIP REPAIRING, SHIP BREAKING SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 18, Article 4</i> <i>Section 8355</i></p> <p>Specifies various updates to definitions and conditions.</p> <p>http://www.dir.ca.gov/oshsb/Standards_Completion_Project.html</p>
<p>Federal OSHA Amendments and Technical Corrections</p>	<p>Status: Public hearing June 21, 2012. Adopted July 19, 2012. Effective October 4, 2012.</p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 7, Article 109, Section 5189, Appendix A-Mandatory, Section 5192(a)(3) and Section 5198(j)(2)(D)(2)</i></p> <p>CONSTRUCTION SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 4, Section 1532.1(j)(2)(D)(2)</i></p> <p>Makes Federal OSHA amendments and technical corrections.</p> <p>http://www.dir.ca.gov/oshsb/Fed_OSHA_Amendments_and_Technical_Corrections.html</p>
<p>Ventilation Inside Shafts, Culverts, and Pipelines</p>	<p>Status: Public hearing August 18, 2011. Adopted March 15, 2012. Effective May 31, 2012.</p> <p>CONSTRUCTION SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 4</i> <i>Article 4, Section 1533</i> <i>Article 6, Section 1541, Section 1512</i></p> <p>TUNNEL SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 20, Article 1, Section 8403</i></p> <p>Specifies requirements for ventilation, inside shafts, culverts, and pipelines.</p> <p>http://www.dir.ca.gov/oshsb/Ventilation.html</p>
<p>Single-Rail Ladders</p>	<p>Status: Public hearing December 15, 2011. Adopted January 19, 2012. Effective March 9, 2012.</p> <p>CONSTRUCTION SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 4, Article 25</i> <i>Section 1675</i></p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 7, Article 4</i> <i>Sections 3276 and 3278</i></p> <p>Defines single-rail ladders and specifies that they should not be used.</p> <p>http://www.dir.ca.gov/oshsb/Single_Rail_Ladders.html</p>

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

2012 OSHSB Regulations	Status of Regulations (as of November 14, 2012)
<p>Helicopter Fueling</p>	<p>Status: Public hearing December 15, 2011. Adopted January 19, 2012. Effective March 24, 2012.</p> <p>CONSTRUCTION SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 4, Article 35</i> <i>Section 1905</i></p> <p>Specifies conditions for static electrical discharge for helicopter fueling.</p> <p>http://www.dir.ca.gov/oshsb/Helicopter_Fueling.html</p>
<p>Tree Work Maintenance or Removal</p>	<p>Status: Public hearing March 15, 2012. Date adopted August 16, 2012. Filed with Secretary of State September 25, 2012. Effective October 25, 2012.</p> <p>HIGH-VOLTAGE ELECTRICAL SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 5, Article 38</i> <i>Section 2950</i></p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 7, Article 12</i> <i>Sections 3420 - 3428</i></p> <p>Specifies additional tree work definitions, establishes new fall protection requirements and safe use of equipment.</p> <p>http://www.dir.ca.gov/OSHSB/Tree_Work_Maint.html</p>
<p>Guarding of Microtomes</p>	<p>Status: Public hearing April 19, 2012. Adopted June 21, 2012. Effective September 6, 2012.</p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 7, Article 1, Section 3207</i> <i>Article 20, Section 3558</i> <i>Article 54, Section 4184</i></p> <p>Defines microtomes and specifies guarding requirements and exceptions.</p> <p>http://www.dir.ca.gov/oshsb/guarding_of_microtomes.html</p>
<p>Use of Portable Step Ladders</p>	<p>Status: Public hearing October 20, 2011. Adopted November 17, 2011. Effective January 28, 2012.</p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 7,</i> <i>Article 4, Section 3276</i> <i>Article 5, Section 3287</i></p> <p>Specifies use of portable step ladders and exceptions.</p> <p>http://www.dir.ca.gov/oshsb/Step_Ladders.html</p>

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

2012 OSHSB Regulations	Status of Regulations (as of November 14, 2012)
<p>Definition of General Purpose Die</p>	<p>Status: Public hearing October 20, 2011. Adopted November 17, 2011. Effective February 4, 2012.</p> <p>GENERAL INDUSTRY SAFETY ORDERS Division 1, Chapter 4, Subchapter 7, Article 54 Section 4188</p> <p>Defines press brake die.</p> <p>http://www.dir.ca.gov/oshsb/GP_Die.html</p>
<p>Airborne Contaminants</p>	<p>Status: Public hearing April 21, 2011. Adopted January 19, 2012. Effective March 17, 2012.</p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 7, Article 107</i> <i>Section 5155</i></p> <p>Specifies limits on certain airborne contaminants.</p> <p>http://www.dir.ca.gov/oshsb/Airborne_Contaminants_2011.html</p>
<p>Globally Harmonized System update to Hazard Communication - Health (Horcher)</p>	<p>Status: Public hearing November 15, 2012.</p> <p>CONSTRUCTION SAFETY ORDERS Division 1, Chapter 4, Subchapter 4 Article 4, Sections 1529, 1532, and 1532.1, Appendix B of Sections 1532.1, 1532.2 and 1535;</p> <p>GENERAL INDUSTRY SAFETY ORDERS Division 1, Chapter 4, Subchapter 7 Article 107, Section 5150 Article 109, Sections 5189, 5189, 5190, 5191, 5192, and 5194, Appendices A through G of Sections 5194 and 5198, Appendix B of Section 5198 Article 110, Sections 5200, 5201 and 5202, Appendix A of 5202, 5206, 5207, 5208, 5209, 5210, 5211, 5212, 5213, 5214, 5217, 5218 and 5220;</p> <p>SHIP BUILDING, SHIP REPAIRING AND SHIP BREAKING SAFETY ORDERS Division 1, Chapter 4, Subchapter 18, Article 4, Sections 8358 and 8359</p> <p>Proposes updates to hazard communications.</p> <p>http://www.dir.ca.gov/OSHSB/GHS_update_to_hazard_communication_-_health.html</p>
<p>Use of Forklifts Trucks and Excavators for Hoisting Loads</p>	<p>Status: Public hearing: July 19, 2012. Adopted September 20, 2012. Filed with Secretary of State October 23, 2012. Effective November 22, 2012.</p> <p>CONSTRUCTION SAFETY ORDERS <i>Title 8, Division 1, Chapter 4, Subchapter 4, Article 10,</i> <i>Section 1593</i></p>

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2012 OSHSB Regulations	Status of Regulations (as of November 14, 2012)
	<p>GENERAL INDUSTRY SAFETY ORDERS <i>Title 8, Division 1, Chapter 4, Subchapter 7, Article 25, Section 3650</i></p> <p>Specifies use, care and maintenance of slings used with forklifts.</p> <p>http://www.dir.ca.gov/oshsb/use_of_forklift_trucks_and_excavators_for_hoisting_loads.html</p>
<p>Cranes & Derricks in Construction (Clean-Up)</p>	<p>Status: Public hearing June 21, 2012. Adopted August 16, 2012. Filed with Secretary of State October 2, 2012. Effective November 1, 2012.</p> <p>CONSTRUCTION SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 4, Article 12, Section 1600 Article 15, Sections 1610.1, 1610.3, 1610.4, 1610.9, 1611.1, 1612.3, 1613, 1613.2, 1613.10, 1616.1, 1617.1, 1617.2, 1617.3, 1618.1, and 1619.1 and New Sections 1613.11 and 1613.12</i></p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 7, Article 91, Section 4885 Article 98, Section 4999</i></p> <p>Specifies definitions, repairs and operations of cranes.</p> <p>http://www.dir.ca.gov/oshsb/CDAC_in_Construction_(Clean-Up).html</p>
<p>Work Area Control (Crane Swing Radius Hazards)</p>	<p>Status: Public hearing September 20, 2012.</p> <p>CONSTRUCTION SAFETY ORDERS <i>Title 8, Division 1, Chapter 4, Subchapter 4, Article 15, Sections 1610.3 and 1616.3</i></p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Title 8, Division 1, Chapter 4, Subchapter 7, Articles 91, Section 4885 Article 98, New Section 4993.1 and Sections 4999 and 5001</i></p> <p>Proposes to protect oilers.</p> <p>http://www.dir.ca.gov/oshsb/work_area_control_crane_swing_radius_hazards.html</p>
<p>Elevated Locations - Guardrail Exception for Portable Amusement Rides</p>	<p>Status: Public hearing October 18, 2012.</p> <p>GENERAL INDUSTRY SAFETY ORDERS <i>Division 1, Chapter 4, Subchapter 7, Article 2, Section 3210 Article 35, Section 3900</i></p>

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

2012 OSHSB Regulations	Status of Regulations (as of November 14, 2012)
	<p>Proposes that where railings are impracticable around portable amusement rides, employees shall be provided and use personal fall protection equipment.</p> <p>http://www.dir.ca.gov/OSHSB/elevated_locations_guardrail_except_for_port_amuse_rides.html</p>
<p>Machinery and Equipment Used and Operated</p>	<p>Status: Public hearing: August 16, 2012</p> <p>GENERAL INDUSTRY SAFETY ORDERS Title 8, Division 1, Chapter 4, Subchapter 7, Article 7, Section 3328(b)</p> <p>Proposes to clarify that use and operation are in accordance with manufacturers' operating recommendations.</p> <p>http://www.dir.ca.gov/OSHSB/machinery_and_equipment_used_and_operated.html</p>
<p>Definitions for Woodworking Machines and Equipment</p>	<p>Status: Public hearing July 19, 2012. Adopted August 16, 2012. Filed with Secretary of State October 2, 2012. Effective November 1, 2012.</p> <p>GENERAL INDUSTRY SAFETY ORDERS Title 8, Division 1, Chapter 4, Subchapter 7, Article 59 Section 4297</p> <p>Specifies added definitions.</p> <p>http://www.dir.ca.gov/OSHSB/definitions_for_woodworking_machines_and_equipment.html</p>
<p>Fueling of Helicopters Used in Logging Operations</p>	<p>Status: Public hearing August 16, 2012. Adopted September 20, 2012. Filed with Secretary of State October 18, 2012. Effective November 17, 2012.</p> <p>LOGGING AND SAW MILL SAFETY ORDERS Title 8, Division 1, Chapter 4, Subchapter 13, Article 11, Section 6325</p> <p>Specifies updated refueling procedures to reduce static discharge.</p> <p>http://www.dir.ca.gov/OSHSB/fueling_of_helicopters_used_in_logging_operations.html</p>
<p>Diesel Engine Runaway Protection</p>	<p>Status: Public hearing November 17, 2011. Adopted September 20, 2012. Filed with Secretary of State October 31, 2012. Effective November 30, 2012.</p>

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

2012 OSHSB Regulations	Status of Regulations (as of November 14, 2012)
	<p>PETROLEUM SAFETY ORDERS Division 1, Chapter 4, Subchapter 14 Article 2, Section 6505 Article 35, New Section 6625.1 Article 46, Section 6651</p> <p>Specifies safety updates.</p> <p>http://www.dir.ca.gov/OSHSB/Diesel_Overrun_Devices.html</p>

WORKERS' COMPENSATION

Workers' Compensation Legislation

The following describes the workers' compensation bills that were signed into law in 2012, as reported on the website of the Legislative Counsel of California at www.leginfo.ca.gov. To research legislation enacted into law in previous years, please consult prior year CHSWC annual reports which are available online at <http://www.dir.ca.gov/chswc/AnnualReportpage1.html>.

AB 1794 - Assembly Member Williams

Amends Section 1088.5 of the Unemployment Insurance Code, relating to employers.

Unemployment insurance: use of employer reports: reporting and payroll: enforcement.

Status: Enrolled 9/11/2012 and Chaptered 9/30/2012

Existing law also requires each employer to file with the department specified information on new employees, and authorizes the use of that information for specified purposes including, among other things, administration of the law regarding unemployment compensation benefits.

This bill authorizes the Employment Development Department (EDD) to provide new hire data on employers and employees to the Joint Enforcement Strike Force on the Underground Economy, the Contractors State License Board (CSLB), and State Compensation Insurance Fund (SCIF) for the purposes of auditing, investigating and prosecuting violations of tax and cash-pay reporting laws.

This bill allows for various uses of this information, including providing employer or employee information to the Contractors' State License Board and the State Compensation Insurance Fund for the purpose of workers' compensation payroll reporting and for the administration of employment security and workers' compensation programs.

AB 2069 - Assembly Member Solorio

Amends Sections 4709 and 4856 of the Labor Code.

Workers' compensation: peace officer benefits.

Status: Enrolled 8/27/2012 and Chaptered 9/30/2012

Summary: Existing law provides for the payment of a scholarship to dependents of specified peace officers if the peace officer is killed in the performance of his or her duty or if the officer suffers death or permanent disability as a result of specified accidents or injuries incurred in the performance of his or her duties. Existing law also requires the employer of a peace officer who is killed in the performance of his or her duty, or who suffers death as a result of specified accidents or injuries, to continue providing health benefits to the deceased employee's spouse unless the spouse elects to receive a lump-sum survivor's benefit in lieu of monthly benefits. This bill would extend these peace officer benefits to Sheriff's Special Officers of the County of Orange.

AB 2219 – Assembly Member Knight and Coauthors Assembly Members Hagman and Jeffries; and Coauthor Senator Strickland

Amends and repeals Section 7125 of the Business and Professions Code, and to amend Section 11665 of the Insurance Code, relating to contractors.

Contractors' workers' compensation insurance coverage.

Status: Enrolled 8/31/2012 and Chaptered 9/19/2012

Summary: Existing law, the Contractors' State License Law, provides for the licensing and regulation of contractors by the Contractors' State License Board within the Department of Consumer Affairs. Existing law requires every licensed contractor, or applicant for licensure, to have on file at all times with the board a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, or a statement certifying that he or she has no employees and is not required to obtain or maintain workers' compensation insurance. Existing law, until January 1, 2013, requires a contractor with a C-39 roofing

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

classification to obtain and maintain workers' compensation insurance even if he or she has no employees.

This bill would extend the operation of these provisions indefinitely. The bill would require the current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance to be in the applicant's or licensee's business name. This bill contains other related provisions and other existing laws.

AB 2399 – Assembly Member Allen

Adds Section 4141 to the Welfare and Institutions Code, relating to mental health.

Mental health: state hospitals: injury and illness prevention plan.

Status: Enrolled 9/6/2012 and Chaptered 9/29/2012

Existing law provides for state hospitals for the care, treatment, and education of mentally disordered persons. These hospitals are under the jurisdiction of the State Department of State Hospitals, which is authorized by existing law to adopt regulations regarding the conduct and management of these facilities.

This bill would require state hospitals to update their injury and illness prevention plans at least once every year, as specified, and would require the department to submit those plans to the Legislature every 2 years. This bill would require each state hospital to establish an injury and illness prevention committee, which would meet at least 4 times a year, to provide recommendations to the hospital's director on updates to the injury and illness prevention plan, and would also require each state hospital to develop an incident-reporting procedure that can be used to, at a minimum, develop reports of patient assaults on employees and assist the hospital in identifying risks of patient assaults on employees.

SB 71 - Senator Leno

Amends Sections 111, 3201.5, 3201.7, 3716.1, 4755, and 5502 of the Labor Code, among other codes.

State agencies: boards, commissions, and reports.

Status: Enrolled 8/30/2012 and Chaptered 9/28/2012

Summary: Existing law requires that various state agencies submit certain reports, plans, evaluations, and other similar documents to the Legislature and other state agencies.

This bill would eliminate the requirement that certain state agencies submit certain reports to the Legislature and other state agencies relating to a variety of subjects. The bill would also modify various requirements of certain reports by, among other ways, requiring specified reports be placed on the Internet Web site of the reporting agency rather than submitted to the Legislature or other state agencies, requiring certain agencies to collaborate with other agencies in preparing specified reports, consolidating certain reports, deleting the requirement that specified state agencies make specified information available on their Internet Web sites, and transferring reporting duties from one agency to another.

In particular, the bill eliminates six reports required by the Division of Workers' Compensation, including the Uninsured Employer Benefit Fund (UEBTF), Self-Insured Benefit Fund (SIBTF), carve-out and hearing reports. This bill contains other related provisions and other existing laws.

SB 863 - Senator De León and coauthor Assembly Member Solorio

Amends many sections of the Labor Code.

Workers' Compensation Reform of 2012.

Status: Enrolled 9/7/2012 and Chaptered 9/19/2012

Summary: Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment.

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

This large reform bill contains many provisions and changes to existing laws, intended to extend benefits to injured workers, lower costs to employers and reduce inefficiencies in the system. (See Special Report on Reform Legislation in this Annual Report.)

SB 1105 - Senator Lieu
Amends Section 4903.1 of the Labor Code
Workers' compensation: liens.
Status: Enrolled 9/10/2012 and Chaptered 9/28/2012

Summary: Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing workers' compensation law authorizes the Workers' Compensation Appeals Board to determine and allow specified expenses as liens against any sum to be paid as compensation. Existing law requires, before issuing an award or approval of any compromise of claim, the determination of whether any benefits have been paid or services provided by specified entities.

This bill would require the appeals board to allow a lien for loss-of-time benefits paid by a self-insured employee welfare benefit plan, as defined. This bill contains other related provisions.

SB 1513 - Senator Negrete McLeod
Amends, repeals, and adds Section 11797 of the Insurance Code
State Compensation Insurance Fund: investments.
Status: Enrolled 8/22/2012 and Chaptered 9/30/2012

Existing law requires the board of directors of the State Compensation Insurance Fund to invest and reinvest, from time to time, all monies in the State Compensation Insurance Fund in excess of current requirements in the same manner as is authorized in certain provisions applicable to private insurance carriers. Existing law prohibits the board from investing or reinvesting in certain investments, including real estate and call options on common stock.

This bill would authorize, only until January 1, 2025, the board to invest or reinvest, an aggregated maximum of 20 percent of the monies that are in excess of the admitted assets over the liabilities and required reserves, in specified investments, including the stock of certain corporations, specified mortgage-related investment instruments, and in the stock of a federal home loan bank. The bill would require the Department of Insurance to submit to the Legislature by January 31, 2019, a report that assesses the benefit and risk of the State Compensation Insurance Fund's equities investment history by measuring the volatility and total return of the fund's investment portfolio, as specified.

Workers' Compensation Regulations

The regulatory activities of the Division of Workers' Compensation (DWC) to implement the provisions of the recent workers' compensation reform legislation are outlined on the following pages. Formal rulemaking is often preceded by the release of a draft rule and the opening of an online forum for interested parties to post comments. This update covers only recent regulations for 2012. Older regulations can be found in previous Commission on Health and Safety and Workers' Compensation (CHSWC) annual reports which are available online at <http://www.dir.ca.gov/chswc>.

Information about these preliminary activities is available at <http://www.dir.ca.gov/Wcjudicial.htm>.

The latest formal rulemaking updates are available at www.dir.ca.gov/DWC/dwcrulemaking.html.

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DWC Regulations	Status of Regulations (as of November 28, 2012)
<p>Senate Bill (SB) 863 Implementation</p>	
<p>Labor Code Sections 4903, 4903.05, 4903.06, 4903.07</p> <p>Lien Filing Fee Regulations (Emergency)</p>	<p>Status: Draft emergency regulations posted on Division of Workers' Compensation (DWC) forum for public comments; closed December 7, 2012. October 2, 2012 Working Group Meeting.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: January 1, 2013.</p>
<p>Labor Code Sections 139.5, 4610, 4610.5, 4610.6</p> <p>Independent Medical Review (IMR), Utilization Review (UR) (including Request for Authorization form), and Qualified Medical Evaluators (QME) Regulations (Emergency)</p>	<p>Status: Draft emergency regulations posted on DWC forum for public comments; closed December 7, 2012. October 2, 2012 Working Group Meeting.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: For injuries on or after January 1, 2013; for decisions communicated on or after July 1, 2013.</p>
<p>Labor Code Sections 139.5, 4603.2, 4603.3, 4603.4, 4603.6, 4622</p> <p>Independent Bill Review (IBR) Regulations (Emergency)</p>	<p>Status: Draft emergency regulations posted on DWC forum for public comments; closed December 7, 2012. October 2, 2012 Working Group Meeting.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: For dates of service on or after January 1, 2013.</p>
<p>Labor Code Sections 4658.5, 4658.6, 4658.7</p> <p>Supplemental Job Displacement Benefit (SJDB) Voucher Regulations (Emergency)</p>	<p>Status: Draft emergency regulations posted on DWC forum for public comments; closed December 7, 2012. October 2, 2012 Working Group Meeting.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: For injuries on or after January 1, 2013.</p>
<p>Labor Code Section 5307.1</p> <p>Ambulatory Surgery Center (ASC) Fee Schedule Regulations</p>	<p>Status: 15 -day notice to revise proposed regulations to adopt 80 percent of outpatient fee schedule was issued October 23, 2012. January 25, 2011 – Public Hearing</p>

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DWC Regulations	Status of Regulations (as of November 28, 2012)
<p>Senate Bill (SB) 863 Implementation</p>	
<p>(Non-APA rulemaking, already in progress)</p>	<p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm. Effective date per Labor Code: January 1, 2013.</p>
<p>Labor Code Section 5307.1 Physician Fee Schedule</p> <p>As of January 1, 2006, the Administrative Director (AD) will have the authority to adopt an Official Medical Fee Schedule (OMFS) for physician services.</p>	<p>Status: November 14, 2012 – Advisory Meeting.</p> <p><i>8 CCR Sections 9789.12.4, 9789.13.2 and 9789.14.1</i></p> <p>http://www.dir.ca.gov/dwc/DWCWCABForum/dwc_PhysicianFeeSchedule.htm.</p> <p>SB 863 mandates the adoption of the resource-based relative value scale (RBRVS).</p> <p>The statutory fee schedule will automatically go into effect on January 1, 2013, unless and until DWC adopts a fee schedule.</p>
<p>Labor Code Section 5307.1 Spinal Implant (Inpatient Fee Schedule) Regulations</p> <p>(Non-APA rulemaking, already in progress)</p>	<p>Status: Second 15-day notice to revise proposed regulations issued on November 13, 2012.</p> <p>January 25, 2011 – Public Hearing</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: January 1, 2013.</p>
<p>Labor Code Sections 4600, 5307.8 Home Health Care Fee Schedule Regulations (Regular Rulemaking)</p>	<p>Status: October 2, 2012 Working Group Meeting. Draft regulations will be posted on DWC Forum.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: July 1, 2013.</p>
<p>Labor Code Section 5307.9 Copy Services Fee Schedule Regulations (Regular Rulemaking)</p>	<p>Status: Reviewing public input from survey and conducting study.</p> <p>Draft regulations will be posted on DWC forum.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: December 31, 2013.</p>

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

DWC Regulations	Status of Regulations (as of November 28, 2012)
Senate Bill (SB) 863 Implementation	
<p>Medical Provider Network (MPN) Regulations (Regular Rulemaking)</p> <p>Labor Code Sections 4616 et seq.</p>	<p>Status: DWC drafting proposed revised regulations. Draft regulations will be posted on DWC forum.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: January 1, 2014.</p>
<p>Gov't Code Sections 11435.30, 11435.35; Labor Code Sections 4600, 5811</p> <p>Interpreter Testing and Fee Schedule (Regular Rulemaking)</p>	<p>Status: Draft emergency regulations posted on DWC forum for public comments; closed December 7, 2012.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: July 1, 2013.</p>
<p>Vocational Expert Fee Schedule Labor Code Section 5307.7</p>	<p>Status: June 28, 2012 – Working Group Meeting.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: January 1, 2013.</p>
<p>Predesignation/Chiropractor Primary Treating Physician Regulations Labor Code Section 4600</p>	<p>Status: October 2, 2012 – Working Group Meeting.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm.</p> <p>Effective date per Labor Code: January 1, 2013.</p>
<p>Qualified Medical Evaluator Regulations Labor Code Section 139.2</p>	<p>Status: Draft emergency regulations posted on DWC forum for public comments; closed December 7, 2012. October 2, 2012 – Working Group Meeting.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm</p> <p>Effective date per Labor Code: January 1, 2013.</p>
<p>Labor Code Sections 3700.1 et seq.</p> <p>Office of Self-Insurance Plans (OSIP)</p> <p>1. PEO cannot be self-insured.</p>	<p>Status: OSIP drafting regulations.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm</p> <p>Effective date per Labor Code: January 1, 2013.</p>

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

DWC Regulations	Status of Regulations (as of November 28, 2012)
Senate Bill (SB) 863 Implementation	
<p>2. Self-insured public agencies must submit data to DIR.</p> <p>3. Cost of administrating public sector workers' compensation paid from the Workers' Compensation Administration Revolving Fund (WCARF).</p>	
<p>Labor Code Section 139.48</p> <p>Department of Industrial Relations (DIR)</p> <p>Return-to-Work Fund</p>	<p>Status: DIR drafting emergency regulations.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm</p> <p>Effective date per Labor Code: January 1, 2013.</p>
<p>WCAB (Non-APA rulemaking)</p> <p>1. Labor Code Section 139.48 – Return to Work Fund - Review procedure</p> <p>2. Labor Code Section 4603.6(f): IBR - Review procedure</p> <p>3. Labor Code Section 4610.6(h) IMR – Review procedure</p> <p>4. Labor Code Section 4616(h): MPN - Review procedure</p> <p>5. Labor Code Sections 4903 et. seq.</p>	<p>Status: Workers' Compensation Appeals Board (WCAB) drafting regulations.</p> <p>http://www.dir.ca.gov/dwc/SB863/RegulationTimeline.htm</p> <p>Effective date per Labor Code: January 1, 2013.</p>
<p>Labor Code Section 4603.4</p> <p>Electronic and standard medical billing</p>	<p>Status: Filed with Secretary of State on April 18, 2011. Effective dates: standardized billing effective October 15, 2011; electronic billing effective October 18, 2012.</p> <p>http://www.dir.ca.gov/dwc/DWCPropRegs/Ebilling/EBilling_Regulations.htm</p>

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

DWC Regulations	Status of Regulations (as of November 28, 2012)
Senate Bill (SB) 863 Implementation	
<p>Administrative Director (AD) must adopt regulations by January 1, 2005, and that the regulations must mandate that employers accept electronic claims for payment of medical services on or before July 1, 2006. The amendment also stated that payment for medical treatment provided or authorized by the treating physician shall be paid within 15 working days of electronic receipt of a billing for services at or below the fees set forth in the Official Medical Fee Schedule (OMFS).</p>	<p><i>8 CCR Sections 9792.5, 9792.5.0, 9792.5.1, 9792.5.2 and 9792.5.3</i></p> <p>Regulations governing electronic and standardized medical treatment billing. These regulations implement, interpret and make specific Sections 4600, 4603.2 and 4603.4 of the Labor Code.</p>
<p>Labor Code Section 5703.1</p> <p>Inpatient Hospital Fee Schedule; spinal surgery using implantable hardware</p> <p>SB 863 repealed Labor Code Section 5318 and amended Labor Code section 5703.1 to provide that on or before July 1, 2013, the AD shall adopt a regulation specifying an additional reimbursement for MS-DRGs Medicare Severity Diagnostic Related Groups (MS-DRGs) 028, 029, 030, 453, 455, and 456 to ensure that the aggregate reimbursement is sufficient to cover costs including the implantable medical device.</p>	<p>Status: Second 15-day notice to revise proposed regulations issued on November 13, 2012.</p> <p>Public hearing held on January 25, 2011.</p> <p>http://www.dir.ca.gov/dwc/DWCPropRegs/InpatientHospitalFeeSchedule/InpatientHospitalFeeSchedule.htm</p> <p><i>8 CCR Sections 9789.20 et seq. and new section 9789.25</i></p> <p>The proposed revisions to the inpatient hospital fee schedule regulations would comply with the mandate in SB 863 to adopt a regulation specifying an additional reimbursement for the seven specified DRGs.</p>

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

<p>AB 227 & SB 228 OMFS Mandates/Tasks</p>	<p>Status of Regulations (as of November 28, 2012)</p>
<p>Labor Code Section 5307.1</p> <p>Official Medical Fee Schedule Shall Be Adjusted to conform to relevant Medicare/Medi-Cal changes within 60 days of changes (except specified inpatient changes)</p>	<p>Status: Statutes specify that changes can be implemented without regulations.</p> <p>Updates to Medicare and Medi-Cal changes are implemented by an “Order of the Administrative Director of the Division of Workers’ Compensation.”</p> <p>Update orders issued periodically as needed. The most recent orders issued are as follows:</p> <ul style="list-style-type: none"> • Inpatient – update to conform to Medicare changes was adopted by Order, effective December 1, 2011. • Outpatient – update to conform to Medicare changes was adopted by Order, effective April 15, 2010, and updated September 15, 2011. • Ambulance fees – update to conform to Medicare changes was adopted by Order, effective January 1, 2011. • Pathology and Clinical Laboratory – update to conform to Medicare changes was adopted by Order, effective January 1, 2011, and updated effective August 1, 2011. • Durable Medical Equipment, Orthotics, Prosthetics and Supplies (DMEPOS) – update to conform to Medicare changes was adopted by Order, effective July 1, 2011. <p>http://www.dir.ca.gov/DWC/OMFS9904.htm</p>

SPECIAL REPORT: 2012 LEGISLATION AND REGULATIONS

Assembly Bill 749

AB 749 Other Mandates/Tasks	Status of Regulations (as of November 28, 2012)
<p>Labor Code Section 4062.8</p> <p>Develop and Revise Educational Materials for Primary Treating Physicians and Chiropractors</p>	<p>Status: Project in process.</p> <p>DWC is in the process of developing an Internet-based series of educational materials for treating physicians and qualified medical evaluators (QMEs).</p>

Other Regulations

<p>Labor Code Sections 133, 4603.5, 5307.3, 5307.4</p> <p>Americans with Disabilities Act – Access to DWC District Offices. New sections.</p>	<p>Status: Completed. Filed with Secretary of State on January 19, 2012, and effective February 18, 2012.</p> <p><i>8 CCR Sections 9708.1 - 9708.6 and 10226.1 -10226.6</i></p> <p>The regulations set forth DWC's policies and procedures for accommodating individuals with disabilities who participate in the programs, activities and services of DWC.</p>
<p>Labor Code Section 4659</p> <p>Commutation Tables for Permanent Disability</p>	<p>Status: Need to hire actuary.</p> <p><i>8 CCR Sections 10169, 10169.1</i></p>

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Administration of Self Insurance Plans Regulations

The regulatory activities of the Office of Self Insurance Plans (OSIP) are outlined below.

Emergency rulemaking is preceded by a finding of an emergency, a notice, the release of the proposed emergency rule(s), and an announcement to the public of the emergency rulemaking. In order to make emergency regulations permanent, it will be necessary for OSIP to follow the emergency rulemaking process with regular rulemaking which will include a 45-day public comment period and OSIP's response to an filed comments. This update covers only recent administrative regulations occurring during 2012.

Proposed OSIP regulations can be found online at:

<http://www.dir.ca.gov/osip/siprule.html>

Regulations in Title 8 of the California Code of Regulations (CCR) can be found online at:

<http://www.dir.ca.gov/samples/search/query.htm>.

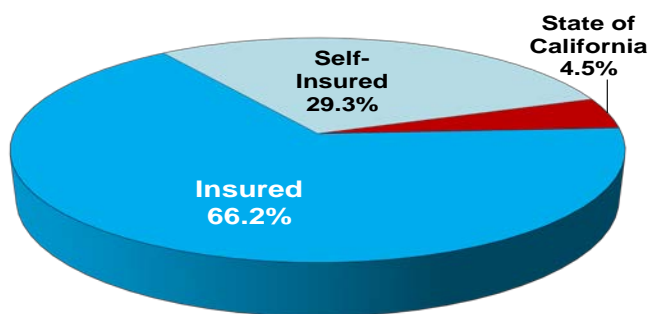
2012 OSIP Regulations	Status of Regulations (as of December 7, 2012)
Administration of Self Insurance	Status: Finding of emergency and public notice made December 5, 2012. Emergency Regulations will become Effective January 1, 2013. Emergency Regulations Implementing Actuarial Based Collateral Provisions Required by New Statutes Contained In SB863. <i>Title 8, California Code of Regulations Division 1, Chapter 8, Subchapter 2, Sections 15201, 15209, 15210, 15210.1, 15475, 15477, 15481, 15484, 15496 and 15497.</i> http://www.dir.ca.gov/osip/siprule.html

SYSTEM COSTS AND BENEFITS OVERVIEW

The California workers' compensation system covers 14,171,000 employees¹ working for over 890,053 employers² in the State. These employees and employers generated a gross domestic product of \$1,958,904,000,000 (\$1.96 trillion) for 2011.³ A total of 526,969 occupational injuries and illnesses were reported for 2011,⁴ ranging from minor medical treatment cases up to catastrophic injuries and deaths. The total paid cost to employers for workers' compensation in 2011 was \$16.2 billion. (See textbox "Systemwide Cost: Paid Dollars for 2011 Calendar Year" on page 35.)

Employers range from small businesses with just one or two employees to multinational corporations doing business in the State and the state government itself. Every employer in California must secure its liability for payment of compensation, either by obtaining insurance from an insurer licensed by the Department of Insurance (CDI) or by obtaining a certificate of consent to self-insure from the Department of Industrial Relations (DIR). The only lawful exception is the State, which is legally uninsured. Based on the claim counts reported to the Workers' Compensation Information System (WCIS) (see the figure below), 66.2 percent of injuries occur to employees of insured employers, 29.3 percent of injuries occur to employees of self-insured employers, and 4.5 percent of injuries occur to employees of the State of California.⁵ (See textbox "Method of Estimating the Workers' Compensation System Size" on pages 33-34 for calculations based on claim counts and paid loss data.)

Figure 1: Market Shares Based on Claim Counts Reported to WCIS (2009-2011 average)



Data Source: DWC - WCIS

¹ NASI Report: Workers' Compensation Benefits, Coverage, and Costs, 2010. August, 2012.

http://www.nasi.org/sites/default/files/research/NASI_Workers_Comp_2010.pdf

² CHSWC estimates are based on an Employment Development Department report, as above, showing 1,390,289 businesses in 2011. Of these, 1,000,472 were businesses with 0 to 4 employees. For this estimate, half of those businesses are assumed to have no employees subject to workers' compensation. $1,390,289 - (1,000,472 / 2) = 890,053$. <http://www.labormarketinfo.edd.ca.gov/?pageid=138>.

³ California Department of Finance, Economic Research Unit, http://www.dof.ca.gov/HTML/FS_DATA/LatestEconData/FS_Misc.htm.

⁴ The latest year for which Workers' Compensation Information System (WCIS) reports are reasonably complete. Data are from the Division of Workers' Compensation (DWC) report from the WCIS database, "Workers' Compensation Claims (in 000's) by Market Share with Twelve-Year History and Cumulative Totals, 2000-2011," July 3, 2012, http://www.dir.ca.gov/dwc/wcis/WCIS_Reports.html. Due to delayed reporting, the number of claims reported to WCIS for a given year may grow by more than 5 percent between the second and the fourth years after the end of the accident year. Boden, Leslie I. and Al Ozonoff, "Reporting Workers' Compensation Injuries in California: How Many are Missed?" (2008). CHSWC Report.

⁵ Data for 2006 are from the Division of Workers' Compensation report from the WCIS database, "Workers' Compensation Claims (in 000's) by Market Share with Eight Year History and Cumulative Totals, 2000-2007," April 25, 2008. From 2002 through 2006, the average shares varied by no more than ± 0.5 for the insured share, ± 0.7 for the self-insured share, and ± 0.2 for the State. CHSWC omits the years 2000 and 2001 from these averages because reasonably complete reporting was not achieved until mid-2001.

SYSTEM COSTS AND BENEFITS OVERVIEW

Method of Estimating the Workers' Compensation System Size

The overall system size is now estimated at 1.5 times the insured sector size. For several years, the generally accepted estimate was 1.25. Beginning in 2008 and with help from the Workers' Compensation Insurance Rating Bureau (WCIRB), the Commission on Health and Safety and Workers' Compensation (CHSWC) estimated the system size at 1.43 times the insured market. This was based on claims counts in the Workers' Compensation Information System (WCIS).¹ As of 2011, CHSWC is revising that estimate to 1.5 times the insured sector. The revised estimate is based on updated claims data as well as paid loss counts from WCIS.

Claims counts show a continuing decline in the number of claims for all sectors from year to year. The decline has been steeper in the insured sector from 2009 through 2011. CHSWC is using a three-year moving average because it blunts the effect of one-time aberrations. The three-year average shares based on claims counts are 66.2 percent insured, 29.3 percent self-insured, and 4.5 percent state. Using these values, the multiplier for extending insured sector information to the overall system is $100\%/66.2\% = 1.51$.

Table 1: Workers' Compensation Claims (in 000's) by Market Share

Year	Insured		Self-Insured		State of California	
	Number	Market Share (%)	Number	Market Share (%)	Number	Market Share (%)
2009	362.1	65.4	166.8	30.1	24.7	4.5
2010	350.2	65.9	157.5	29.6	24.0	4.5
2011	336.3	67.4	140.7	28.2	22.1	4.4
Average for 3 years		66.2		29.3		4.5

¹ WCIS Database, http://www.dir.ca.gov/dwc/wcis/WCIS_tables/WCC-MarketShare.pdf

(continued on the next page)

SYSTEM COSTS AND BENEFITS OVERVIEW

(continued from previous page)

Method of Estimating the Workers' Compensation System Size

Based on the convergence of market share measurements from two independent methods, the data convincingly demonstrate that the insured market share is no more than 67 percent of the workers' compensation system. Depending on the method of measurement, the self-insured sector is 29 or 30 percent and the State is 3 or 4 percent.

Paid loss data indicate that 67 percent of the market is insured, 30 percent is self-insured, and 3 percent is State. These percentages are stable using 2009 data for insured and private self-insured sectors and either 2009/2010 or 2010/2011 data for the State and public self-insured sector, as shown in Tables 2 and 3, below. The multiplier for extending insured sector information to the overall system is $100\%/66.3\% = 1.508$.

Table 2: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses) – using public self-insured and state data for FY 2009-2010

	Indemnity	Medical	Sub-Total	% in Total
a. Private Self-Insured ¹ (2010)	\$529,956,700	\$760,504,505		
b. Public Self-Insured ² (2009/2010)	\$833,513,351	\$978,954,150		
SELF-INSURANCE PLAN (a + b)	\$1,363,470,051	\$1,739,458,655	\$3,102,928,706	29.3%
INSURED (2010)³	\$2,823,000,000	\$4,302,000,000	\$7,125,000,000	66.3%
STATE (2009/2010)⁴	\$129,614,625	\$219,574,219	\$349,188,844	3.3%
Total			\$10,577,117,550	

Table 3: Percent Distribution of Workers' Compensation Paid Costs by Sectors (excluding Administrative Expenses) – using public self-insured and state data for FY 2010-2011.

	Indemnity	Medical	Sub-Total	% in Total
a. Private Self-Insured (2010)	\$529,956,700	\$760,504,505		
b. Public Self-Insured (2010/2011)	\$907,485,883	\$1,043,538,851		
SELF-INSURANCE PLAN (a + b)	\$1,437,442,583	\$1,804,043,356	\$3,241,485,939	30.2%
INSURED (2010)	\$2,823,000,000	\$4,302,000,000	\$7,125,000,000	66.3%
STATE (2010/2011)⁵	\$148,570,989	\$228,079,398	\$376,650,387	3.5%
Total			\$10,743,136,326	

¹ Private Statewide Summary, <http://www.dir.ca.gov/sip/StatewideTotals.html>.

² Public Statewide Summary, <http://www.dir.ca.gov/sip/StatewideTotals.html>.

³ WCIRB, 2010 Losses and Expenses Report, Exhibit 18.1, Released June 21, 2011.

⁴ Costs Information, <http://www.dpa.ca.gov/benefits/workers-comp/main.htm>.

⁵ Costs Information, <http://www.dpa.ca.gov/benefits/workers-comp/main.htm>.

SYSTEM COSTS AND BENEFITS OVERVIEW

Workers' compensation is generally a no-fault system that provides statutory benefits for occupational injuries or illnesses. Benefits consist of medical treatment, temporary disability (TD) payments, permanent disability (PD) payments, return-to-work assistance, and death benefits. The overall amounts paid in each of these categories systemwide are shown in the following textbox. These figures are based on insurer-paid amounts multiplied by 1.5 to include estimated amounts paid by self-insured employers and the State.

Systemwide Cost: Paid Dollars for 2011 Calendar Year

Table 4: A Claim Counts-based Estimate of Workers' Compensation System Size (Million \$)

	<i>Insured</i>	<i>Self-Insured and the State*</i>	<i>All Employers</i>
Indemnity*	\$3,004	\$1,502	\$4,506
Medical*	\$4,448	\$2,224	\$6,672
Changes to Total Reserves	\$394	\$197	\$591
Insurer Pre-Tax Underwriting Profit/Loss	-\$2,312	N/A	-\$2,312
Expenses (See Table below: Breakdown of Expenses)	\$5,028	\$1,717	\$6,745
TOTAL for 2011	\$10,562	\$5,640	\$16,202

*Include CIGA payments

Source for Insured figures above is WCIRB Losses and Expenses report June 2012. Self-insured and state expenses are calculated by CHSWC using 0.50 multiplier for equivalent cost components. The equivalent expense components are estimated as follows:

Table 5: Breakdown of Expenses (Million \$)

	<i>Insured</i>	<i>Self-Insured and State</i>	<i>All Employers</i>
<i>Loss Adjustment Expense</i>	\$2,648	\$1,324	\$3,972
<i>Commissions and Brokerage</i>	\$857	N/A	\$857
<i>Other Acquisition Expenses</i>	\$510	N/A	\$510
<i>General Expenses</i>	\$786	\$393	\$1,179
<i>Premium and Other Taxes</i>	\$227	N/A	\$227
Total	\$5,028	\$1,717	\$6,745

Estimate of Workers' Compensation System Size Based on Written Premium

Another way to calculate systemwide costs for employers is by using written premium.

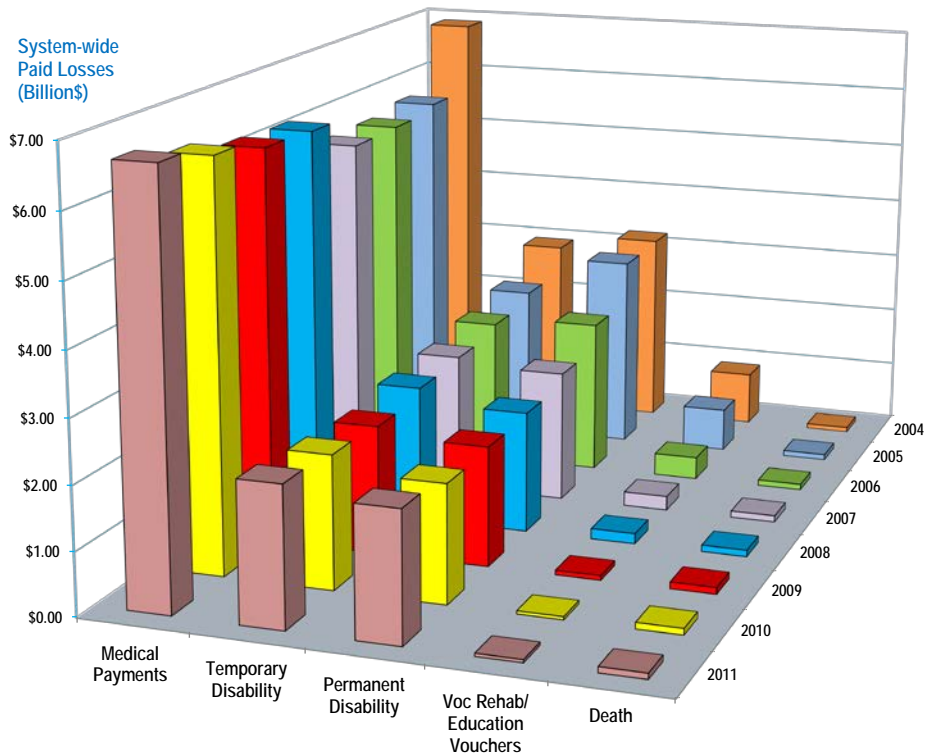
Written premium for insured employers = \$10.8 billion in accident year 2011.⁶

\$10.8 billion * 1.5 = \$16.2 billion systemwide costs for employers.

⁶ WCIRB Summary of March 31, 2012 Insurer Experience Report, September 4, 2012.

SYSTEM COSTS AND BENEFITS OVERVIEW

Figure 2: System-wide Paid Benefits, by Year and Type of Payment (Billion \$)



* System-wide amounts estimated at 1.5 times the amounts reported by insurers

Data Source: WCIRB

Costs Reached a Crisis in 2003

Both the increases in the costs of workers' compensation benefits and changes in the workers' compensation insurance industry were factors contributing to a workers' compensation crisis that peaked in 2003. The crisis propelled reforms enacted in 2003 and 2004 which reduced the cost of benefits. Within several years, the average rate for workers' compensation insurance fell by over 60 percent. The impact on injured workers' benefits is the subject of continuing study.

Increasing Cost of Benefits

The costs of workers' compensation benefits increased greatly between 1997 and 2003. The total costs of the California workers' compensation system more than tripled, growing from \$7.8 billion in 1997 to \$29.0 billion in 2003.⁷

Medical Costs

Medical costs, which are the largest single category of workers' compensation costs, rose most sharply, from \$2.6 billion in 1997 to \$7.1 billion in 2003. The rate of increase in medical cost per workers'

⁷ The total cost of the workers' compensation figures consists of medical care payments and wage replacement benefits to injured workers, along with administrative expenses and adjustments to reserves, as calculated by CHSWC based on insurer data from WCIRB. *Annual Reports*, San Francisco: WCIRB, 1998, 2004.

SYSTEM COSTS AND BENEFITS OVERVIEW

compensation claim far exceeded the rate of increase in the consumer price index for medical care. The cost increase is driven partly by the availability of new medical technologies and drugs that are increasingly costly. Furthermore, the rate of utilization of medical goods and services was higher in workers' compensation than in other insurance systems, as well as higher in California workers' compensation than in other states. The high rates of utilization did not produce superior health outcomes.

Weekly Benefits

Other contributing factors to the increases in costs were the increases to the TD and PD benefits that began phasing into effect in 2003 following Assembly Bill (AB) 749 enacted in 2002. Benefits prior to AB 749 had not kept up with inflation:

- AB 749 brought weekly TD benefits up to two-thirds of the State's average weekly wage by 2005. This is the standard set by the National Commission on State Workers' Compensation Laws. AB 749 also indexed TD benefits to inflation in the State average weekly wage beginning in 2006, much like in other states.
- After AB 749, weekly PD benefits for 2006 were increased by about 40 percent over 2002 weekly rates, bringing the weekly rates to approximately equal the rates in 1984 after adjusting for inflation.

Expansion of Liability

Another factor contributing to the increase in workers' compensation costs for employers was the expansion of workers' compensation liability. Through most of the history of the workers' compensation system, the courts have expanded the boundaries of compensability. Partially counteracting this broad trend, there have been legislative restrictions from time to time, such as those imposing new conditions to compensability for psychiatric claims or post-termination claims. Although the system was originally seen as primarily dealing with traumatic injuries and accidents, it has come to be dominated by cumulative injuries and illnesses that may interact with the diseases and disorders of an aging population, the epidemic of obesity, and other public health issues outside the strictly occupational sphere.

Instability in the Insurance Industry

When the workers' compensation insurance industry was deregulated beginning in 1995, insurers competed by lowering premium rates, in many instances below their actual costs. Many insurers drew on their reserves or other sources of capital or relied on investment profits during bull market years. Investment income dropped with the return of a bear market. Between 2000 and 2003, 26 workers' compensation insurers went into liquidation. Subsequently, the surviving insurers charged higher premium rates to meet costs and begin to replenish reserves. A study for CHSWC analyzing the causes of the market instability was published in December 2009 (see "Projects and Studies: Insurance Industry" in this report).

Impact on Employer

Costs for insurance peaked at an average of \$6.29 per \$100 of payroll in the latter half of 2003, making California the most expensive state in the U.S. for workers' compensation insurance. However, the average premium rate has dropped every year from the second half of 2003 to 2009 when it was \$2.10, a decrease of almost 67 percent from the second half of 2003. From 2009 to 2011, the average premium rate increased by 10 percent from \$2.10 per \$100 of payroll to \$2.32 per \$100 of payroll, correspondingly. While increase in insurance prices was not alarming, loss experience reports within the insurance industry fueled concerns that another insurance price crisis could be imminent.

SYSTEM COSTS AND BENEFITS OVERVIEW

Workers' Compensation Reforms: Changes to the California System

California made significant legislative reforms in the workers' compensation system with the enactment of Senate Bill (SB) 863 in September 2012. The overall theme of the reform was to improve benefits for most injured workers while reducing costs. SB 863 generally makes changes to: the measurement of permanent disability; the compensation for permanent disability; the physician fee schedule; the process to resolve disputes over appropriate medical treatment, medical fees and billing and collections; the means of ensuring self-insurance program solvency and the methods of securing the payment of compensation by self-insurance; and certain other aspects of the workers' compensation system.

Many of the provisions of SB 863 were supported by CHSWC research and recommendations. For a summary of the key provisions of the reforms please see the Special Report: 2012 Workers' Compensation Reforms in this annual report. For a summary of past reforms, please see System Costs and Benefits Overview section in the 2011 CHSWC Annual Report.

Costs of Workers' Compensation in California

Employers pay the cost of workers' compensation either by paying premiums for workers' compensation insurance or by self-insuring with the consent of the Department of Industrial Relations (DIR). Only the State of California can be legally uninsured as an employer. The cost to insured employers is measured in terms of premium. Premium is measured before discounts that are given for deductibles because there are no adequate data on amounts paid in deductibles by employers. The cost to self-insured employers is measured mostly by incurred claims, similar to the analysis of insurance company losses and expenses. These two aspects of employer cost will be discussed in the following pages, and the loss and expense analysis for insurers appears later in this section.

Costs Paid by Insured Employers

In 2011, workers' compensation insurers earned \$10.4 billion in premiums from California employers.⁸

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

When workers' compensation premiums were deregulated beginning in 1995, insurers competed by lowering premium rates, in many instances lower than their actual costs. Costs also increased beyond the amounts that were foreseen when premiums were determined and collected. Many insurers drew on their reserves to make up the difference, and several insurers became insolvent. Subsequently, the surviving insurers charged higher premium rates to meet costs and began to replenish surplus.

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

As intended, these reforms reduced workers' compensation costs in California. It appears that the savings have been fully realized and the system may be returning to a trend of cost increases. The question now is whether the cost increases are merely the long-term trends of inflation and medical-cost growth, or whether the savings accomplished by the reforms are being eroded by an inability to maintain the early savings. Insurers report broad-based growth in medical spending, and judicial interpretations of the PD rating system portend increased litigation and higher PD payments. The cost of insurance continued to drop through the latest period for which written premium data are available, but filed rates have begun to climb again.

⁸ Source: "2011 California's Workers' Compensation Losses and Expenses." WCIRB – June 25, 2012. Note that earned premium is not identical to written premium. The two measurements are related, and the choice of which measurement to use depends on the purpose.

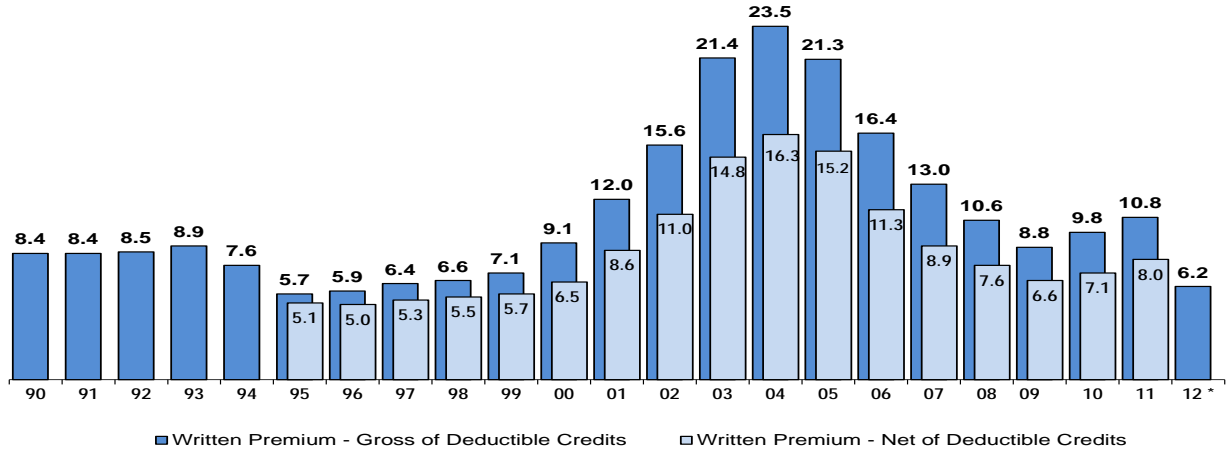
SYSTEM COSTS AND BENEFITS OVERVIEW

Workers' Compensation Written Premium

WCIRB defines written premium as the premium an insurer expects to earn over the policy period.

As shown in the following figure, workers' compensation written premium has undergone dramatic changes since 1990. Written premium averaged \$8.6 billion per year from 1990 to 1993, decreased 36 percent from 1993 to 1995, increased slightly in the latter part of the 1990s, more than tripled from 1999 through 2004, and experienced a significant decline of over 60 percent from 2004 to 2009. From 2009 to 2011, there was a 23 percent increase in written premium.

Figure 3: Workers' Compensation Written Premium, as of June 30, 2012 (Billion \$)



* January through June of 2012.

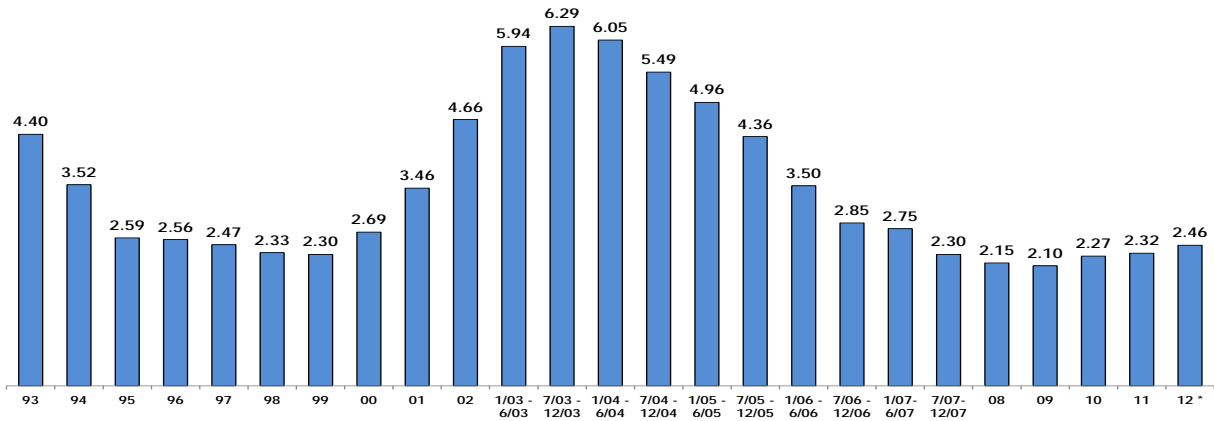
Data Source: WCIRB Summary of June 30, 2012 Insurer Experience Report, released October 8, 2012, Exhibit 1

Workers' Compensation Average Premium Rate

The following figure shows the average workers' compensation premium rate per \$100 of payroll. The average decreased 41 percent from 1993 to 1995, stabilized during the mid-to-late 1990s, and then rose significantly beginning in 2000 up to the second half of 2003. However, the average premium rate has dropped every year from the second half of 2003 to 2009 when it was \$2.10, a decrease of almost 67 percent from the second half of 2003. From 2009 to 2011, the average premium rate increased by 10 percent.

SYSTEM COSTS AND BENEFITS OVERVIEW

Figure 4: Average Workers' Compensation Insurer Rate per \$100 of Payroll, as of June 30, 2012 (Dollar \$)



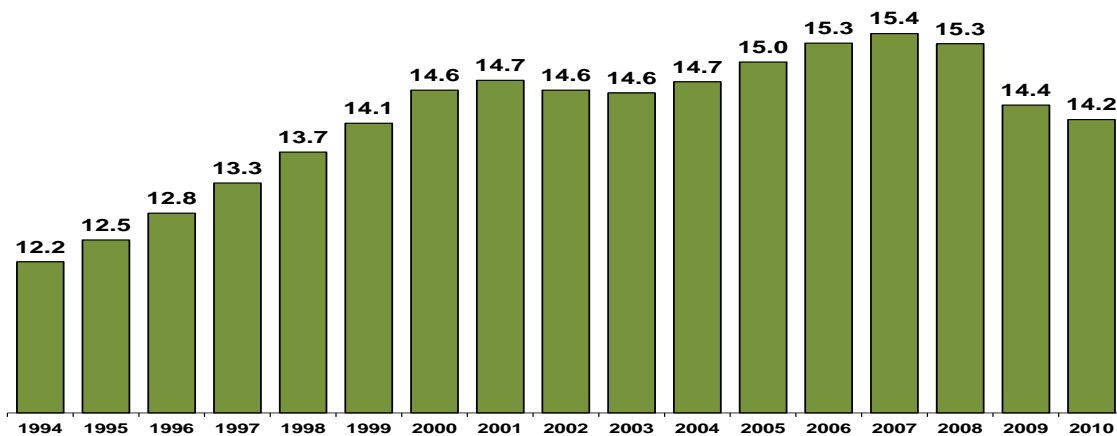
* January through June of 2012.

Data Source: WCIRB Summary of June 30, 2012 Insurer Experience Report, released October 8, 2012, Exhibit 2

Workers Covered by Workers' Compensation Insurance

The estimated number of California workers covered by workers' compensation insurance grew by about 20.5 percent from 12.2 million in 1994 to 14.7 million in 2001. From 2001 through 2005, the number of covered workers in California stabilized, averaging about 14.7 million per year. The estimated number of California workers covered by workers' compensation insurance grew by about 6 percent from 2003 to 2007, decreased slightly from 2007 to 2008, and then decreased by 7 percent from 2008 to 2010.

Figure 5: Estimated Number of Workers Covered by Workers' Compensation Insurance in California (Million)



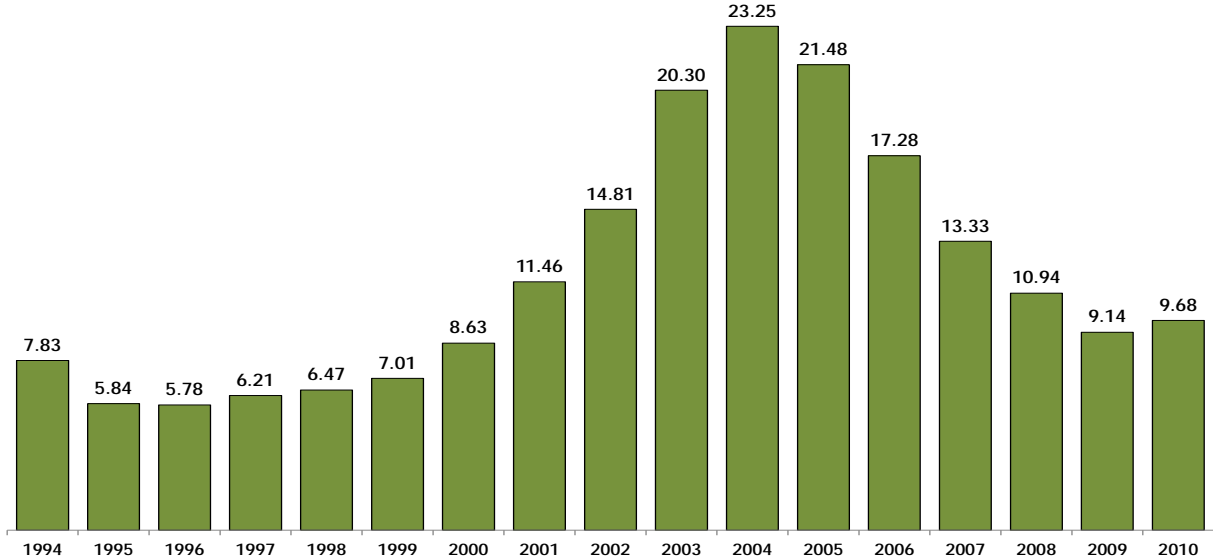
Data Source: National Academy of Social Insurance (NASI)

Total Earned Premium

WCIRB defines the earned premium as the portion of a premium that has been earned by the insurer for policy coverage already provided.

SYSTEM COSTS AND BENEFITS OVERVIEW

Figure 6: Workers' Compensation Earned Premium (Billion \$)

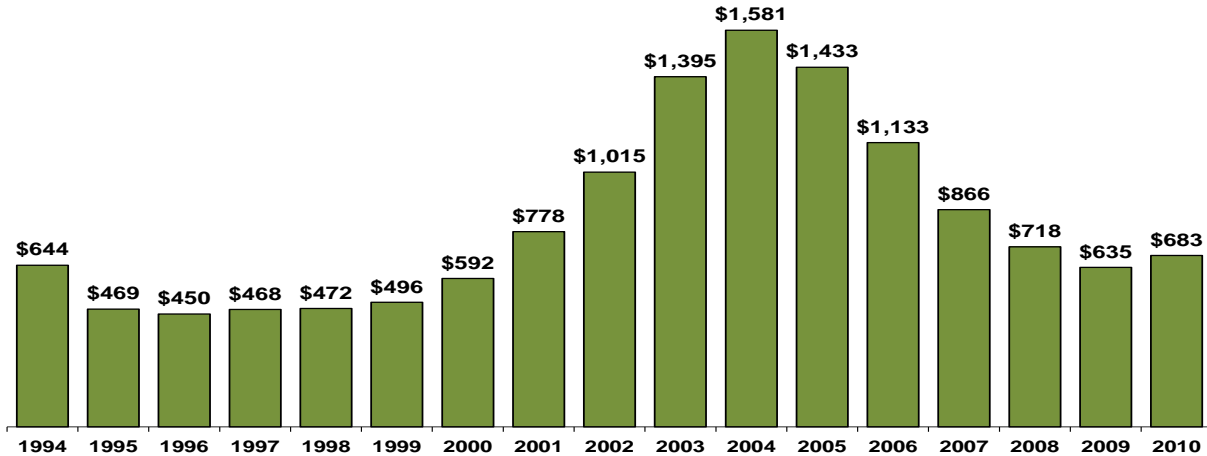


Data Source: WCIRB

Average Earned Premium per Covered Worker

As shown in the graph below, the average earned premium per covered worker dropped during the early-to-mid 1990s, leveled off for a few years, and more than tripled between 1999 and 2004. There was a 60 percent decrease in average earned premium per covered worker from 2004 to 2009. From 2009 to 2010, the average earned premium per covered worker increased by 7.6 percent.

Figure 7: Average Earned Premium per Covered Worker



Data Source: WCIRB and NASI
Calculations: CHSWC

SYSTEM COSTS AND BENEFITS OVERVIEW

Costs Paid by Self-Insured Private and Public Employers

The permissible alternatives to insurance are private self-insurance, public self-insurance for governmental entities either individually or in joint power authorities (JPAs), and legally uninsured State government. Part of the cost of workers' compensation for self-insured employers can be estimated by the amounts of benefits paid in a given year and by changes in reserves. This method is similar to an analysis done by WCIRB for the insurance industry, but the data for self-insured employers are less comprehensive than for insurers. The most complete estimate of the cost to self-insured employers is still obtained by taking some multiple of the cost to insured employers, excluding the cost elements that only apply to insurance. As described in the sidebars at the beginning of this section, that multiplier is 0.5, and the estimated cost to self-insured employers and the State for 2011 is \$5.64 billion.

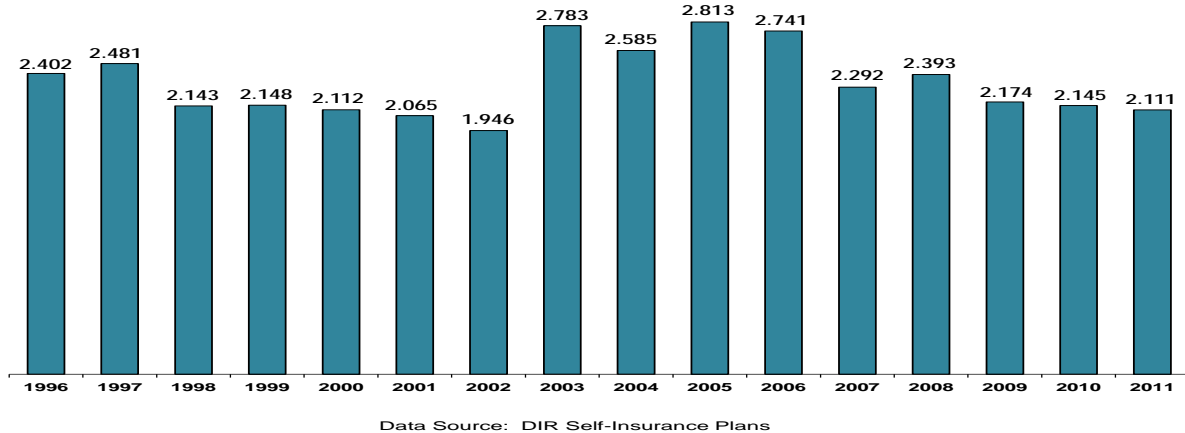
SYSTEM COSTS AND BENEFITS OVERVIEW

Private Self-Insured Employers⁹

Number of Employees

The following figure shows the number of employees working for private self-insured employers between 1996 and 2011. A number of factors may affect the year-to-year changes. One striking comparison is to the average cost of insurance per \$100 of payroll for insured employers, as described earlier. When insurance is inexpensive, fewer employers may be attracted to self-insurance, but when insurance becomes more expensive, more employers move to self-insurance.

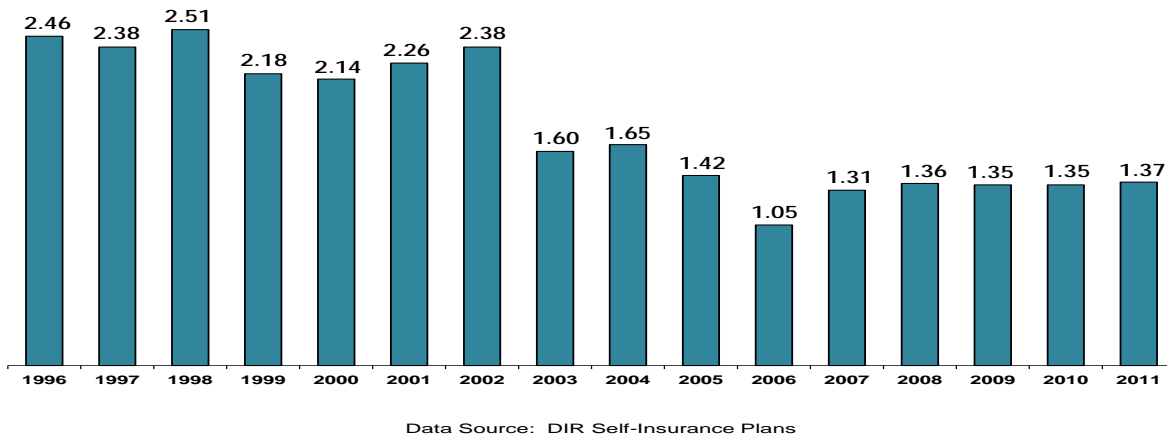
Figure 8: Number of Employees – Private Self Insured Employers (Million)



Indemnity Claims

The rate of indemnity claims per 100 employees of private self-insured employers reflects trends seen throughout the workers' compensation system. Frequency has been declining steadily for years. In addition, the reforms of the early 1990s and the reforms of 2003-2004 each produced distinct drops in frequency. Smaller year-to-year variations, including a small upswing in 1998 and a two-year upward trend from 2000 through 2002, are not correlated with any short-term variations in the insured market.

Figure 9: Number of Indemnity Claims per 100 Employees of Private Self-Insured Employers



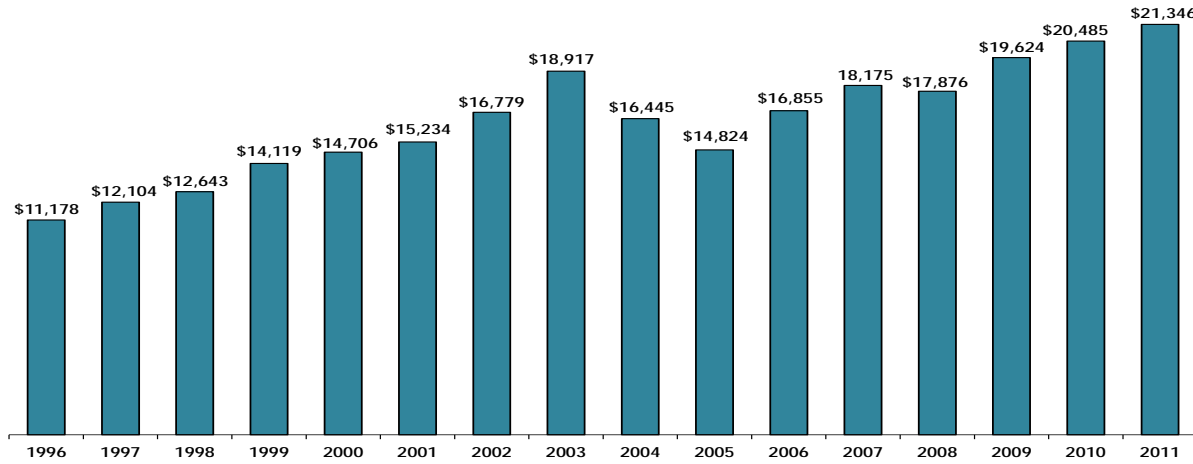
⁹ Data for private self-insured employers are from DIR's Office of Self Insurance Plans correspondence received by CHSWC in September 2011.

SYSTEM COSTS AND BENEFITS OVERVIEW

Incurred Cost per Indemnity Claim

The following figure shows the incurred cost per indemnity claim for private self-insured employers, which has experienced changes similar to the changes for insurance companies. There has been a steady rise in the cost per indemnity claim until 2003, when the cost began to drop in response to the reforms of 2003 and 2004. The upward trend returned in 2006. Although the growth in cost per claim is back, the cost is now growing from a lower starting point than it would have been without the reforms.

Figure 10: Incurred Cost Per Indemnity Claim of Private Self-Insured Employers

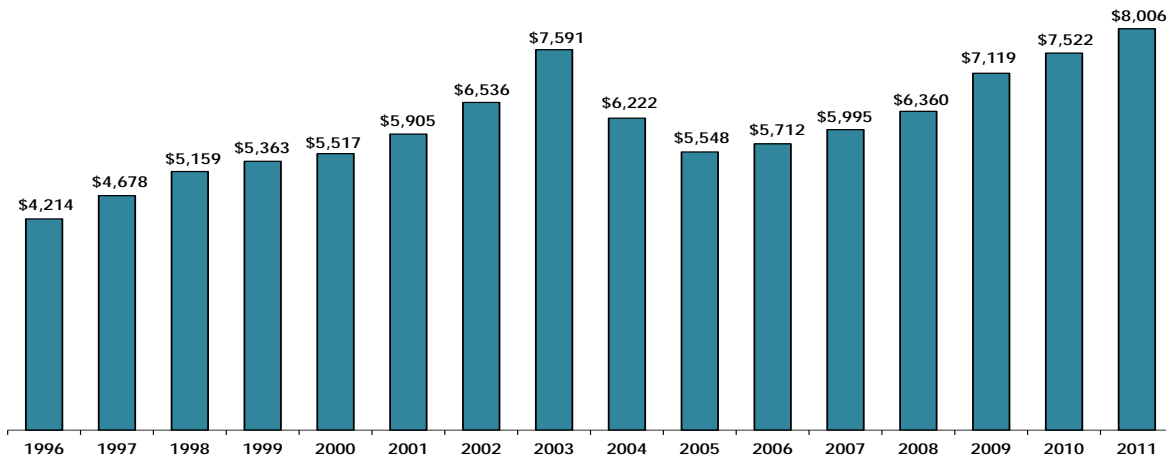


Data Source: DIR Self-Insurance Plans

Incurred Cost per Indemnity and Medical Claim

The average cost of all claims, including both indemnity claims and medical-only claims is naturally lower than the average cost of indemnity claims. While lower, it shows a pattern similar to the trends for indemnity claims.

Figure 11: Incurred Cost per Claim – Indemnity and Medical of Private Self-Insured Employers



Data Source: DIR Self-Insurance Plans

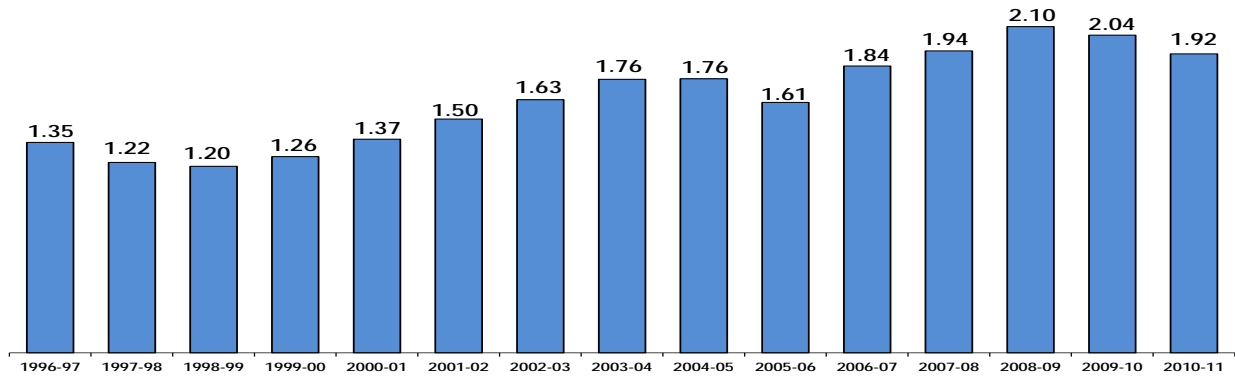
SYSTEM COSTS AND BENEFITS OVERVIEW

Public Self-Insured Employers¹⁰

Number of Employees

The following figure shows the number of public self-insured employers between fiscal years 1996-1997 and 2010-2011. The number of public self-insured employers declined between 1996-1997 and 1998-1999. Between 1998-1999 and 2003-2004, the number of employees working for public self-insured employers grew by 46.7 percent, then leveled off between 2003-2004 and 2004-2005, declined between 2004-2005 and 2005-2006, increased by 30 percent from 2005-2006 to 2008-2009, and then decreased by 8.6 percent from 2009-10 to 2010-2011.

Figure 12: Number of Employees of Public Self-Insured Employers (Million)

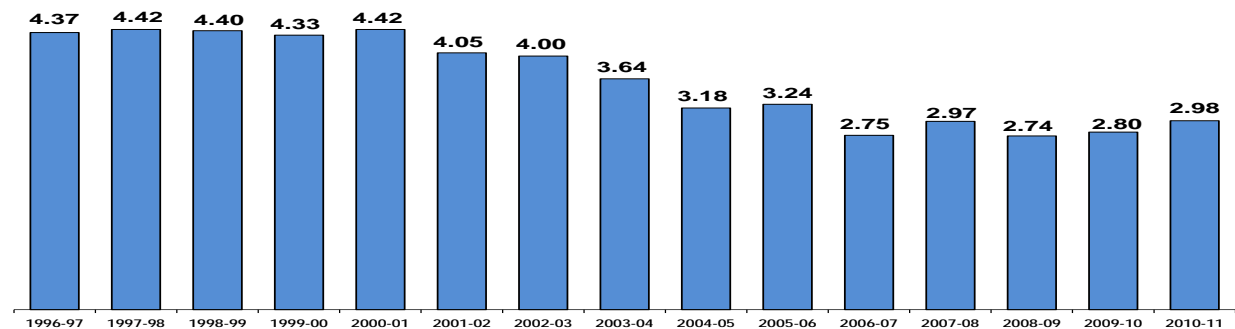


Data Source: DIR Self-Insurance Plans

Indemnity Claims

The number of indemnity claims by employees working for public self-insured employers remained steady between 1996-1997 and 2000-2001. Between 2000-2001 and 2004-2005, the number of indemnity claims by employees decreased by 28 percent and then fluctuated between 2004-05 and 2008-09. From 2008-09 to 2010-11, number of indemnity claims by employees working for public self-insured employers increased by 9 percent.

Figure 13: Number of Indemnity Claims per 100 Employees of Public Self-Insured Employers



Data Source: DIR Self-Insurance Plans

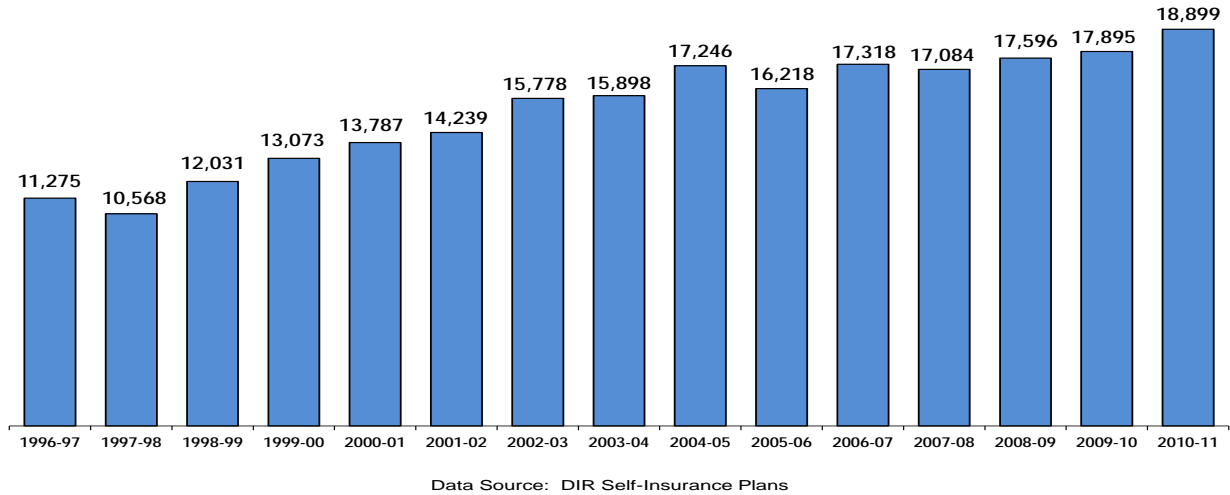
¹⁰ Data for Public Self-Insured Employers are from DIR's Office of Self Insurance Plans correspondence received by CHSWC in February 2012.

SYSTEM COSTS AND BENEFITS OVERVIEW

Incurred Cost per Claim

The following figure shows the incurred cost per indemnity claim for public self-insured employers. Between 1996-1997 and 2010-2011, the incurred cost per indemnity claim increased by about 68 percent from \$11,275 to \$18,899.

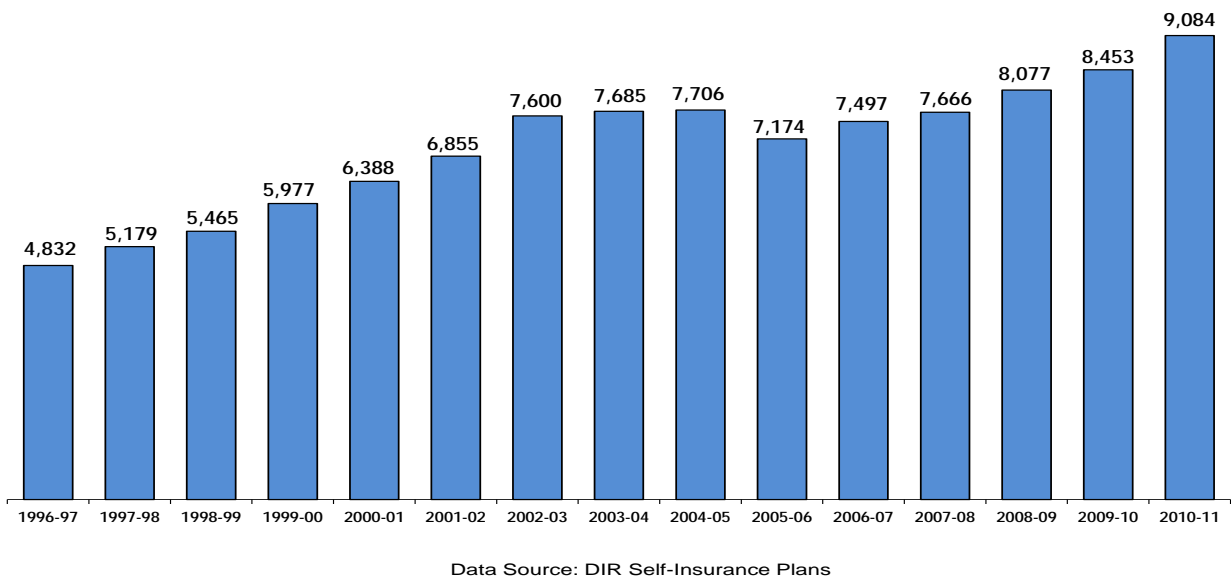
Figure 14: Incurred Cost per Indemnity Claim of Public Self-Insured Employers (Dollar \$)



Incurred Cost per Indemnity and Medical Claim

The following figure shows the incurred cost per indemnity and medical claim for public self-insured employers. Between 1996-1997 and 2004-2005, the incurred cost per indemnity and medical claim increased by 95.5 percent, decreased by 7 percent between 2004-2005 and 2005-2006, and then increased by about 27 percent from 2005-2006 to 2010-2011.

Figure 15: Incurred Cost per Claim – Indemnity and Medical of Public Self-Insured Employers (Dollar \$)



SYSTEM COSTS AND BENEFITS OVERVIEW

Workers' Compensation System Expenditures: Indemnity and Medical Benefits

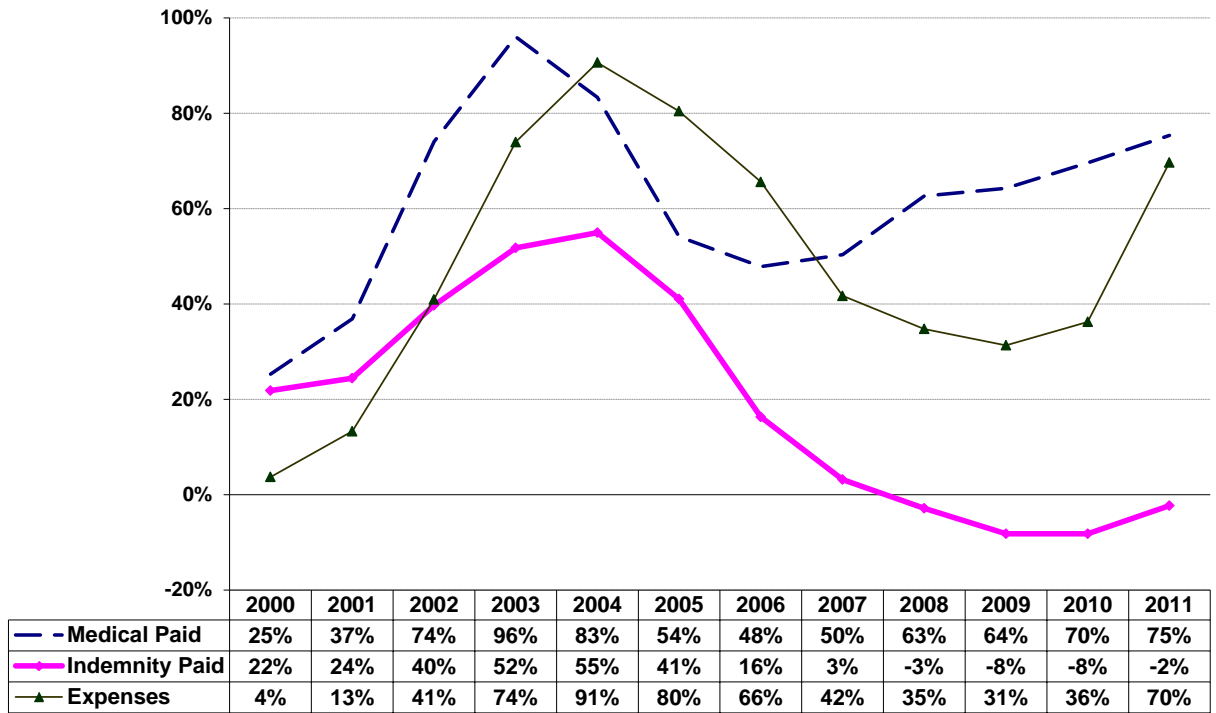
Overall Costs

Methodology for Estimating

The estimated percentages of total system costs are based on insured employer costs provided by WCIRB. The assumption is that these data apply also to self-insureds. Since self-insured employers and the State are estimated to be 34 percent of total California workers' compensation claims, the total system costs are calculated by increasing WCIRB data for insured employers to reflect that proportion.

Growth of Workers' Compensation Costs

Figure 16: Workers' Compensation Costs: Percent Change by Year Compared with 1999



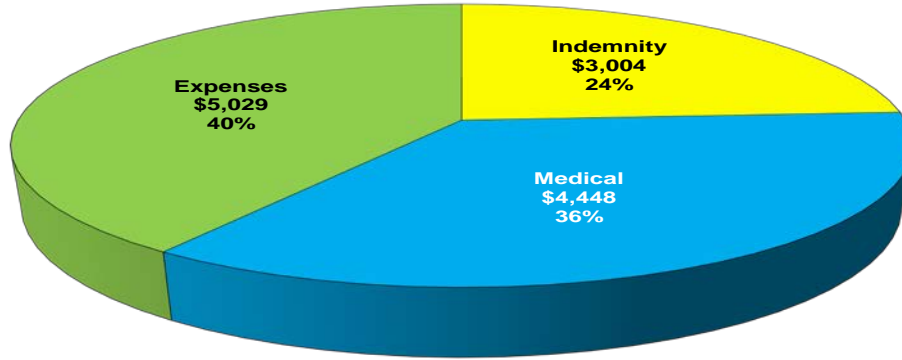
Data Source: WCIRB

SYSTEM COSTS AND BENEFITS OVERVIEW

Distribution of Workers' Compensation Costs by Type

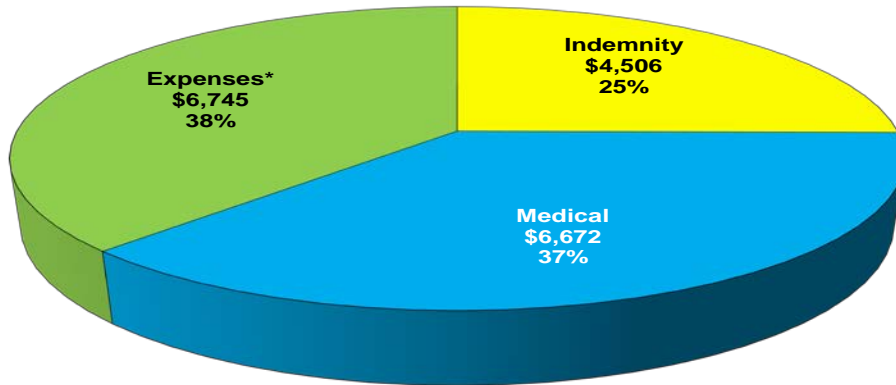
The two figures below show the distribution of workers' compensation paid costs for insured employers and systemwide.

Figure 17: Estimated Distribution of Insured Employers' Workers' Compensation Paid Costs, 2011 (Million \$)



Data Source: WCIRB

Figure 18: Estimated Distribution of Systemwide Workers' Compensation Paid Costs, 2011 (Million \$)



* The distribution shown in this chart includes both insured and self-insured employers' costs. For insured costs, Expenses include allocated loss adjustment expenses, unallocated loss adjustment expenses, commissions and brokerage, other acquisition expenses, and premium taxes. Self-insured employers would not encounter some of those types of expenses.

Please note that Insurer Pre-Tax Underwriting losses (\$2,312 million in 2011) were excluded from the chart since they were not a component of both insured and self-insured costs.

Data Source: WCIRB with calculations by CHSWC

SYSTEM COSTS AND BENEFITS OVERVIEW

Indemnity Benefits

WCIRB provided data for the cost of indemnity benefits paid by insured employers. Assuming that insured employers comprise approximately 66 percent of total California workers' compensation claims, estimated indemnity benefits are shown on the following table for the total system, insured employers, self-insured employers, and the State of California.

Table 6: Systemwide Estimated Costs of Paid Indemnity Benefits

Indemnity Benefits (Thousand \$)	2010	2011	Change
Temporary Disability	\$2,110,355	\$2,201,639	\$91,284
Permanent Total Disability	\$174,162	\$183,497	\$9,335
Permanent Partial Disability	\$1,690,614	\$1,856,979	\$166,365
Death	\$100,476	\$91,958	-\$8,519
Funeral Expenses	\$1,695	\$1,500	-\$195
Life Pensions	\$109,164	\$122,177	\$13,013
Voc Rehab/Non-transferable Education Voucher	\$48,062	\$48,423	\$361
Total	\$4,234,527	\$4,506,171	\$271,643

Paid by Insured Employers

Indemnity Benefits (Thousand \$)	2010	2011	Change
Temporary Disability *	\$1,406,903	\$1,467,759	\$60,856
Permanent Total Disability *	\$116,108	\$122,331	\$6,223
Permanent Partial Disability *	\$1,127,076	\$1,237,986	\$110,910
Death *	\$66,984	\$61,305	-\$5,679
Funeral Expenses	\$1,130	\$1,000	-\$130
Life Pensions	\$72,776	\$81,451	\$8,675
Voc Rehab/Non-transferable Education Voucher *	\$32,041	\$32,282	\$241
Total	\$2,823,018	\$3,004,114	\$181,096

Paid by Self-Insured Employers and the State**

Indemnity Benefits (Thousand \$)	2010	2011	Change
Temporary Disability	\$703,452	\$733,880	\$30,428
Permanent Total Disability	\$58,054	\$61,166	\$3,112
Permanent Partial Disability	\$563,538	\$618,993	\$55,455
Death	\$33,492	\$30,653	-\$2,840
Funeral Expenses	\$565	\$500	-\$65
Life Pensions	\$36,388	\$40,726	\$4,338
Voc Rehab/Non-transferable Education Voucher	\$16,021	\$16,141	\$120
Total	\$1,411,509	\$1,502,057	\$90,547

* Single Sum Settlement and Other Indemnity payments have been allocated to the benefit categories.

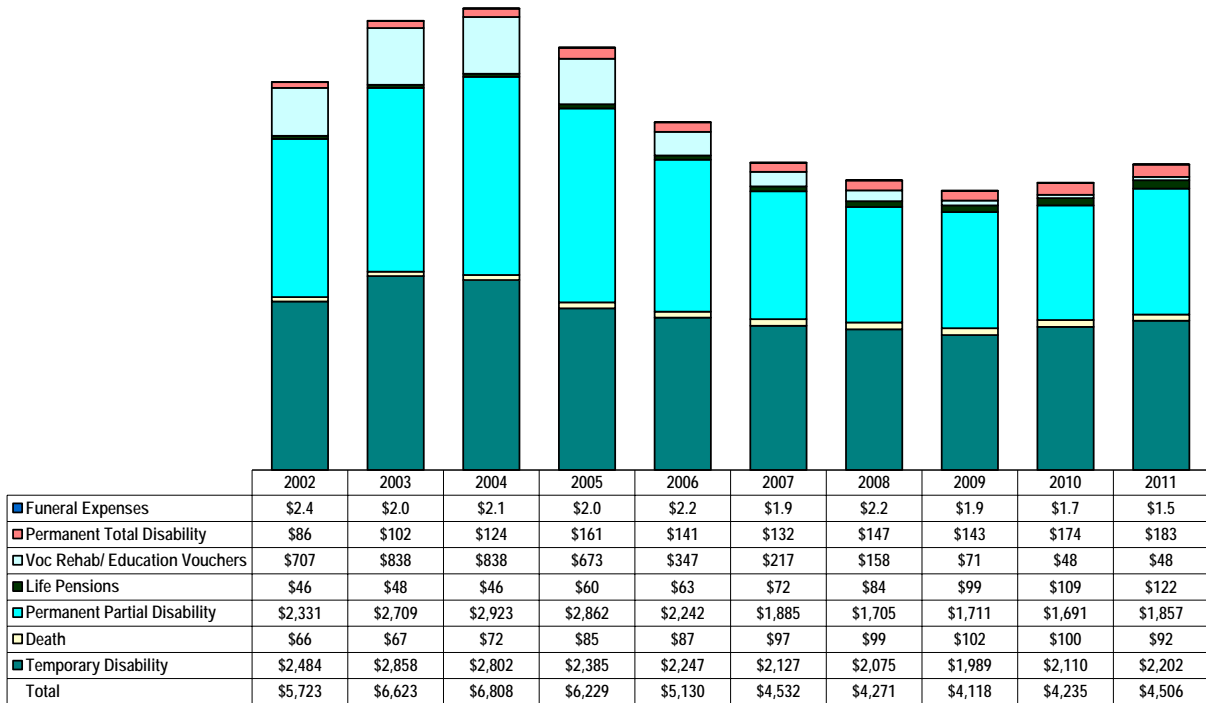
** Figures estimated based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 34 percent of all California workers' compensation claims.

SYSTEM COSTS AND BENEFITS OVERVIEW

Trends in Paid Indemnity Benefits

The estimated systemwide paid indemnity benefits for the past several years are displayed in the figure below. After the reforms of 2003 and 2004, paid indemnity benefits dropped to below the 2001 levels. The permanent partial disability that peaked in 2004 saw one of the biggest declines after the reforms. The TD benefits were steadily declining from 2005 to 2009 despite the TD benefit increases of AB 749 and the impact of the two-year limit not taking effect until April 2006. From 2009 to 2011, the TD benefits increased 11 percent.

Figure 19: Workers' Compensation Paid Indemnity Benefit by Type Systemwide Estimated Costs (Million \$)



Data Source: WCIRB
Calculations: CHSWC

Supplemental Job Displacement Benefits Costs

The reforms of 2003 eliminated vocational rehabilitation (VR) for injuries arising on or after January 1, 2004, and replaced it with a supplemental job displacement benefit (SJDB). The VR statutes were repealed entirely effective January 1, 2009. Consequently, the expenditures for VR decreased rapidly as the remaining pre-2004 cases ran off. SJDB expenditures took their place, but at a much lower level.

Supplemental Job Displacement Benefit Vouchers

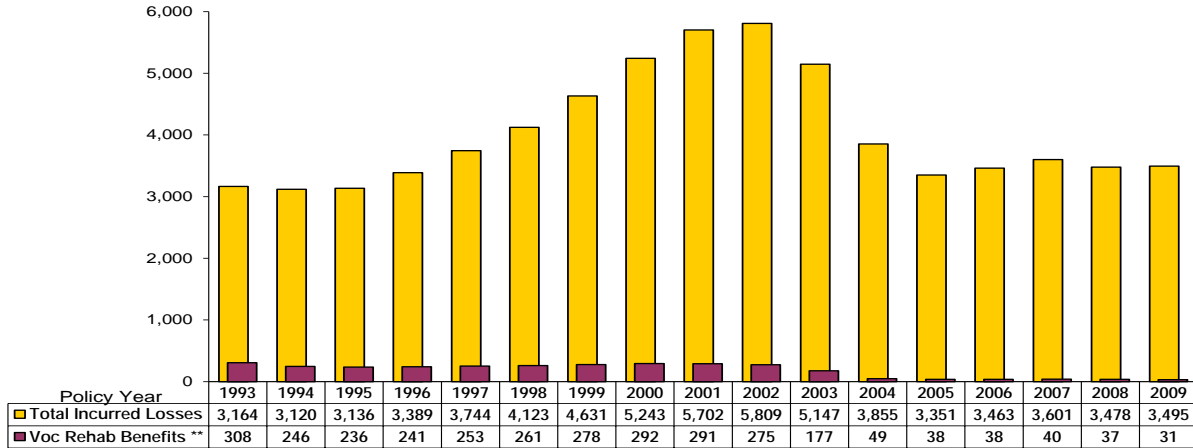
AB 227 (Vargas, 2003) created a system of non-transferable educational vouchers effective for injuries occurring on or after January 1, 2004. WCIRB's estimate of the cost of educational vouchers is based on information compiled from the most current WCIRB Permanent Disability Claim Survey. In total, 18.3 percent of accident year 2004 PD claims involved educational vouchers, and the average cost of the educational vouchers was approximately \$5,900. For the 2005 accident year at first survey level, 20.7 percent of sampled PD claims were reported as involving educational vouchers with an estimated average cost of approximately \$5,600. SB 863 (De León 2012) revises the SJDB for injuries occurring on or after January 1, 2013, while preserving the concept of a voucher for education or training for an injured workers who does not have an opportunity to return to work for the at-injury employer.

SYSTEM COSTS AND BENEFITS OVERVIEW

Vocational Rehabilitation and Supplemental Job Displacement Benefit Vouchers Incurred Costs

AB 227, enacted in 2003, in combination with clean-up language in SB 899 enacted in 2004, repealed the workers' compensation VR benefit for dates of injury on or after January 1, 2004. VR benefits were available only to eligible workers who were injured before 2004 and were available only through December 31, 2008. VR is essentially over, although some litigation continues over the wind-up of VR under particular circumstances. The figure below presents the most recent data available through 2009 on VR costs including SJDB vouchers (non-transferable educational vouchers) beginning from policy year 2003.

Figure 20: Vocational Rehabilitation Benefits and SJDB Vouchers Costs Compared with Total Incurred Losses, WCIRB 1st Report Level (Million \$)

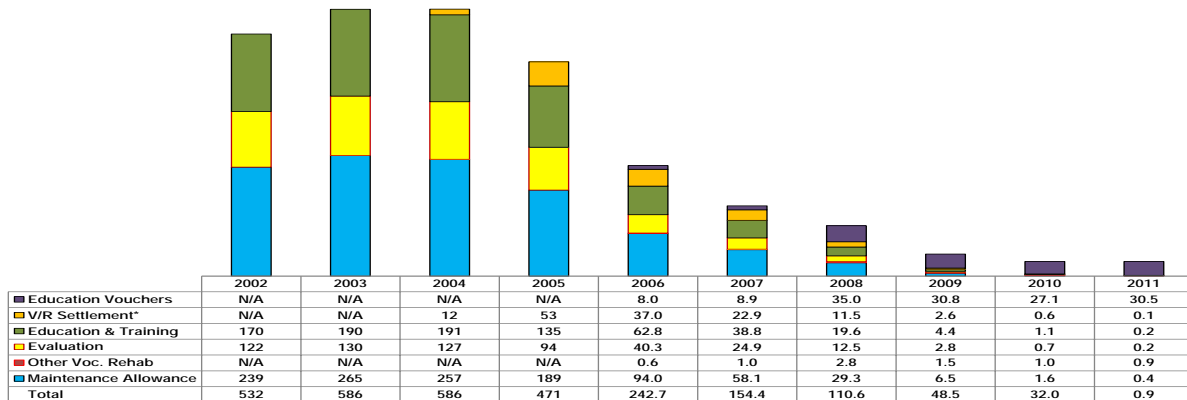


* The Vocational Rehabilitation statutes are repealed entirely effective January 1, 2009, and replaced with Supplemental Job Displacement Benefits.
 ** Policy year 2003 "vocational rehabilitation benefits" contain a mix of vocational rehabilitation costs and non-transferable educational voucher costs. Policy year 2004 and later "vocational rehabilitation benefits" contain mainly non-transferable educational voucher costs.

Data Source: WCIRB

The following figure shows the amounts paid for each component of the VR benefit including newly introduced VR settlement and SJDB vouchers for the period from 2002 through 2011.

Figure 21: Paid Vocational Rehabilitation Benefits and SJDB Vouchers for Insured Employers (Million \$)



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

Data Source: WCIRB

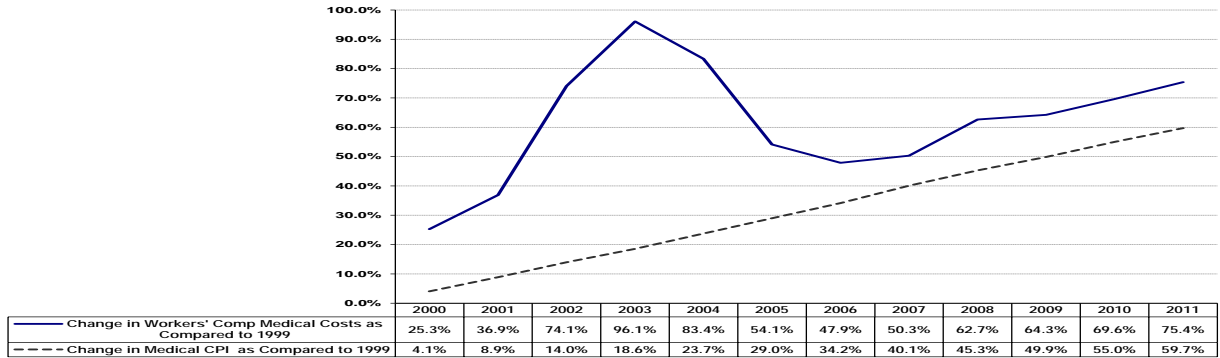
SYSTEM COSTS AND BENEFITS OVERVIEW

Medical Benefits

Workers' Compensation Medical Costs vs. Medical Inflation

The following figure compares the percent growth of California's workers' compensation medical costs paid by insurers and self-insured employers in each consecutive year from 1999 with the percent growth of the medical component of the Consumer Price Index (CPI) in each consecutive year from 1999. The medical component of the CPI is also known as the "Medical CPI," an economic term used to describe price increases in health care services.

Figure 22: Growth of Workers' Compensation Medical Costs Compared to Growth of Medical Inflation Since 1999



Data Source: WCIRB; Bureau of Labor Statistics

SYSTEM COSTS AND BENEFITS OVERVIEW

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

WCIRB provided data for the cost of medical benefits paid by insured employers. Assuming that insured employers comprise approximately 66 percent of total California workers' compensation claims, estimated medical benefits are shown on the following table for the total system, insured employers, self-insured employers, and the State of California.

Table 7: Systemwide Estimated Costs - Medical Benefits Paid

Medical Benefits (Thousand \$)	2010	2011	Change
Physicians	\$2,259,095	\$2,285,487	\$26,392
Capitated Medical	\$7,862	\$22,871	\$15,009
Hospital	\$1,641,869	\$1,600,554	-\$41,315
Pharmacy	\$541,752	\$554,400	\$12,648
Payments Made Directly to Patient	\$1,229,853	\$1,481,069	\$251,216
Medical-Legal Evaluation	\$253,067	\$261,470	\$8,403
Medical Cost-Containment Programs*	\$519,975	\$466,328	-\$53,648
Total	\$6,453,471	\$6,672,177	\$218,706

Paid by Insured Employers

Medical Benefits (Thousand \$)	2010	2011	Change
Physicians	\$1,506,063	\$1,523,658	\$17,595
Capitated Medical	\$5,241	\$15,247	\$10,006
Hospital	\$1,094,579	\$1,067,036	-\$27,543
Pharmacy	\$361,168	\$369,600	\$8,432
Payments Made Directly to Patient	\$819,902	\$987,379	\$167,477
Medical-Legal Evaluation	\$168,711	\$174,313	\$5,602
Medical Cost-Containment Programs*	\$346,650	\$310,885	-\$35,765
Total	\$4,302,314	\$4,448,118	\$145,804

Paid by Self-Insured Employers**

Medical Benefits (Thousand \$)	2010	2011	Change
Physicians	\$753,032	\$761,829	\$8,797
Capitated Medical	\$2,621	\$7,624	\$5,003
Hospital	\$547,290	\$533,518	-\$13,772
Pharmacy	\$180,584	\$184,800	\$4,216
Payments Made Directly to Patient	\$409,951	\$493,690	\$83,739
Medical-Legal Evaluation	\$84,356	\$87,157	\$2,801
Medical Cost-Containment Programs*	\$173,325	\$155,443	-\$17,883
Total	\$2,151,157	\$2,224,059	\$72,902

* Figures for medical cost-containment programs are based on a sample of insurers who reported medical cost containment expenses to WCIRB. The medical cost containment program costs reflected in this table only include the costs reported as medical loss

** Figures estimated are based on insured employers' costs. Self-insured employers and the State of California are estimated to comprise 34 percent of all California workers' compensation claims.

SYSTEM COSTS AND BENEFITS OVERVIEW

Trends in Paid Medical Benefits

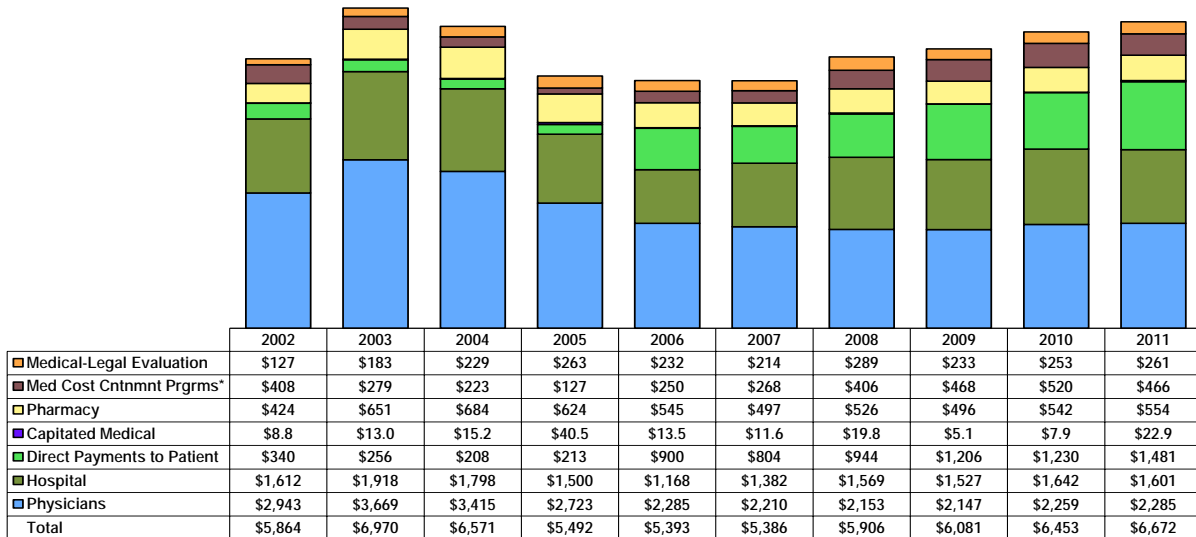
The estimated systemwide paid medical costs for the past several years are displayed in the figure below. The following trends may result from the impact of recent workers' compensation reforms and economic recession.

The figure below indicates that the payments in 2011 for hospitals, physicians, and pharmacies remained below pre-reform levels, while cost-containment program costs and direct payment to patients increased greatly.

The cost of the total medical benefit increased by 19 percent from 2002 to 2003, decreased by 23 percent from 2003 to 2007, and then increased again by 24 percent from 2007 to 2011. Payments to physicians increased by almost 25 percent from 2002 to 2003, dropped by 42 percent from 2003 to 2009, and then increased 6.5 percent from 2009 to 2011. Pharmacy costs increased by 61 percent from 2002 through 2004, declined by 20 percent from 2004 to 2006, and then showed a slight overall increase of 2 percent from 2006 to 2011. Hospital costs increased by 19 percent from 2002 to 2003, declined by 39 percent from 2003 to 2006, and then increased overall by 37 percent from 2006 to 2011. Direct payments to patients averaged \$254 million from 2002 to 2005, increased sharply 4 times from 2005 to 2006, and then increased again by 65 percent from 2006 to 2011. Expenditures on medical cost-containment programs in 2005 were less than a third of what they were in 2002, increased 4 times from 2005 to 2010, and then decreased by 10 percent from 2010 to 2011.¹¹ Medical-legal evaluation costs more than doubled overall between 2002 and 2008, decreased by 10 percent from 2008 to 2009, and then increased by 12 percent from 2009 to 2011.

The apparent increases in the medical payments made to injured workers and medical cost containment programs were in part the result of availability of more detailed reporting of payments into specific recipient/payee categories.

Figure 23: Workers' Compensation Paid Medical Benefits by Type Systemwide Estimated Costs (Million \$)



* The calendar year 2010 Medical Cost Containment Program (MCCP) costs reflected in this chart only include the costs reported as medical loss (\$347 million). The total cost of MCCP for insured employers in 2010, including that reported as allocated loss adjustment expense, was \$354 million for insured employers. The portion of MCCP reported as medical loss was multiplied by 1.5 to extrapolate to systemwide costs.

Source: WCIRB
Calculations: CHSWC

¹¹ Medical cost-containment program costs on claims covered by policies incepting prior to July 1, 2010, are considered medical loss, and those covered by policies incepting July 1, 2010, and beyond are considered allocated loss adjustment expenses.

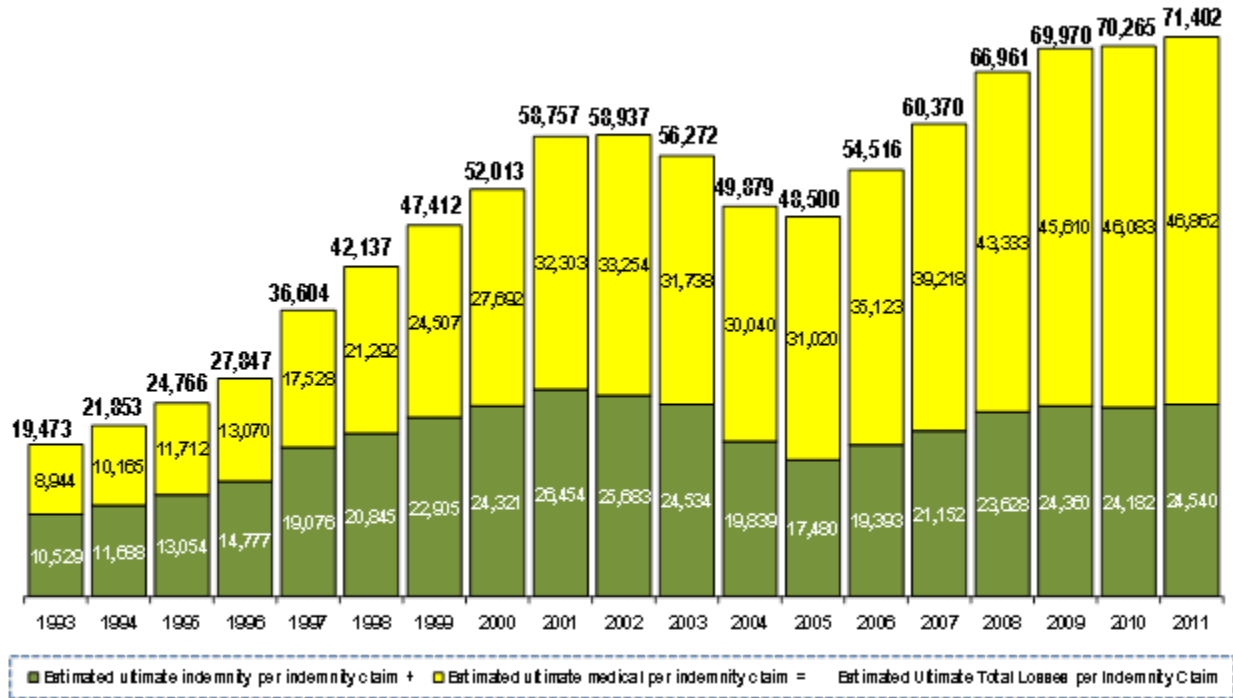
SYSTEM COSTS AND BENEFITS OVERVIEW

Average Claim Costs

At the same time that premiums and claim frequency were declining, the total amount insurers paid on indemnity claims jumped sharply.

The total average cost of indemnity claims tripled from 1993 to 2002, then decreased by 18 percent from 2002 to 2005, reflecting the impact of AB 227, SB 228 and SB 899. However, the total indemnity and medical average costs per claim increased by 47 percent between 2005 and 2011.

Figure 24: Estimated Ultimate Total Loss* per Indemnity Claim as of June 30, 2012



* Excludes medical-only

Source: WCIRB Summary of June 30, 2012 Insurer Experience Report, issued October 8, 2012, Exhibits 8.1-8.3

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

SYSTEM COSTS AND BENEFITS OVERVIEW

Average Cost per Claim by Type of Injury

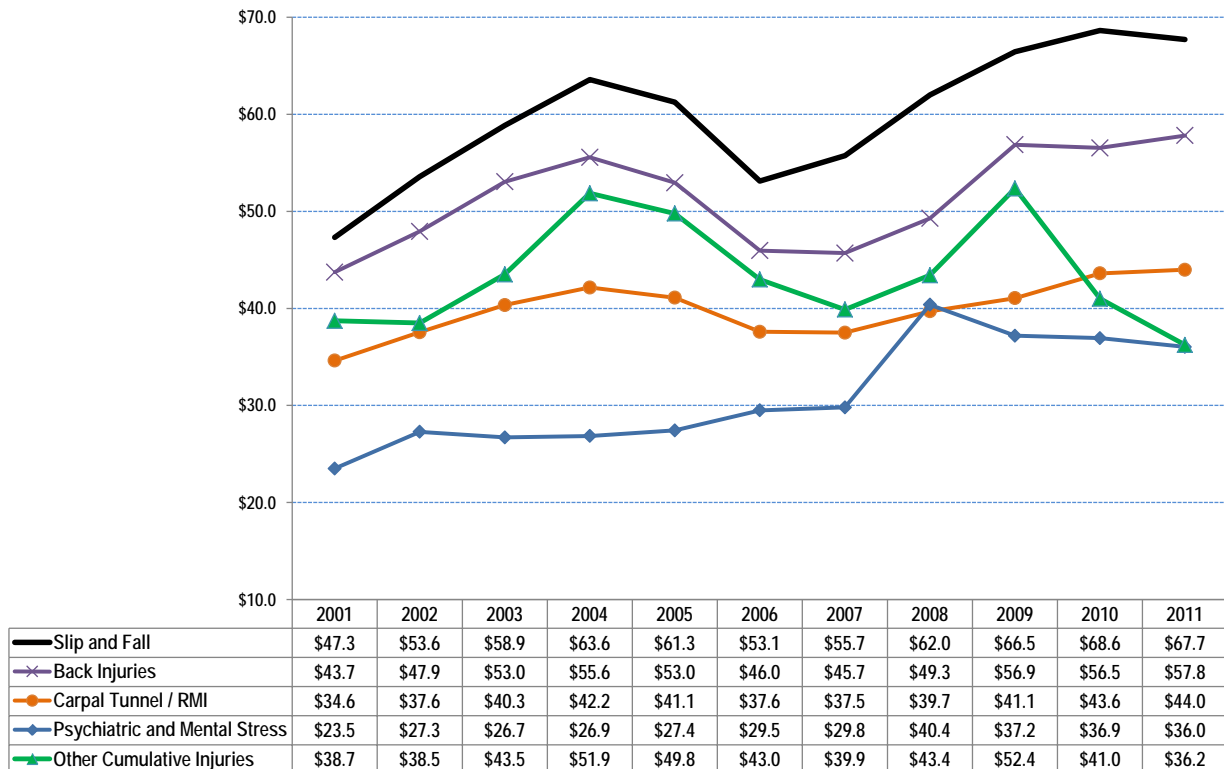
As shown in the following figure, from 2001 to 2004, there was an increase in average costs of all types of injuries. The average cost of slip and fall and other cumulative injuries increased by 34 percent and the average cost of back injuries increased by 27 percent, followed by a 22 percent increase in the average cost of carpal tunnel/repetitive motion injuries (RMI) and a 14 percent increase in the average cost of psychiatric and mental stress illnesses.

From 2004 to 2007, the average costs declined for all of the types of injuries shown below, with the exception of psychiatric and mental stress. The average cost of other cumulative injuries decreased by 23 percent, and the average cost of back injuries decreased by almost 18 percent, followed by a 11 percent decrease in the average cost of carpal tunnel/RMI injuries. The average cost of slip and fall injuries decreased one year earlier by 16.5 percent from 2004 to 2006.

From 2007 and 2011, the average cost of back injuries increased by 26.5 percent and the average cost of carpal tunnel (RMI) increased by 17 percent. The average cost of slip and fall injuries increased by 29 percent from 2006 to 2010 and then fell slightly from 2010 to 2011. The average cost of other cumulative injuries increased by 31 percent from 2007 to 2009, and then decreased by 31 percent from 2009 to 2011.

Average costs of psychiatric and mental stress claims increased overall by 72 percent between 2001 and 2008, and then decreased by about 11 percent from 2008 to 2011.

Figure 25: Average Cost per Claim by Type of Injury, 2001-2011 (Thousand \$)



Data Source: WCIRB

SYSTEM COSTS AND BENEFITS OVERVIEW

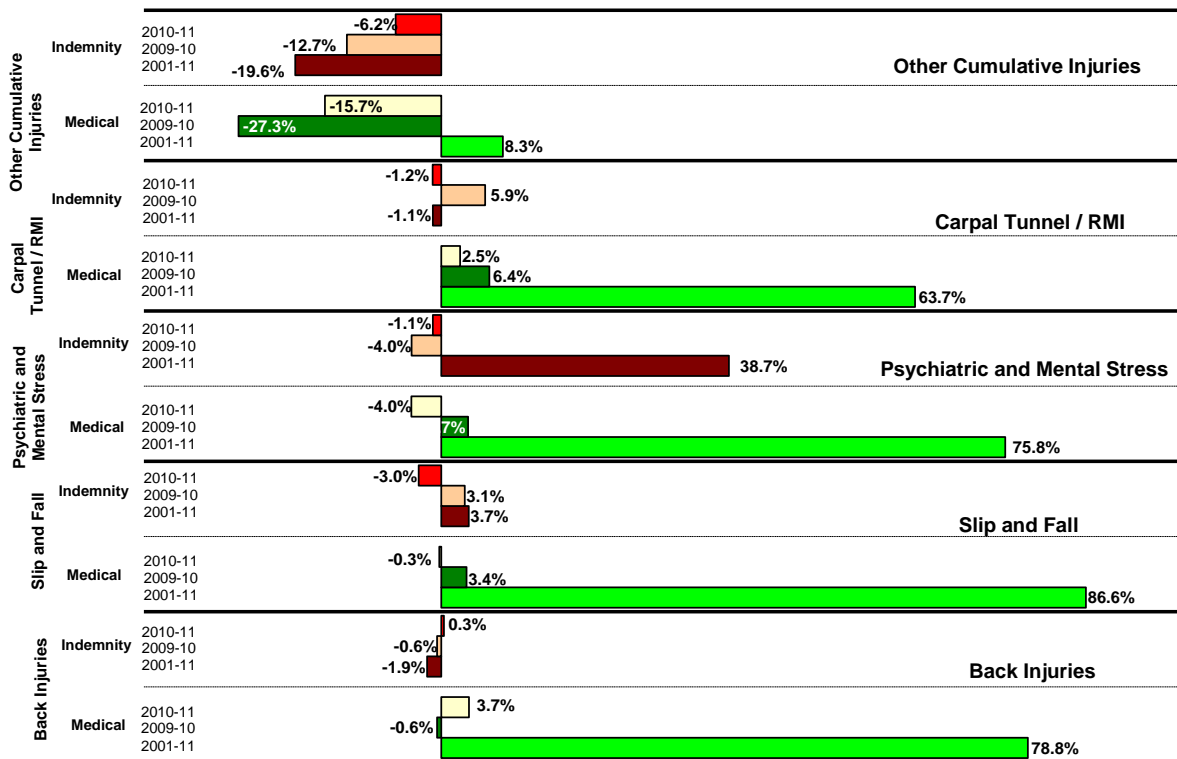
Changes in Average Medical and Indemnity Costs per Claim by Type of Injury

The figure below illustrates the impact of the reforms on selected types of injury. The long-term trend from 2001 to 2011 shows increases in medical costs for all these types of injury. The same trend for indemnity costs shows almost 20 percent decrease for other cumulative injuries, slight decreases for back injuries and carpal tunnel/RMI injuries and increases for the psychiatric and mental stress and slips and falls injuries.

From 2009 to 2010, medical costs increased for carpal tunnel/RMI, psychiatric and mental stress, and slips and falls injuries. In the same period, there was a 27 percent decrease in average medical cost of claim for other cumulative injuries and slight decrease for back injuries. In the same year, indemnity costs showed increases for carpal tunnel/RMI and slips and falls injuries. Average medical costs of other cumulative injuries, psychiatric and mental stress, and back injuries decreased from 2009 to 2010.

From 2010 to 2011, medical costs increased for back and carpal tunnel/RMI injuries. In the same year, medical costs decreased 16 percent for other cumulative injuries, 4 percent for psychiatric and mental stress, and 0.3 percent for slip and fall injuries. From 2010 to 2011, indemnity costs increased slightly for back injuries and decreased 6 percent for other cumulative injuries, followed by 3 percent decrease in average cost of claim for slip and fall, 1 percent for carpal tunnel/RMI, and 1 percent for psychiatric and mental stress injuries.

Figure 26: Percent Change in Average Medical and Indemnity Costs per Claim by Type of Injury (From 2001 through 2011, from 2009 to 2010, and from 2010 to 2011)



Data Source: WCIRB

SYSTEM COSTS AND BENEFITS OVERVIEW

Medical-Legal Expenses

Changes to the medical-legal process over the years have been intended to reduce both the cost and the frequency of litigation. Starting in 1989, legislative reforms restricted the number of medical-legal evaluations needed to determine the extent of permanent disability (PD). The qualified medical evaluator (QME) designation was intended to improve the quality of medical evaluations in cases where the parties did not select an agreed medical evaluator (AME). Legislation in 1993 attempted to limit workers' compensation judges to approving the PD rating proposed by one side or the other (Labor Code Section 4065, known as "baseball arbitration"). In addition, the 1993 legislation established a presumption in favor of the evaluation by the treating physician (Labor Code Section 4602.9), which was expected to reduce litigation and reduce costs.

In 1995, CHSWC contracted with University of California (UC), Berkeley to assess the impact of workers' compensation reform legislation on the workers' compensation medical-legal evaluation process.

This ongoing study has determined that during the 1990s, the cost of medical-legal evaluations dramatically improved. As shown in the following discussion, this was due to reductions in all the factors that contribute to the total cost. However, baseball arbitration proved to be impractical, and the treating physician's presumption turned out to cost more than it saved. AB 749, enacted in 2002, repealed baseball arbitration and partially repealed the primary treating physician's presumption, except when the worker had pre-designated a personal physician or personal chiropractor for injuries occurring on or after January 1, 2003. This partial repeal was carried further by SB 228 enacted in 2003 to all dates of injury, except in cases where the employee has pre-designated a personal doctor or chiropractor. Finally, in 2004, SB 899 completely repealed the primary treating physician's presumption.

The reforms of SB 899 also changed the medical dispute resolution process in the workers' compensation system by eliminating the practice of each attorney obtaining a QME of his or her own choice. The new provisions required that the dispute resolution process through an AME or a single QME applies to all disputes including compensability of claim and PD evaluation.

In cases where attorneys do not agree on an AME, SB 899 limits the attorneys to one QME jointly selected by process of elimination from a state-assigned panel of three evaluators. In cases without attorneys, the injured worker selects the QME from the state-assigned panel, similar to the process established since 1989 for non-attorney cases.

After a significant decrease of medical-legal expenses starting in 1989 when legislative reforms restricted the number and lowered the cost of medical-legal evaluations, there was again a significant increase in average medical-legal costs beginning in the 2000 accident year. In 2009, the average cost of medical-legal evaluations was \$1,591, or more than double from the 2000 accident year, reaching the highest level since 1989. In the workers' compensation system, the medical-legal cost is reported as a component of medical cost and comprises from 2 to 5 percent of the paid medical cost. A decline in medical costs shortly after passage of major reform measures in 2003 and 2004, followed by an increase starting in 2006, raised the question of how much of the changes in medical costs was attributable to changes in medical-legal costs. The table below shows the share of medical-legal costs in workers' compensation medical costs paid from 2000 to 2011.

Table 8: Percent of Medical-Legal Evaluation Costs in Total Medical Costs

Calendar Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Percent of Medical-Legal Evaluation Costs in Total Medical Costs	3.6	3.0	2.2	2.6	3.5	4.8	4.3	4.8	4.9	3.8	3.9	3.9

Source: WCIRB Losses and Expenses Report, Exhibit 1.4

SYSTEM COSTS AND BENEFITS OVERVIEW

Increases in both the number and cost of medical-legal evaluations are expected to result from two recent California Workers' Compensation Appeals Board *en banc* decisions (described elsewhere in this Annual Report). The *Almaraz/Guzman* and *Ogilvie* decisions may require more reports and more complex reports for the assessment of permanent impairment and disability, and as result, an increase in litigation and medical-legal costs.

Throughout the discussion of the cost of medical-legal reports, it will be important to remember that the quality of medical-legal reports has an impact on the cost of the system and the timeliness of benefit delivery which may very well overshadow the direct cost of the medical-legal reports.

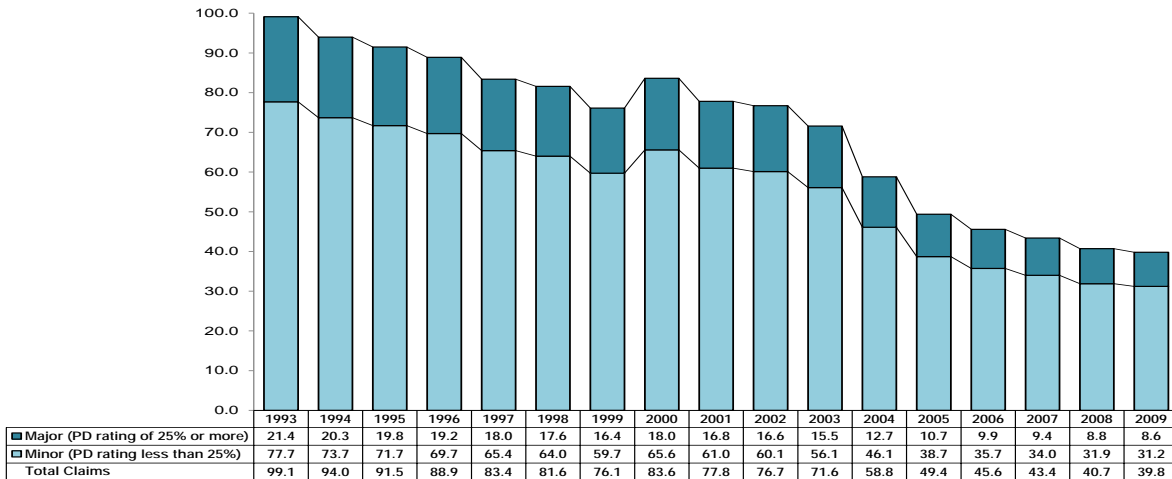
The medical-legal analysis that follows uses data from the WCIRB *Permanent Disability Survey*. Accident year 2009 is the latest year for which sufficiently mature data reports are available.

Permanent Disability Claims

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

The data presented in the medical-legal section of this report are current and based on the latest available data through accident year 2009.

Figure 27: PPD Claims at Insured Employers by Year of Injury (Thousands)



Data Source: WCIRB

Medical-Legal Evaluations per Claim

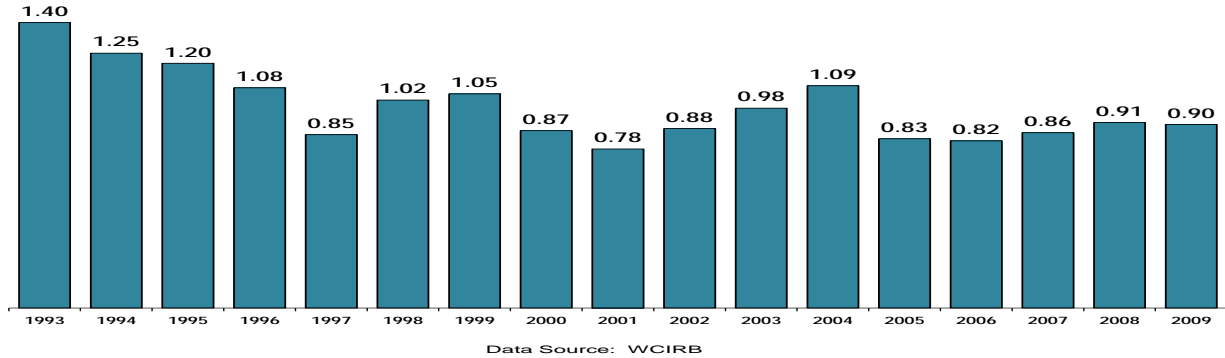
The following figure illustrates that the average number of medical-legal evaluations per claim declined from 1.40 evaluations in 1993 to 0.78 in 2001. This decline of 44 percent is attributed to a series of reforms since 1989 and the impact of efforts against medical mills.

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

SYSTEM COSTS AND BENEFITS OVERVIEW

per claim. SB 899 enacted in 2004 completely repealed the primary treating physician's presumption (Labor Code Section 4062.9).

Figure 28: Number of Medical-Legal Evaluations per Workers' Compensation Claim (At 40 months from the beginning of the accident year)



Between 2001 and 2004, the average number of medical-legal evaluations per claim increased by 29.5 percent. The increase from 2001 to 2004 could be driven by a number of factors that are discussed below. In the 2005 accident year, the average number of medical-legal evaluations per claim decreased by almost 25 percent compared to accident year 2004, and then increased by 10 percent from the 2006 to 2009 accident year. The decrease in average number of evaluations per claim from 2004 to 2006 accident year was likely due to the SB 899 provision requiring a single QME or AME even in represented cases for injuries beginning January 1, 2005.

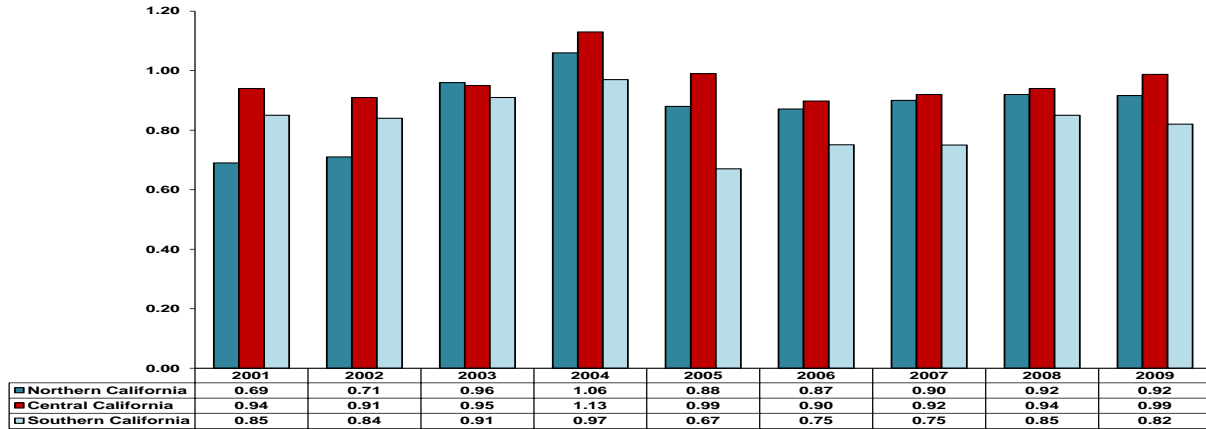
Medical-Legal Reporting by California Region

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

The following figure demonstrates the frequency with which medical-legal evaluations were used between 2001 and 2009 in different regions. From 2001 to 2002, there were slight changes in the average number of medical-legal evaluations per claim in two regions with the highest impact in California - Northern and Southern regions. Between 2002 and 2004, the average number of medical-legal evaluations per claim increased significantly for each region, with 49 percent increase in Northern region, 24 percent increase in Central region, and 15.5 percent increase in Southern region. From 2004 to 2005, the average number of medical-legal evaluations per claim decreased in all three regions with the lowest number of medical-legal evaluations per claim (0.67) in nine years for Southern California. Overall from 2005 to 2009, the average number of evaluations per claim increased 22 percent in Southern California region and 4.5 percent in Northern region.

SYSTEM COSTS AND BENEFITS OVERVIEW

Figure 29: Average Number of Medical-Legal Evaluations per Claim by Region (at 34 months after beginning of accident year)



Data Source: WCIRB

Prior to 2003, the Southern California region had higher numbers for both the average cost per evaluations and the average number of evaluations per claim than the Northern California region. However, starting with 2003, the number of medical-legal evaluations per claim in the Northern California region grew higher than in the Southern California region. The number of medical-legal evaluations per claim in the Central California region was the highest among all three regions in eight out of the nine years.

Different regions of California have different patterns of medical-legal reporting. Also, regions with a higher share of workers' compensation claims in the system have a bigger impact on the average number of medical-legal evaluations per claim and average cost of medical-legal evaluations in the State. As the table below indicates, the Southern California region has the highest number of workers' compensation claims in the system, followed by the Northern California region.

Table 9: Distribution of Medical-Legal Claims by Region¹²

	2004 1st level	2005 1st level	2006 1st level	2007 1st level	2008 1st level	2009 1st level
Southern	58.1%	63.1%	61.8%	63.5%	61.6%	66.2%
Central	16.3%	13.5%	13.6%	12.5%	14.0%	10.7%
Northern	25.7%	23.4%	24.6%	24.0%	24.4%	23.1%

Average Cost per Medical-Legal Evaluation

The average cost of a medical-legal evaluation declined from 1993 to the mid-1990s and then increased from the mid-1990s to 2000 by 15 percent. Between 2000 and 2009, the average cost of a medical-legal evaluation more than doubled.

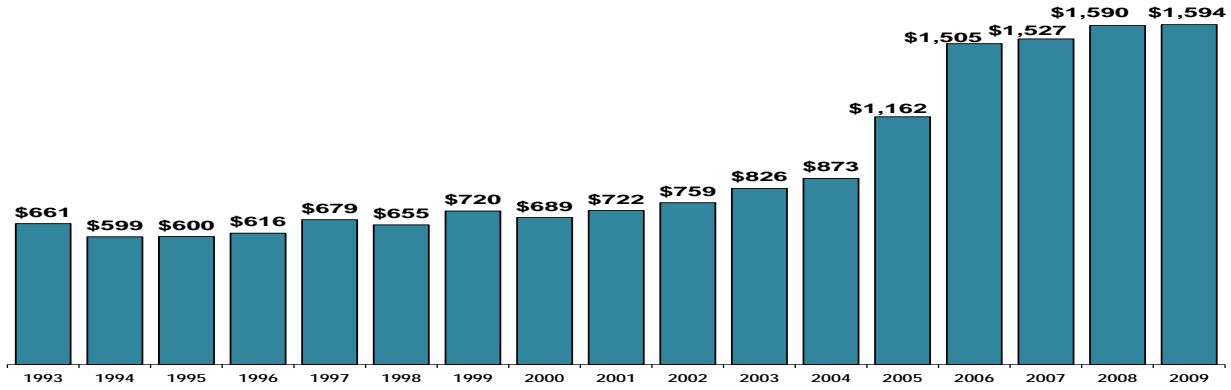
There are two reasons why the average cost per medical-legal evaluation declined from 1992 to 1995. First, substantial changes were made to the structure of the Medical-Legal Fee Schedule that reduced the rates at which medical-legal evaluations are reimbursed. These restrictions were introduced in early 1993

¹² Based on WCIRB's PD Survey 2009 random sample.

SYSTEM COSTS AND BENEFITS OVERVIEW

and enforced at the beginning of August 1993. Second, during this period, the average cost of a medical-legal evaluation was also affected by the frequency of psychiatric evaluations. On average, psychiatric evaluations are the most expensive evaluations by specialty of provider. The relative portion of all evaluations that is made up of psychiatric evaluations has declined since hitting a high during 1990-1991, leading to a substantial improvement in the overall average cost per evaluation.

Figure 30: Average Cost of a Medical-Legal Evaluation (at 40 months from the beginning of the accident year)

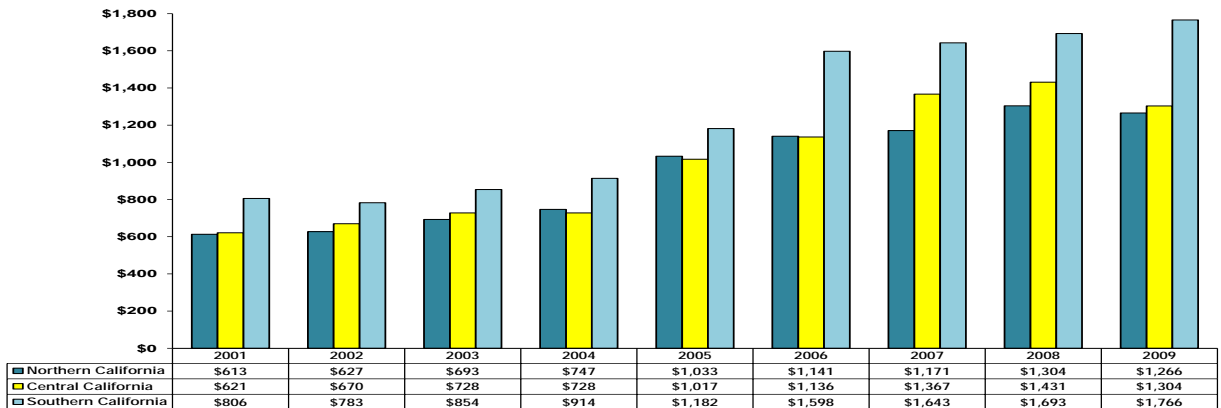


Data Source: WCIRB

In 2009, the average cost of a medical-legal evaluation was the same as in 2008 or increased by 82 percent compared to the 2004 average medical-legal cost per evaluation and stayed at its highest level since 1993.

Since the mid-1990s, the average cost of a medical-legal evaluation has increased, even though the reimbursement under the medical-legal fee schedule did not change from 1993 until 2006.¹³ The revised *PD Survey* by WCIRB includes additional questions that reveal some of the potential causes of this increase in costs. The changes indicate various types of fee schedule classifications as well as geography factors.¹⁴

Figure 31: Average Cost of a Medical-Legal Evaluation by Region (at 34 months from the beginning of accident year)



Data Source: WCIRB

¹³ The new Medical-Legal Fee Schedule became effective for dates of service on or after July 1, 2006.

¹⁴ Issues for injury years before 1997 cannot be examined because the WCIRB survey revision of that year prevents comparisons.

SYSTEM COSTS AND BENEFITS OVERVIEW

The survey data show that, on average, evaluations done in the Southern California region have always been substantially more expensive. Increases in the average cost are being driven by claims in the Southern California region as can be seen from the table below.

Table 10: Regional Contributions to the Increase of the Average Medical-Legal Costs: 2000-2009

Region	Distribution of Medical-Legal Evaluations by Region in 2000	Distribution of Medical-Legal Evaluations by Region in 2009	Change in Average Cost 2000-2009	Contribution of Each Region to the Average Cost
Southern California	58.6%	64.8%	\$1,165	79%
Central California	16.5%	11.1%	\$700	8%
Northern California	24.9%	24.1%	\$520	13%

Cost Drivers

The primary cost driver for California and its Southern region is not the price paid for specific types of evaluations.¹⁵ Rather, the mix of codes under which the evaluations are billed has changed to include a higher percentage of the most complex and expensive evaluations and fewer of the least expensive type.¹⁶ The two tables below show the costs and description from the Medical-Legal Fee Schedule.

Table 11: Medical-Legal Evaluation Cost for Dates of Service Before July 1, 2006¹⁷

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

Table 12: Medical-Legal Evaluation Cost for Dates of Service on or After July 1, 2006¹⁸

Evaluation Type	Amount Presumed Reasonable
ML-101 Follow-up	\$62.50/15 minutes or \$250/hr
ML-102 Basic (flat rate)	\$625
ML-103 Complex (flat rate)	\$937.50
ML-104 Extraordinary	\$62.50/15 minutes or \$250/hr
ML-105 Testimony	\$62.50/15 minutes or \$250/hr
ML-106 Supplemental	\$62.50/15 minutes or \$250/hr

The following three figures indicate that from 1999 to 2007, the distribution of evaluations both in the Southern California and the Northern and Central regions has shifted the statewide distribution of

¹⁵ An additional category "Other than ML-101, ML-102, ML-103, or ML-104" was included by WCIRB in types of evaluations for PD Survey 2007. It was extended to "Other than ML-101, ML-102, ML-103, ML-104, or ML-105" for 2008 and after.

¹⁶ WCIRB also noted that much of the increase in the average cost of a medical-legal evaluation is attributable to increases in a proportion of more complex medical-legal evaluations. Claims Subcommittee meeting minutes for July 28, 2008.

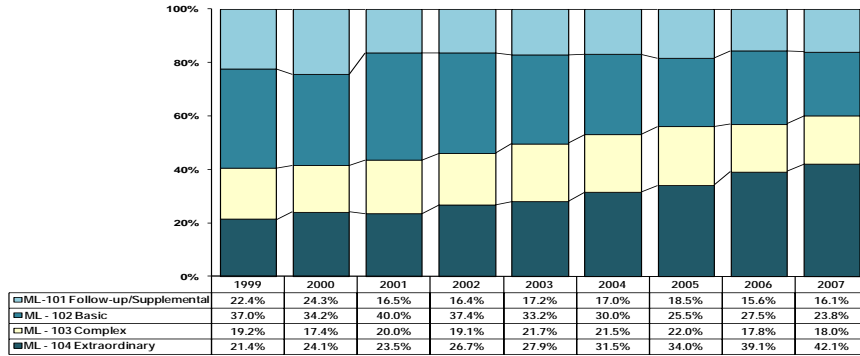
¹⁷ Please note that Agreed Medical Evaluators receive 25 percent more than the rates shown in both of the tables.

¹⁸ Two categories ML-105 and ML-106, created by Title 8 CCR, Sections 9793 & 9795, June, 2006, became applicable to 2008 and later claims. The functions of medical testimony and supplemental evaluations were moved into these two new categories from their previous status.

SYSTEM COSTS AND BENEFITS OVERVIEW

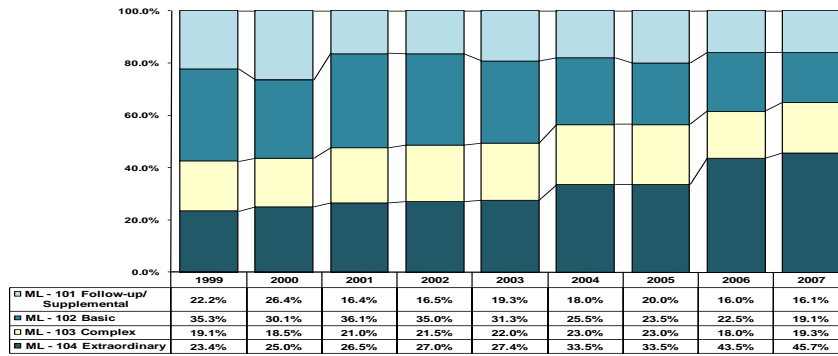
medical-legal evaluations away from ML-101 and ML-102 types to include a higher percentage of ML-104 evaluations with “Extraordinary” complexity.¹⁹

Figure 32: Distribution of Medical-Legal Evaluations by Type (California)



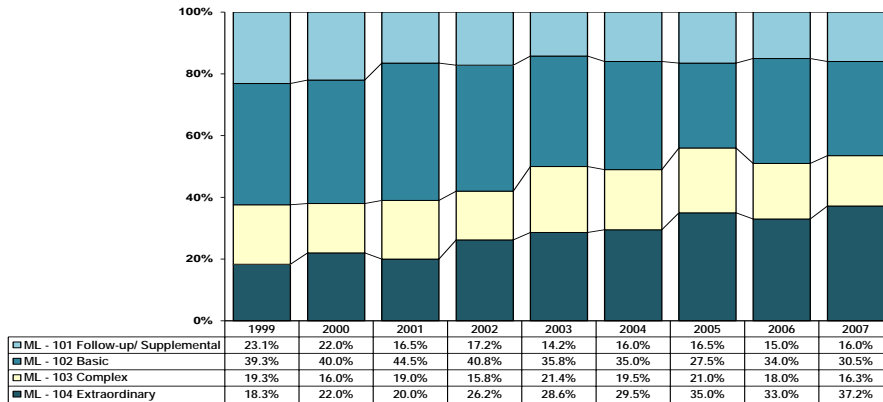
Data Source: WCIRB

Figure 33: Distribution of Medical-Legal Evaluations by Type (Southern California)



Data Source: WCIRB

Figure 34: Distribution of Medical-Legal Evaluations by Type (Northern and Central California)



Data Source: WCIRB

As shown by the figures above, from 1999 to 2007, evaluations with “Extraordinary” complexity doubled from 23.4 percent to 45.7 percent in the Southern California region, more than doubled from 18.3 percent

¹⁹ Category “Other than ML-101, ML-102, ML-103, or ML-104” was excluded for 2007 AY from three figures representing the distribution of medical-legal evaluations by type for comparability purposes. This category comprised 2 percent of medical-legal evaluations in 2007.

SYSTEM COSTS AND BENEFITS OVERVIEW

to 37.2 percent in Northern and Central regions, and as a result of that shift, doubled from 21.4 percent to 42.1 percent statewide. For the same period, the share of medical-legal evaluations billed as ML-102 Basic (the least expensive code) was between 4 percentage points and 11.5 percentage points smaller in the Southern region compared to Northern and Central California.

The distribution of medical-legal evaluations by categories of “fee schedule type” applicable to 2008 and later claims show that on average, one-third of medical-legal evaluations are classified as Extraordinary both in the Northern and Central California and the Southern region of California. In 2009, sixty-three (63) percent of medical-legal evaluations in both Northern/Central California and Southern California regions were billed under the time-based codes such as ML-101, ML-104 or ML-106 that are priced at \$62.50 for every 15 minutes for QMEs or \$78.13 for every 15 minutes for AMEs. Some medical-legal evaluation activities are not separately billable under all medical-legal fee codes. For example, reviewing medical-legal consultation reports could not be separately billed under flat-rated codes as ML-102 or ML-103 as opposed to the way it could be done under time-based codes. This makes billing a medical-legal evaluation under a time-based code more profitable in the majority of evaluations.

Table 13: Distribution of Medical-Legal Evaluations by Type, 2008 and 2009

Types of Evaluation	Amount Presumed Reasonable	California		Southern Region		Northern and Central Regions	
		2008	2009	2008	2009	2008	2009
ML - 101 Follow-up	\$62.50/15 minutes or \$250/hr	10%	9%	11%	11%	8%	7%
ML - 102 Basic	\$625	20%	17%	16%	16%	24%	19%
ML - 103 Complex	\$937.50	15%	13%	15%	14%	15%	12%
ML - 104 Extraordinary	\$62.50/15 minutes or \$250/hr	34%	35%	37%	37%	30%	30%
ML - 105 Testimony	\$62.50/15 minutes or \$250/hr	1%	1%	1%	1%	0%	2%
ML - 106 Supplemental	\$62.50/15 minutes or \$250/hr	13%	17%	11%	14%	17%	24%
Other		7%	7%	9%	7%	5%	6%

Increases to the medical-legal fee schedules for dates of services on or after July 1, 2006, could have also contributed to the higher average cost per evaluation.²⁰ The figure below shows that the average cost per evaluation in each type of evaluation was higher in the 2007 accident year sample compared to the 2002 accident year. The biggest increases were for the Complex and Extraordinary cases.

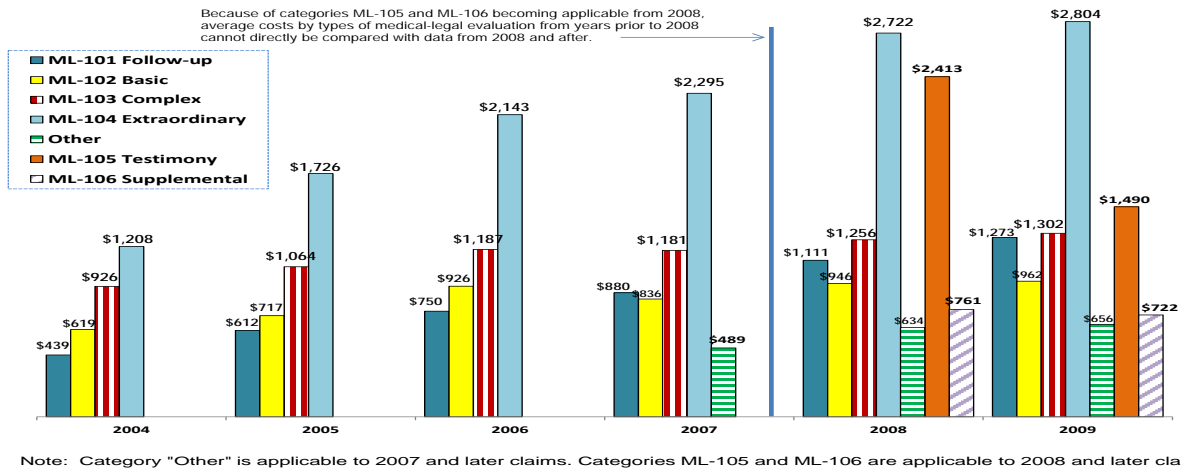
In addition, the medical-legal evaluations in the 2007 accident year had both a higher average cost of Extraordinary evaluations (\$2,295 and \$1,116 respectively) and a higher share of Extraordinary evaluations (42.1 percent and 26.7 percent respectively) than in accident year 2002. In 2007, the pattern of average costs of evaluations changed. From 2002 to 2006, the average cost of a Basic medical-legal evaluation was higher than the average cost of a Follow-Up/Supplemental evaluation. However in 2007, the average cost of a Basic medical-legal evaluation was lower than the average cost of a Follow-up/Supplemental evaluation. The share of medical-legal evaluations billed under Basic code was decreasing from 2001 to 2007 from 40 percent to 23.8 percent.

According to the figure below, the average costs of medical-legal evaluations billed under codes comparable to 2008 and 2009 evaluation codes showed overall a higher level than the average costs in 2007 accident year.

²⁰ According to California Society of Industrial Medicine and Surgery (CSIMS), from July 1, 2006, a revised Medical-Legal Fee Schedule (MLFS) was expected to provide an across-the-board 25 percent increase in physician fees for medical-legal reports. The Bulletin of CSIMS, Spring 2006, Vol.27, No.2

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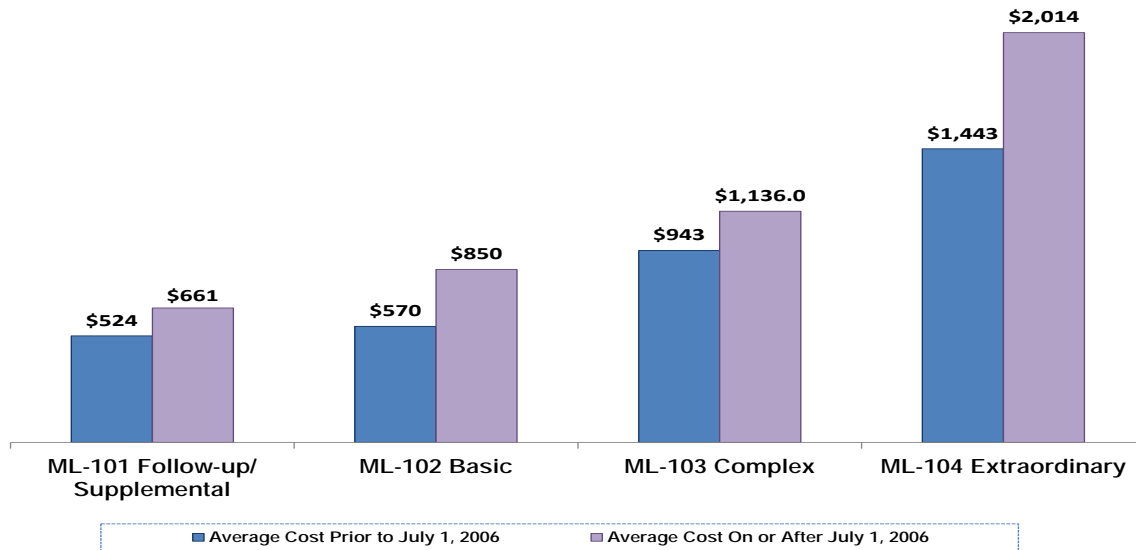
Figure 35: Average Cost of a Medical-Legal Evaluation by Type and Accident Year



Data Source: WCIRB

The figure below shows that the average cost of Extraordinary medical-legal evaluations increased by 40 percent after July 1, 2006, when the new Medical-Legal Fee Schedule became effective.

Figure 36: Average Cost of Medical-Legal Evaluation by Type Before and After the Effective Date of the New Medical-Legal Fee Schedule (Calculations are based on PD Survey 2005 2nd Level)



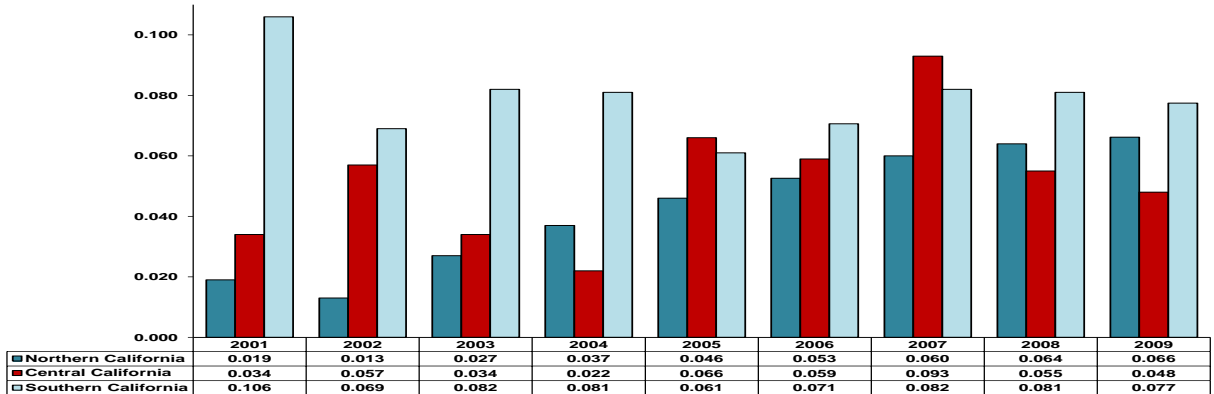
Data Source: WCIRB

Another possible explanation for the differing trends in the average cost per evaluation and the increasing frequency of the most complex evaluations in California could be an increase in both the frequency and number of psychiatric evaluations per claim. There was an increase in psychiatric evaluations from 6.9 percent of total medical-legal evaluations in 2002 PD Survey sample to 9.7 percent in the 2009 sample. The average number of psychiatric evaluations per claim in California increased by 19 percent from 0.062 in 2002 to 0.074 in 2009. Psychiatric evaluations are nearly always billed under the ML-104 code that is the most expensive. The average cost of a psychiatric evaluation more than doubled from \$1,528 in 2002 to \$3,302 in 2009. It was an increase of 6 percent from \$3,125 in 2008. As the figure below shows, the psychiatric evaluations are more common in Southern California and that has the biggest impact on both the frequency and cost of medical-legal evaluations statewide. The frequency of psychiatric evaluations in this Southern region increased from 8.4 percent to 10.5 percent from 2002 to 2009, the average number

SYSTEM COSTS AND BENEFITS OVERVIEW

of psychiatric evaluations per claim increased by 12 percent from 0.069 to 0.077, while the average cost of a psychiatric evaluation more than doubled from \$1,533 to \$3,227 in the same period.

Figure 37: Average Number of Psychiatric Evaluations per PPD Claim by Region



Data Source: WCIRB

According to WCIRB's estimates based on the PD Claim Survey, claims with psychiatric evaluations increased from 6.4 percent of all medical-legal evaluations by physician specialty in 2005 to 13.3 percent in 2011, and the cost of psychiatric evaluations as a percent of the cost of all medical-legal evaluations by physician specialty increased from 13.6 percent in 2005 to 27.2 percent in 2011.

The average cost of a psychiatric medical-legal evaluation was the highest in comparison to average costs of other medical-legal evaluations by physician type, averaging \$3,389 in 2011, or 2.1 times the average cost of all medical-legal evaluations, and showed a 82 percent increase from its 2005 level. According to WCIRB's distribution of total workers' compensation medical costs paid by physician type, payments to psychiatrists increased from 1.4 percent in 2005 to 1.8 percent in 2011.

The recent data on the QME process presented in CHSWC studies in collaboration with UC Berkeley indicate a significant increase in the share of QME panels assigned to psychiatrist/psychologist specialties. The demand for psychiatric specialties as a part of all specialties increased from 6.5 percent in 2005 to 12.7 percent in 2010.

Total Medical-Legal Cost Calculation

Total medical-legal costs are calculated by multiplying the number of permanent partial disability (PPD) claims by the average number of medical-legal evaluations per claim and by the average cost per medical-legal evaluation:

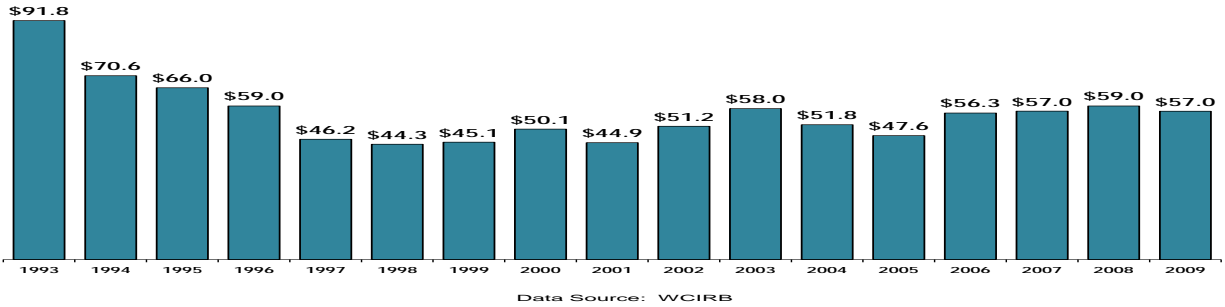
$$\text{Total Medical-Legal Cost} = \text{Number of PPD Claims} \times \text{Average Evaluations/Claim} \times \text{Average Cost/Evaluation}$$

Medical-Legal Costs

During the 1990s, the cost of medical-legal evaluation improved dramatically. For the insured community, the total cost of medical-legal evaluations performed on PPD claims by 40 months after the beginning of the accident year declined from a high of \$223.7 million in 1992 to an estimated \$57.0 million for injuries occurring in 2009, a 74.5 percent decrease from 1992 accident year.

SYSTEM COSTS AND BENEFITS OVERVIEW

Figure 38: Medical-Legal Costs on PPD Claims at Insured Employers (in Million \$, 40 months after beginning of accident year)



Sources of Improvement in Medical-Legal Costs

The changes in total medical-legal cost for insurers reflect changes in all three components of the cost structure. The number of medical-legal examinations per claim dropped sharply after procedural changes enacted in 1989 took effect January 1, 1991. The new procedures for disputes over permanent disability or medical treatment required represented parties to attempt agreement on an AME before selecting their own QMEs, and then it limited the number of QMEs. In the case of an unrepresented worker, an exam could only be obtained from a QME selected from a panel of three QMEs assigned by DWC. These changes cut into the business of “medical mills” which had referred patients back and forth for multiple evaluations when there was no actual dispute. Beginning in 1994, disputes over the compensability of a claim were also brought into the AME/QME model. Furthermore, the first threshold for compensability of psychiatric injuries took effect in 1990. Beginning in 2005, represented cases also became subject to a requirement to select a QME from a panel rather than each party picking its own QME. All of these changes contributed to the reduction in number of examinations per claim. Declining claim frequency also contributed to reducing the total number of medical-legal evaluations. Costs have begun to trend upward again due to rising costs per examination. The complexity of impairment rating under the *AMA Guides*, new rules for apportionment, and the criteria for medical treatment decisions under the Medical Treatment Utilization Schedule are among the reasons cited for rising costs per exam.

The changes in claim frequency, evaluations per claim, and cost per evaluation are all summarized in the following table.

Table 14: Sources of Change in Medical-Legal Costs

	1990	2009	Change 1990-2009
Number of PPD Claims	167,700	39,800	-76.3%
Average Number of Evaluations per PPD Claim	2.53	0.90	-64.4%
Average Cost of Evaluation	\$986	\$1,591	+61.4%

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, 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 graphs.

- Workers' Compensation Appeals Board (WCAB) Workload

 - DWC Opening Documents

 - DWC Hearings

 - DWC Decisions

 - DWC Lien Filings and Decisions

- DWC Audit and Enforcement Program

- Disability Evaluation Unit

- Medical Provider Networks and Healthcare Organizations

- Information and Assistance Unit

- Uninsured Employers Benefits Trust Fund

- Adjudication Simplification Efforts

 - DWC Information System

 - Carve-outs – Alternative Workers' Compensation Systems

- Division of Labor Standards Enforcement (DLSE)

- Anti-Fraud Efforts

WCAB WORKLOAD

Division of Workers' Compensation Opening Documents

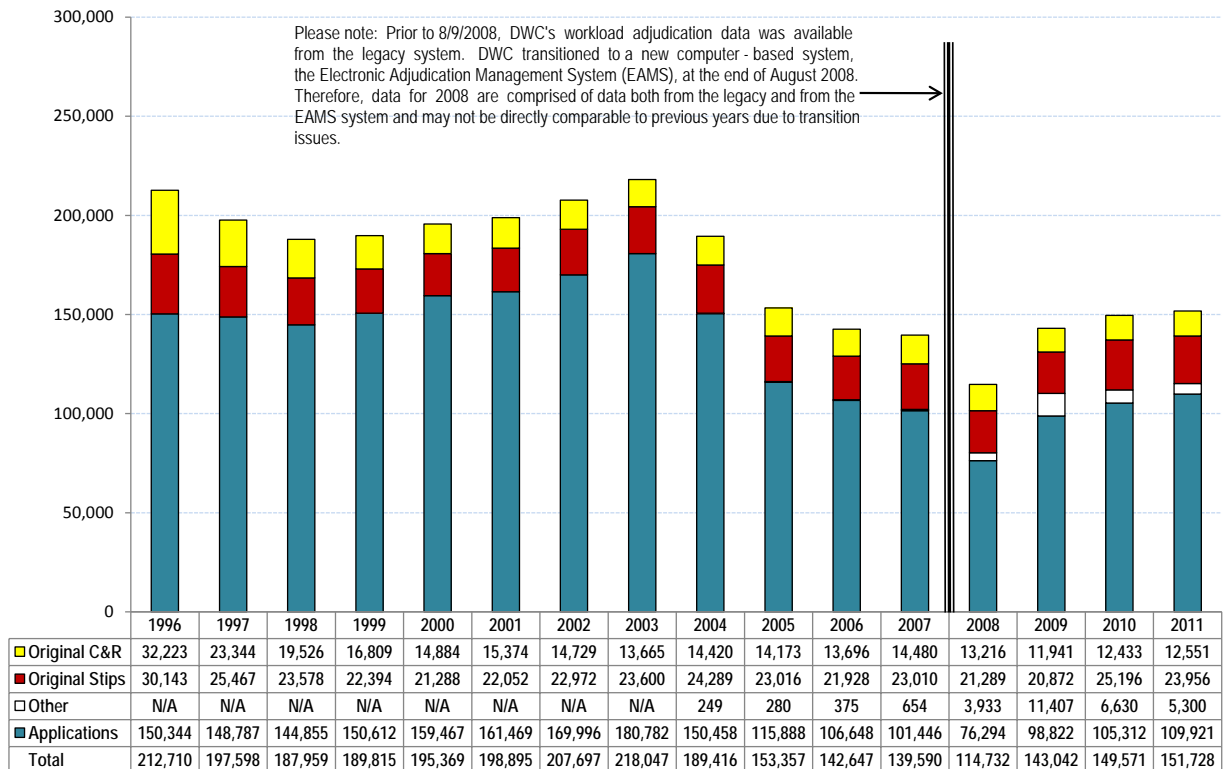
Three types of documents open a Workers' Compensation Appeals Board (WCAB) case. The graph on the next page shows the numbers of Applications for Adjudication of Claim (Applications), Original Compromise and Releases (C&Rs), and Original Stipulations (Stips) received by the Division of Workers' Compensation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

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Prior to August 2008, Division of Workers' Compensation (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 both from the legacy system and from EAMS and may not be directly comparable to previous years because of transition.²¹

As the following graph shows, the total number of Opening Documents declined overall during the second part of the 1990s, with a slight increase from 1998 to 1999. This increase from 1998 to 1999 continued over five years up to 2003 and then decreased by 36.4 percent from 2003 to 2007. The total number of Opening Documents after the transition in 2008 went back to the pre-EAMS level from 2009 to 2011.

Figure 39: DWC Opening Documents



Data Source: DWC

Mix of DWC Opening Documents

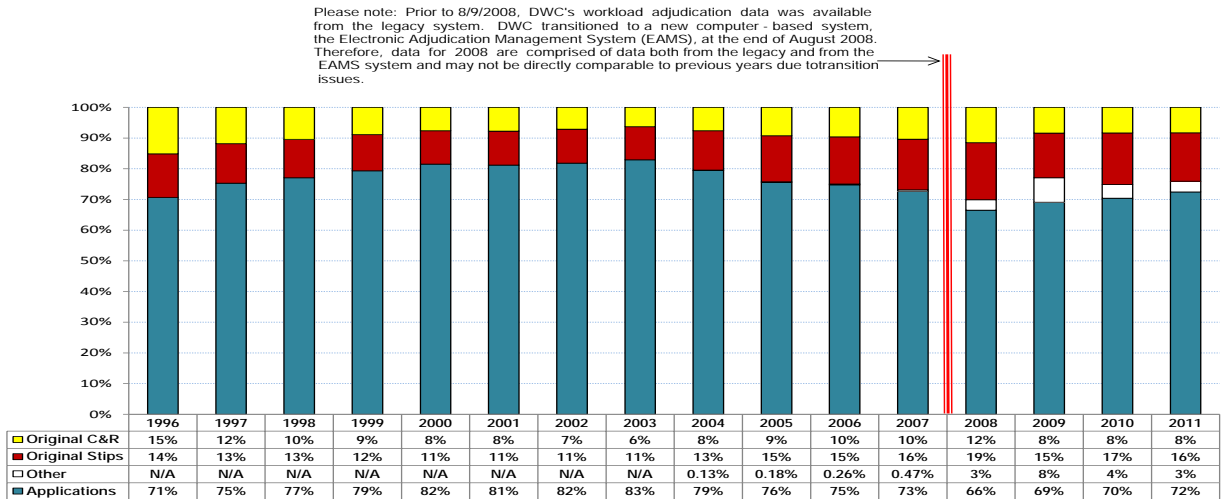
As the graph on the next page shows, the proportion or mix of the types of case-opening documents received by DWC varied during the second half of the 1990s. The proportion of Applications was rising from 1995 through 2003, then declining slightly from 2003 to 2007. The proportion of Original (case-opening) Stips averaged 12 percent from 1995 to 2003 and then increased from 2003 to 2007. The proportion of original C&Rs declined from 1995 to 2003 and then increased from 2003 to 2007. The

²¹ 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.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

distribution of Opening documents by type did not change from the pre-EAMS distribution pattern during the period from 2009 to 2011 after the transition to EAMS, except for adding type "other."

Figure 40: Percentage by Type of Opening Documents



Data Source: DWC

Division of Workers' Compensation Hearings

Numbers of Hearings

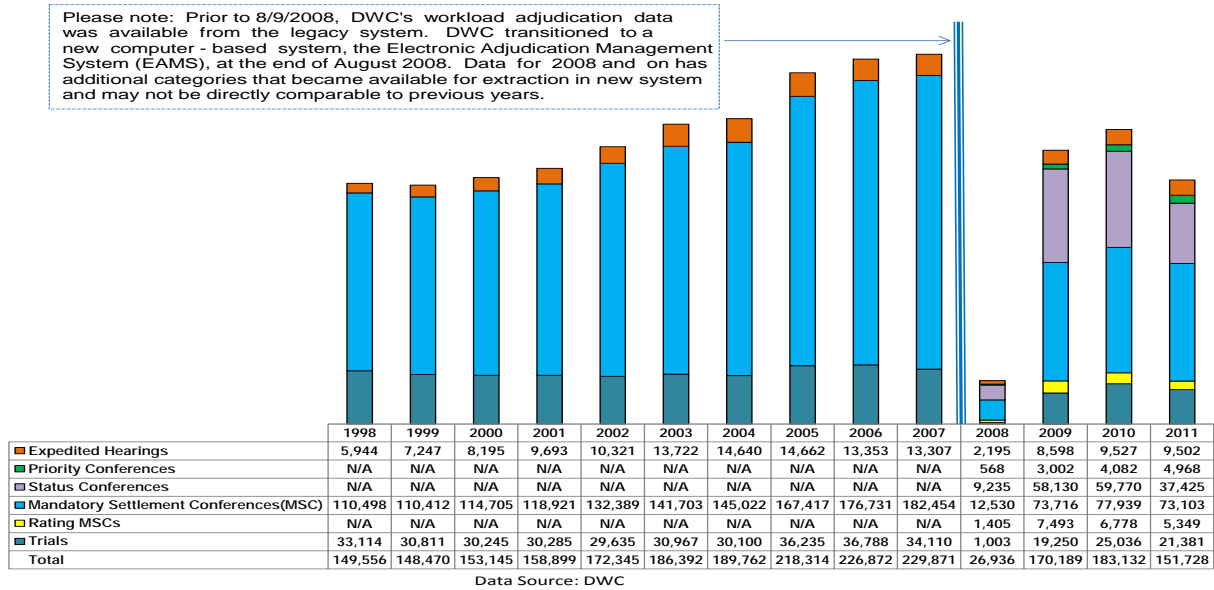
Labor Code Section 5502 hearings are the first hearings only. The hearings covered are expedited hearings, status conferences, priority conferences, mandatory settlement conferences, and trials that follow a mandatory settlement conference (MSC). The timelines are measured from the filing of a Declaration of Readiness to Proceed (DOR) to the hearing. The timeframes 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 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.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

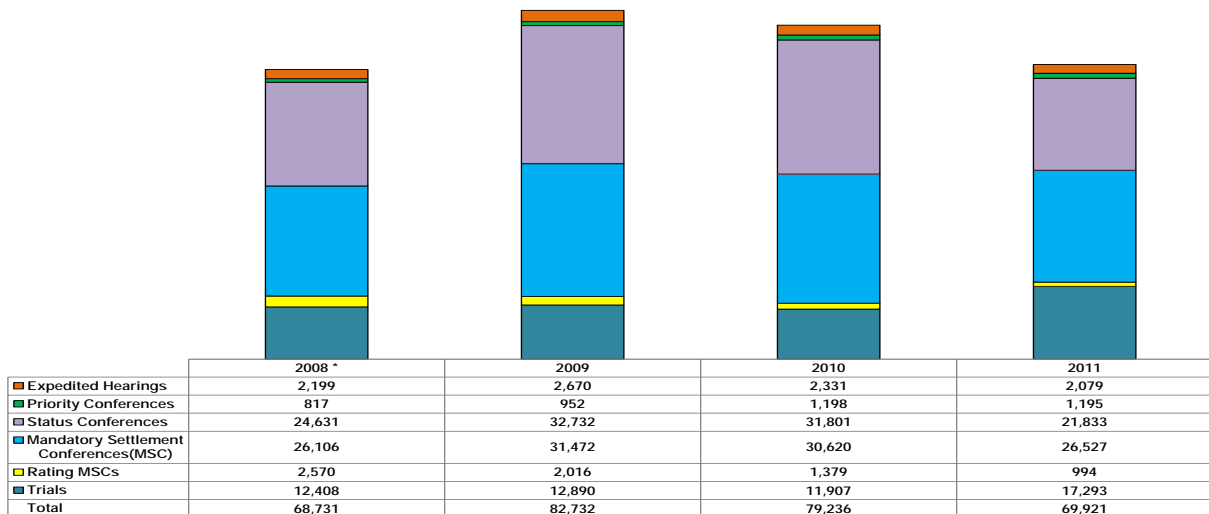
The figure below indicates the numbers of different types of hearings held in DWC from 1998 through 2011. The total number of hearings held increased by 54 percent from 1998 to 2007. After the transition year 2008, the total number of hearings held averaged at 168,000 hearings per year.

Figure 41: DWC Labor Code 5502 Hearings Held



The non-Section 5502 hearings are continuances or additional hearings after the first hearing. The figure below shows non-Section 5502 hearings held from 2008, when DWC transitioned to EAMS, to 2011.

Figure 42: DWC Non-5502 Hearings Held

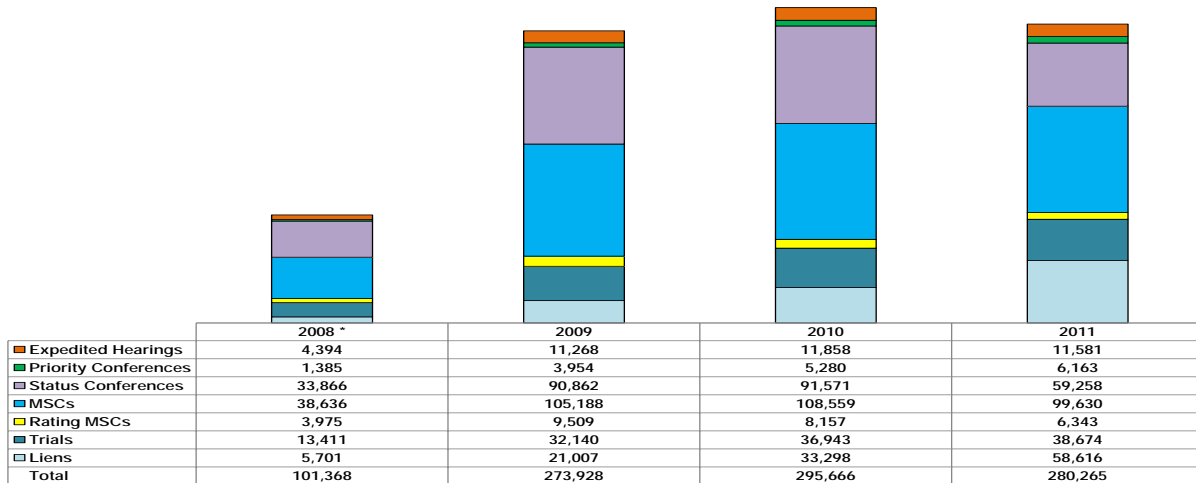


* 2008 CY was a period of transition from legacy system to Electronic Adjudication Management System (EAMS).

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The figure below shows the total hearings held from 2008 to 2011 including Labor Code Section 5502 hearings, non-Section 5502 hearings, and liens.

Figure 43: DWC Total Number (LC 5502 and non-5502) of Hearings Held, including Liens



* 2008 CY was a period of transition from legacy system to Electronic Adjudication Management System (EAMS).

Data Source: DWC

Timeliness of Hearings

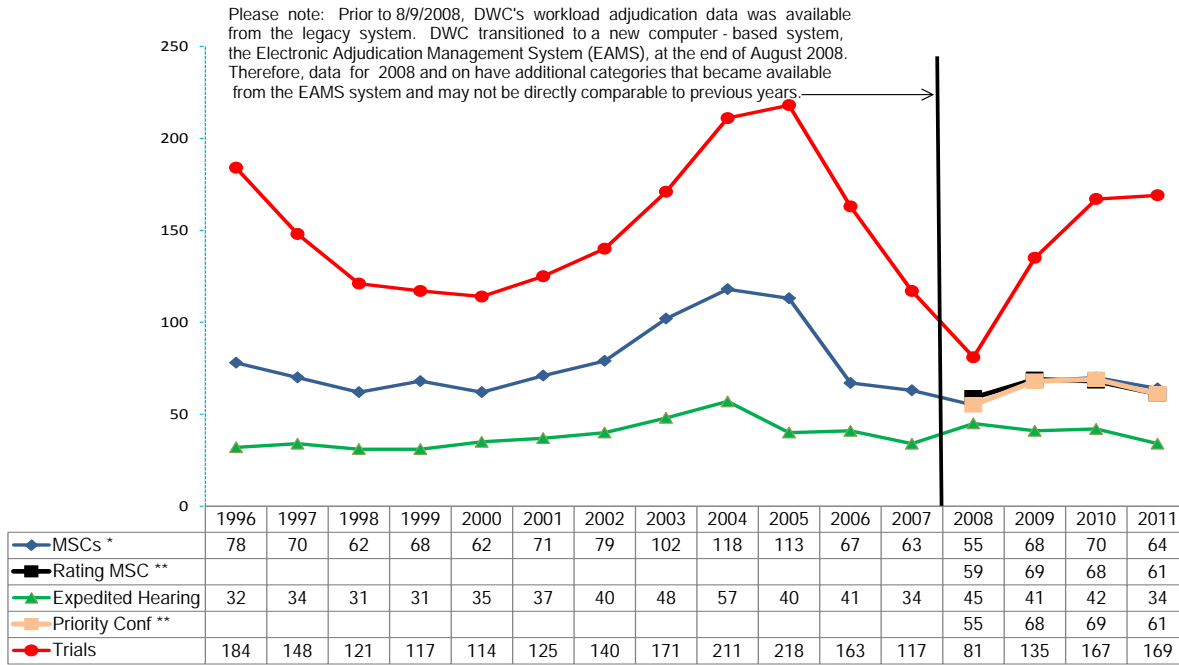
California Labor Code Section 5502 specifies the time limits for various types of hearings conducted by DWC on WCAB cases. In general:

- 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.

As the following figure shows, the average elapsed time from a request to a DWC hearing decreased in the mid-1990s to late-1990s and then remained fairly constant. From 2000 to 2004, all of the average elapsed times have increased from the previous year's quarter and none were within the statutory requirements. However, between 2005 and 2007, the average elapsed time from the request to a trial decreased by 46 percent, the average elapsed time for conferences decreased by 44 percent, and the average time for expedited hearings decreased by 15 percent.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 44: Elapsed Time in Days from Request to DWC Hearing (4th Quarter)



* Mandatory Settlement Conferences.
 ** Data for 1996 to 2007 are unavailable.

Data Source: DWC

From 2008 through 2011, the longer waiting times for regular trials (top line) coincide with the reduction in available court hours due to hiring freezes and furloughs. Governor 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.²² Effective July 1, 2009, the furloughs were increased to three days per month.²³ 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 (green bottom 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. From 2008 on, 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

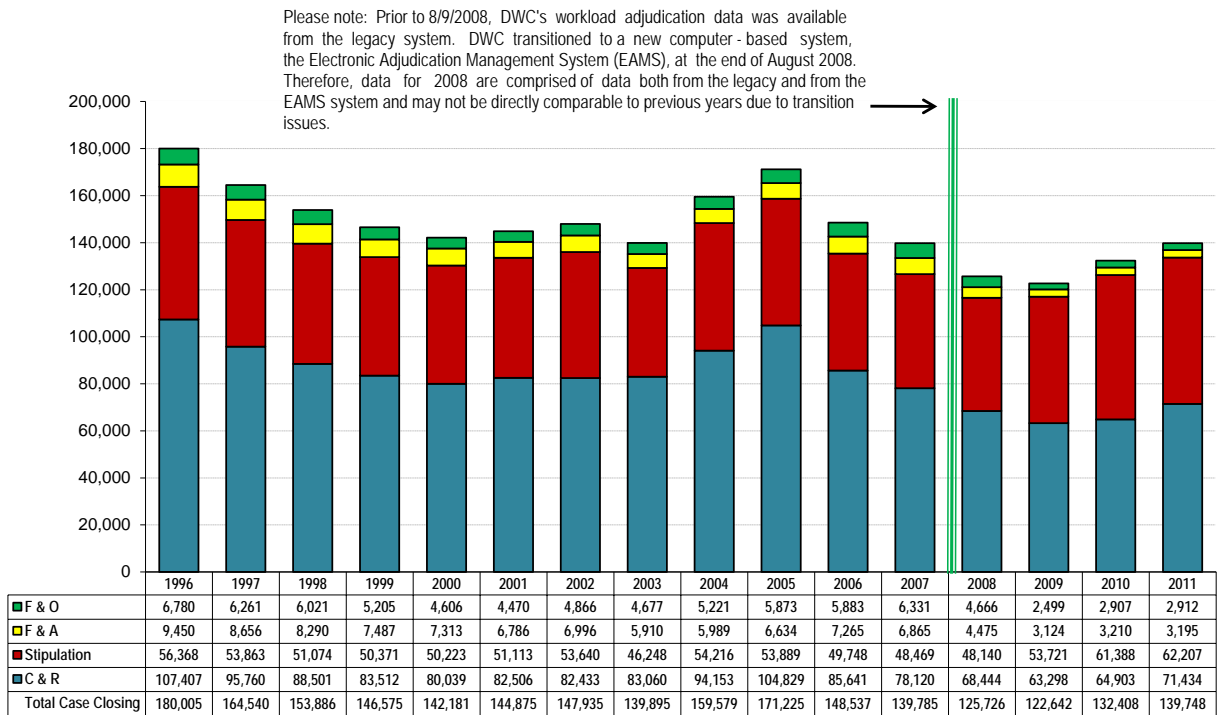
As the figure below shows, the number of decisions made by DWC that are considered to be case-closing declined during the second part of the 1990s, increased overall from 2000 to 2005, and then decreased by 18.4 percent from 2005 to 2007. The total number of case-closing decisions after the transition period to EAMS in 2008 went back to the pre-EAMS level from 2009 to 2011.

²² Executive Order S-16-08

²³ Executive Order S-13-09

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 45: DWC Case-Closing Decisions



Data Source: DWC

Mix of DWC Decisions

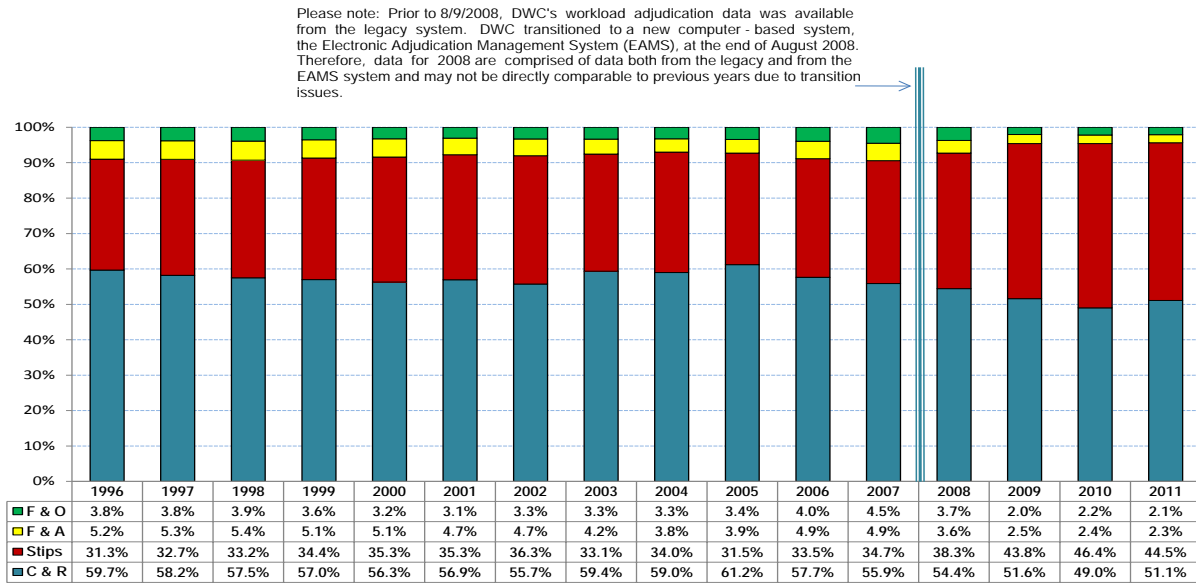
As shown on the previous figures and the figure below, again, the vast majority of the case-closing decisions rendered during the 1990s were in the form of a WCAB judge's approval of Stips and C&Rs which were originally formulated by the case parties.

During the period from 1996 through 2007, there was an overall increase in proportion of Stips and overall decrease in proportion of C&Rs. This reflects the large decrease in the issuance of C&Rs through the 1990s. This pattern of an increasing proportion of Stips and a decreasing proportion of C&Rs continued into the period from 2008 to 2010 with a slight decrease of Stips from 2010 to 2011.

In the figure that follows, only a small percentage of case-closing decisions evolved from a Finding & Award (F&A) or Finding & Order (F&O) issued by a WCAB judge after a hearing. That pattern continued with a decrease for both types of decisions from 2009 to 2011.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 46: DWC Decisions: Percent Distribution by Type of Decisions

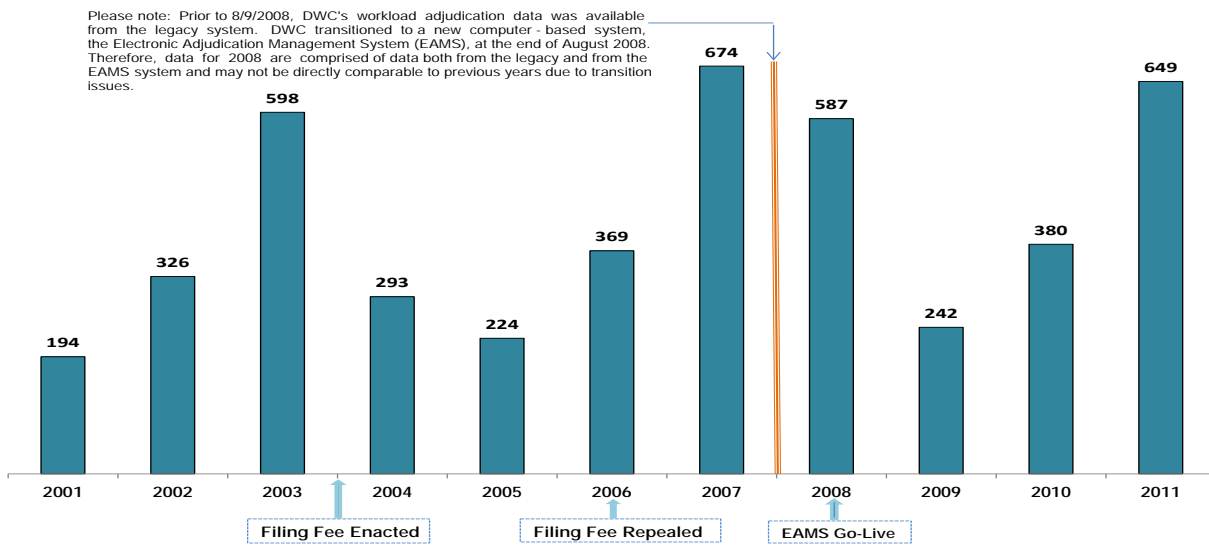


Data Source: DWC

Division of Workers' Compensation Lien Filings and Decisions

As shown in the figure below, the number of liens tripled between 2000 and 2003, decreased 2.7 times between 2003 and 2005, and then tripled again between 2005 and 2007. After the 2008 transition to the EAMS system, there was a 2.7 times increase in the number of liens filed from 2009 to 2011. As lien filers were getting familiar with the new system, the number of liens filed went back to the pre-EAMS level.

Figure 47: Number of Liens Filed, 2001-2011 (Thousand)



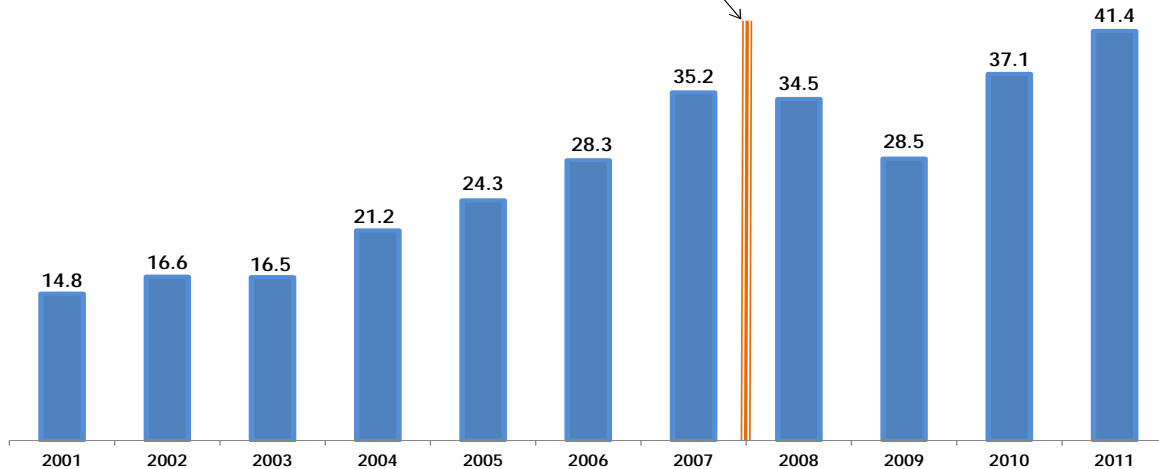
Data Source: DWC

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

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 48: DWC Lien Decisions, 2001-2011 (Thousand)

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

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

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 to 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

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

indicating that an insurer, self-insured employer, or third-party administrator is failing to meet its obligations.

To reward good performers, profile audit subjects that meet or exceed the PAR performance standard will not be liable for any penalties but will be required to pay any unpaid compensation. FCA subjects that meet or exceed standards will only be required to pay penalties for unpaid or late paid compensation, as well as any unpaid 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 Workers' Compensation Appeals Board (WCAB) rather than by application for a writ of mandate in the Superior Court. Judicial review of the Board'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 8 California Code of Regulations (CCR) Section 10106.1(c), effective January 1, 2003:

- Complaints regarding claims handling received by DWC.
- Failure to meet or exceed FCA performance standards.
- High numbers 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

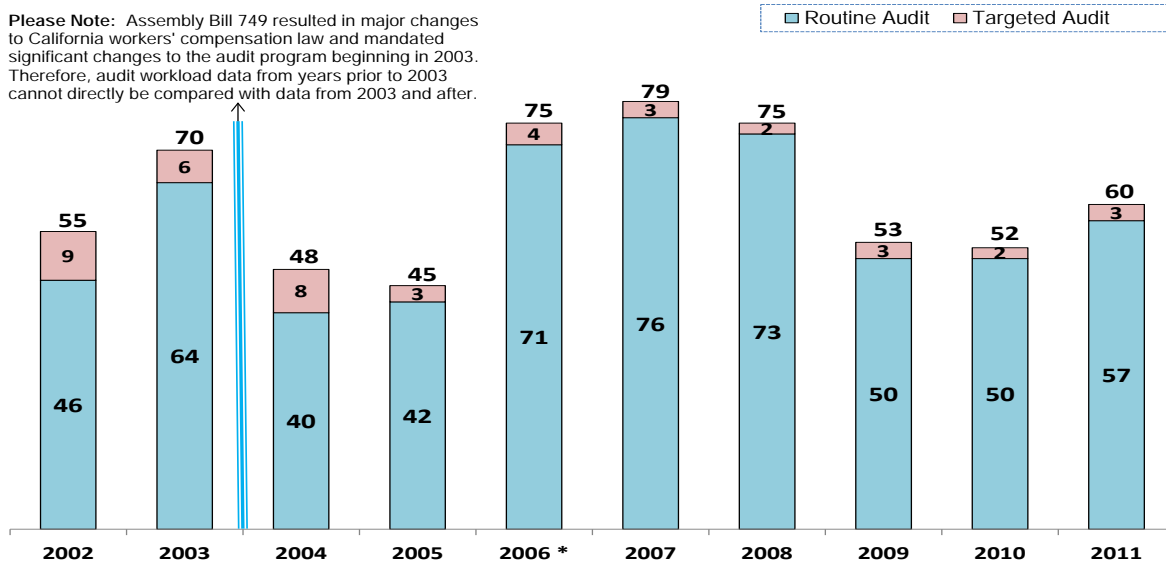
The following figures and graphs depict workload data from 2000 through 2011. As noted on the figures, data before 2003 cannot be directly compared with similar data in 2003 and after because of the significant changes in the program effective January 1, 2003.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Routine and Targeted Audits

The following figure shows the number of routine audits and targeted audits and the total number of audits conducted each year.

Figure 49: Routine and Targeted Audits



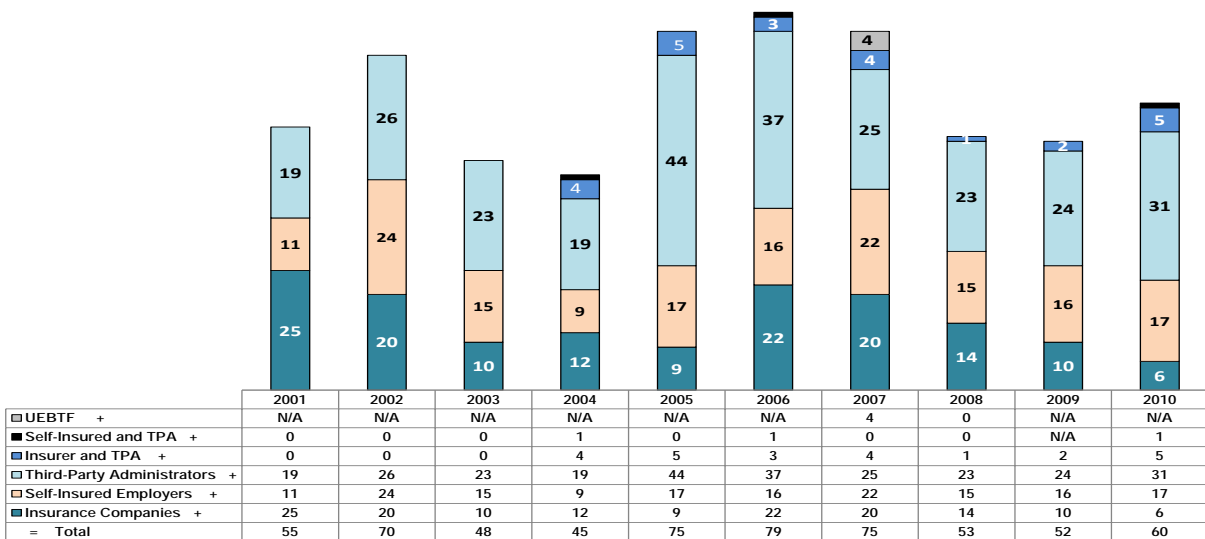
* Note: An additional target audit was conducted based on a return agreement in a previous stipulation of civil penalty in 2000.

Data Source: DWC Audit and Enforcement Unit

Audits by Type of Audit Subject

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

Figure 50: DWC Audits by Type of Audit Subject



Data Source: DWC Audit and Enforcement

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

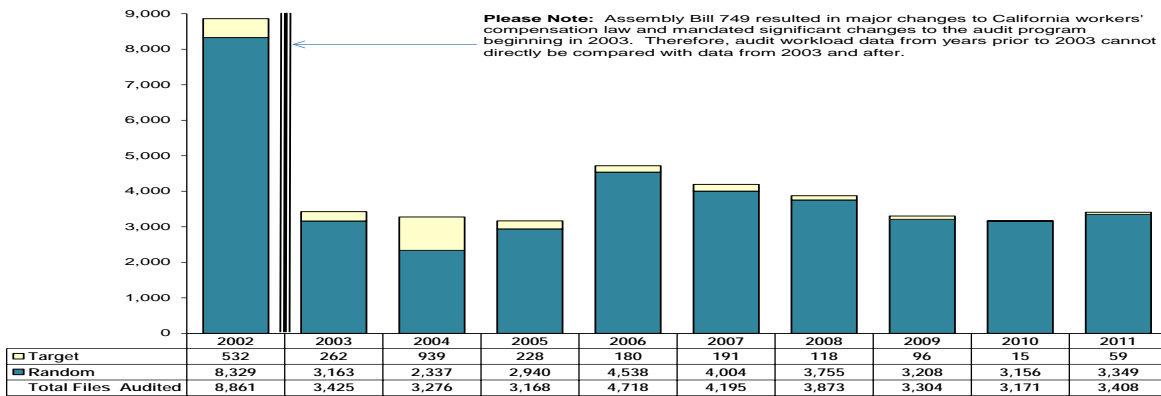
Selection of Files to be Audited

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

- Targeted files are selected because they have attributes that the audits focus on.
- Additional files include claims chosen based on criteria relevant to a 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.

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

Figure 51: Files Audited by Method of Selection

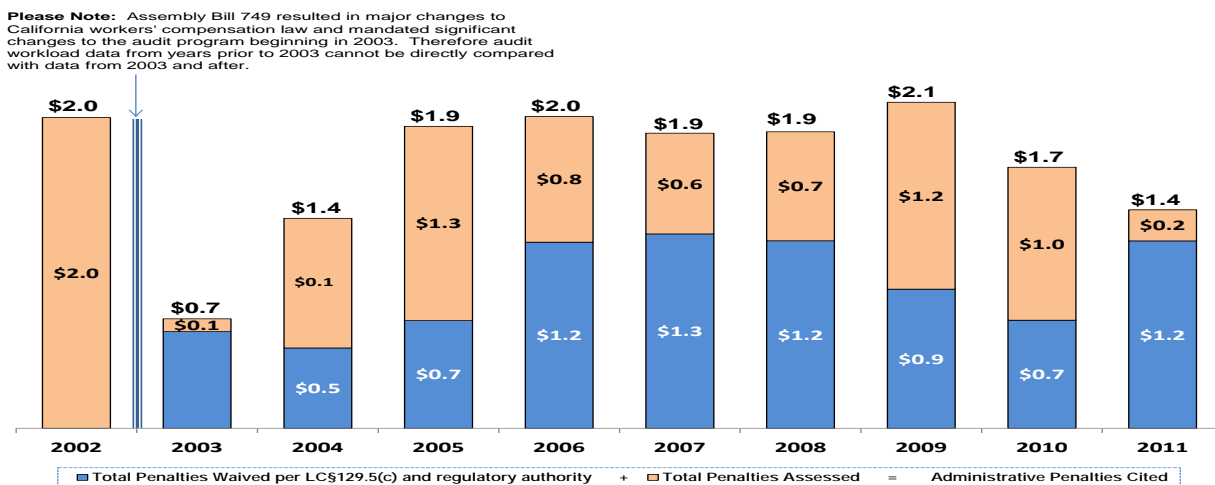


Data Source: DWC Audit and Enforcement Unit

Administrative Penalties

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

Figure 52: DWC Audit Unit – Administrative Penalties Cited (Million \$)

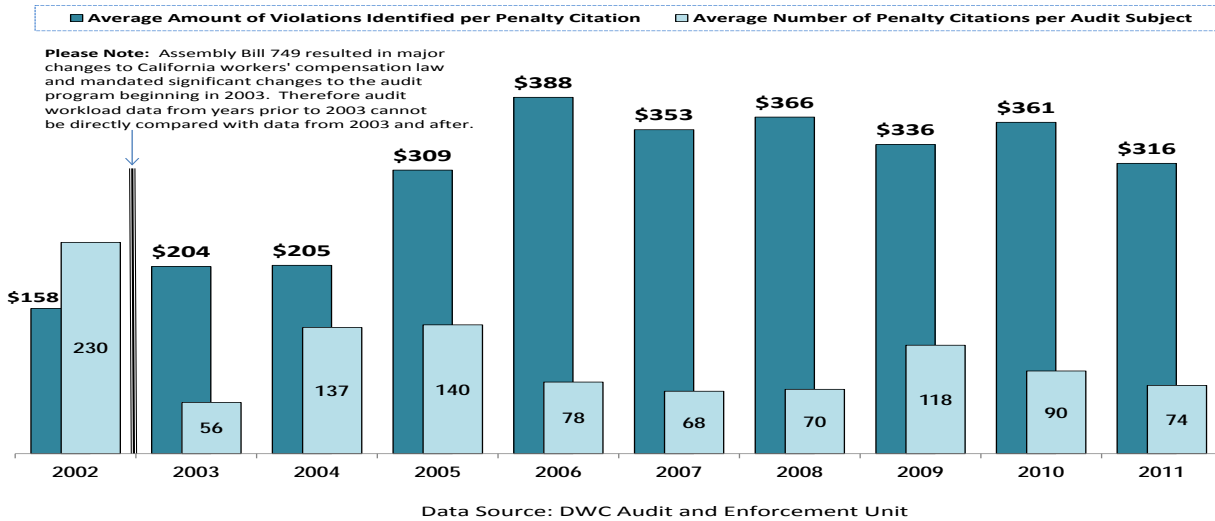


Data Source: DWC Audit and Enforcement Unit

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

Figure 53: Average Amount per Penalty Citation and Average Number of Penalty Citations per Audit Subject

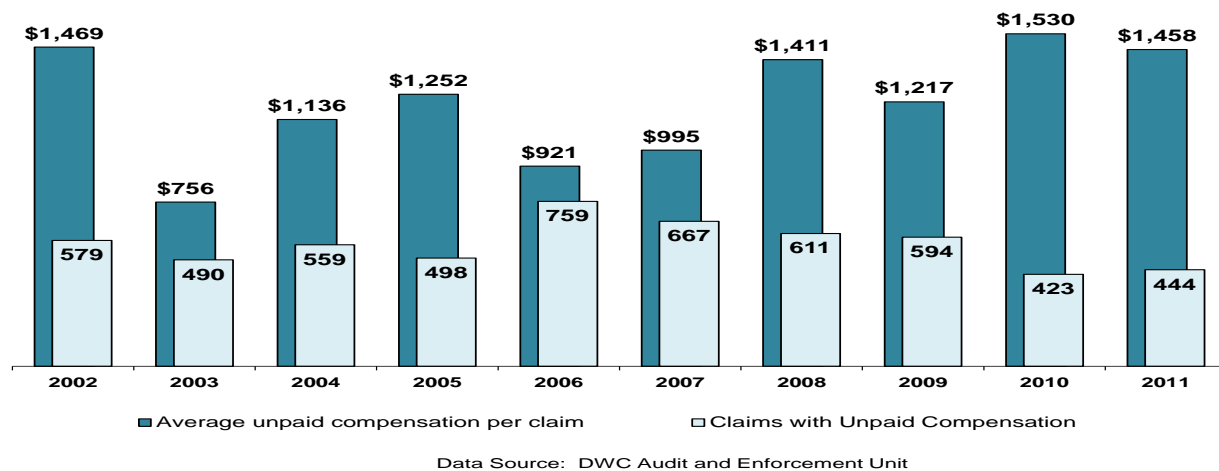


Unpaid Compensation Due To Claimants

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.

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

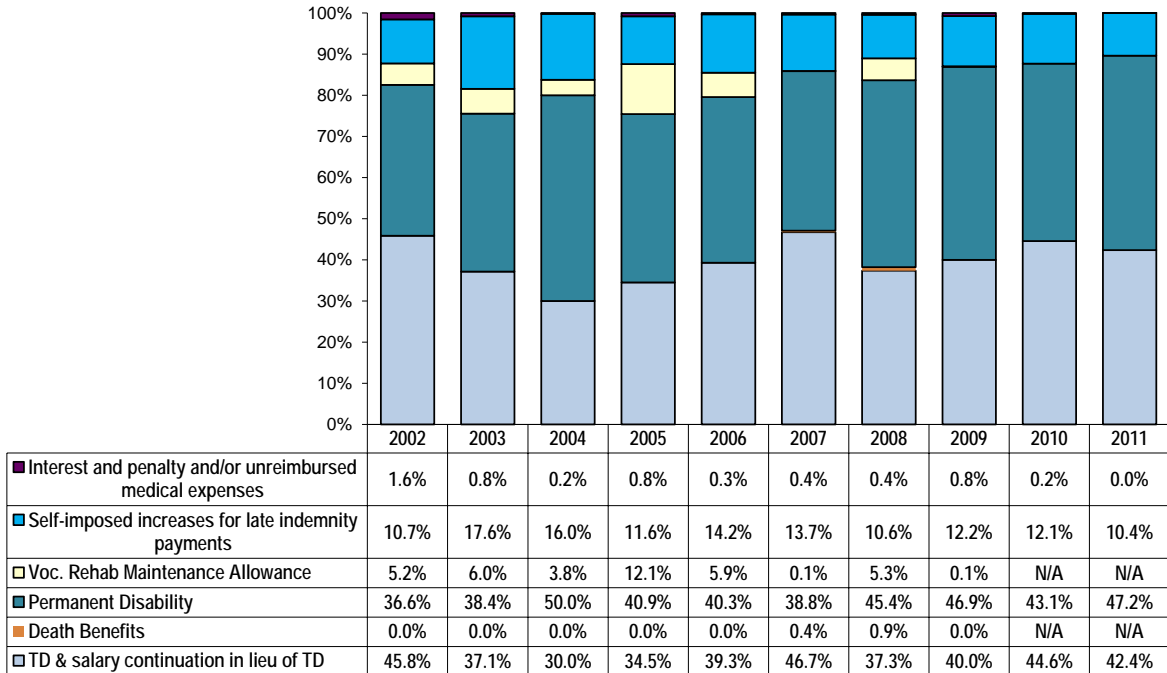
Figure 54: Average Amount of Unpaid Compensation per Claim and Number of Claims



WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The following figure shows unpaid compensation each year, broken down by percentage of the specific type of compensation that was unpaid.

Figure 55: Distribution of Unpaid Compensation by Type



Data Source: DWC Audit and Enforcement Unit

For further information ...

DWC Annual Audit Reports may be accessed at <http://www.dir.ca.gov/dwc/audit.html>.

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

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 Guides*, 5th Edition, 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 after April 1, 1997, and prior to 2005, the 1997 PDRS or earlier edition is utilized, depending on date of injury.

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.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

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.

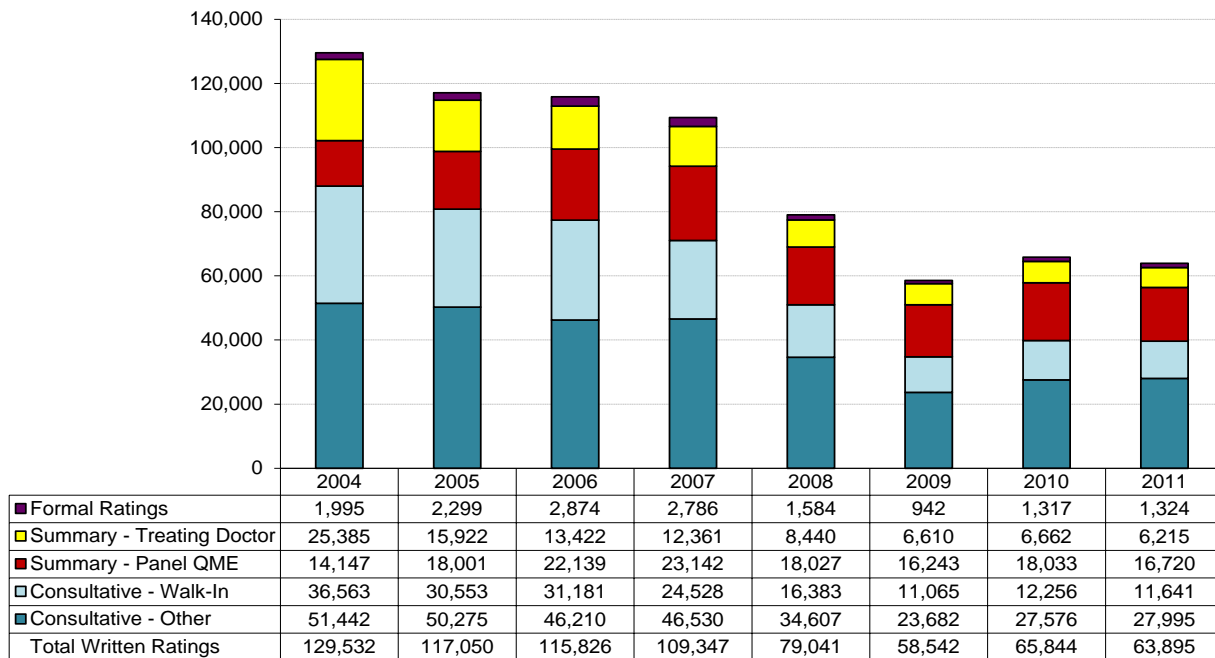
A permanent disability can range from 0 percent to 100 percent. Zero percent signifies no reduction of earning capacity, while 100 percent represents permanent total disability. A rating between 0 percent and 100 percent represents a partial loss of earning capacity. Partial permanent disability correlates to a 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 present value of future indemnity payments to assist in case settlements.

The following chart depicts DEU's workload from 2004 through 2011. The chart shows total ratings and ratings by type.

DEU written ratings declined by 9.6 percent between 2004 and 2005, 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. The decline in written ratings between 2007 and 2009 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. More DEU written ratings were issued in both 2010 and 2011 compared to the 2009 EAMS transition year.

Figure 56: DEU Written Ratings, 2004-2011



Data Source: DWC Disability Evaluation Unit

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

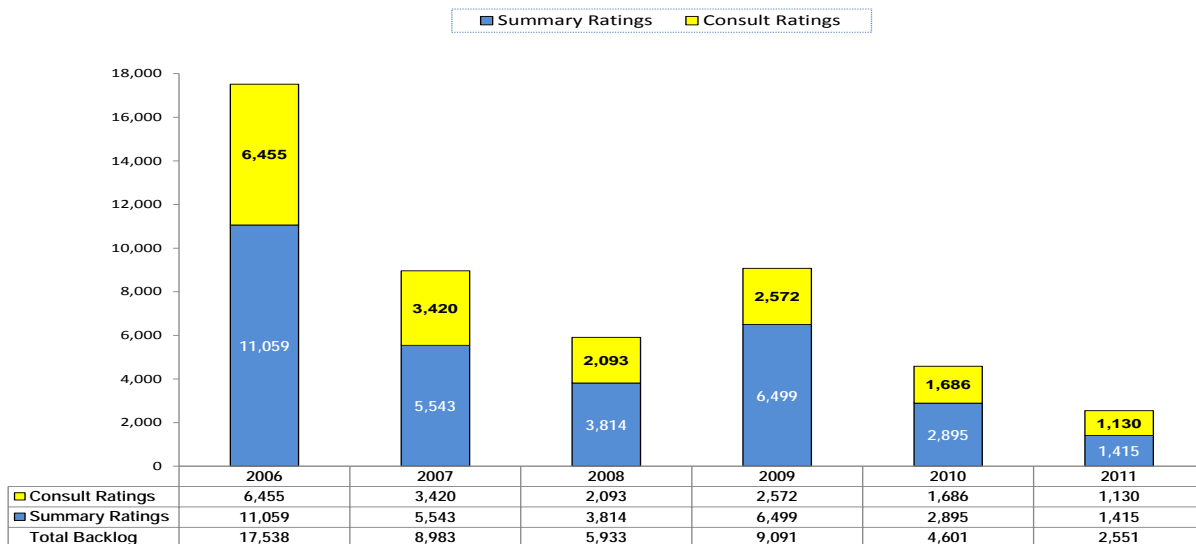
The table below shows numbers of ratings issued according to the old Schedule and to *AMA Guides* for each type of rating produced in 2011.

Table 15: 2011 DEU Ratings by Type

Rating Type	Old Schedule Rating	AMA Guides Rating Schedule
Summary rating based on QME report	398	16,322
Summary rating treating based on physician report	62	6,153
Walk-in consultative ratings	3,555	8,086
Other consultative ratings	6,009	21,986
Formal ratings requested by judge	754	570

DEU decreased the backlog of ratings from 4,601 cases in 2010 to 2,551 cases in 2011. This represents a reduction of 44.6 percent in addition to a 49.4 percent decrease from 2009 to 2010. The reduction of backlog provides quicker delivery of benefits to injured workers and resolution of workers' compensation cases.

Figure 57: 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 dated January 1, 2003, and after, life pension and total PD payments are increased according to 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. In 2011, DEU averaged 105 commutation calculations per month.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The rating schedule has a profound impact on both employees and employers, inasmuch as it forms the basis by 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

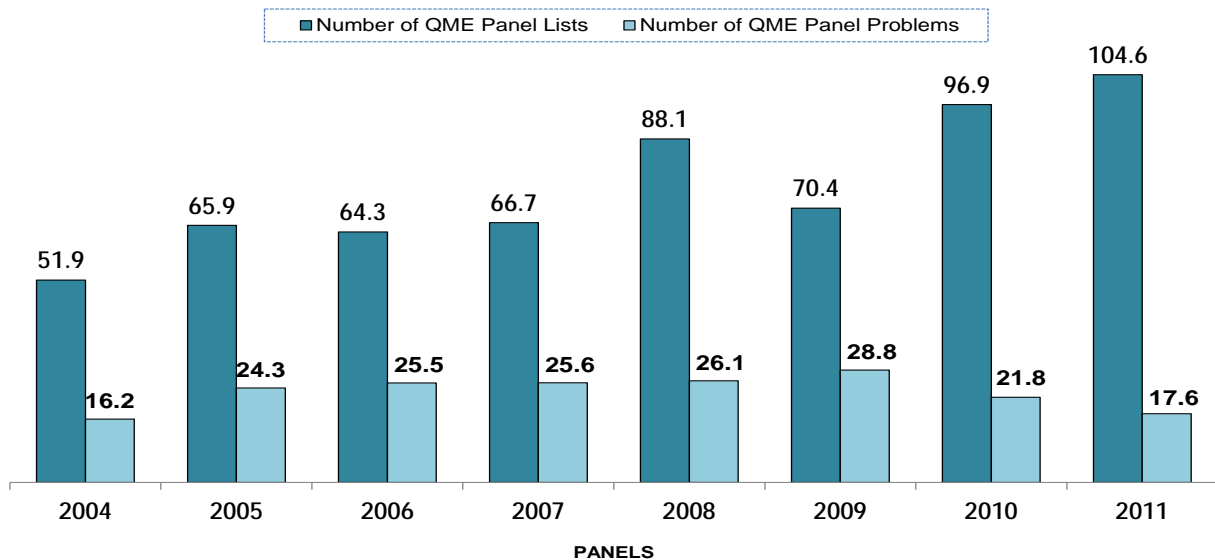
Current staffing levels are 42 Disability Evaluators (WCC position), 3 supervisors and 1 unit manager. Four hires are anticipated to replace recently vacancies as a result of promotions and personnel leaving the unit. DEU is supported clerically by staff assigned to the Adjudication Unit.

QUALIFIED MEDICAL EVALUATOR PANELS

DWC assigns panels composed of three Qualified Medical Evaluators (QMEs) from which an injured worker without an attorney selects the 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.

The figure below indicates the number of QME Panel Lists 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 not being eligible for a QME panel, or DWC needing additional information in order to make a determination for panel eligibility.

Figure 58: Number of Qualified Medical Evaluator (QME) Panel Lists and Panel Problems (Thousand)



Data Source: DWC

MEDICAL PROVIDER NETWORKS AND HEALTH CARE ORGANIZATIONS²⁴

Medical Provider Networks

Background

In recent years, the California workers' compensation system has seen significant increases in medical costs. Between 1997 and 2003, workers' compensation medical treatment expenses in California increased by an estimated 138 percent,²⁵ 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 of 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 approval of 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, among other changes. Most of these changes will not take effect until 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-insured security fund, or the California Insurance Guarantee Association (CIGA) to treat work-related injuries. SB 863 will expand this category to include entities that provide physician network services.

The establishment of an MPN gives significant medical control to employers. 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 the 30 days of medical control that employers had prior to 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 gets to choose 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 choosing in the MPN.

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

Application Review Process

California Labor Code Section 4616(b) mandates that DWC review and approve MPN plans submitted by employers or insurers 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 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 at DWC.

²⁴ The information in this section was provided by the DWC Medical Unit, with minor edits by CHSWC staff.

²⁵ Based on the WCIRB annual report *California Workers' Compensation Losses and Expenses* prepared pursuant to Section 11759.1 of the California Insurance Code.

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The full review of an application involves a thorough scrutiny, using a standard checklist, to see if the application followed the statutory and regulatory requirements set forth in California Labor Code Section 4616 et. seq. and the California Code of Regulations 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.

Material modification filings go through a review process similar to an initial application. Except in cases where an applicant was approved under the emergency regulations and is now updating the application to 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

The table below provides a summary of MPN program activities from the inception of the MPN program in November 1, 2004, to December 31, 2011. During this time, the MPN program received 1,909 MPN applications. Of these, 34 were ineligible as they were erroneously submitted by insured employers who under the MPN regulations are not eligible to set up an MPN. As of December 31, 2011, 1,762 applications were approved. Of these, 986 were approved under the emergency regulations and the remaining 776 under the permanent regulations. Nineteen (19) approved applications were revoked by DWC. The reason for revocation was the applicants' erroneous reporting of their status as self-insured when in fact they were insured entities. Two hundred and twenty-four (224) were withdrawn after approval, and 64 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 duplicate submission of the same application. One hundred and fifty-two (152) MPNs were terminated after approval. The reason for the termination was the applicant's decision to stop using the MPN.

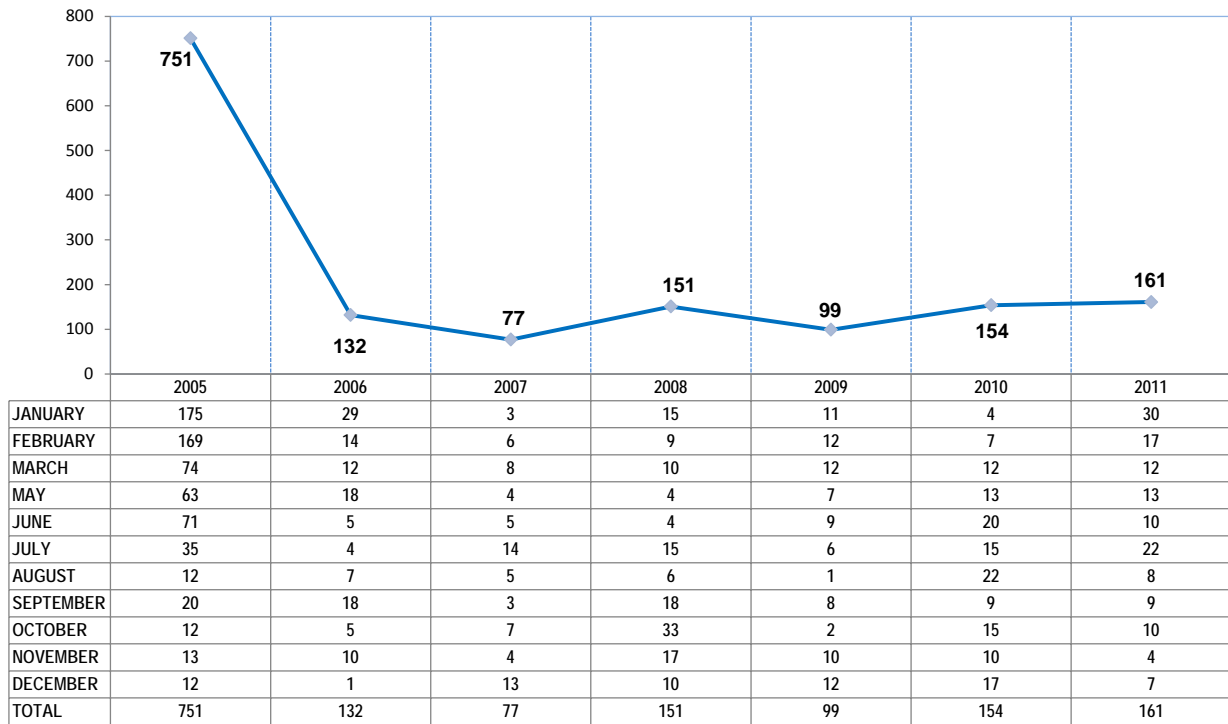
Table 16: MPN Program Activities from November 1, 2004, to December 31, 2011

MPN Applications:	Number
Received	1,909
Approved	1,762
Material Modifications	2,017
Withdrawn	288
Revoked	19
Ineligible	34
Terminated	152

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The figure below shows the time of receipt of MPN applications by month and year. The bulk of applications, 39.3 percent (751), were received in 2005. About 7 percent (132) were received in 2006, 4 percent (77) were received in 2007, 8 percent (151) were received in 2008, 5 percent (99) were received in 2009, 8.1 percent (154) were received in 2010, and 8.4 percent (161) were received in 2011.

**Figure 59: Number of MPN Applications Received by Month and Year of Receipt
(Total = 1,909)**

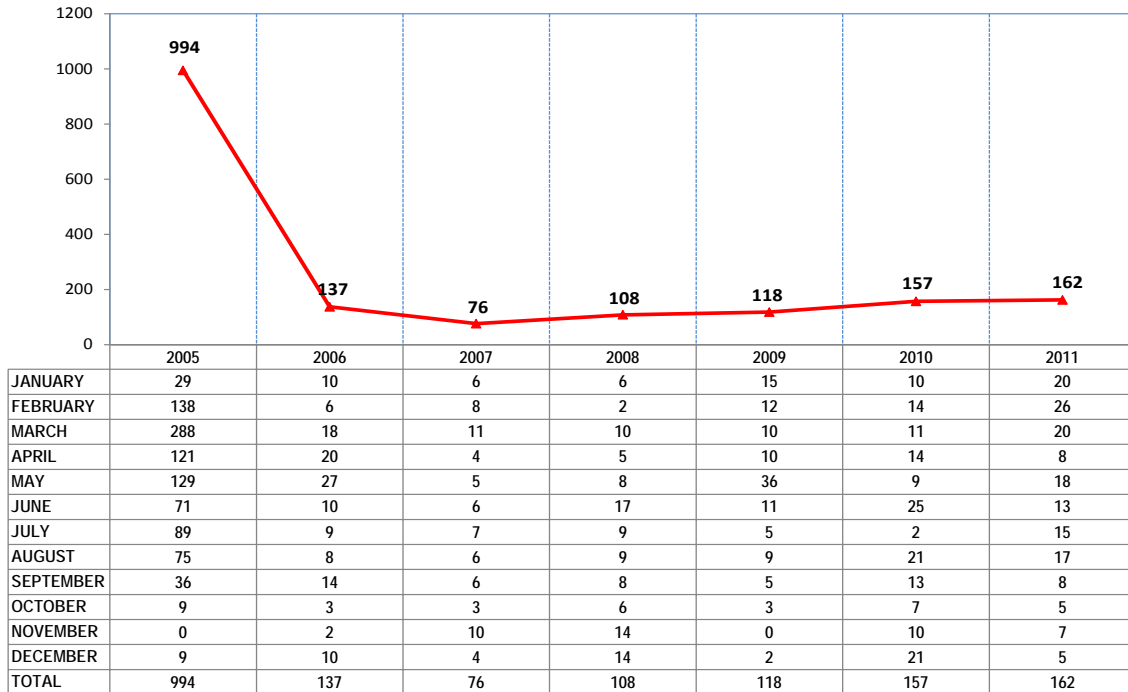


Data Source: DWC

The figure below shows that 56.4 percent (994) of MPN applications were approved in 2005, while 7.8 percent (137) were approved in 2006, 4.3 percent (76) were approved in 2007, 6.1 percent (108) were approved in 2008, 6.7 percent (118) were approved in 2009, 8.9 percent (157) were approved in 2010, and 9.2 percent (162) were approved in 2011.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Figure 60: Number of MPN Applications Approved by Month and Year
(Total = 1,762)**



Data Source: DWC

Material Modifications

MPN applicants are required by Title 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 10 percent or more change in the provider network, a change in MPN Liaison or a change in the employee notification materials, among other reasons. In addition, MPN applicants approved under the emergency regulations must update their application to conform to the permanent MPN regulations when filing for a material change to their approved application. Modifications go through a similar review and approval process as a new application and within the same regulatory time frame.

As of December 31, 2011, 952 applicants have filed 2017 material modifications with DWC. Some applicants have filed more than one material modification. Four hundred and eighty-four (484) applicants have filed two or more material modification filings, while 1 applicant had 32 filings.

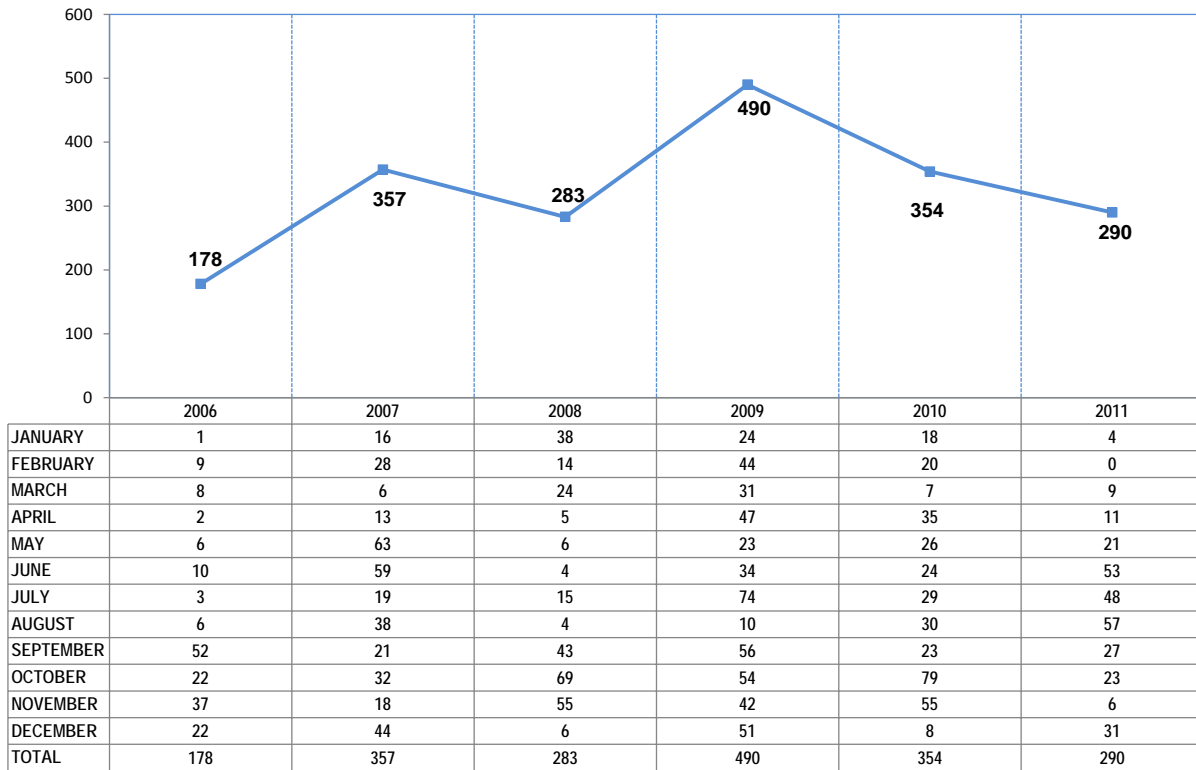
The database containing the information for material modification submissions was updated in 2011, to eliminate duplicate entries for the same filing, which results in revised lower numbers than previously reported. For example, the 2010 report stated that the total number of material modifications filed with the DWC was 2,146, but it was actually 1,727 as of December 31, 2010.

The following chart shows how many material modification filings were received at DWC: 65 material modifications were filed in 2005; 178 in 2006; 357 in 2007; 283 in 2008; 490 in 2009; 354 in 2010; and 290 in 2011.

The following figure shows how many material modification filings were received at DWC.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 61: Number of MPN Material Modifications Received by Month and Year
(Total = 2,017)



Data Source: DWC

MPN Applicants

MPN applicants are allowed to have more than one MPN. As a result, 68 percent of applicants have more than one MPN, including 22 percent with 21 to 57 MPNs. (See Table, Distribution of Approved Applicants by Number of MPNs per Applicant, below). The names of MPN applicants with 10 or more approved MPNs are shown in the Table on the next page (Names of MPN Applicants with 10 or More Approved MPNs). ACE American Insurance Company leads with 57 MPNs followed by Zurich American Insurance Company with 48 MPNs, and American Home Assurance Company with 36 MPNs.

The table below shows the numbers of MPN applicants by type of applicant. The majority, 64.1 percent, of MPN applications were filed by insurers, followed by self-insured employers (31.0 percent).

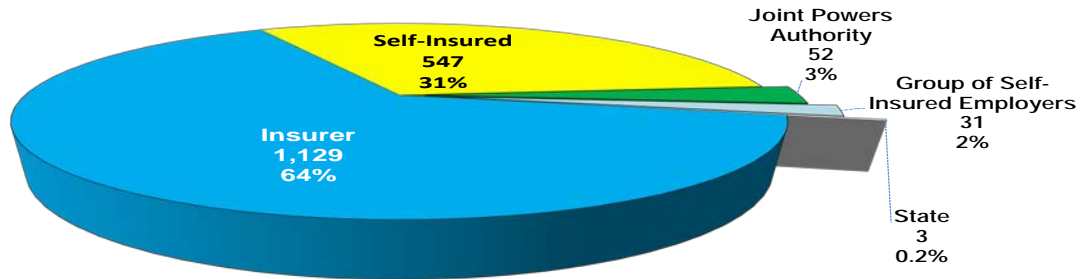
Table 17: Distribution of Approved MPN Applications by Type of Applicant

Type of Applicant	2005	2006	2007	2008	2009	2010	2011
Insurer	611	68	32	80	91	66	122
Self-Insured	346	55	37	23	19	28	36
Joint Powers Authority	33	4	4	3	2	4	2
Group of Self-Insured Employers	2	10	3	2	6	7	1
State	2						1
Total for all years=1,600	994	137	76	108	118	157	162

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The figure below shows the distribution of MPN applicants by type.

Figure 62: Distribution of All Approved MPN Applications by Type of Applicant, 2004 - 2011
(Total = 1,762)



Data Source: DWC

MPN Plans Using HCO Networks

HCO networks are used by 410 (23.3 percent) of the approved MPNs. This number excludes those MPNs which were revoked, terminated or withdrawn after approval. The distribution of MPNs by HCO is shown in the Table below. First Health HCO has 12.8 percent of the MPN market share followed by Corvel HCO, which has 6.4 percent, and Medex, which has 3.3 percent.

Table: Number of MPN Applicants Using HCO Networks

Name of HCO	Approved MPN Plans Using HCO Network	Percentage of Applications Received	Percentage of Applications Approved
CompAmerica (First Health)	226	11.8%	12.8%
Corvel	112	5.9%	6.4%
Medex	58	3.0%	3.3%
CompPartners	4	0.2%	0.2%
Net-Work	0	0.0%	0.0%
Promesa	1	0.1%	0.1%
Astrasano	2	0.1%	0.1%
Prudent Buyer (Blue Cross)	7	0.4%	0.4%
Total Using HCO	410	21.5%	23.3%

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Figure 63: Distribution of Approved MPNs by Number of MPNs per Applicant, 2011

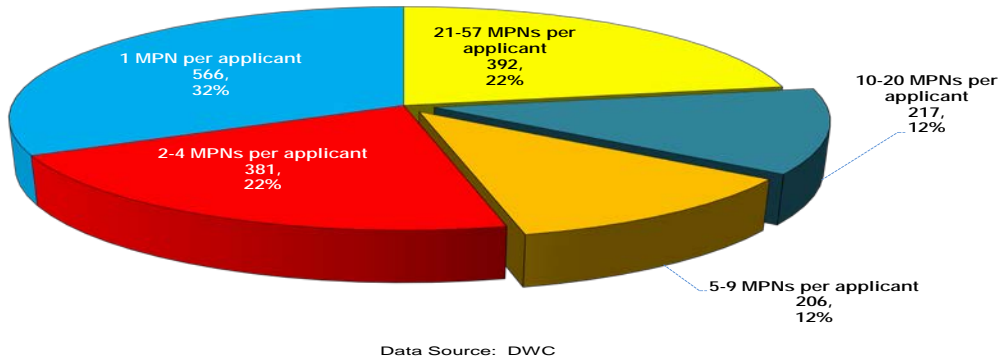


Table 18: Names of MPN Applicants with 10 or More Approved MPNs

Name of Applicant	Number of MPNs
ACE American Insurance Company	57
Zurich American Insurance Company	42
American Home Assurance Company	36
National Union Fire Insurance Company of Pittsburgh, PA	34
The Insurance Company of the State of Pennsylvania	30
Fidelity and Guaranty Insurance Company	29
Discover Property & Casualty Insurance Company	25
Old Republic Insurance Company	25
United States Fidelity and Guaranty Company	24
ARCH Insurance Company	23
Fidelity and Guaranty Insurance Underwriters, Inc.	23
New Hampshire Insurance Company	22
Safety National Casualty Corporation	22
American Zurich Insurance Company	19
Commerce and Industry Insurance Company	18
XL Specialty Insurance Company	18
Hartford Insurance Company of the Midwest	16
Chartis Property Casualty Company	15
Granite State Insurance Company	15
Continental Casualty Company	14
American Guarantee and Liability Insurance Company	13
Hartford Accident and Indemnity Company	13
Greenwich Insurance Company	12
Landmark Insurance Company	12
Federal Insurance Company	11
Zurich American Insurance Company of Illinois	11
SPARTA American Insurance Company	10
Travelers Property Casualty Company of America	10
Twin City Fire Insurance Company	10

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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 are using their MPN. The list of self-insured employers with a self-reported number of covered employees greater 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.

Status of the MPN Program

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

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List of Self-Insured MPN Applicants with Covered Employees of 5,000 or More, December 2011

Name of Applicant	Name of MPN	Number of Covered Employees
Regents of The University of California	Regents of The University of California MPN	189,925
Los Angeles Unified School District	Sedgwick CMS Extended Medical Provider Network	138,000
County of Los Angeles	CorVel HCO	102,000
County of Los Angeles	First Health CompAmerica Select HCO	102,000
County of Los Angeles	Interplan Health Group	102,000
Target Corporation	Target Medical Provider Network	75,300
California State Association of Counties - Excess Insurance Authority	EIA Medical Provider Network	74,882
Safeway, Inc.	Safeway Select MPN	60,000
Target Corporation	Sedgwick CMS/Harbor Net-Target	59,700
Kelly Services, Inc	Kelly Services Medical Provider Network	58,500
San Diego/Imperial County Schools Joint Power Authority	Interplan through CompPartners	54,000
The Home Depot	The Home Depot Medical Provider Network	51,062
San Diego County Schools JPACorVel	San Diego County Schools JPA MPN	42,000
Macy's Inc.	Macy's Inc. Medical Provider Network	32,575
The Kroger Co.	CorVel/Kroger Select MPN	32,000
Self-Insured Schools of California	Self-Insured Schools of California/California Foundation for Medical Care Network	31,811
Pacific Bell Telephone Company	Sedgwick CMS Extended Medical Provider Network	31,500
Costco Wholesale	Costco MPN	31,000
Kaiser Foundation Hospitals, a California Corporation	Kaiser Permanente MPN	29,880
Southern California Permanente Medical Group	Kaiser Permanente/Harbor Net MPN	29,056
University of Southern California USC	USC/Harbor MPN	26,634
Southern California Permanente Medical Group	Kaiser Permanente MPN	26,353
Kimco Staffing Services, Inc.	First Health CompAmerica Primary Network	26,000

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Name of Applicant	Name of MPN	Number of Covered Employees
Pacific Gas and Electric Company	PG&E /Blue Cross Medical Provider Network	25,663
Walt Disney Parks and Resort US, Inc.	Walt Disney Parks and Resort US, Inc. MPN	22,000
County of Orange	WellComp Medical Provider Network	22,000
Kaiser Foundation Hospitals	Kaiser Permanente/Harbor Net MPN	21,537
County of Orange	Intracorp	21,400
San Diego Unified School District	WellComp Medical Provider Network	20,762
Manpower Inc.	Concentra MPN	20,320
Santa Clara County Schools Insurance Groups	PRIME Plus Medical Network	20,198
The County of Riverside	First Health Comp America Select	20,173
City and County of San Francisco	City and County of San Francisco Medical Provider Network	20,000
Sun Microsystems, Inc. (Sun)	First Health Network	20,000
New Albertson's Inc. (A SuperValu Company)	Sedgwick CMS Extended Medical Provider Network	20,000
Schools Insurance Group	SIG MPN	19,600
Ventura County Schools Self-Funding Authority	WellComp Medical Provider Network	19,566
County of Riverside	CorVel MPN/County of Riverside	19,000
Securitas Security Services USA, Inc.	Sedgwick CMS Extended MPN	19,000
Manpower, Inc.	Sedgwick CMS MPN	19,000
Viacom International Services, Inc.	First Health Comp America HCO Select Network	18,913
Countrywide Financial Corporation	Countrywide Network	18,000
Marriott International, Inc.	Marriott Medical Provider Network	17,657
Nordstrom Inc.	Nordstrom Medical Provider Network	17,000
Securitas Security Services USA, Inc.	Securitas Broadspire SNP	16,890
Hewlett-Packard Company	Sedgwick CMS Extended Medical Provider Network	16,550

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Name of Applicant	Name of MPN	Number of Covered Employees
Alameda County Schools Insurance Group	ACSIG/AccessMedical Provider Network	16,000
COP/CPB of the Church of Jesus Christ of the Latter-day Saints	Deseret MPN	16,000
American Building Maintenance (ABM)	ABM Network	15,800
Southern California Edison	SCE Select	15,514
Lowe's HIW, Inc.	Lowe's CA MPN	15,136
Raley's	Athens MPN	15,000
Federal Express Corporation	Intracorp	14,878
Schools Linked For Insurance Management (SLIM)	Prime Advantage Medical Network a	14,217
County of San Bernardino	CorVel MPN	14,000
The Walt Disney Company	The Liberty Mutual Group MPN	13,924
Alliance of Schools for Cooperative Insurance Programs	WellComp Medical Provider Network	13,764
Central Region School Insurance Group	WellComp Medical Provider Network	13,679
Riverside Schools Risk Management Authority	Prime Advantage Medical Network	13,610
Scripps Health	Sedgwick CMS/Harbor MPN-Scripps	13,586
Raley's	Raley's Quality Medical Provider Network	13,500
Lockheed Martin Corporation	INTRACORP/Lockheed Martin MPN	13,400
Intel Corporation	Broadspire Signature	13,223
Alameda County Schools Insurance Group	PRIME Plus Medical Provider Network	13,048
Central Region Schools Insurance Group	CRSIG MPN	12,500
Barrett Business Services, Inc.	BBSI/CorVel MPN	12,000
North Bay Schools Insurance Authority	Tri-County MPN	12,000
AT&T Inc.	Sedgwick CMS Extended Medical Provider Network	11,500
Cedars-Sinai Medical Center	Cedars-Sinai Medical Provider Network (CSMPN)	11,000

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Name of Applicant	Name of MPN	Number of Covered Employees
K-Mart Corporation	Sedgwick CMS-Harbor MPN - Sears Holdings Management Corporation	11,000
Dole Food Company, Inc.	First Health CompAmerica Select HCO Network (or "First Health Select")	10,980
Memorial Health Services	TRISTAR MPN	10,827
County of Kern	County of Kern Medical Provider Network	10,800
Tulare County Schools Insurance Group Workers Compensation JPA	Prime Advantage Medical Network	10,707
Saugus Union School District	Prime Advantage Medical Network	10,707
Tenet Healthcare Corporation	First Health CompAmerica Primary HCO Network (or "First Health Primary")	10,642
North Valley Schools Insurance Group	Prime Advantage Medical Provider Network	10,246
Foster Farms	CorVel Custom MPN	10,000
LFP, Inc. and Affiliates	CorVel MPN	10,000
Monterey County Schools Workers' Compensation Joint Powers Authority	Monterey County Schools MPN	10,000
99 Cent Only Stores	Sedgwick CMS Extend MPN	10,000
United Airlines	CorVel/UAL/Kaiser MPN	9,500
Foster Poultry Farms	Foster Farms Custom CorVel MPN	9,200
Smart & Final, Inc.	Sedgwick CMS Extended Medical Provider Network	9,000
San Mateo County Schools Insurance Group	Prime Advantage Medical Network	8,557
BCI Coca-Cola Bottling Company of Los Angeles (Coca-Cola Enterprises, Inc.)	Sedgwick CMS Medical Provider Network	8,500
Alameda County	First Health CompAmerica Primary Network	8,494
Kaiser Foundation Health Plan, Inc., a California Corporation	Kaiser Permanente MPN	8,448
Shasta-Trinity Schools Insurance Group JPA	Shasta-Trinity Schools Insurance Group JPA MPN	8,000
Save Mart Supermarkets, Inc.	The Status MPN-Save Mart	8,000
Fresno County Self-Insurance Group	TRISTAR MPN	7,817
North Orange County Self-funded Workers' Compensation Agency	Prime Advantage Medical Network	7,571
The County of Fresno	The County of Fresno MPN	7,500
Benefit & Liability Programs of California	WellComp Medical Provider Network	7,132

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Name of Applicant	Name of MPN	Number of Covered Employees
Kaiser Foundation Health Plan, Inc.	Kaiser Permanente/Harbor Net MPN	6,935
Whittier Area Schools Insurance Authority	WellComp Medical Provider Network	6,850
MERGE Risk Management JPA	WellComp Medical Provider Network	6,778
San Joaquin County Schools WC Insurance Group JPA	PRIME Plus Medical Provider Network	6,768
Valley Insurance Program	WellComp Medical Provider Network	6,763
Santa Ana Unified School District	WellComp Medical Provider Network	6,677
AmerisourceBergen Corporation	Broadspire Signature MPN	6,500
Providence Health System	Intracorp/Providence Medical Provider Network	6,500
Special District Risk Management Authority	WellComp Medical Provider Network	6,500
Alliance of Schools for Cooperative Insurance Programs (ASCIP)	ASCIP-Athens MPN	6,200
Northern California Community Colleges Pool (NCCCP)	Prime Advantage Medical Network	5,955
City of Glendale	City of Glendale/Concentra	5,641
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
Orange Unified School District	WellComp Medical Provider Network	5,449
The Salvation Army	Red Shield MPN	5,440
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
Yellow Transportation, Inc.	CorVel MPN	5,000
FedEx Freight Inc.	Sedgwick CMS Extended MPN	5,000
International Paper Company	Sedgwick CMS Medical Provider Network	5,000

Health Care Organization Program

Health Care Organizations (HCOs) were created by the 1993 workers' compensation reforms. The statutes for HCOs are given in California Labor Code Sections 4600.3 through 4600.7 and Title 8 California Code of Regulations (CCR) Sections 9770 through 9779.3.

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.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

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 Title 8 CCR Sections 9770 et seq. HCOs 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. In addition, annually, HCOs are required to pay an annual assessment of \$250, \$300 or \$500 based on their enrollment figure as of December 31 of each year. The HCO loan from the General Fund, which covered DWC's start-up costs for the HCO program, has been paid off in full.

Currently, the HCO program has 9 certified HCOs. The names of certified HCOs and their most recent date of certification/recertification are given in the table below. Even though there are 9 certified HCOs, only 5 have enrollees. The rest are keeping their certification and use their provider network as a deemed network for MPNs.

Table 19: List of 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	12/03/2009
MedeEx Health Care	03/16/2007
MedEx 2 Health Care	10/10/2006
Network HCO	04/16/2007
Promesa Inc. HCO	04/12/2010

HCO Enrollment

At its maximum in the mid-2004, HCO enrollment reached approximately half a million enrollees. However, with the enactment of MPNs, enrollment of employees 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 enrollment of employees under HCOs fell by 66.4 percent to 161,413 from 481,337 in 2004. Table 20 shows the number of enrollees as of December 31 of each year from 2004 through 2011.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 20: List of HCOs by Number of Enrollees for 2004 Through 2011

Name of HCO	Year							
	Dec-04	Dec-05	Dec-06	Dec-07	Dec-08	Dec-09	Dec-10	Dec-11
CompPartners	60,935	61,403	53,279	13,210	1,765	1,729	2,884	4,200
CorVel/ Corvel Select	100,080	20,403	3,719	3,050	3,384	1,983	435	467
CompAmerica Primary/ Select (First Health)	218,919	2,403	0	0	0	0	0	0
Intracorp	6,329	3,186	2,976	2,870	0	0	0	0
Kaiser	30,086	67,147	66,138	69,602	77,567	72,469	74,223	76,263
Medex/ Medex 2	62,154	66,304	46,085	69,410	69,783	34,378	46,838	61,442
Net Work HCO	1,204	0	0	0	0	0	0	0
Promesa	na	na	na	na	21,197	16,467	17,602	19,041
Prudent Buyer (Blue Cross)	1,390	0	0	0	0	0	0	0
Sierra	240	0	0	0	0	0	0	0
TOTAL	481,337	220,846	172,197	158,142	173,696	126,593	138,504	161,413

Health Care Organization Program Status

Although HCO enrollment has decreased significantly, HCOs are still being certified for use of their networks as deemed networks for MPNs. DWC is attempting to complete recertification of the 5 HCOs: (1) First Health Primary; (2) First Health Select; (3) Medex; (4) Medex 2; and (5) Network.

For further information ...

www.dir.ca.gov/dwc and http://www.dir.ca.gov/dwc/MPN/DWC_MPN_Main.html

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

DIVISION OF WORKERS' COMPENSATION MEDICAL ACCESS STUDY

Labor Code Section 5307.2 of Senate Bill (SB) 228 mandates that the Administrative Director (AD) of the Division of Workers' Compensation (DWC) contract with an independent research firm to perform an annual study of access to medical treatment for injured workers. Towards that end, DWC has contracted with the Berkeley Research Group to conduct the "Access to Medical Treatment for Injured Workers Study" for 2012, 2013 and 2014. There are three main goals of the study: the first is to evaluate the adequacy of access to quality health care for injured workers in 2012, 2013 and 2014; the second is to assess the changes in access to quality health care since the 2006 UCLA and 2008 University of Washington studies; and the third is to make recommendations to ensure continued access.

In responding to the above aims the study will:

- Establish a methodology to measure access to medical care.
- Use the methodology developed to assess access to medical care within the California workers' compensation system, with respect to physicians, hospitals, outpatient facilities, pharmacies, and other pharmaceutical providers for 2012, 2013 and 2014.
- Identify trends in the number of physicians working in workers' compensation and the proportion of their practice dedicated to treating workers' compensation illness and injuries.
- Establish a methodology to measure the impact of pricing change on access to care.
- Analyze whether there is adequate access to quality health care and products for injured workers and make recommendations to ensure continued access.

The kickoff meeting for the Medical Access Study was held in May 2012, and the final report for the 2012 study is expected to be submitted to DWC in February 2013.

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 WCAB.

Table 21: Information & Assistance Unit Workload

Number of:	2007	2008	2009	2010	2011
Calls from public handled	404,501	323,520	362,581	312,511	296,983
Outgoing calls placed	39,117	36,806	37,905	37,905	33,649
Settlements reviewed and assisted	16,853	16,320	18,757	14,757	12,743
Face-to-face meetings with walk-ins	22,858	22,818	23,757	26,219	23,218
Injured Worker Workshop presentations	183	199	256	219	254
Workshops for injured workers attended	1,839	1,981	1,611	3,191	3,875
Workshops for employers held	6	2	4	5	NA
Correspondence written	15,115	14,442	15,212	12,713	10,899

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Table 22: Spanish Outreach Attendance, 2010 and 2011

	Number of Events		Total Number of Attendees		Average Attendance per Event	
	2010	2011	2010	2011	2010	2011
Regular seminars held	45	41	1,206	1,287	27	31
Outreach events (not including regular seminars)	31	35	3,861	5,625	124	161
Outreach events including workshops	76	76	5,067	6,912	67	91

Table 23: DWC Educational Conferences Attendance, 2010 - 2012

	Los Angeles			Oakland		
	2010	2011	2012	2010	2011	2012
Attendees	861	861	944	754	754	671
Exhibitors	54	54	60	56	56	50

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. Later in the year, efforts commenced to revitalize the monthly workshops in all 24 district offices and to update all I&A guides and fact sheets.

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 the DWC District offices with the exception of San Luis Obispo. Any combination of a district office's main number and Information & Assistance 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 to the general public. In addition, all of the EAMS help desk emails and the Notice of Representation (NOR) questions come through ISC. ISC staff members monitor and resolve questions sent via e-mail to the EAMS Help Desk, process NOR updates received through the e-File system, and answer Virtual EAMS Support Team (VEST) questions sent by both internal and external users.

In calendar year 2011, the DWC ISC:

- Handled 235,882 incoming calls and placed 5,059 outgoing calls.
- Handled 8,495 or 4 percent of total Spanish calls.
- Transferred 32,120 calls or 12 percent of total calls to district offices.
- Handled 17,568 EAMS Help Desk e-mails.
- Mailed out 5,059 correspondences.
- Processed 36,539 NOR-related questions.

UNINSURED EMPLOYERS BENEFITS TRUST FUND

Introduction

All employers in California 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 for the payment of workers' compensation benefits to injured employees of illegally uninsured employers. Labor Code Sections 3710 through 3732 describe the operation of the Fund, and Labor Code Section 62.5 describes the funding mechanism for UEBTF.

UEBTF is administered by the director of the Department of Industrial Relations (DIR). 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 assessments on all insured and self-insured employers annually, 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."²⁶

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 total assessment collected for fiscal year 2010-11 was \$53,336,748.

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

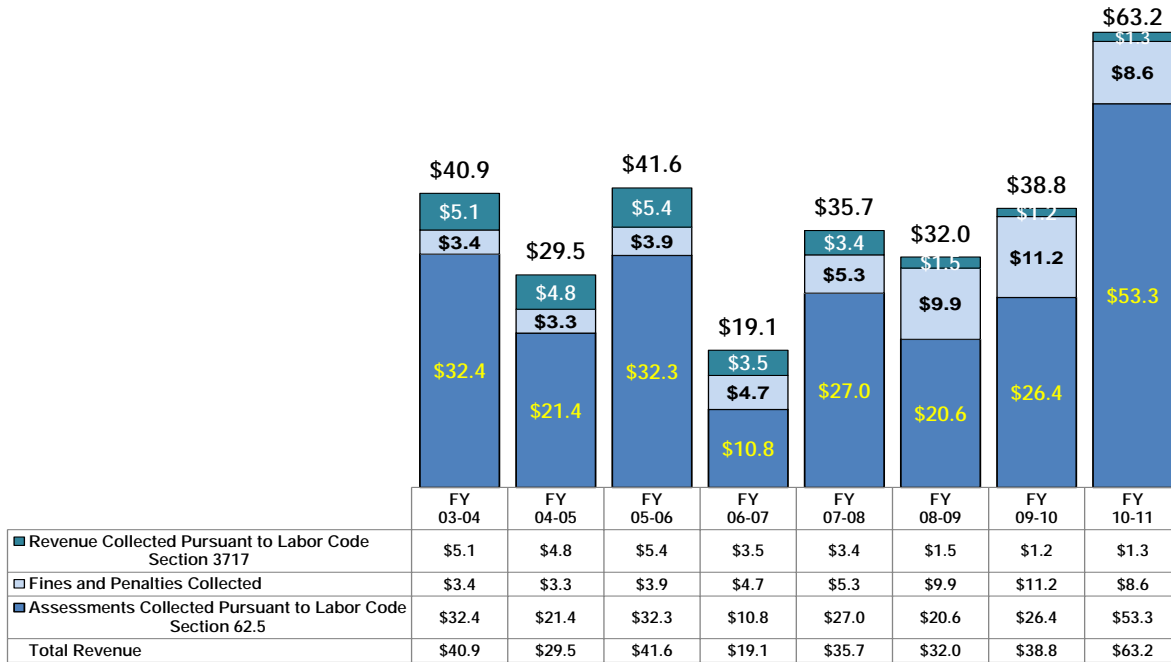
- Fines and penalties collected by DIR. These include both the Division of Labor Standards and Enforcement (DLSE) penalties as well as Labor Code Section 3701.7 penalties on self-insured employers.
- Recoveries from illegally uninsured employers per Labor Code Section 3717.

²⁶ Prior to the workers' compensation reforms of 2004, the funding for UEBTF came from the General Fund.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The figure below shows monies collected by the source of the revenue.²⁷

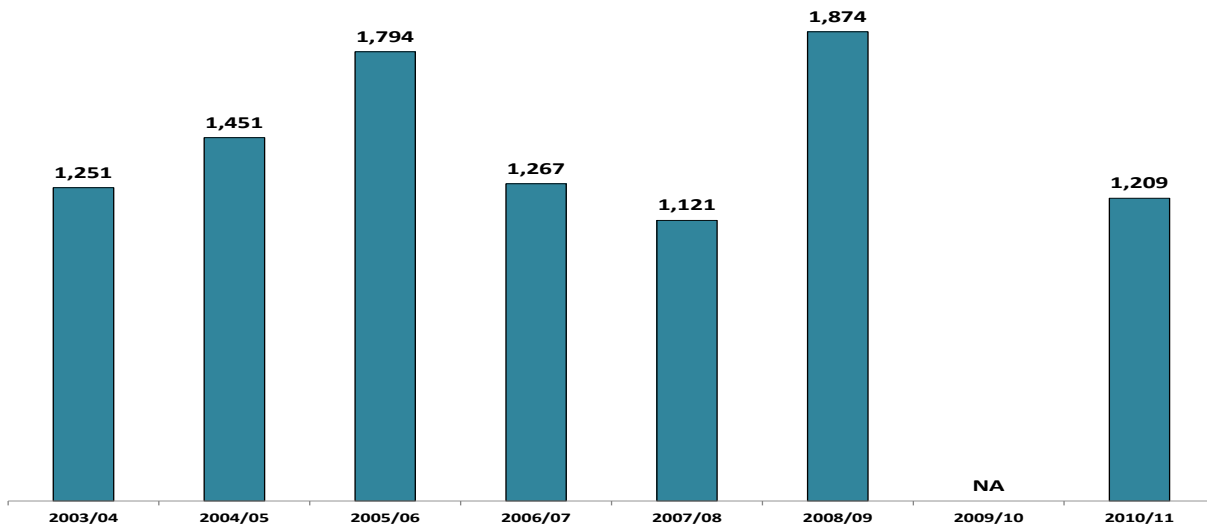
Figure 64: UEBTF Revenues, FY 2003-04 to FY 2010-11 (Million \$)



Data Source: DWC

The number of new UEBTF cases and dollar amounts associated with new opened claims for the past eight fiscal years are shown in two charts below.

Figure 65: New UEBTF Cases Opened, FY 2003-04 to FY 2010-11

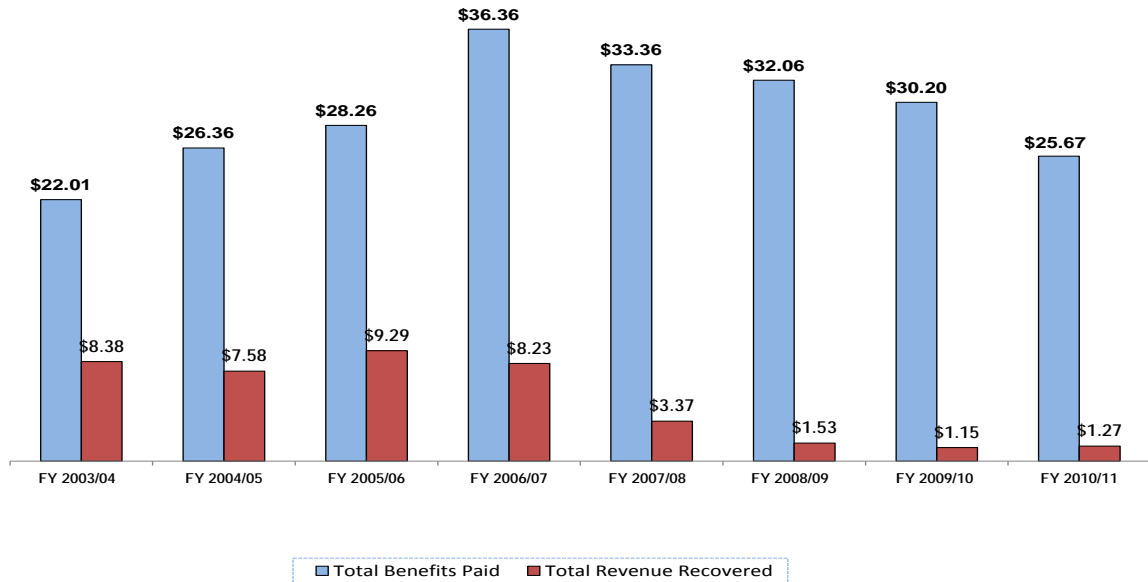


Data Source: DWC

²⁷ The data in the figure "UEBTF Revenues" can be found at DWC/ Special Funds Unit/UEBTF website at a later time http://www.dir.ca.gov/dwc/UEF/UEF_LC3716_1.pdf.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

**Figure 66: UEBTF Total Benefits Paid and Total Revenue Recovered, FY 2003-04 to FY 2010-11
(Million \$)**



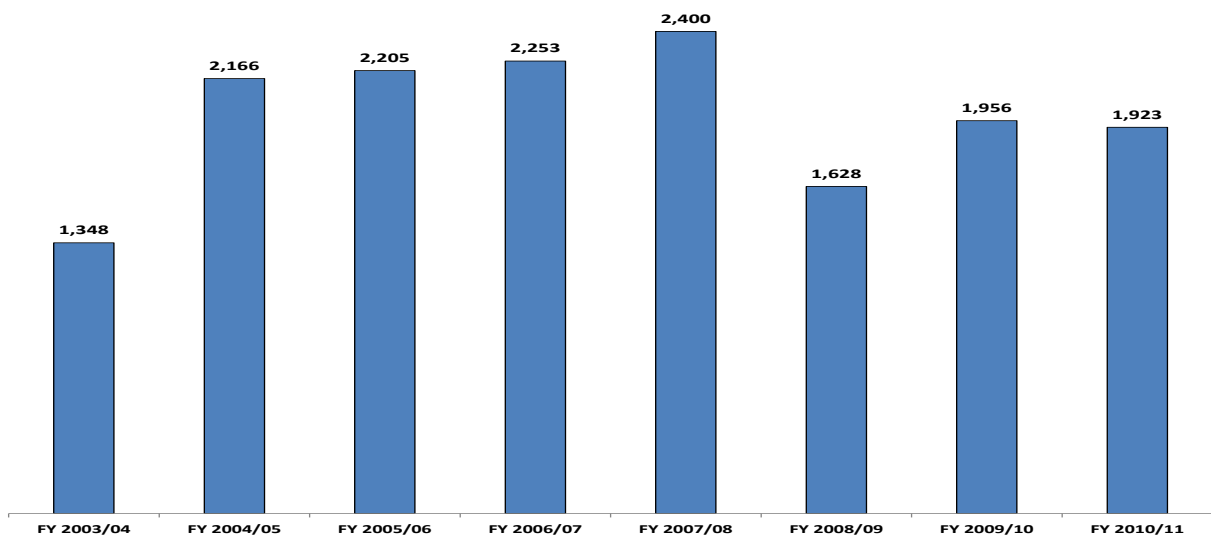
* Includes collections, DLSE penalties, and inmates without dependents

Data Source: DWC

Costs of the Uninsured Employers Benefits Trust Fund

The number of uninsured claims paid increased 78 percent from 1,348 in fiscal year 2003-04 to 2,400 in 2007-08, decreased by 32 percent from 2007-08 to 2008-09, and increased again by 18 percent from 2008-09 to 2010-11.

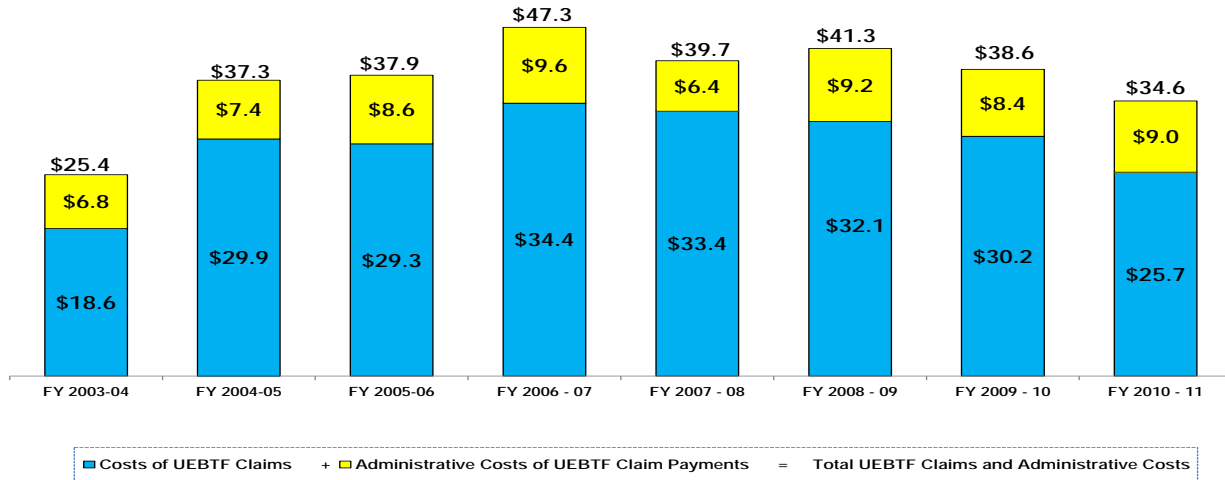
Figure 67: Number of Uninsured Claims Paid, FY 2003-04 to FY 2010-11



The cost of claims increased 85 percent from 2003-04 to 2006-07 and decreased 25 percent from 2006-07 to 2010-11. Administrative costs associated with claim payment activities increased 41 percent from 2003-04 to 2006-07, decreased 33 percent from 2006-07 to 2007-08, and then fluctuated between 2007-08 and 2010-11.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

Figure 68: UEBTF Paid Costs, FY 2003-04 to FY 2010-11 (Million \$)



Data Source: DWC

The projected UEBTF annual program cost for the most recent fiscal year 2011-12 is \$40.4 million.²⁸ 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.

The figure below provides data on the ratio of money paid out by employers and insurers compared to that paid out by UEBTF in claims where UEBTF was joined in a WCAB case. The figure below demonstrates that in these cases, more money is paid to injured workers from employers and insurers than from UEBTF.²⁹

Figure 69: UEBTF Paid Amounts for Cases Closed by OD-Legal, FY 2004-05 to FY 2010-11 (Million \$)



Data source: DWC

²⁸ 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.

²⁹ Data provided by Office of the Director Legal Unit (OD-Legal) on cases closed for fiscal years 2004-05 through 2010-11.

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 helps facilitate evaluation of the system and measure adequacy of benefits for injured workers and their dependents, and also provides statistical data for research. After initial development with input from affected groups, the first phase of WCIS became operational in September 1999. Electronic transmission of first reports of injury (FROIs) was required beginning March 1, 2000, and electronic versions of benefit notices (subsequent reports of injury, SROIs) were mandated as of July 1, 2000. Electronic reporting of medical billing data was required for medical services beginning September 22, 2006.

The effective date of new WCIS regulations, part of the DWC's plan to control medical costs, was extended to June 18, 2012. The new regulations, which were adopted in November 2010, will increase the time for filing the FROI (from 5 business days to 10), relax several data edits to allow easier transmission of claim information with fewer submission rejections, and clarify the process for medical lien reporting. In addition, the regulations updated the two WCIS implementation guides (the California *EDI Implementation Guide for First and Subsequent Reports of Injury* and the California *EDI Implementation Guide for Medical Bill Payment Records*).

Accurate electronic reporting to WCIS by claims administrators, including medical billing data reports, will allow DWC to identify key cost indicators in the system and formulate policies to keep costs under control, helping ensure that the uptick in medical costs seen since 2007 does not continue.

A major Research Unit project is to collect data for and maintain, develop and enhance WCIS. Work on WCIS is done in collaboration with DIR's Office of Information Systems (OIS) staff. Using electronic data interchange (EDI), WCIS collects comprehensive information from claims administrators to help DIR oversee and evaluate the state's workers' compensation system. WCIS also provides statistical data for research by DWC staff and external users. As of December 2011, there are about 8.7 million claims and 65 million medical bills in WCIS.

The data warehouse project. WCIS has been building a medical billing data warehouse, which will clean and organize the data so it will be more accessible to users. In 2012, development of the data warehouse will continue and researchers will produce reports on topics requested by DWC administration, as well as on topics relevant to the workers' compensation community at large.

Research projects. Various projects include: carve-out activities report; quality of AME-QME evaluation report; research assistance to DWC's medical and legal unit staff regarding fee schedules and medical treatment utilization schedules; research assistance to the Legislature and Governor's Office, and projects with outside researchers at the Division of Occupational Safety and Health (DOSH), CHSWC, RAND, Bureau of Labor Statistics (BLS), CA Department of Public Health, and Workers' Compensation Insurance Rating Board (WCIRB), etc. Research continues on the wage loss and return-to-work models used in the evaluation of the 2005 Permanent Disability Rating Schedule.

DWC Research Unit accomplishments include:

- DWC sent out timeliness of temporary disability payment reports to claims administrators and FROI and SROI data-quality reports to data senders.
- DWC sent out reports on timeliness of FROI reporting to claims administrators for the first time.
- DWC sent out data quality reports for medical billing to data senders for the first time.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- Comparisons of WCIS claim counts with those of DWC Audit Unit's annual report of inventory were sent to claims administrators.
- Development work on the medical data warehouse continued.
- Online FAQs for reporting FROI/SROI and medical billing data were updated to provide claims administrators with detailed information on how to report to WCIS.

WCIS data extracts were provided to numerous researchers in academia and government organizations.

Electronic Adjudication Management System

The Electronic Adjudication Management System (EAMS) is an electronic records system that replaces paper case files for the Workers' Compensation Appeals Board (WCAB), Disability Evaluation Unit (DEU), Retraining and Return to Work Unit (RRTW), Subsequent Injuries Benefits Trust Fund (SIBTF), and Uninsured Employers Benefits Trust Fund (UEBTF).

This system creates new case files, enters data, adds and deletes parties and representatives, updates addresses, files documents, stores and retrieves documents, accesses and routes documents and data, tracks case status, calendars hearings, provides information and assistance to parties, creates and sends tasks to appropriate personnel, and prevents unauthorized access to records.

The system went live at the end of August 2008. The most pressing issue was the time-consuming process of DWC staff scanning and verifying documents in EAMS. State furloughs and a hiring freeze exacerbated this problem. DWC developed two solutions allowing external parties to electronically file pleadings.

E-form filing allows external parties to file their pleadings over the internet using web based forms. In January 2012, the rules were revised to allow parties to choose which pleadings to file electronically. The e-form reference guide was also revised. Parties were allowed more than one login per office location. As of February 2012, e-form filers were filing 33 percent of all the batches of pleadings.

Jet filing, launched in June 2011, allows external parties to file their pleadings from their own case management software. This capability to auto-populate and electronically send pleadings requires external custom software. As of March 2012, 11 software vendors have been certified. Some large users have created their own software which was also certified. In December 2011, Jet filing was opened to all external users. As of February 2012, Jet filers were filing 11 percent of all the batches of pleadings.

While internal scanning and verification backlogs still exist at some district offices, the external electronically filed batches mitigate this problem. Electronic filing increased from 33 percent in 2010 to 44 percent in February 2012.

Jet filing is currently available for the six most used pleading forms including the Application for Adjudication, Declaration of Readiness, Expedited Declaration of Readiness, Lien Claim, Stipulation with Request for Award and Compromise and Release. More forms are being developed.

There is now greater access to EAMS. Parties who use e-form filing and use their Uniform Assigned Names can see the events, pleadings and documents filed in their worker's compensation cases.

Parties who use e-form filing to set their cases can, within a range, pick their preferred conference date.

The Public Information Search Tool is available to everyone. Upon searching by injured workers' name or case number, users can obtain a list of case participants and their addresses (except for the injured worker's address due to privacy concerns), the venue of the case, the assigned judge, the next hearing date, and the pertinent case events.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

The Cúram upgrade, from Cúram 4.5 to version 5.2, is a major undertaking involving significant DIR technical staff effort and DWC staff effort. Cúram is a very large application software component of EAMS. The upgrade is expected to be completed by May 2012. Due to this pending change, few other incremental changes have been made to EAMS. Some changes, including an Award template and better identification and sorting of trial exhibits, have occurred. Other changes await the successful completion of the upgrade.

DIR technical staff shortages have prevented many improvements to EAMS. Shortages have worsened due to furloughs and the hiring freeze. The relaxation of the hiring freeze partially mitigated the personnel losses and allows more improvements in EAMS after the Cúram upgrade.

Training is ongoing. Eform filer training is available every five weeks. Calendar clerks have an EAMS training call every month. An EAMS training and Q & A call to all the district offices occurs every two weeks. Judge-specific training in EAMS occurred in 2011 and 2012. Preparation for secretary-specific EAMS training has begun.

Carve-outs: Alternative Workers' Compensation Systems

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

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

Since carve-out programs have operated only since the mid-1990s, the data collected are preliminary. The study team found indications that: the most optimistic predictions about the effects of carve-outs on increased safety, lower dispute rates, far lower dispute costs, and significantly more rapid 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

Senate Bill (SB) 228 adds Labor Code Section 3201.7, establishing the creation of a new carve-out program for any unionized industry that meets the requirements. This is in addition to the existing carve-out 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 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.

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

Impact of Senate Bill 899

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

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.

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Reporting Requirements of Labor Code Sections 3201.5, 3201.7 and 3201.9 and California Code of Regulations, Title 8, Section 10203.

Requirements of the DWC report to the Legislature under Labor Code Sections 3201.5 and 3201.7

Labor Code Section 3201.5 requires the Administrative Director of DWC to prepare a report to the Legislature by June 30 of each year based upon aggregate data that shall include the following:

- (1) Person-hours worked and payroll covered by agreements filed.
- (2) The number of claims filed.
- (3) The average cost per claim reported by cost components whenever practical.
- (4) The number of litigated claims, including the number of claims submitted to mediation, the Workers' Compensation Appeals Board (WCAB), or the Court of Appeal.
- (5) The number of contested claims resolved prior to arbitration.
- (6) The projected incurred and actual costs of claims.
- (7) Safety history.
- (8) The number of workers participating in vocational rehabilitation programs.
- (9) The number of workers participating in light-duty programs.

Labor Code Section 3201.7 requires that the report on non-construction ADR programs also include a measure of overall worker satisfaction.

DWC and DOI reporting requirements under Labor Code Section 3201.9

Prior to the passage of SB 899 (Chapter 34, Statutes of 2004), the scope of the DWC's reporting to the Legislature on ADR/carve-out system activity was limited to ADR/carve-out activity from the prior year, as required by Labor Code sections 3201.5 and 3201.7. With SB 899, Labor Code section 3201.9 expanded the scope of data collection to require a report that gives an historical and comparative perspective on all program activity from 2003 forward, using information from both DWC and CDI.

Labor Code Section 3201.9 requires that the DWC biannually expand its reporting under Labor Code Sections 3201.5 and 3201.7 by providing updated loss experience data for all employers and groups of employers participating in a program established under those sections. According to Labor Code Section 3201.9, the report should also include updated data on each item set forth in subdivision (i) of Section 3201.5 and subdivision (h) of Section 3201.7 for the previous year for injuries in 2003 and beyond.³⁰ In addition, Labor Code Section 3201.9 requires that the Insurance Commissioner or Commissioner's designee prepare for inclusion in the report both a review of the adequacy of rates charged for these programs and a comparative analysis of ADR/carve-out program rates to other programs not subject to Labor Code Section 3201.5 or 3201.7. CDI's reporting and data analysis were performed by the WCIRB of California.

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 California Code of Regulations, Title 8, Section 10203. Section 10203 requires that every employer subject to either Labor Code Section 3201.5 or 3201.7 shall provide the 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 the 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

³⁰ Data on Labor Code Sections 3201.5 (i) and 3201.7 (h) were not kept by DWC until 2004. Therefore, this report is based on calendar data from 2004-2011.

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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).

Carve-out Program from 2005 to 2011

Carve-Out Participation

California Code of Regulations, Title 8, Sections 10203(b)(6) and 10203(b)(7) require ADR/carve-outs to report employees’ hours worked and payroll in accordance with WCIRB class codes (Table 24). Unlike all of the other reporting requirements, person-hours worked and payroll are only reported once and on an annual basis (the data available from 2006 calendar year only). Therefore, all of 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 24: Estimated Person-Hours Worked and Payroll, 2006-2011 (3201.5 and 3201.7 Total Programs)

Calendar Year (Reporting Year)	2006 (1st)	2007 (1st)	2008 (1st)	2009 (1st)	2010 (1st)	2011 (1st)
Reporting Programs (Total)	19	16	19	21	19	22
Employers	981	1,087	1,274	876	1,177	1,586
Payroll (\$ Billion)	\$1.4	\$1.8	\$2.8	\$3.4	\$2.0	\$2.4
Person-Hours	55,569,530	56,055,122	92,504,843	99,236,012	67,249,009	77,936,131
FTE (estimated)	27,785	28,028	46,252	49,618	33,625	38,968
Hourly Wage	\$25	\$32	\$30	\$34	\$29	\$31

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 forward (for presentation purposes, the charts below start from 2005). All data presented on carve-outs are total figures for both construction and non-construction programs.

As the California Code of Regulations, Title 8, Section 10203 requires carve-out programs to annually report new and updated claims data totals for the previous four calendar years, the maturity of data collected and presented by DWC varies by calendar year. In this report, calendar year 2011 data are based on first-year data; calendar year 2010 data are based on second-year data; calendar year 2009 data are based on third-year data; and, calendar year data from 2004 to 2008 are based on fourth-year data.

Person hours and payroll covered by agreements filed

Carve-out programs reported that for the 2010 calendar year, they covered 67.2 million work hours and \$2.0 billion in payroll.

For the 2011 calendar year, carve-out programs reported that they covered 77.9 million work hours and \$2.4 billion in payroll.

Number of claims filed

During 2011, there were a total of 3,100 claims filed, of which 1,600 (52 percent) claims were medical-only claims, and 1,500 (48 percent) were indemnity claims.

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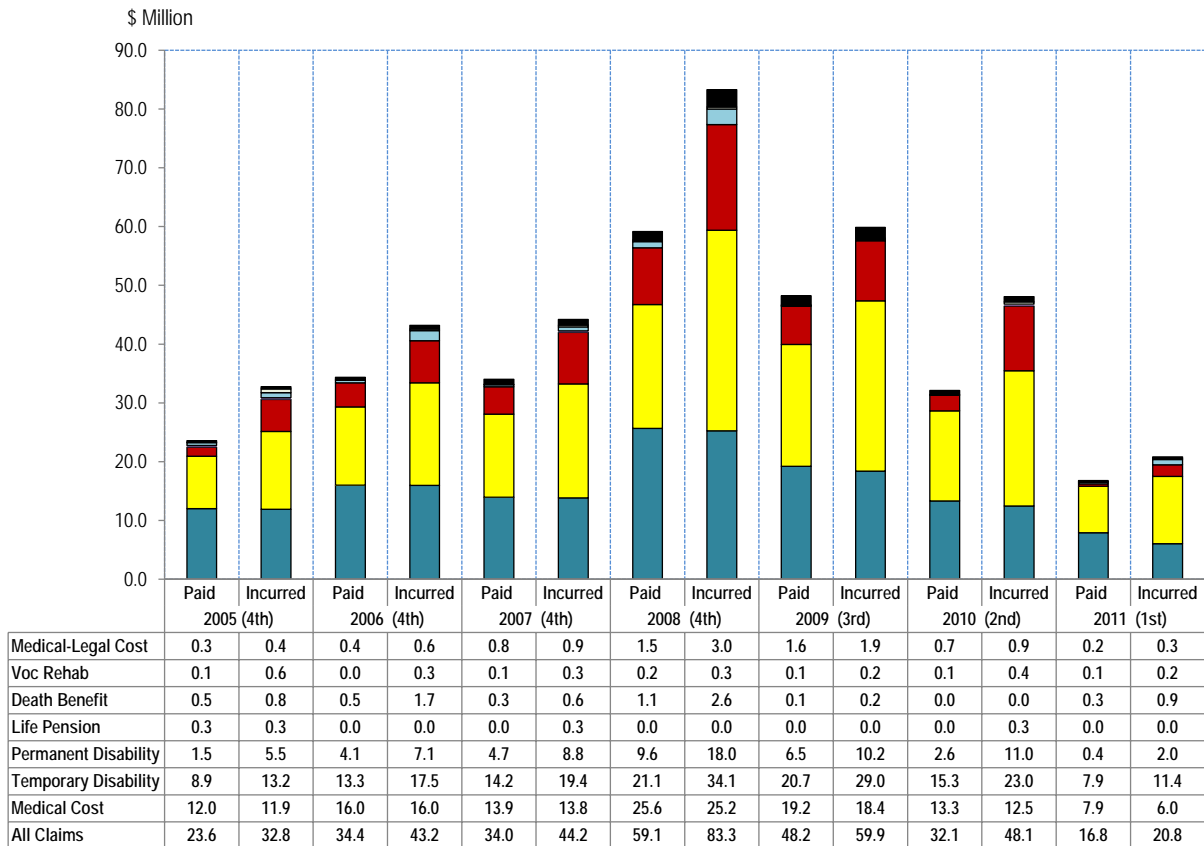
Comparability of data presented in Department of Workers' Compensation Carve-out Report.

Except for person-hours worked, payroll, and other data presented in Table 24, the carve-out data presented in the DWC report from 2004 to 2008 are for four-year-mature claims and are comparable to each other, while the data reported after 2008 get one year less mature for each next year. The data from 2009 to 2011 are not comparable to each other and to 2004-2008 data.

Paid, incurred and average cost per claim

The figure below shows projected paid and incurred costs for all claims combined by types of benefits. According to this figure, the actual costs for claims filed in 2011 totaled \$16,773,000, while the incurred costs totaled \$20,817,000. The largest share of costs is attributable to payment of medical and temporary disability benefits. These benefits accounted for 47 percent each of total actual costs and 29 percent and 55 percent of total incurred costs, respectively.

Figure 70: Carve-Out Programs: Paid and Incurred Costs by Type of Benefits, 2005-2011 (Million \$)



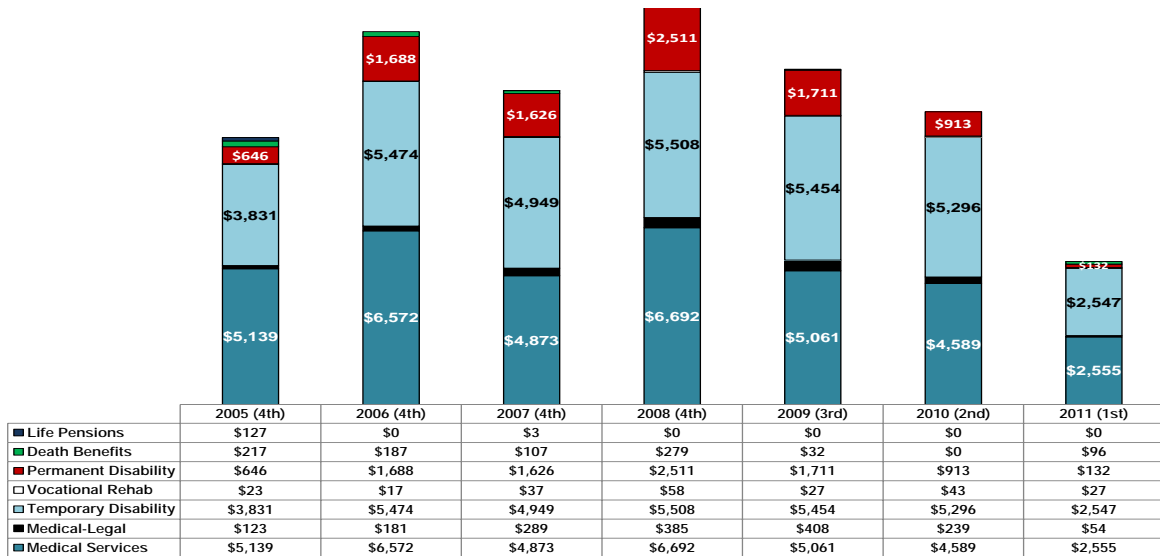
Data Source: DWC

According to Figure 71, in 2011, carve-out programs average paid cost per claim was \$5,411. The average paid per claim was \$2,555 for medical services, \$2,547 for temporary disability, \$132 for permanent disability, \$0 for life pensions, \$96 for death benefits, \$27 for vocational rehabilitation, and \$54 for medical-legal expenses.

According to Figure 72, in 2011, carve-out programs average incurred cost per claim was \$6,715. The average incurred cost per claim for was \$1,950 medical services, \$3,689 for temporary disability, \$646 for permanent disability, \$0 for life pensions, \$282 for death benefits, \$52 for vocational rehabilitation, and \$95 for medical-legal expenses.

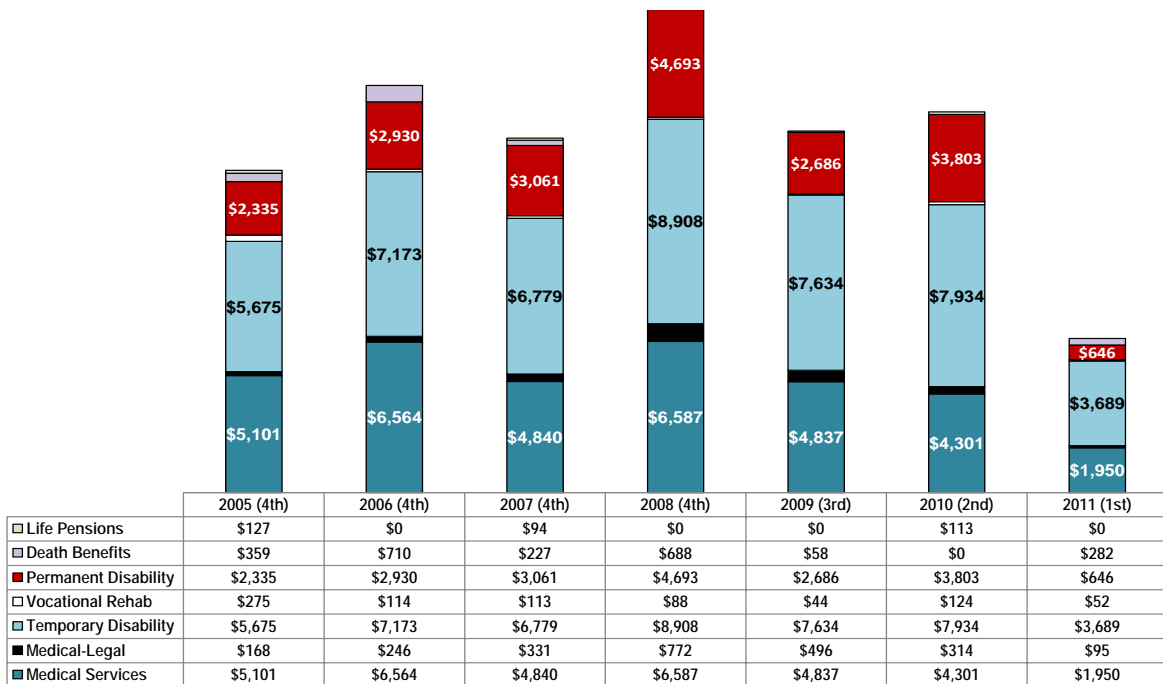
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Figure 71: Average Paid Cost per Claim by Cost Components, 2005-2011



Data Source: DWC

Figure 72: Average Incurred Cost per Claim by Cost Components, 2005-2011

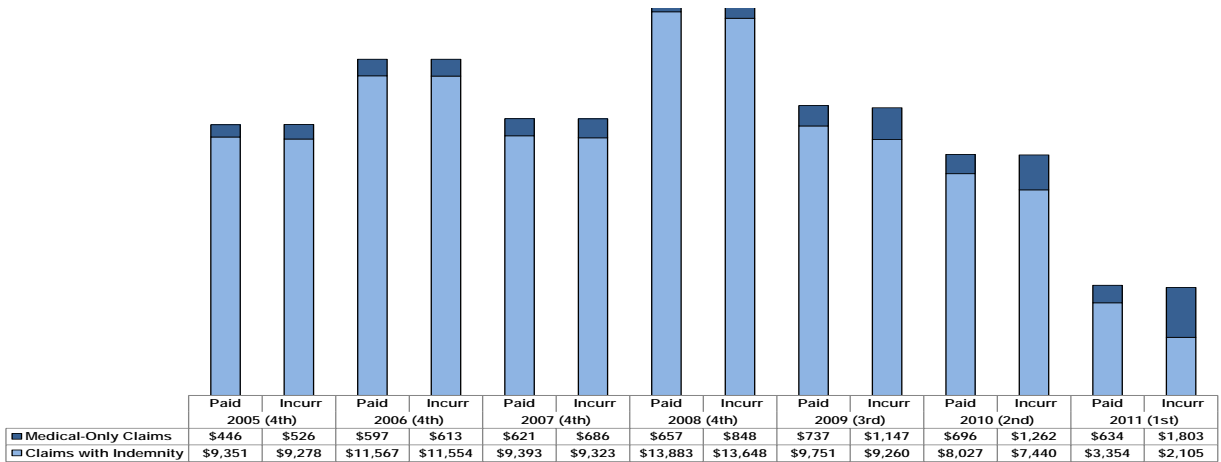


Data Source: DWC

The following figure shows the distribution of the medical service component of paid and incurred costs by the type of claims filed from 2004 to 2011.

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Figure 73: Average Paid and Incurred Medical Services Cost of Claim by Type of Claim
2005 – 2011



Data Source: DWC

Number of disputed claims

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, and at or after the Court of Appeals (Table 26). 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 25: Total Carve-Out Claims in Programs Reporting, 2005-2011

	2005 (4 th)*	2006 (4 th)	2007 (4 th)	2008 (4 th)	2009 (3 rd)	2010 (2 nd)	2011 (1 st)
Number of Programs Reporting	15	18	19	20	23	24	24
Number of Claims Filed	2,334	2,434	2,861	3,832	3,799	2,898	3,100
Number of Claims Resolved	1,984	2,161	2,673	3,472	3,527	2,634	2,750
Percentage of Claims Filed and Resolved in the same Calendar Year	85%	89%	93%	91%	93%	91%	89%
Number of Claims Resolved without Dispute (Before Mediation)	934	1,953	2,488	3,351	3,419	2,588	2,731
Percentage of Claims Resolved without Dispute (Before Mediation)	40%	80%	87%	87%	90%	89%	88%
Number of Claims Resolved with Dispute	42	103	185	121	108	46	19
Percentage of Claims Resolved with Dispute	2%	4%	6%	3%	3%	2%	1%

* The number of claims resolved and the number of claims resolved with litigation were underreported for 2005.

Data Source: DWC

In 2011, carve-out programs reported resolving 19 claims using litigation. Fourteen claims were resolved at mediation, one at arbitration, four at the WCAB, and none at the Court of Appeals. Of the litigated claims, non-construction programs litigated only four claims at mediation; the rest were litigated by construction carve-outs.

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Table 26: Number of Disputed Claims by Type of Resolution, 2005-2011

	2005 (4 th)*	2006 (4 th)	2007 (4 th)	2008 (4 th)	2009 (3 rd)	2010 (2 nd)	2011 (1 st)
At Mediation	29	70	152	83	80	39	14
At Arbitration	6	26	18	23	14	1	1
At WCAB	5	7	15	14	14	6	4
At Court of Appeals	2	0	0	1	0	0	0
Total Disputed Claims	42	103	185	121	108	46	19

* The number of claim resolved and the number of claims resolved with litigation were underreported for 2005.

Data Source: DWC

Table 27: Distribution of Disputed Claims by Type of Resolution, 2005-2011

	2005 (4 th)	2006 (4 th)	2007 (4 th)	2008 (4 th)	2009 (3 rd)	2010 (2 nd)	2011 (1 st)
At Mediation	69%	68%	82%	69%	74%	85%	74%
At Arbitration	14%	25%	10%	19%	13%	2%	5%
At WCAB	12%	7%	8%	12%	13%	1%	21%
At Court of Appeals	5%	0%	0%	1%	0%	0%	0%

Data Source: DWC

Safety history

To determine safety history, Title 8 CCR 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, multiply the number of injuries and illnesses reported on the United States Department of Labor Occupational Safety and Health Administration (OSHA) Form 300 by 200,000,³¹ then divide by the number of person-hours worked reported under California Code of Regulations, Title 8, Section 10203(b)(6). In 2010, the U.S. Bureau of Labor Statistics (BLS) injury and illness incidence rate for all California workers was 4.2; construction workers had an incidence rate of 4.0.³²

OSHA requires employers to log an injury and/or illness report using Form 300 if a work-related incident results in death, loss of consciousness, days away from work, restricted work activity, and/or medical care beyond first aid. In 2010, ADR programs reported 2,287 injuries and illnesses on the OSHA Form 300. This accounts for 74 percent of the 3,100 claims filed, indicating an under-reporting of injury data on OSHA logs by ADR programs.

Due to the discrepancy between the number of OSHA injuries and illness reported and the number of claims reported, two safety ratings are calculated below: one based on the number of incidents reported on the OSHA Form 300; and a second based on the total number of reported claims. In calculating the two safety ratings, additional adjustments were made to compensate for the four construction carve-outs that did not report person-hours worked. The number of incidents reported and the number of total claims are adjusted below to reflect the 18 construction programs and the four non-construction programs that reported person-hours.

³¹ 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>.

³² Bureau of Labor Statistics, U.S. Department of Labor, "Table 6. Incidence rates of nonfatal occupational injuries and illnesses by industry and case types, 2010," <http://www.bls.gov/iif/oshwc/osh/os/pr106ca.pdf>

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Table 28: Number of Incidents and Illnesses Filed Using OSHA Form 300, 2005-2011

	2005 (4 th)	2006 (4 th)	2007 (4 th)	2008 (4 th)	2009 (3 rd)	2010 (2 nd)	2011 (1 st)
Number of Injuries Filed on OSHA Form 300	3	824	807	1,759	2,240	1,992	2,287
Total Number of Claims	2,334	2,434	2,861	3,832	3,799	2,898	3,100
Percent of OSHA Forms	0%	34%	28%	46%	59%	69%	74%

Data Source: DWC

The number of workers participating in vocational rehabilitation programs

Despite the 2009 discontinuation of vocational rehabilitation programs in the California workers' compensation system, California Code of Regulations, Title 8, Section 10203(b)(15) continues to require carve-outs to report the number of workers participating in vocational rehabilitation programs. In 2011, 16 construction workers participated in vocational rehabilitation.

Table 29: Number of Workers in a Vocational Rehabilitation Program, 2005-2011

	2005 (4 th)	2006 (4 th)	2007 (4 th)	2008 (4 th)	2009 (3 rd)	2010 (2 nd)	2011 (1 st)
Number of Programs Reporting	13	18	19	22	22	23	23
Number of Workers	6	10	23	51	38	37	16

Data Source: DWC

The number of workers participating in light-duty or modified return-to-work programs

California Code of Regulations, 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 2011, 839 workers participated in light-duty or modified work programs, including 158 construction program workers and 681 non-construction program workers. The overall ratio of claims filed per each light-duty or modified work participant was 3.7 to one.

Table 30: Number of Workers Participating in Light-Duty or Modified Return-to-Work Programs, 2005-2011

	2005 (4 th)	2006 (4 th)	2007 (4 th)	2008 (4 th)	2009 (3 rd)	2010 (2 nd)	2011 (1 st)
Number of Workers	61	264	174	965	1,025	812	839
Total Claims Filed	2,334	2,434	2,861	3,832	3,799	2,898	3,100
Ratio of Claims Filed to Light-Duty or Modified Work Participants	38.3	9.2	16.4	4.0	3.7	3.6	3.7

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. There is currently no standard survey that is required to be implemented by all non-construction programs.

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

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shortages. A second program failed to report results because they have 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.

For 2010, of the four reporting 3201.7 programs, only two programs submitted survey results. One 3201.7 program failed to report the results of a workers' satisfaction survey due to staffing shortages. A second program failed to report results because they had not developed and implemented a worker satisfaction survey. One of the ADR programs that reported results for 2010 found that 43 percent of its respondents rated their ADR program as good or excellent, 20 percent rated it fair, and 37 percent rated it poor. The other ADR program reporting results found that 49 percent of its respondents were satisfied or very satisfied with the services provided by their ADR program, 16 percent were dissatisfied or very dissatisfied, and 35 percent were neutral about the services their ADR program provided.

For 2009, of the four reporting 3201.7 programs, only one submitted results. This program found that 34 percent of injured workers surveyed were satisfied or very satisfied with their ADR/carve-out program. Two 3201.7 programs failed to respond to repeated requests for results during the follow-up phase of the reporting process. One replied that because of staffing cuts, it did not have time to submit results for the previous year.

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Status of Carve-out Agreements

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

**Construction Industry Carve-out Participants as of September 18, 2012
Labor Code Section 3201.5**

(1) = 1 employer, 1 union; (2) = 1 union, multi-employer; (3) = project labor agreement

No.	Union	Company	Exp. Date
1. (3)	CA Building & Construction Trades Council	Metropolitan Water District So. CA - Diamond Valley Lake	11/7/2006
2. (2)	International Brotherhood of Electrical Workers (IBEW)	National Electrical Contractors Association (NECA)	8/14/2013
3. (2)	So. CA District of Carpenters & 19 local unions	6 multi-employer groups - 1000 contractors	8/14/2013
4. (2)	So. CA Pipe Trades Council 16	Multi employer - Plumbing & Piping Industry Council	8/24/2013
5. (1)	Steamfitters Local 250	Cherne - two projects completed in 1996	07/31/15
6. (1)	International Union of Petroleum & Industrial Workers	TIMEC Co., Inc./TIMEC So. CA., Inc.	7/31/2012
7. (3)	Contra Costa Building & Construction Trades Council	Contra Costa Water District - Los Vaqueros	Complete
8. (2)	So. CA District Council of Laborers	Assoc. General Contractors of CA, Building Industry Assoc.; So. CA, So. CA Contractors' Assoc.; Engineering Contractors' Assoc.	7/31/2014
9. (3)	CA Building & Construction Trades Council	Metropolitan Water District So. CA Inland Feeder Parsons	Ended 12/31/02
10. (3)	Building & Construction Trades Council of Alameda County	Parsons Constructors, Inc. Nat'l Ignition Facility - Lawrence Livermore	9/23/2009 Ended 7/2/06
11. (2)	District Council of Painters	LA Painting & Decorating Contractors' Association	10/28/2012
12. (1)	Plumbing & Pipefitting Local 342	Cherne Contracting - Chevron Base Oil 2000 project	Complete
13. (3)	LA Building & Construction Trades Council AFL-CIO	Cherne Contracting - ARCO	Complete
14. (2)	Operating Engineers Local 12	So. CA Contractors' Association	4/1/2014
15. (2)	Sheet Metal International Union	Sheet Metal-A/C Contractors National Association	4/1/2014
16. (3)	Building & Construction Trades Council San Diego	San Diego County Water Authority Emergency Storage Project	2/20/2015
17. (3)	LA County Building & Construction Trades Council	Cherne Contracting - Equilon Refinery - Wilmington	3/1/2007
18. (3)	Plumbers & Steamfitters	Cherne Contracting - Chevron Refinery - Richmond	7/1/2005

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No.	Union	Company	Exp. Date
19. (3)	Plumbers & Steamfitters	Cherne Contracting – Tesoro Refinery – Martinez	7/1/2005
20. (3)	LA/Orange Counties Building & Construction Trade Council	Cherne Contracting – Chevron Refinery – El Segundo	7/26/2005
21. (2)	District Council of Iron Workers-State CA & Vicinity	California Ironworker Employers Council	2/25/2012
22. (2)	Sheet Metal Workers International Association #105	Sheet Metal & A/C Labor Management Safety Oversight Committee (LMSOC)	4/17/2012
23. (2)	United Union of Roofers, Waterproofers & Allied workers, Local 36 and 220	Union Roofing Contractors Association	7/31/2014
24. (2)	United Union of Roofers, Waterproofers & Allied Workers, Locals 27, 40, 81 & 95	Associated Roofing Contractors of the Bay Area Counties	7/31/2014
25. (2)	United Association -Journeyman & Apprentices - Plumbers & Pipefitters, Local #447	No.CA Mechanical Contractors Association & Association Plumbing & Mechanical Contractors of Sacramento. Inc.	11/7/2012
26. (2)	Operatives Plasterers & Cement Masons International Association, Local 500 & 600	So. CA Contractors Association, Inc.	4/1/2014
27. (1)	International Unions Public & Industrial Workers	Irwin Industries, Inc.	3/23/2013
28. (2)	PIPE Trades District Council.# 36	Mechanical Contractors Council of Central CA	4/14/2013
29. (2)	No. CA Carpenters Regional Council	Basic Crafts Workers' Compensation Benefits Trust	8/30/2013
30. (2)	No. CA District Council of Laborers	Basic Crafts Workers' Compensation Benefits Trust	8/30/2013
31. (2)	Operating Engineers Local 3	Basic Crafts Workers' Compensation Benefits Trust	8/30/2013
32. (1)	Industrial, Professional & Technical Workers	Irish Construction	12/20/2013
33. (3)	Building Trades Council of Los Angeles-Orange County	L.A. Comm. College District Construction Program	5/6/2014
34. (3)	Santa Clara & San Benito Counties Bldg. &Construction Trades	Santa Clara Valley Med'I Cntr-Seismic Safety Project, OCIP	2/2/2013

Data Source: DWC

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**Non-Construction Industry Carve-Out Participants as of July 12, 2012
(Labor Code Section 3201.7)**

No.	File #/Union	Company	Permission to Negotiate (Date/Expires)	Application for Recognition of Agreement	Agreement Recognition Letter Date
1	N 06 Operating Engineers-Local 3 (Non-Construction)	Basic Crafts Workers' Compensation Benefits Trust Fund	12/09/04-12/9/05	2/15/2005	2/28/2005
2	N 07 Laborers - Non-Construction	Basic Crafts Workers' Compensation Benefits Trust Fund	12/09/04-12/9/05	2/15/2005	2/28/2005
3	N 08 Carpenters - Non-Construction	Basic Crafts Workers' Compensation Benefits Trust Fund	12/09/04-12/9/05	2/15/2005	2/28/2005
4	N 13 Long Beach Peace Officers' Association & Long Beach Firefighters Association Local 372	City of Long Beach	12/11/06-12/11/07	11/2/2007	11/13/2007
5	N 14 SEIU Local 1877	Diversified Maintenance Services	4/13/07- 4/13/08	2/12/2008	2/28/2008
6	N 15 SEIU Local 721	City of Los Angeles	6/18/07- 6/18/08	4/15/2008	5/8/2008
7	N 20 Kern County Firefighters Union	County of Kern	06/03/10- 06/03/13		
8	N 21 Kern Law Enforcement Association	County of Kern	06/03/10- 06/03/13		
9	N 28 SEIU United Service Workers West	No. CA Maintenance Contractors Association	01/12/11- 01/12/12	3/3/2011	3/8/2011
10	N 29 LA County Firefighters Local 1014	LA County Fire Department	03/23/11- 03/23/13		
11	N 30 SEIU Local 87	SF Maintenance Contractors Association	03/28/11- 03/28/12	5/31/2011	6/7/2011
12	N 31 SEIU United Service Workers West.	No. CA Safeway Contractors	04/15/11- 04/15/12	5/24/2011	6/3/2011
13	N 32 SEIU United Service Workers West.	ABM – non-food retail-LA County	06/10/11- 06/10/12	6/13/2011	6/15/2011
14	N 33 SEIU United Service Workers West.	ABM – non-food retail-San Diego & Imperial Counties	06/10/11- 06/10/12	6/13/2011	6/15/2011
15	N 34 SEIU United Service Workers West.	ABM – retail food-all CA Counties	06/10/11- 06/10/12	6/13/2011	6/15/2011
16	N 35 Huntington Beach Police Officers' Assoc.	City of Huntington Beach	07/01/11- 07/01/13		

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No.	File #/Union	Company	Permission to Negotiate (Date/Expires)	Application for Recognition of Agreement	Agreement Recognition Letter Date
17	N 38 Huntington Beach Fire Management Assoc.	City of Huntington Beach	07/05/11- 07/05/13		
18	N 37 Huntington Beach Police Management Assoc.	City of Huntington Beach	07/12/11- 07/12/13		
19	N 36 Huntington Beach Firefighter's Assoc.	City of Huntington Beach	07/27/11- 07/27/13		
20	N 39 UFCW -Locs 8-GS,135,324, 770 ,1167, 1428,1442	Albertson's, Ralph's Von's	10/26/11-10/26/12		
21	N 40 Orange County Professional Firefighters Assoc.	Orange County Fire Authority	11/30/2011-12/5/12		
22	N 41 SEIU-USWW & SEIU Local 87	ABLE Services	02/09/12-02-/09/13	2/16/2012	2/23/2012

Data Source: DWC

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) 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.

The following table describes the citations from 2010-11 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 31: DLSE Citations by Category, 2010 - 2011

Citation Category	Number of Citations	Penalties Assessed	Penalties Collected
Workers' Compensation	2,294	\$14,373,814	\$3,183,245
Itemized Statement	1,047	\$8,627,276	\$2,578,861
Non-Registration	419	\$2,549,250	\$711,621
Unlicensed Construction Contractor	52	\$304,800	\$64,888
Minimum Wage	133	\$444,250	\$122,986
Overtime	161	\$539,392	\$205,675
Child Labor	156	\$158,250	\$103,847
Garment Recordkeeping	118	\$146,150	\$91,374
Other	0	0	\$15,577
Sub-Total	4,380	\$27,143,182	\$7,078,074
Public Works	389	\$5,767,225	\$648,988
TOTAL	4,769	\$32,910,407	\$7,727,062

Data Source: DLSE

For further information ...

<http://www.dir.ca.gov/dlse/DLSEReports.htm>

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).

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 chaired the Workers' Compensation Expert Working Group of the Task Force. 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:

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

- 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 within the State so 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 outreach efforts of CDI about the consequences of fraud and how the public can recognize it 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 that has been reported by the insurers and does not necessarily reflect the whole picture of fraud since many fraudulent activities have not been identified or investigated.

According to CDI Fraud Division data, the quality of SFCs continues to improve each fiscal year. Several reasons for this trend include:³³

- 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 through the Internet.
- The Department having promulgated new regulations to help insurance carriers step up their anti-fraud efforts and become more effective in identifying, investigating and reporting workers' compensation fraud. A work plan to increase the number of audits performed by the Fraud Division SIU Compliance Unit 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.
- 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 2010-11, the total number of SFCs reported is 5,741.

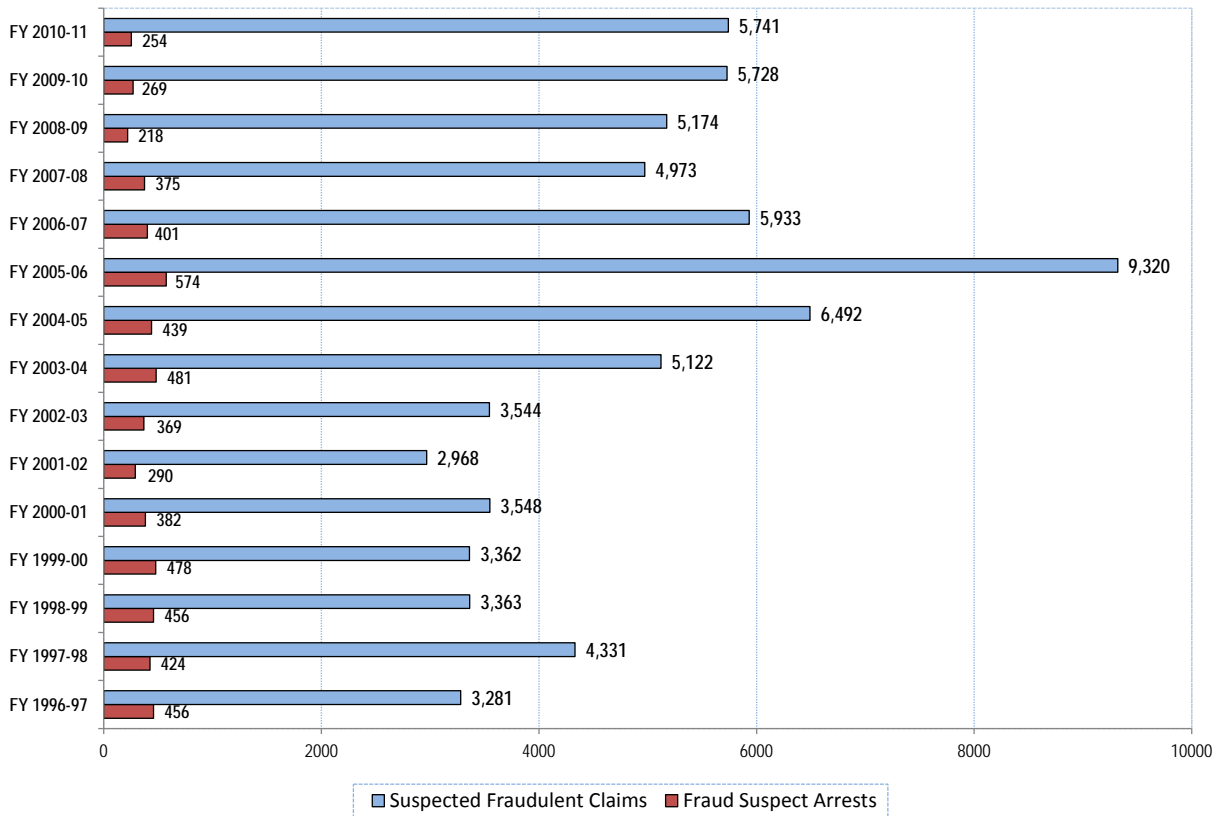
³³ 2011 Annual Report of the Insurance Commissioner, August 1, 2012.

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

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 the following figure.

Figure 74: Suspected Workers' Compensation Fraudulent Claims and Suspect Arrests

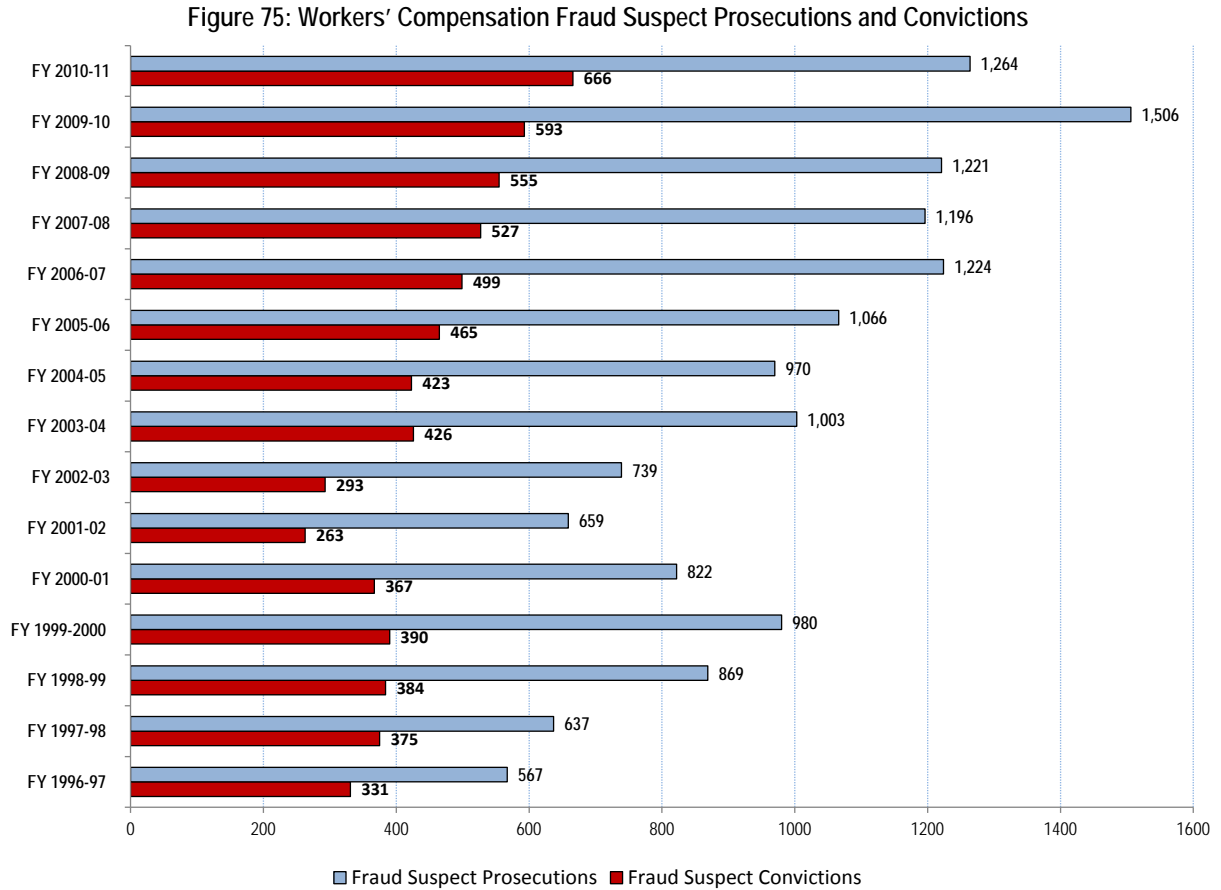


Data Source: CDI - Fraud Division and CWCI

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

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 the figure below.



Data Source: CDI - Fraud Division and CWCI

Workers' Compensation Fraud Investigations

Types of Workers' Compensation Fraud Investigations

The figures "Caseload by Type of Fraud Investigations" and "Type of Fraud Investigations by Percentage of Total" on the next page indicate the number and types of investigations opened and carried from fiscal years 2003-04 to 2010-11 reported by district attorneys. Applicant fraud appears to be the area generating the most cases followed by premium fraud and medical provider fraud.

Some of the categories for fraud-related investigations were changed in the fiscal years 2005-2006, 2006-2007, and 2007-2008 as reflected in the following figures. In 2008, two new categories, Legal Provider and Pharmacy, were introduced as separate categories.

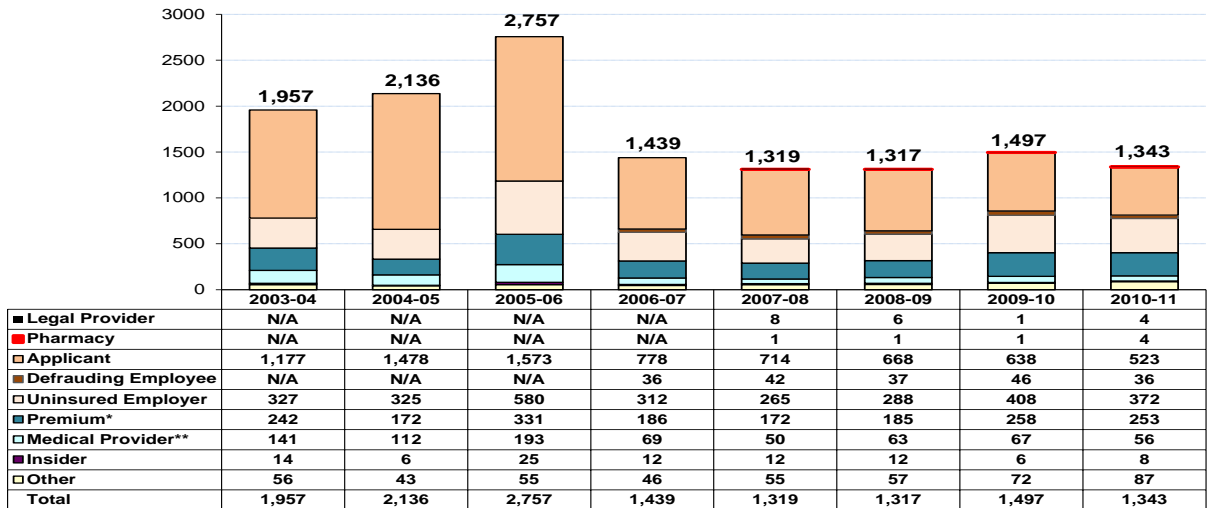
Trends in Workers' Compensation Fraud Investigations

The figure below shows that there was a 31.4 percent increase in workers' compensation fraud investigations from FY 2003-04 to FY 2005-06 followed by sharp 48 percent decrease from FY 2005-06

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

to FY 2006-07. From FY 2006-07 to FY 2010-11, the total number of workers' compensation fraud investigations averaged at 1,380.

Figure 76: Caseload by Type of Fraud Investigations, Fiscal Years 2003/04 – 2010/11

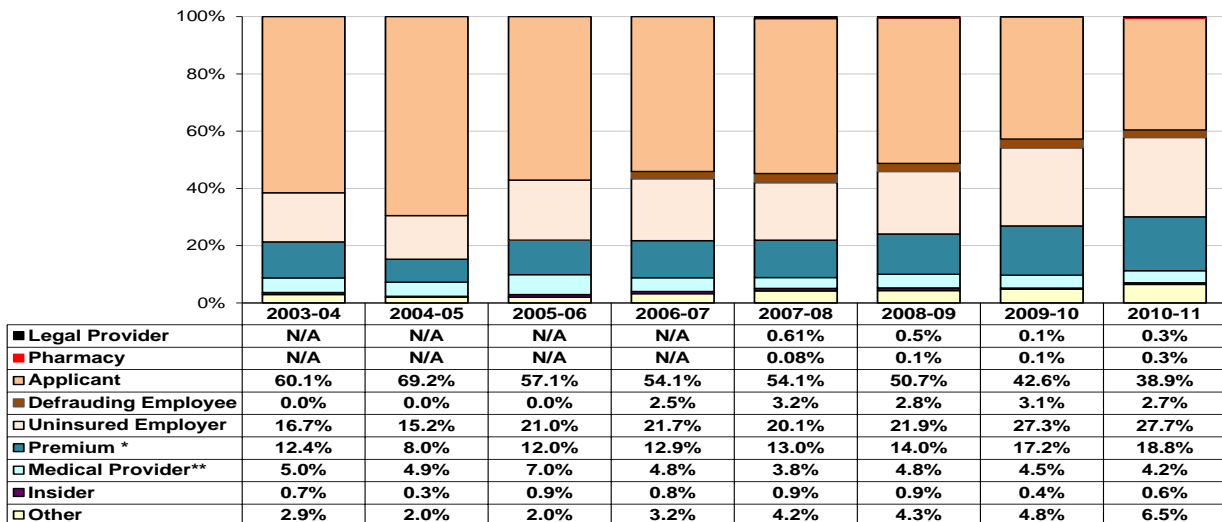


* From 2007-2008 on, Includes Misclassification, Underreported Wages, and X-Mod Evasion
 ** From FY 2005-06, includes Capping and Fraud Rings that had been separate categories before, and for 2006-07, includes Legal Provider and Treatment frauds

Data Source: California Department of Insurance, Fraud Division

As seen in the figure below, the focus of the investigations has been changing. Applicant fraud investigations have dropped from 60 percent of the total in 2003-04 to about 39 percent of the total number of investigations in FY 2010-11. At the same time, there has been an increase in the percentage of investigations of uninsured employers and premium fraud. The percentage of investigations of medical provider fraud decreased from 5 percent to 4.2 percent between 2003-04 and 2010-11.

Figure 77: Type of Fraud Investigations by Percentage of Total, Fiscal Years 2003/04 – 2010/11



* 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

WORKERS' COMPENSATION ADMINISTRATIVE PERFORMANCE

In addition, the *2011 Annual Report of the Insurance Commissioner* notes that the great majority of suspected fraudulent claims in calendar year 2011 came from Los Angeles County (1,987 or 36 percent of total cases) followed by Orange County (480 or 8.7 percent) and then by San Bernardino County (352 or 6.4 percent).

Underground Economy

While most California businesses comply with health, safety and workers' compensation regulations, there are businesses that do not and are operating 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.³⁴

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

CHSWC has engaged in 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.

³⁴ <http://www.bettzedek.org/wp-content/uploads/voicesfromtheunderground.pdf>

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Occupational Injury and Illness Prevention Efforts

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

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

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

Occupational Injuries, Illnesses and Fatalities

The numbers of occupational injuries, illnesses and fatalities in the private sector (private industry) and the public sector (state and local government) for the past several years are displayed and discussed in this subsection. Fatality data for 2011 are preliminary.

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

The National Academy of Social Insurance (NASI) estimated that there were 124.5 million workers covered by workers' compensation in the U.S. in 2010 (latest available year), including 14.2 million in California.

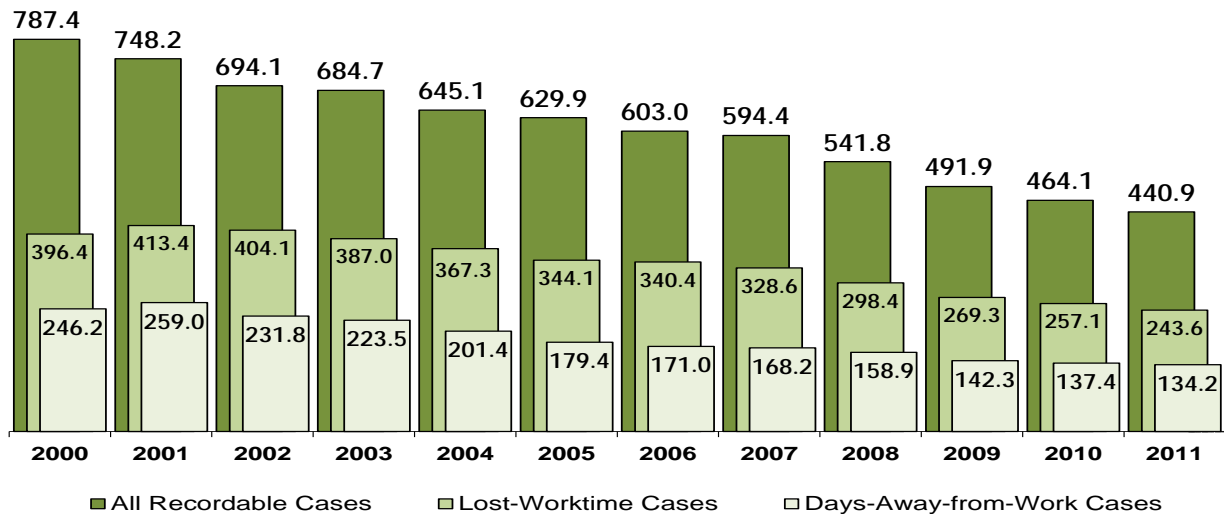
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Public and Private Sectors Compared

Non-Fatal Occupational Injuries and Illnesses

The following figure shows the numbers of occupational injuries and illnesses in California's private industry, state government and local government. Occupational injuries and illnesses in California have decreased noticeably in the past decade. As shown in the following figure, the number of recordable occupational injury and illness cases, number of lost-work-time cases, and number of days-away-from-work cases have all declined from 2000 to 2011.

Figure 78: California Non-Fatal Occupational Injuries and Illnesses: Private Industry, State and Local Governments (Thousands)

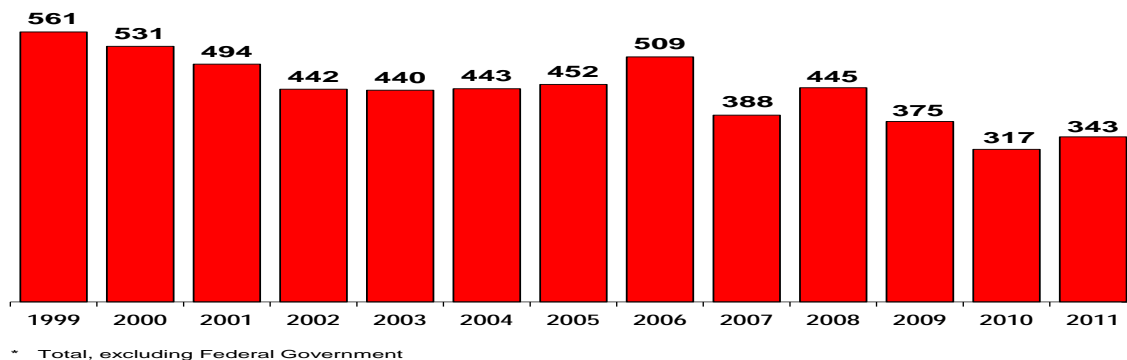


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California have also decreased significantly as depicted in the figure below. Fatal occupational injuries and illnesses in California declined by 21 percent from 1999 to 2002, stabilized at an average of 444 from 2002 to 2005, and then increased by 13 percent from 2005 to 2006. Fatal injuries decreased 23.8 percent from 2006 to 2007, increased 14.7 percent from 2007 to 2008, and then decreased by 33.7 percent from 2008 to 2010. From 2010 to 2011, there was an 8 percent increase in the number of fatal injuries in California.

Figure 79: California Fatal Occupational Injuries and Illnesses - Private Industry, State and Local Governments



Data Source: BLS and DIR, Director's Office of Policy, Research and Legislation

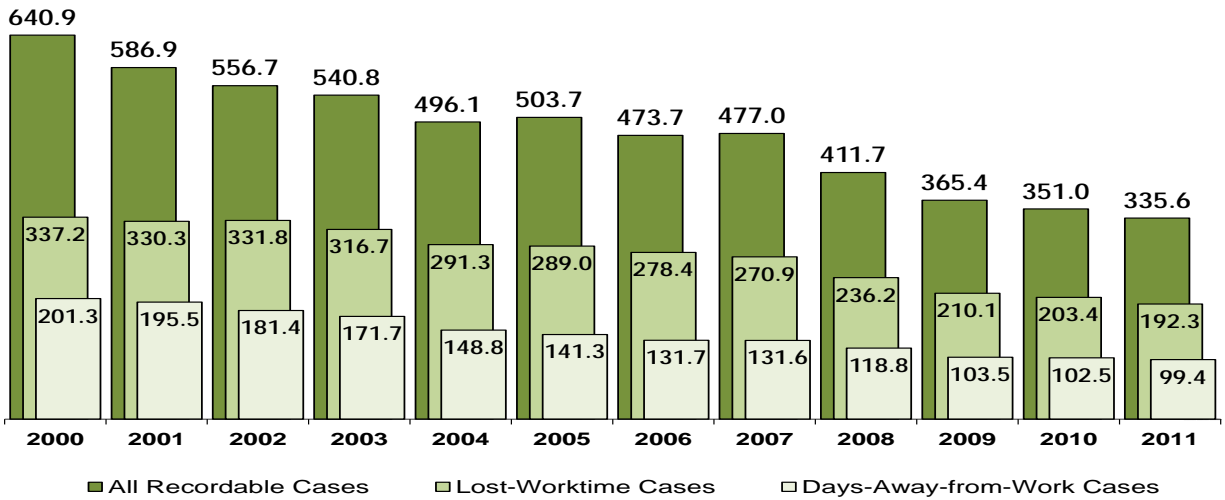
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Private Sector

Non-Fatal Occupational Injuries and Illnesses

Occupational injuries and illnesses in California's private industry have also decreased noticeably in the past ten years. The total number of recordable injury and illness cases dropped by 48 percent, the number of lost-work-time cases declined by 43 percent, and the number of days-away-from-work cases decreased by 51 percent, all from 2000 to 2011.

Figure 80: California Non-Fatal Occupational Injuries and Illnesses: Private Industry (Thousands)

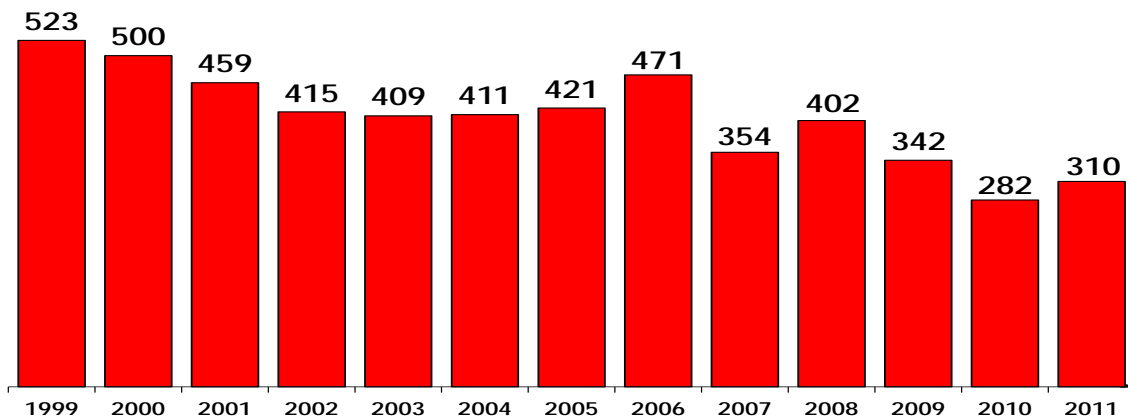


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California private industry declined by 21 percent from 1999 to 2002, stabilized at an average of 414 from 2002 to 2005, and then increased by 12 percent from 2005 to 2006. Fatal injuries decreased 25 percent from 2006 to 2007, increased 13.6 percent from 2007 to 2008, and then decreased by 30 percent from 2008 to 2010. From 2010 to 2011, there was a 10 percent increase in the number of fatal injuries in California.

Figure 81: California Fatal Occupational Injuries and Illnesses - Private Industry



Source: BLS and DIR, Director's Office of Policy, Research and Legislation

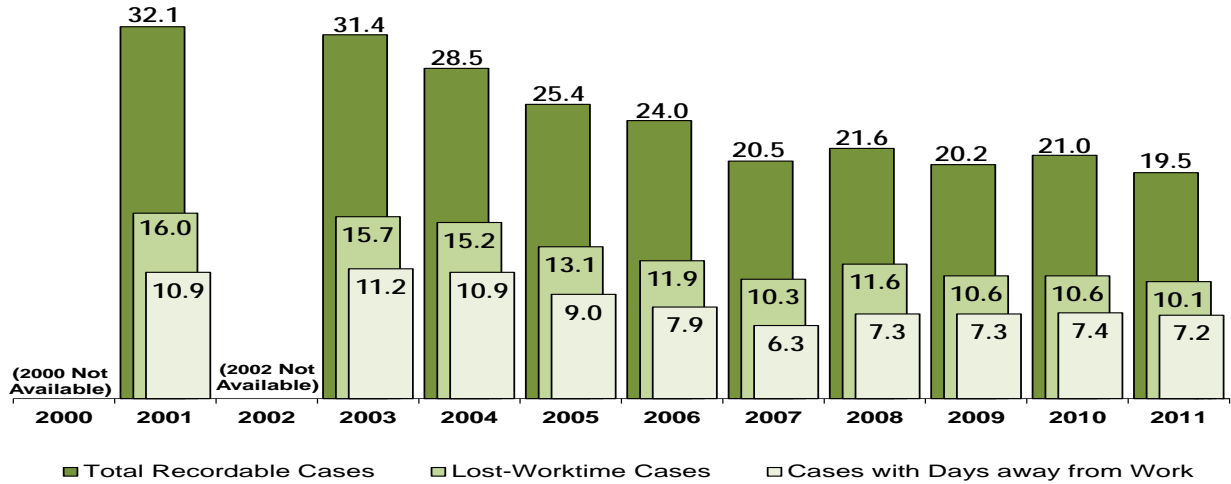
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Public Sector – State Government

Non-Fatal Occupational Injuries and Illnesses

In contrast to private industry, the numbers of non-fatal occupational injuries and illnesses in state government have changed less appreciably in the past nine years, as shown on the following figure. It should be noted that many state and local government occupations are high-risk, such as law enforcement, fire fighting, rescue, and other public safety operations. The total number of cases declined by 36 percent between 2001 and 2007, and then averaged 20,560 from 2007 to 2011.

Figure 82: California Non-Fatal Occupational Injuries and Illnesses: State Government (Thousands)

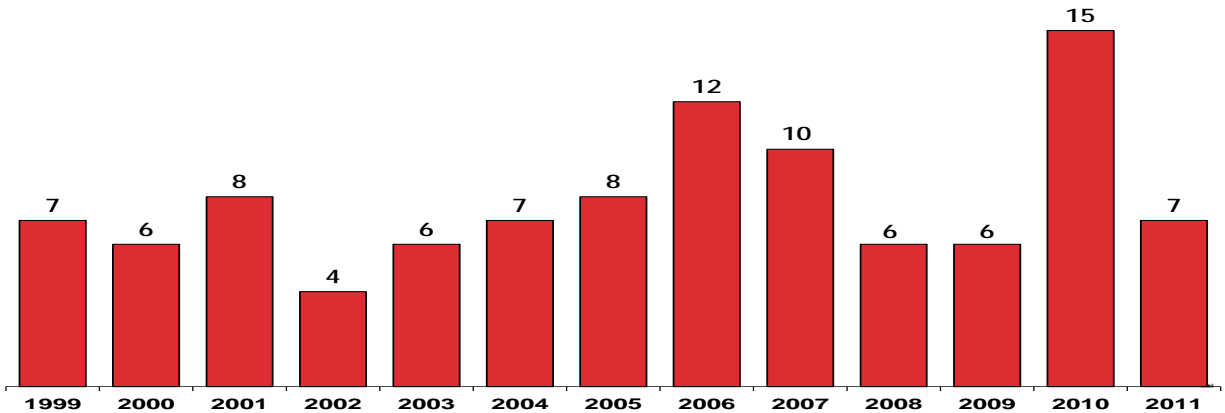


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

Fatal occupational injuries and illnesses in California state government averaged at 6.6 fatalities from 1999 to 2005, increased to an average of 10 fatalities from 2005 to 2007, and then decreased from 12 to 6 fatal injuries and illnesses from 2006 to 2009. From 2009 to 2010 the number of fatal injuries and illnesses increased from 6 to 15 fatalities, and then in 2011, it dropped to its 2009 level.

Figure 83: California Fatal Occupational Injuries and Illnesses - State Government



Source: DIR, Director's Office of Policy, Research and Legislation

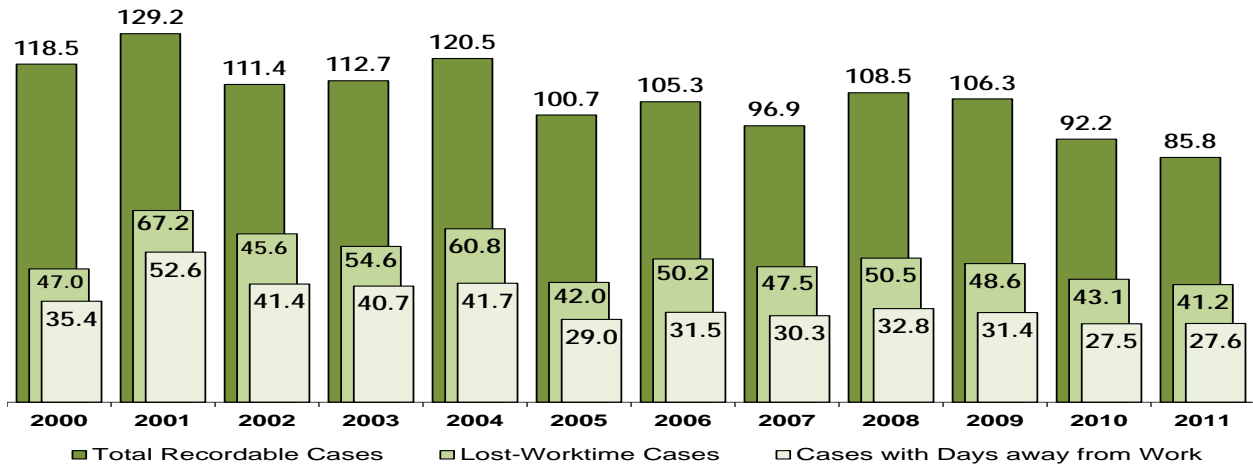
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Public Sector - Local Government

Non-Fatal Occupational Injuries and Illnesses

The total number of non-fatal occupational injuries and illnesses in local government fluctuated from 2003 to 2008. The number of injuries and illnesses in this sector decreased from 2004 to 2005 by 16 percent, averaged 101,000 from 2005 to 2007, increased by 12 percent from 2007 to 2008, and decreased again by 21 percent to 85,800 cases from 2008 to 2011.

Figure 84: California Non-Fatal Occupational Injuries and Illnesses: Local Government (Thousands)

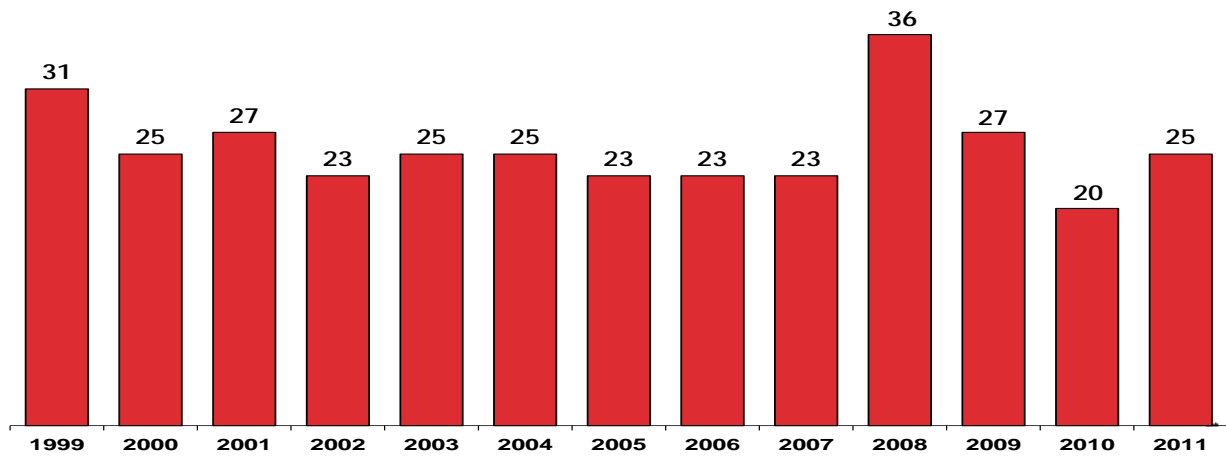


Source: DIR, Director's Office of Policy, Research and Legislation

Fatal Occupational Injuries and Illnesses

The number of fatal occupational injuries and illnesses in California's local governments averaged at 24 fatalities from 2000 to 2007, increased by almost 57 percent from 23 fatalities in 2007 to 36 in 2008, and then decreased by 39 percent 2008 to 2010. From 2010 to 2011, the number of fatal occupational injuries and illnesses in California's local governments increased from 20 to 25.

Figure 85: California Fatal Occupational Injuries and Illnesses - Local Government



Source: BLS and DIR, Director's Office of Policy, Research and Legislation

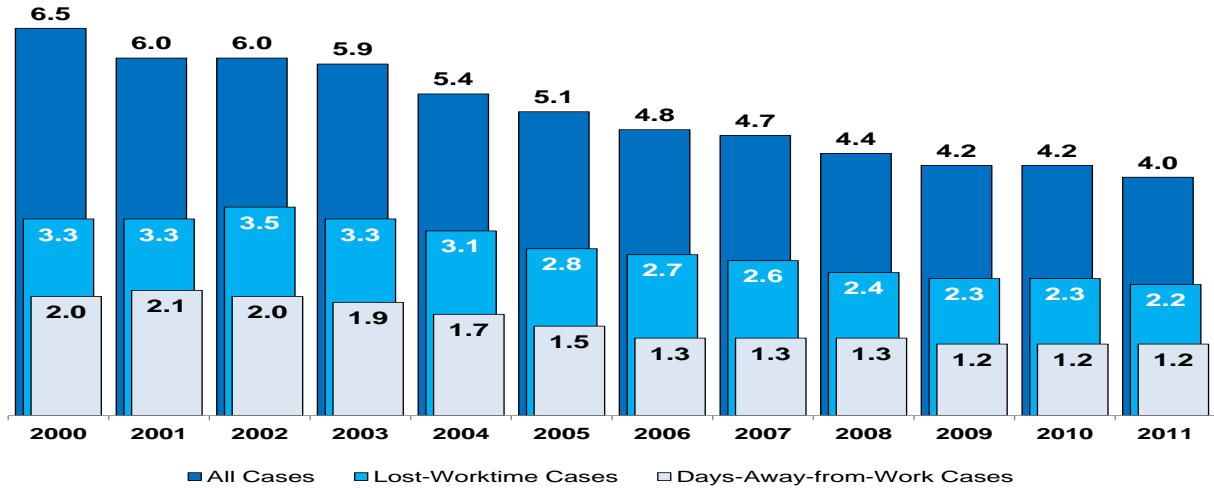
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Occupational Injury and Illness Incidence Rates

Public and Private Sectors Compared

From 2000 to 2010, incidence rates for all cases in California declined. Between 2000 and 2002, the incidence rates for both lost-work-time and days-away-from-work cases remained relatively the same, but then declined since 2002. Incidence rates for all cases and lost-work-time cases decreased, and days-away-from-work cases did not change from 2010 to 2011.

Figure 86: California Occupational Injury and Illness Incidence Rates: Private, State and Local (Cases per 100 Full-Time Employees)

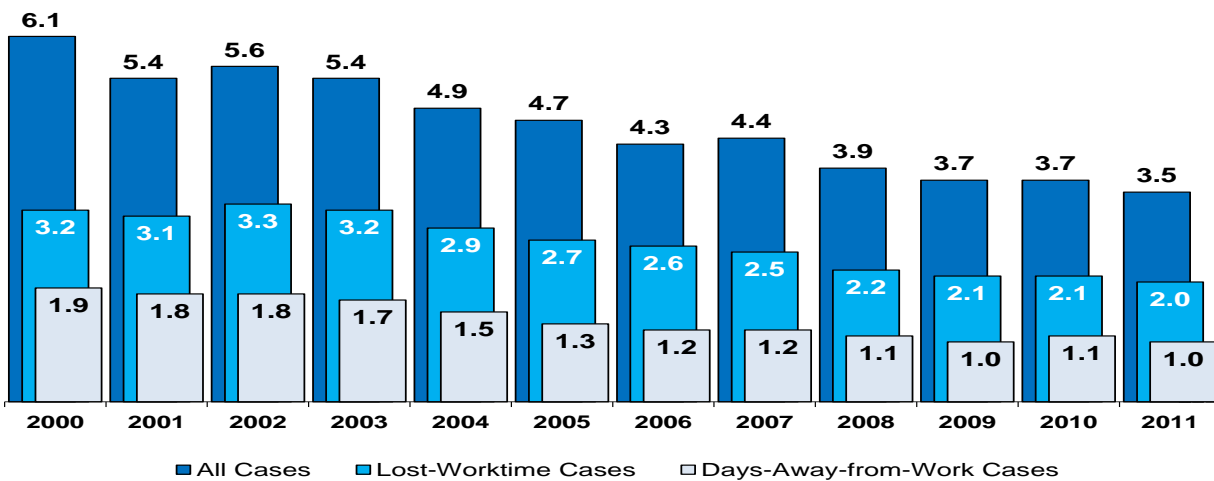


Data Source: DIR, Director's Office of Policy, Research and Legislation

Private Sector

From 2000 to 2011, the occupational injury and illness incidence rate for all cases in California's private industry declined from 6.1 to 3.5, a decrease of 43 percent, the incidence rate for lost-time cases dropped by 47 percent from 3.2 to 2.0, and days-away-from-work cases decreased by 47 percent as well.

Figure 87: California Occupational Injury and Illness Incidence Rates: Private Industry (Cases per 100 Full-Time Employees)



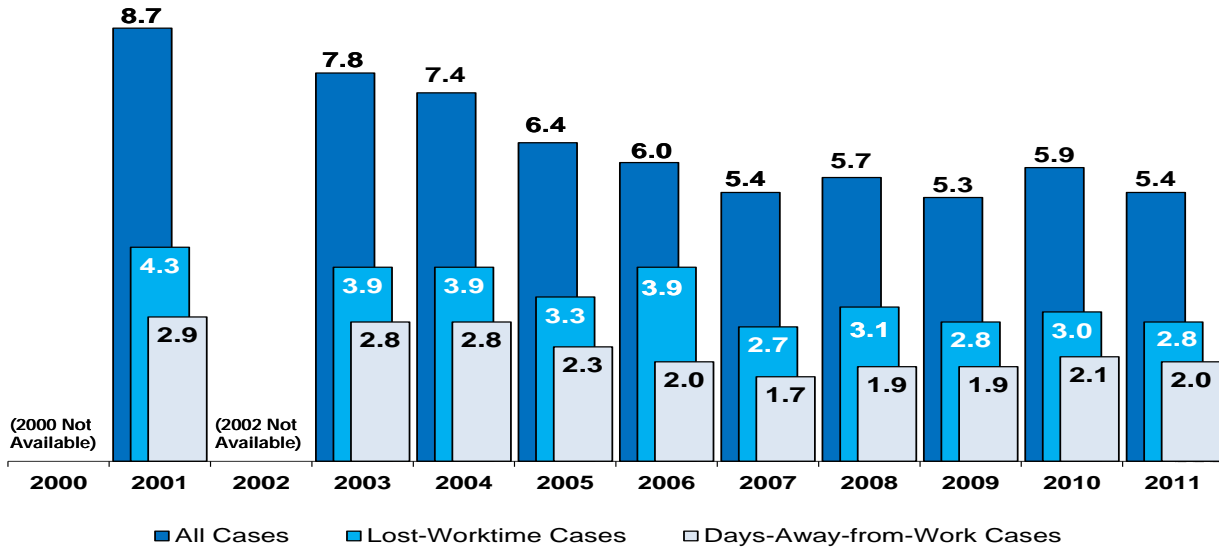
Data Source: DIR, Director's Office of Policy, Research and Legislation

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Public Sector - State Government

California state government occupational injury and illness incidence rates declined overall by 38 percent from 8.7 cases in 2001 to 5.4 cases per 100 full-time employees in 2011.

Figure 88: California Occupational Injury and Illness Incidence Rates: State Government (Cases per 100 Full-Time Employees)

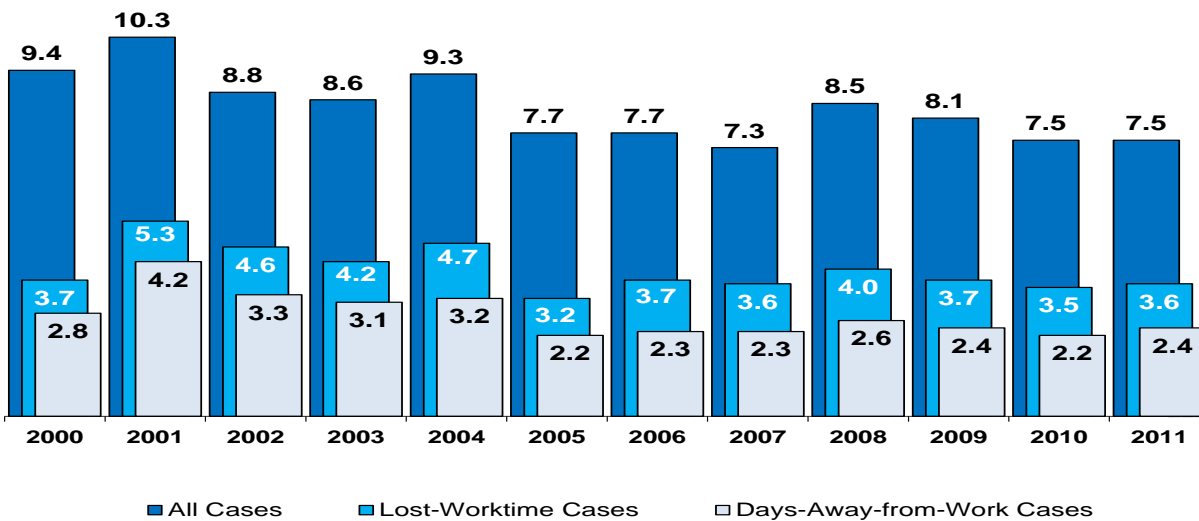


Source: DIR, Director's Office of Policy, Research and Legislation

Public Sector – Local Government

Local government occupational injury and illness incidence rates decreased from 2001 through 2003 and then increased again in 2004. From 2004 to 2005, injury and illness rates decreased by 17 percent, remained fairly stable between 2005 and 2007, increased again by 16 percent from 2007 to 2008, and then decreased by almost 12 percent from 2008 to 2011 from 8.5 to 7.5 per 100 full-time employees.

Figure 89: California Occupational Injury and Illness Incidence Rates: Local Government (Cases per 100 Full-Time Employees)



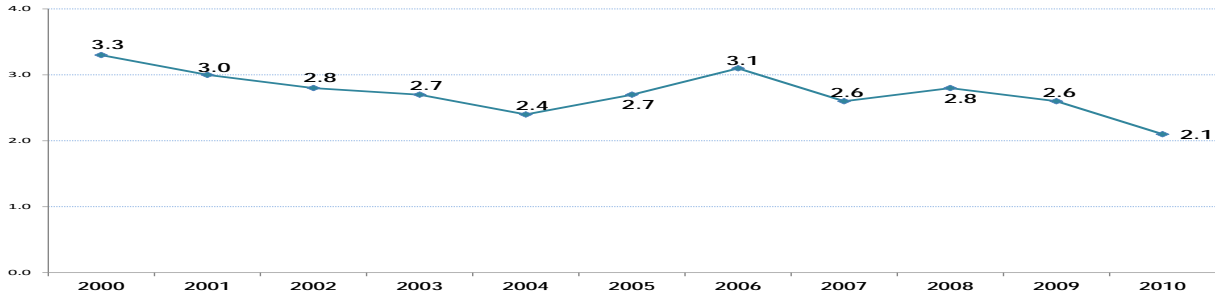
Source: DIR, Director's Office of Policy, Research and Legislation

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

California Fatality Incidence Rates

Fatality per employment rates may be used to compare the risk of incurring injury among worker groups with varying employment levels. From 2000 to 2004, there was a decrease of 27 percent in fatality rates in California. From 2004 to 2006, the fatality rate increased by 29 percent and then decreased overall by 32 percent from 2006 to 2011.³⁵

Figure 90: California Fatal Occupational Injuries* – Incidence Rate** (per 100,000 employed)



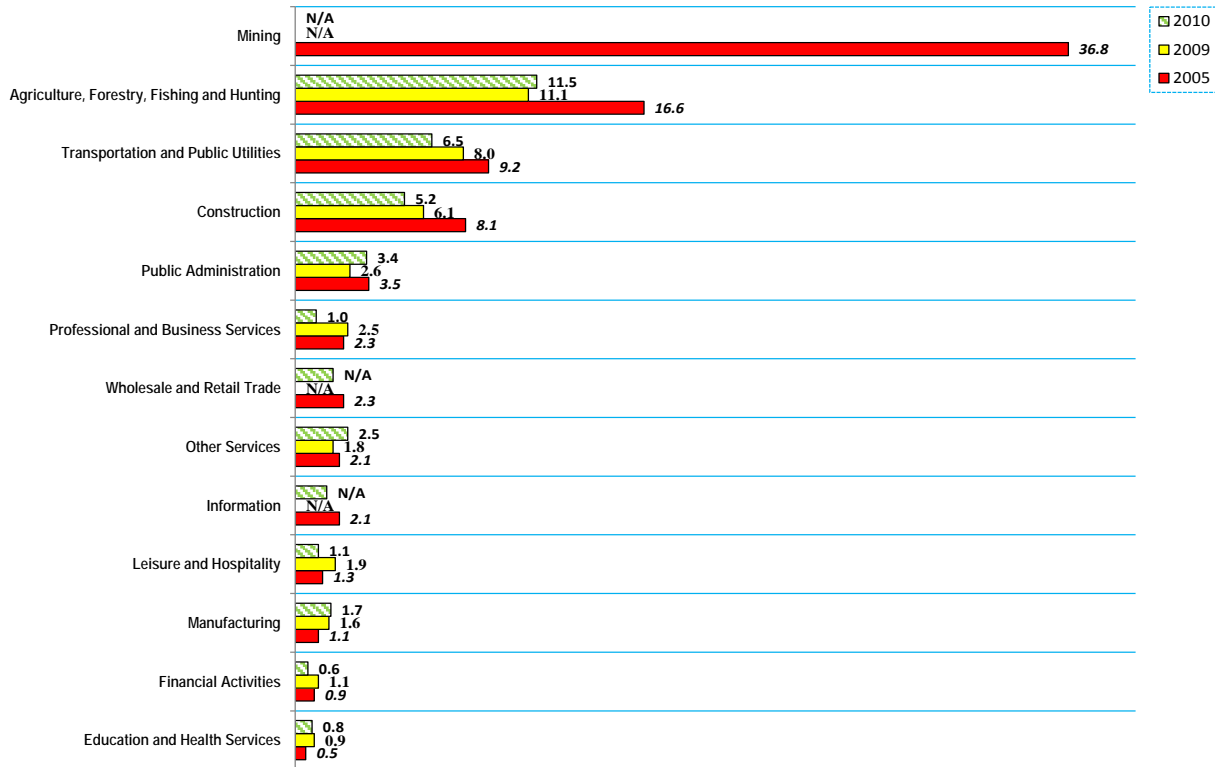
* California Fatal Occupational Injuries exclude military personnel and workers under age 16 and include all self-employed, family business, and wage and salary workers.

** Incidence Rates for Fatal Occupational Injuries computed using estimates of civilian workers (age 16 and older) from the Current Population Survey (CPS) and are expressed as the number of fatalities per 100,000 employed.

Data Source: U.S. Department of Labor, BLS, in cooperation with State and Federal agencies, Census of Fatal Occupational Injuries.

The figure below shows the fatality incidence rates by major industries in 2005, 2009 and 2010.

Figure 91: California Fatality Rates by Industries (per 100,000 employed), 2005, 2009, 2010



* From 2003, classified by NAICS. Because of substantial differences between NAICS and SIC used for prior years, comparisons between prior years and 2003 and on should not be made. (Data for 2006 and 2007 unavailable)

Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies

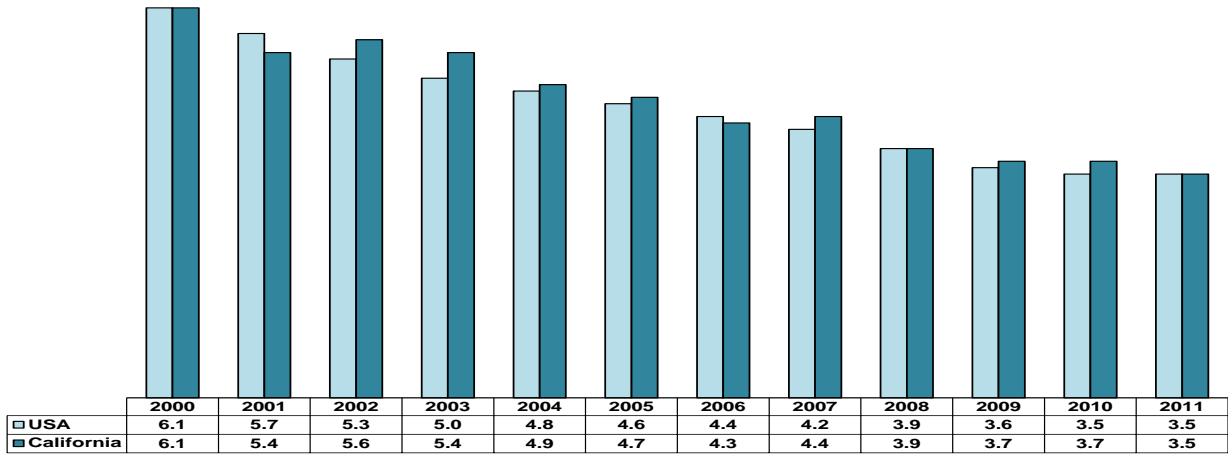
³⁵ 2010 was the latest year for which fatality incidence rates were available in 2012.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

United States and California Incidence Rates: A Comparison

Both the U.S. and California have experienced a decrease in occupational injury and illness incidence rates from 2000 through 2011. During that time, both the U.S. and California incidence rates dropped by almost 43 percent. Since 2002, the incidence rate in California has been mostly above the national average.

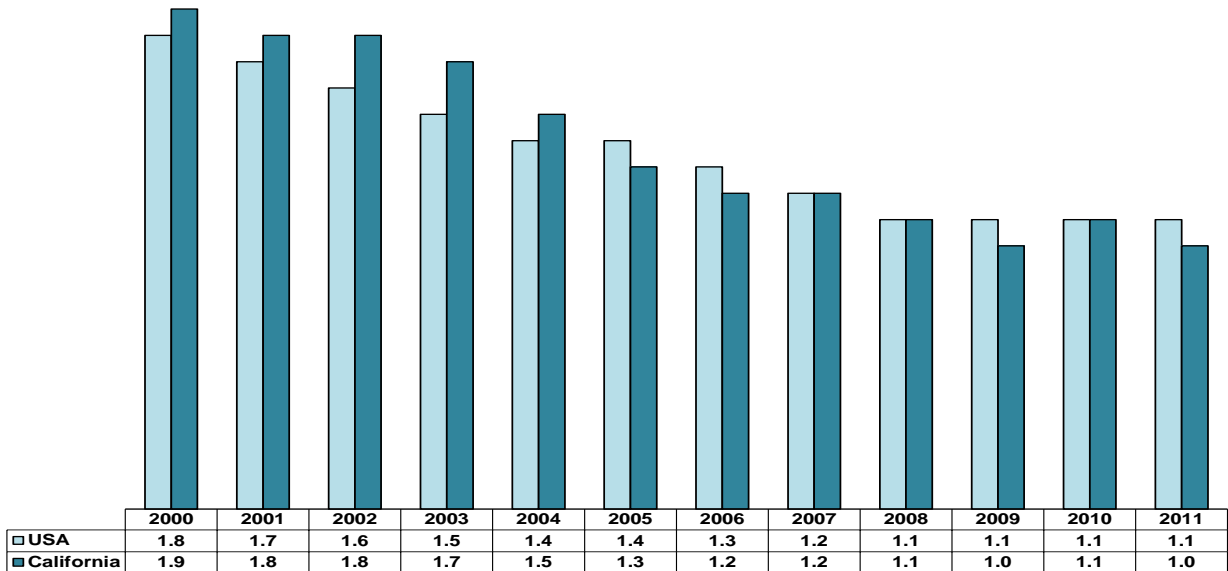
Figure 92: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry – Total Recordable Cases. USA and California



Source: US Department of Labor, Bureau of Labor Statistics

The incidence rate of occupational injury and illness days-away-from-work cases has also declined in the U.S. and California from 2000 through 2011. During that time, the U.S. incidence rate for cases with days away from work dropped by 39 percent, while the California rate declined by 47 percent.

Figure 93: Injury and Illness Incidence Rate per 100 Full-Time Workers: Private Industry Cases with Days Away from Work. USA and California

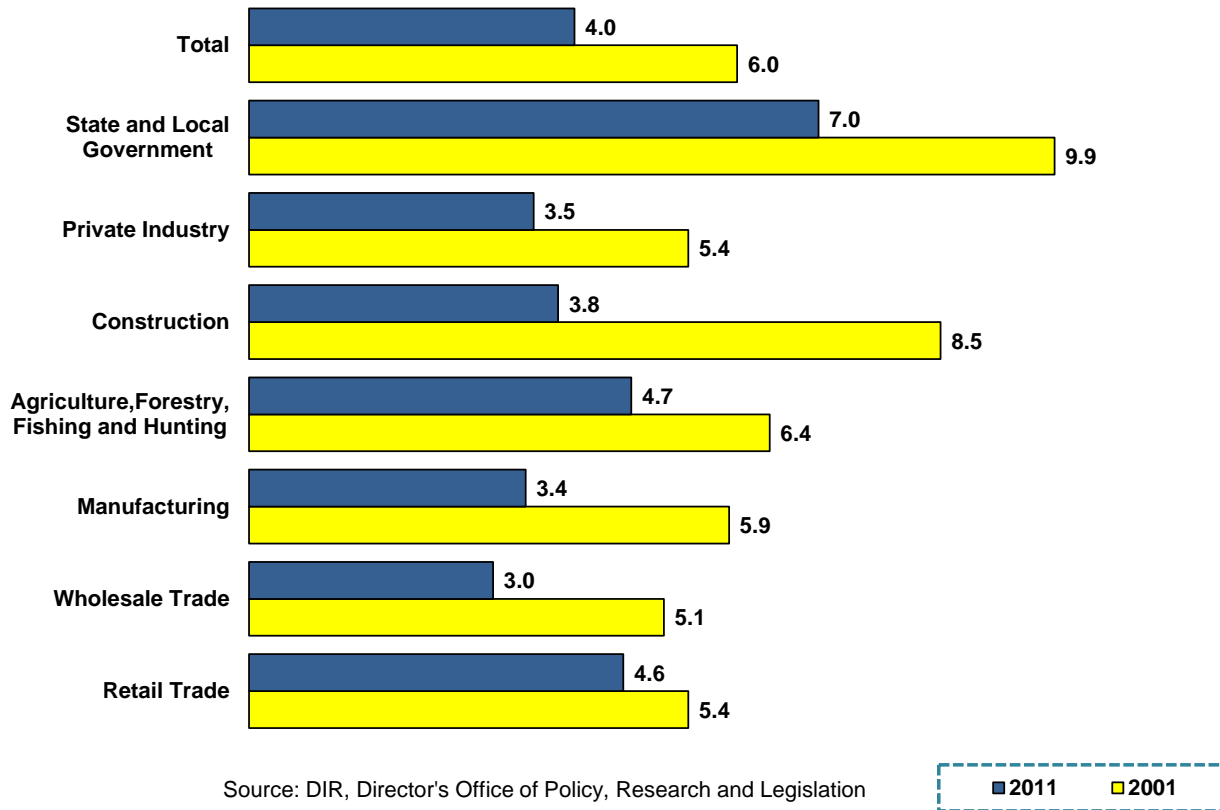


Source: US Department of Labor, Bureau of Labor Statistics

Characteristics of California Occupational Injuries and Illnesses

This section compares incidence rates by industry in 2011 with those in 2011. The overall California occupational injury and illness incidence rates have declined, and the incidence rates in major industries have also declined. The following figure compares incidence rates for total recordable cases in 2011 and 2011 by type of major industry including state and local government.

Figure 94: Injury Rates by Industry, 2011 vs. 2001



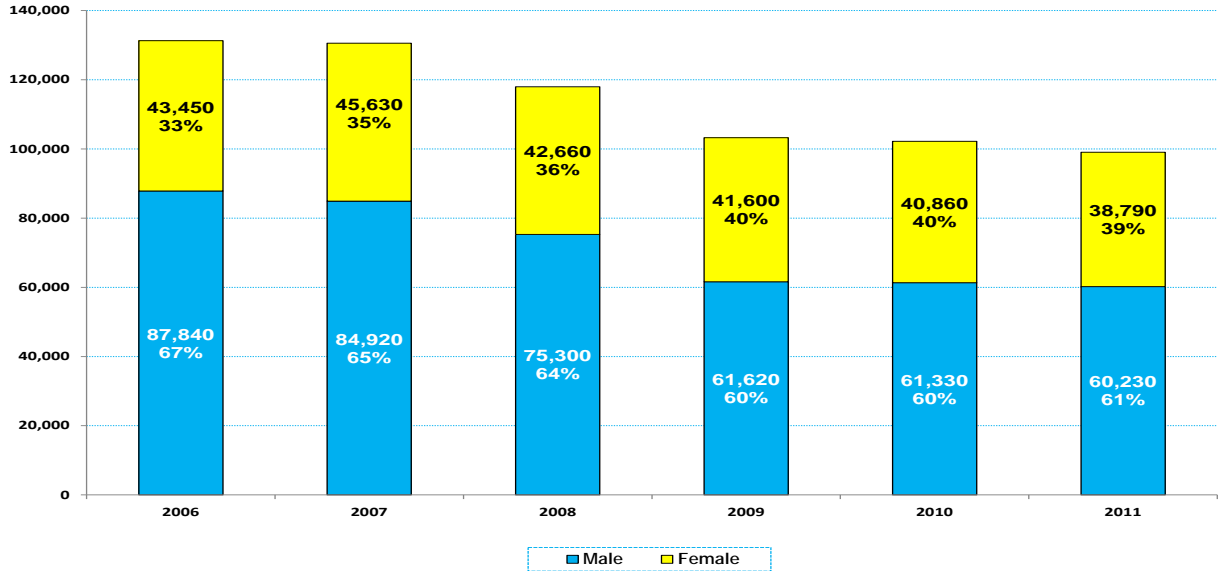
The smallest decline in incidence rates during this period was in the retail trade, and the largest decrease was in construction.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Characteristics of California Non-Fatal Occupational Injuries and Illnesses

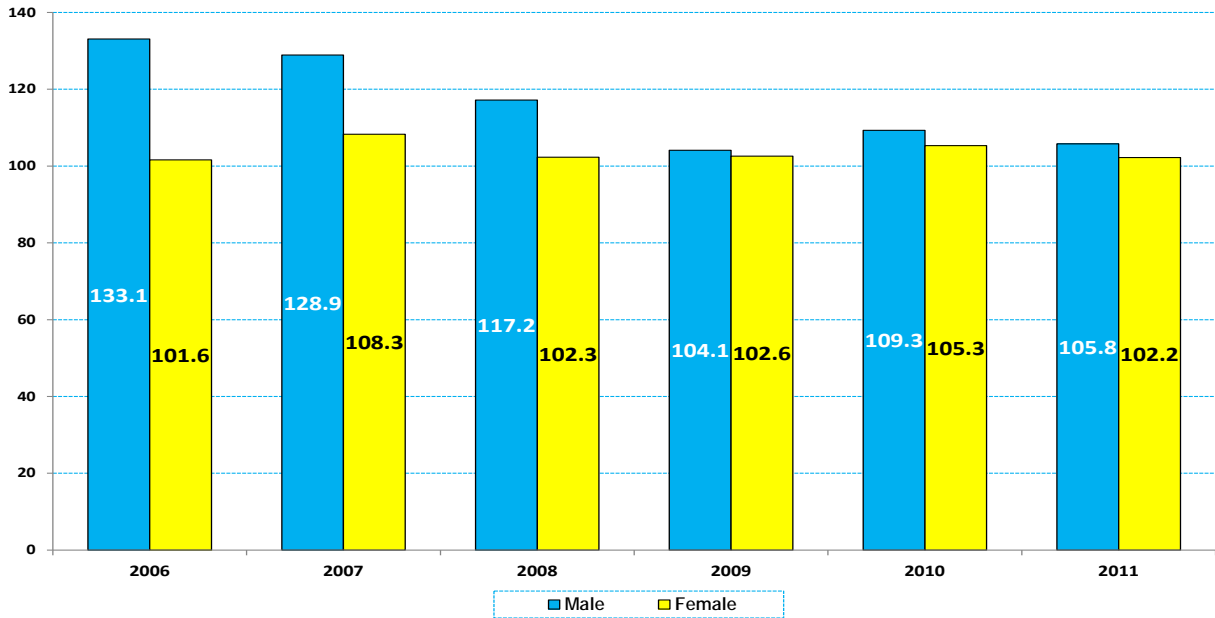
The following figures illustrate various demographic characteristics of non-fatal occupational injuries and illnesses in California's private industry.

Figure 95: Number of Non-Fatal Occupational Injuries and Illnesses in California by Gender, Private Industry, 2006-2011



Data Source: DIR, Director's Office of Policy, Research and Legislation

Figure 96: California Non-Fatal Occupational Injuries and Illnesses Incidence Rates by Gender, Private Industry, 2006-2011 (Cases per 10,000 full-time employees)

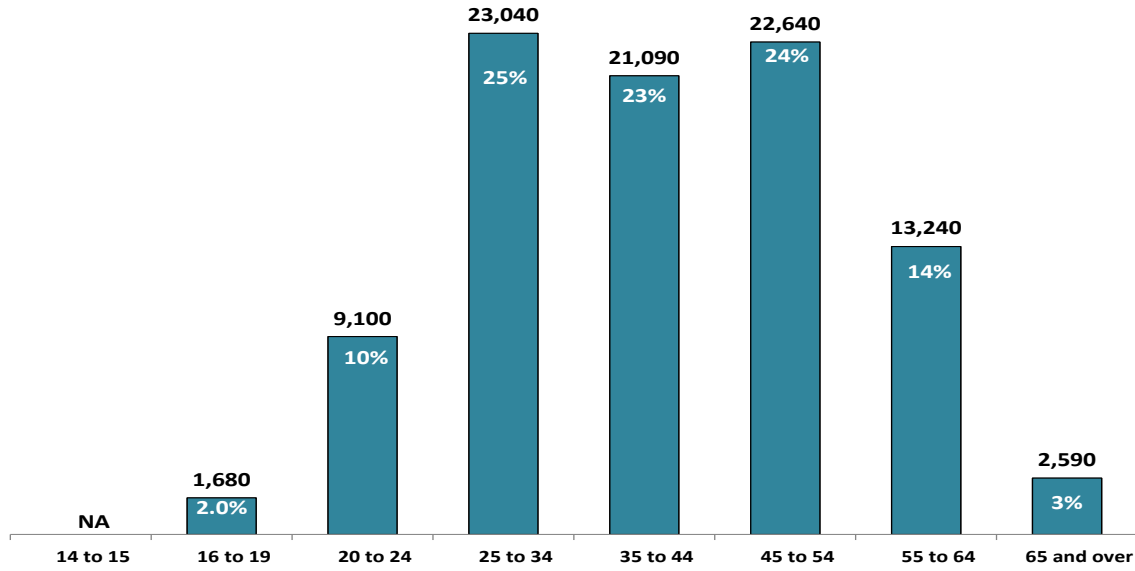


* With days away from work with or without job transfer or restriction.

Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State agencies.

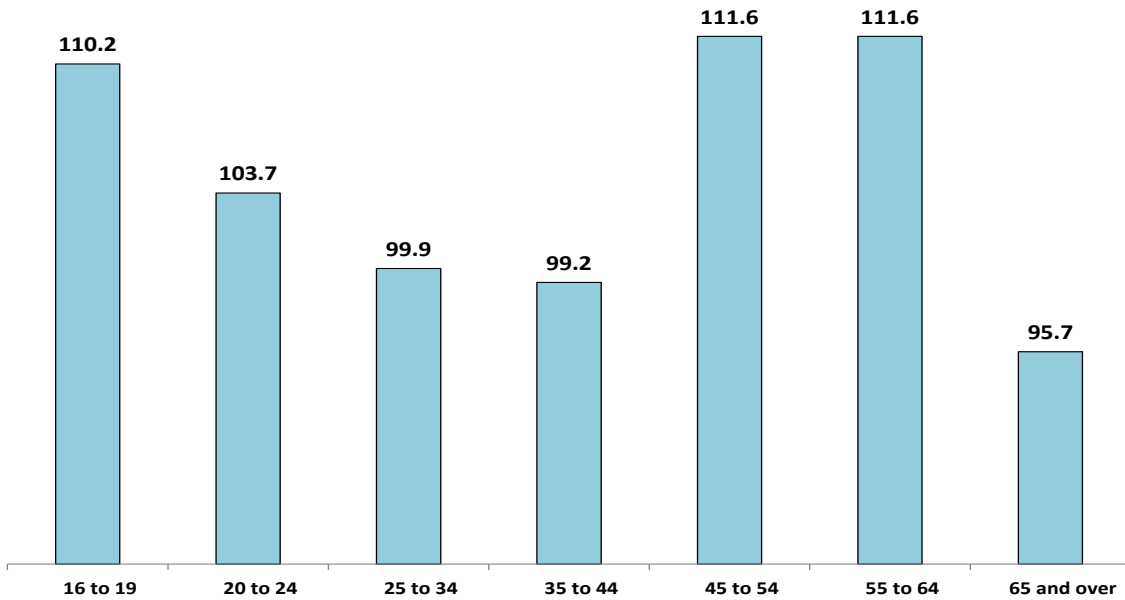
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 97: Number of Non-Fatal Occupational Injuries and Illnesses in California by Age, Private Industry, 2011



Data Source: DIR, Director's Office of Policy, Research and Legislation

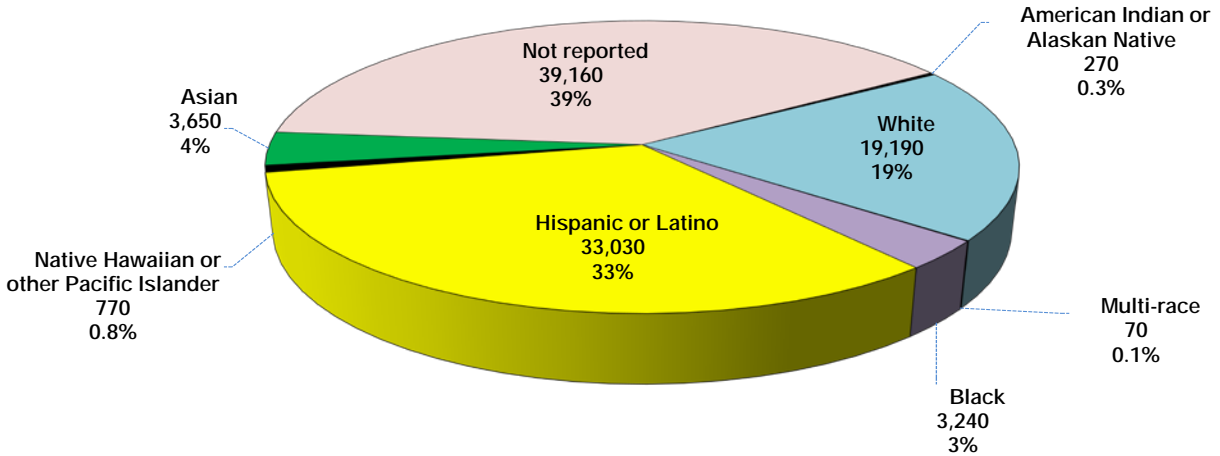
Figure 98: California Occupational Injury and Illness Incidence Rates, by Age Private Industry, 2011 (per 10,000 Full-Time Workers)



Data Source: BLS, Department of Labor, Survey of Occupational Injuries and Illnesses in cooperation with participating State Agencies

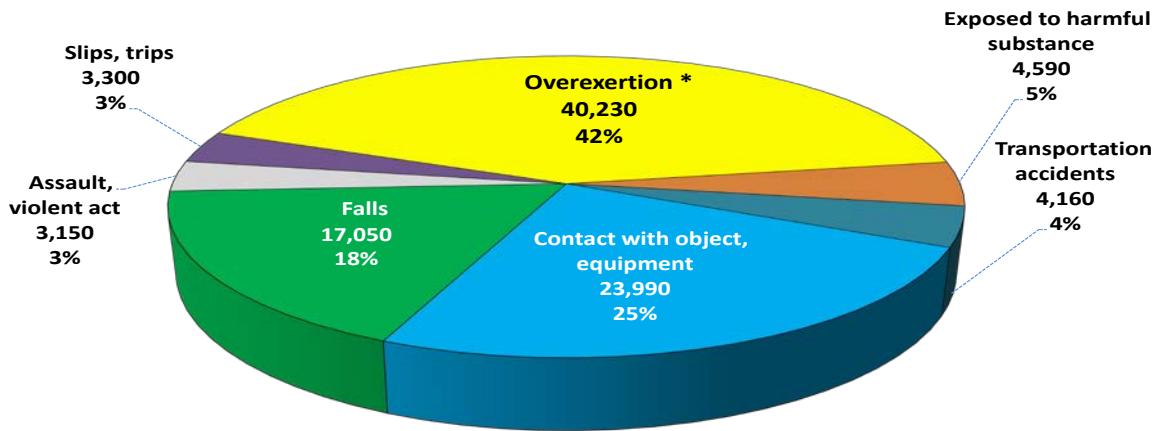
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Figure 99: California Non-Fatal Occupational Injuries and Illnesses by Race or Ethnic Origin (Private)-2011



Data Source: DIR, Director's Office of Policy, Research and Legislation

Figure 100: California Non-Fatal Occupational Injuries and Illnesses by Event and Exposure (Private)-2011



* From 2011 and on, the "Overexertion" will be reported as "Overexertion and Bodily Reaction".

* From 2011 and on, "Repetitive Motion" will be reported as "Repetitive motion involving microtasks" and as a component of "Overexertion and Bodily Reaction".

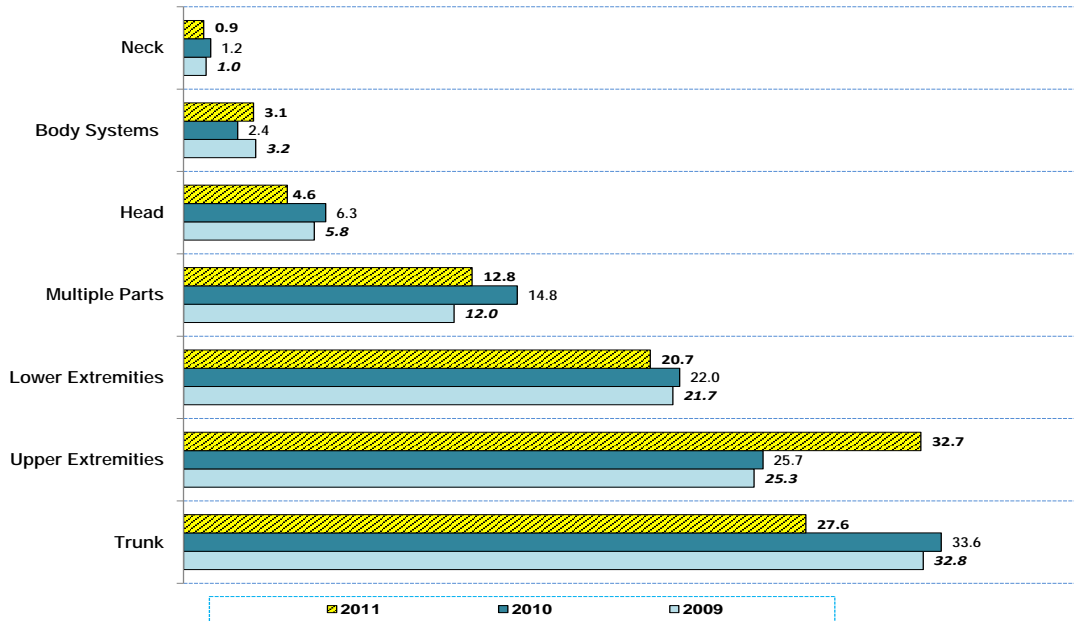
"Fires and Explosions" are not available for 2011

Data Source: DIR, Director's Office of Policy, Research and Legislation

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The following figure shows that the trunk and upper extremities were the major body parts with the greatest incidence rates in 2009, 2010 and 2011.

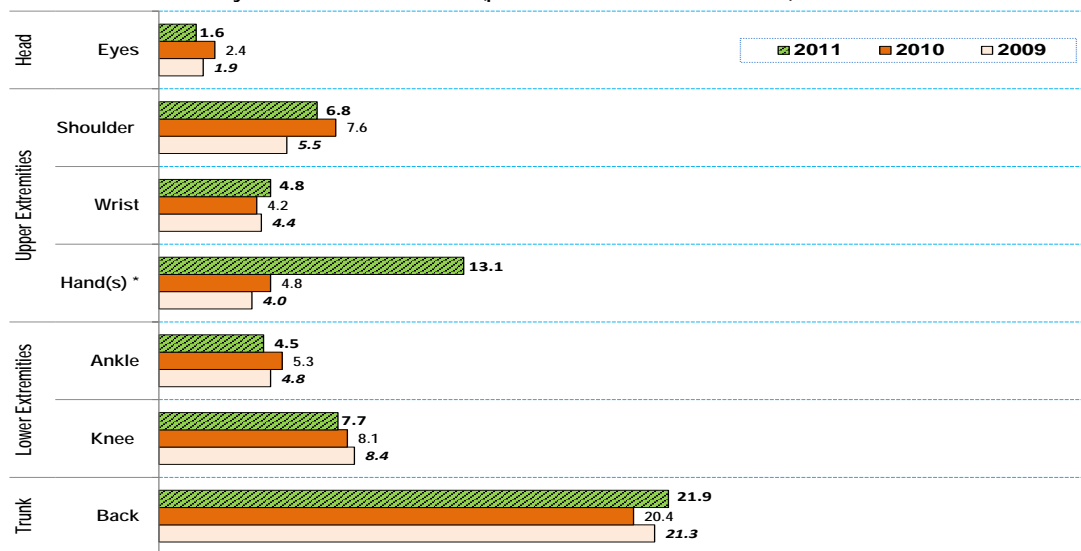
Figure 101: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Parts, Private Industry, 2009, 2010, 2011 (per 10,000 Full-Time Workers)



Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

The following figure shows that the back was the body part with the highest incidence rate in 2009, 2010 and 2011.

Figure 102: Incidence Rates for Non-Fatal Occupational Injuries and Illnesses by Major Body Part Units Private Industry, 2009, 2010, and 2011 (per 10,000 Full-Time Workers)



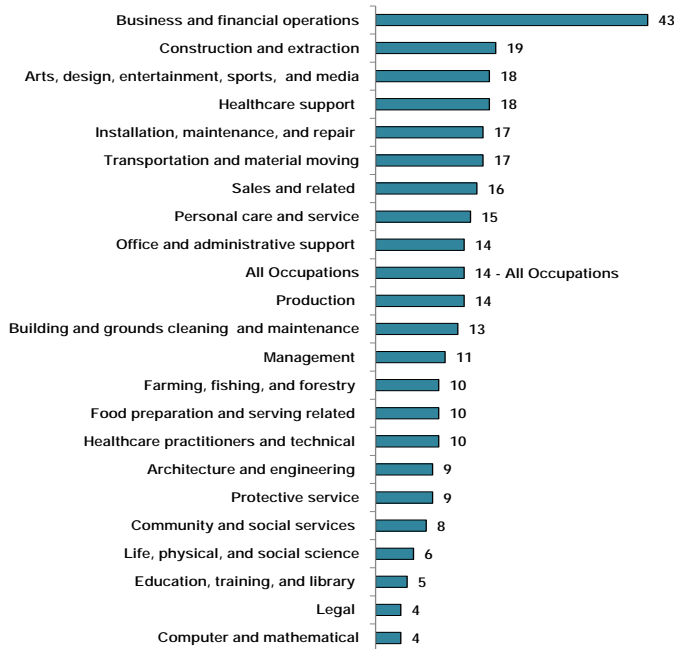
* From 2011 and on, "Hands, except fingers" is reported as "Hand(s)".
 * From 2011 and on, "Finger" is reported as a component of "Hand(s)".

Data Source: BLS, U.S. Department of Labor, Survey of Occupational Injuries and Illnesses (SOII) in cooperation with participating State agencies.

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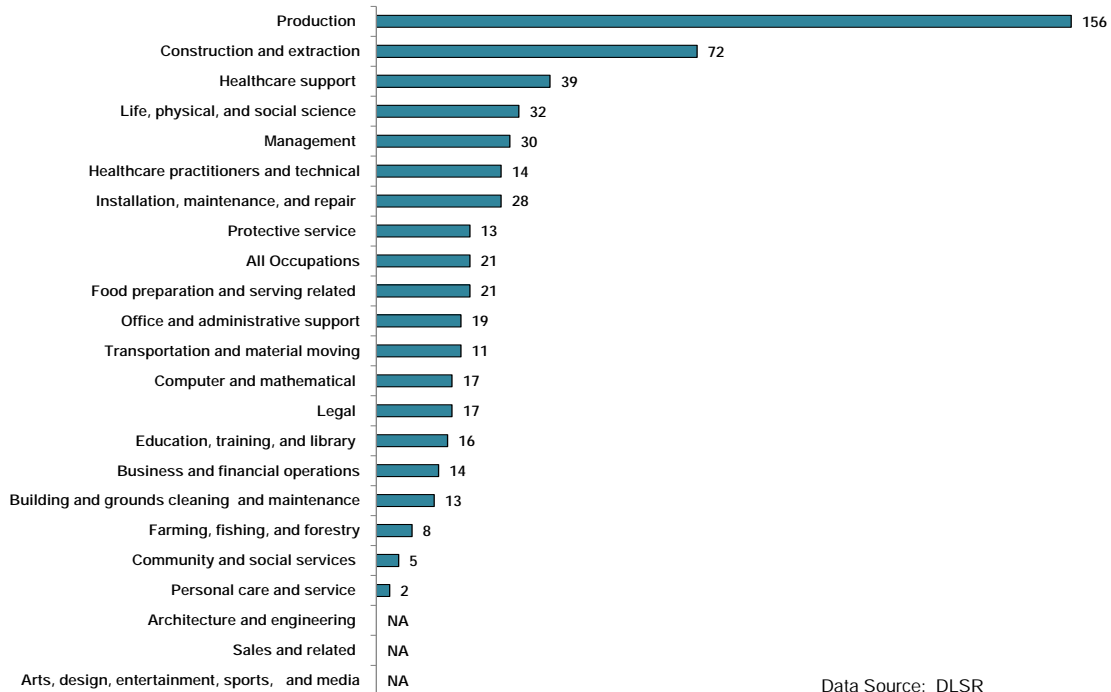
The following three figures compare the median days away from work for private industry occupations, state government occupations, and local government occupations. Business and financial operations occupations for private industry, production occupations for state government, and food preparation and serving occupations for local government had the greatest median days away from work in 2011.

Figure 103: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work (Private) – 2011



Data Source: DLSR

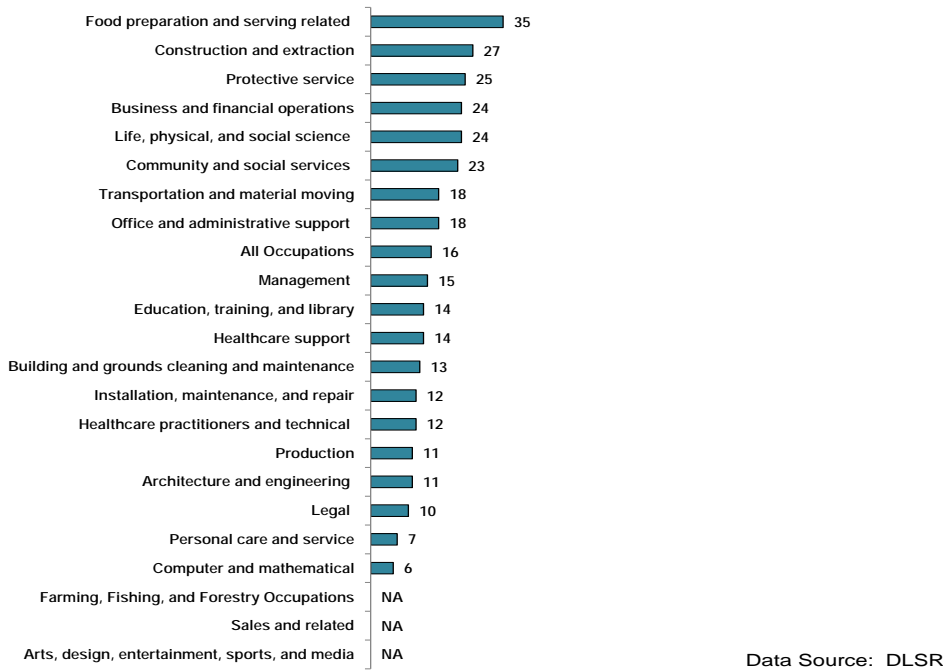
Figure 104: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work (State) – 2011



Data Source: DLSR

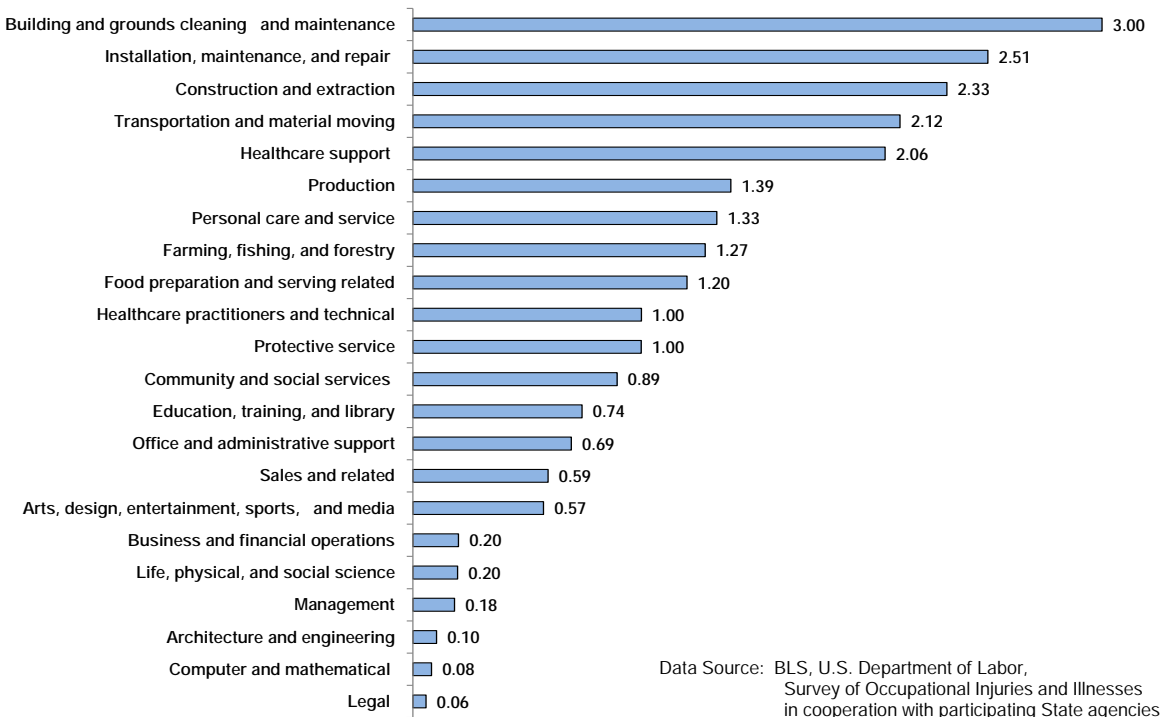
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 105: Non-Fatal Injuries and Illnesses by Major Occupational Group: Median Days Away from Work (Local Government) – 2011



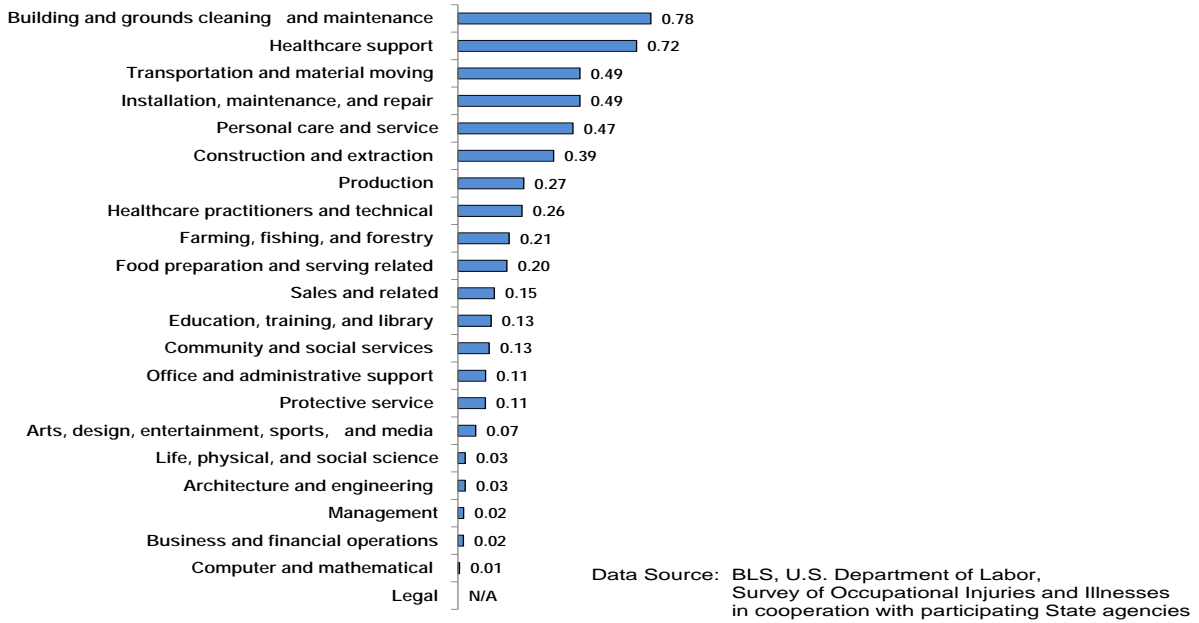
The following two figures compare the injury and illness incidence rates, including back injury, for various occupations. The building and grounds cleaning and maintenance occupations had the highest incidence rate in 2011, followed by the installation, maintenance, and repair occupations.

Figure 106: Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away from Work, 2011



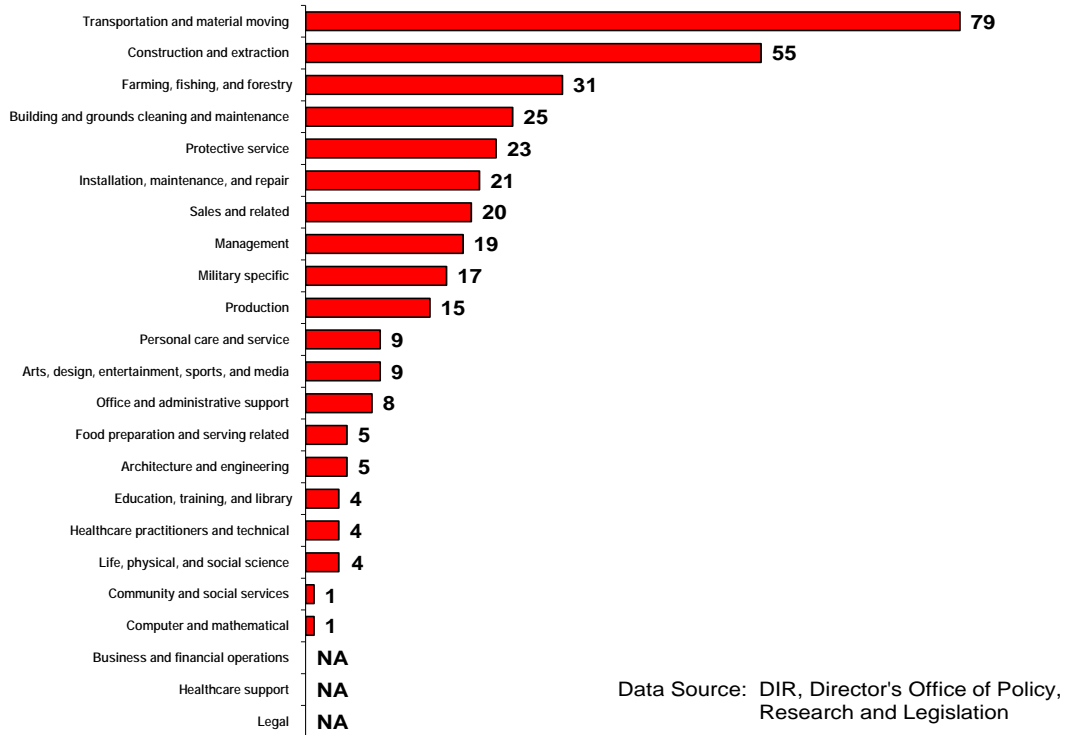
WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Figure 107: Back Injury Incidence Rates by Private Sector Occupational Group (per 100 Full-Time Workers) Non-Fatal Occupational Injuries and Illnesses with Days Away From Work, 2011



The following figure compares the number of fatalities for various occupations. The transportation and material moving occupation had the greatest number of fatalities in 2011, followed by the construction and extraction and farming, fishing, and forestry occupations.

Figure 108: Fatal Occupational Injuries by Selected Occupations – All Ownerships, 2011

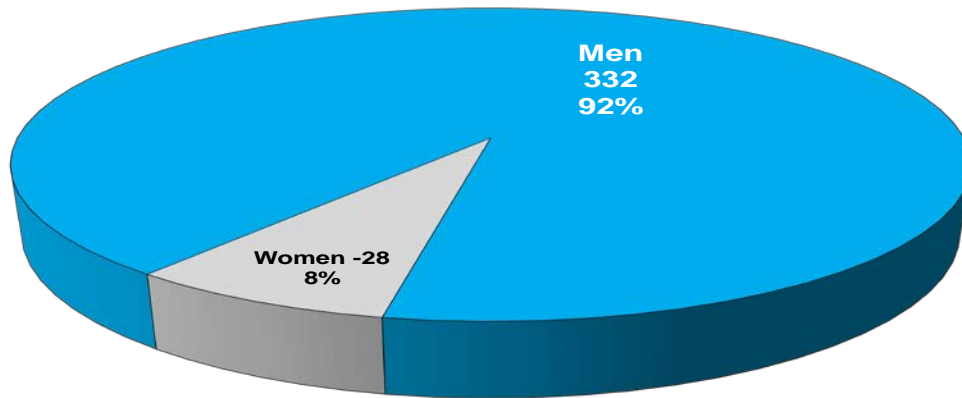


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Characteristics of California Fatal Occupational Injuries and Illnesses

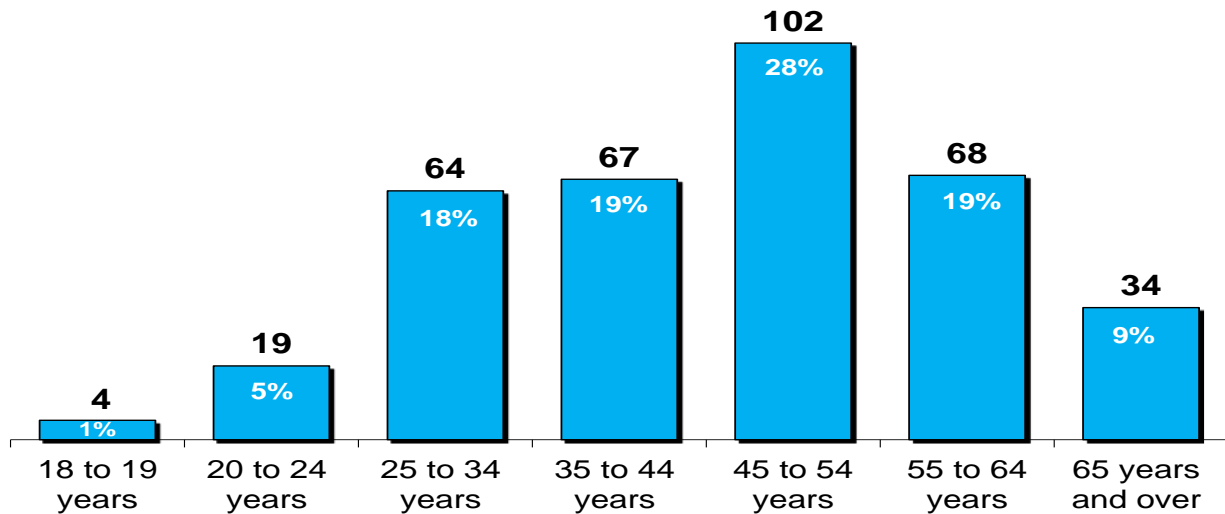
The following figures illustrate various characteristics of fatal occupational injuries and illnesses in California's private industry and federal, state and local governments.

Figure 109: California Fatal Occupational Injuries and Illnesses By Gender – 2011



Data Source: BLS

Figure 110: California Fatal Occupational Injuries and Illnesses By Age of Worker – 2011

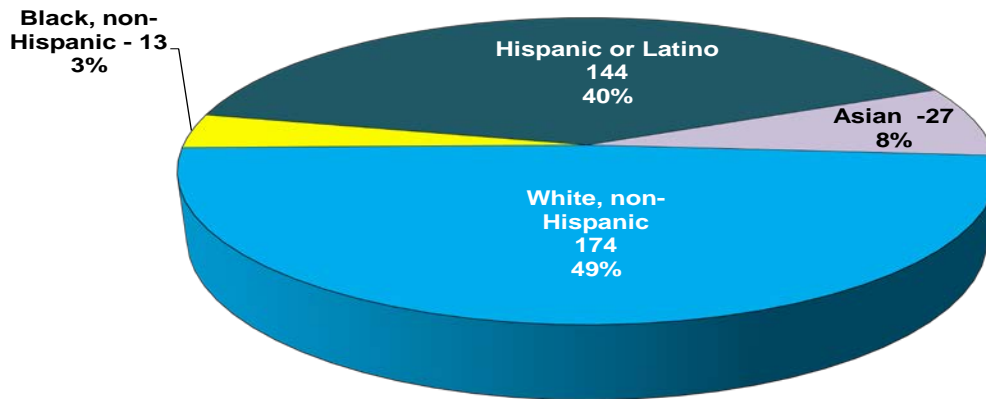


* Preliminary data

Source: BLS

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

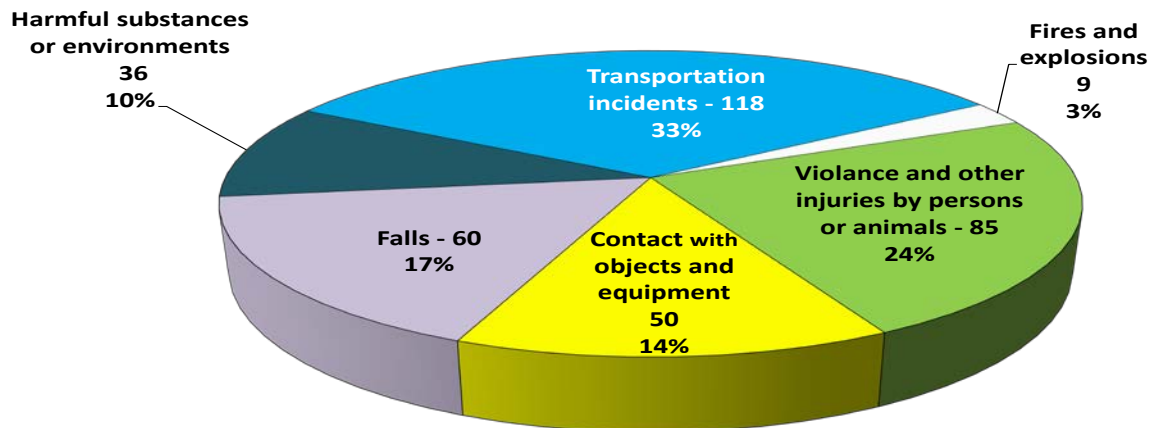
Figure 111: California Fatal Occupational Injuries and Illnesses by Race and Ethnic Origin - 2011



Note: Data were not available for "Multiple Races" and "Other and Not Reported"

Data Source: BLS

Figure 112: California Fatal Occupational Injuries and Illnesses by Event and Exposure - 2011



Data Source: BLS

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

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

Data for the following analyses, except where noted, were derived from the Department of Industrial Relations (DIR), Director's Office of Policy, Research and Legislation and the U.S. Department of Labor (DOL) Bureau of Labor Statistics (BLS).

Incidence Rates

- California's most recent work injury and illness statistics for 2011 indicate a non-fatal injury and illness rate of 3.5 cases per 100 full-time employees in the private sector. This is a 42.6 percent decline from the 2000 level of 6.1 and a 5 percent decrease from the previous year's rate.
- The trend in California mirrors a national trend. DOL figures for private employers show that from 2000 to 2011, the work injury and illness rate across the U.S. fell from 6.1 to 3.5 cases per 100 employees in the private sector. The reduction in the number of incidences of job injuries is likely due to various factors including a greater emphasis on job safety and the shift from manufacturing toward service jobs.
- In contrast to the private sector rates, California's public sector decline has not been nearly as dramatic, and the incidence rates are twice as high as in the private sector. California's state and local government rate for 2011 is 7.0 cases per 100 full-time employees. This is a 22 percent decline from the 2000 level of 9.0. At the same time, the state and local government rate in California is almost 26 percent higher than the state and local government national rate of 5.7. In addition, both the state and local government sectors have seen some increases in incidence rates over the past five years.
- The national fatality rate decreased by 16 percent between 2000 and 2010 from 4.3 to 3.6 cases per 100,000 employed, while California's fatality rate decreased from 3.3 to 2.1 cases per 100,000 employed during the same period. This is a 36 percent decline from the 2000 level and a 19 percent decrease from the previous year.
- From the Western region states, Alaska, Arizona, California, Hawaii, Nevada, Oregon and Washington, Arizona's (3.2), Hawaii's (3.5), and California's (3.5) private industry rates in 2011 for non-fatal occupational injuries and illnesses were the lowest.³⁶ The state that had the third-lowest incidence rate was Oregon (3.8).

Duration

- Days-away-from-work cases, including those that result in days away from work with or without a job transfer or restriction, dropped from 1.9 to 1.0 cases per 100 full-time employees from 2000 to 2011 in the private sector. This also mirrors the national trend with the number of days-away-from-work cases falling from 1.8 to 1.1 cases in the national private sector during the same period. Some of this overall decline, according to BLS, may be attributed to economic factors, including a decrease in employment and total hours worked, particularly in construction and manufacturing.
- Both California's and national overall days-away-from-work rate of 1.2 cases in 2011 did not change from the previous year's figures.

Industry Data

- In 2011, injury and illness incidence rates varied greatly between private industries ranging from 1.3 injuries/illnesses per 100 full-time workers in the professional, scientific, and technical services industry to 5.1 in transportation and warehousing industry. California's private industry rates for total cases were higher than the national rates in every major industry division, except for agriculture, forestry, fishing and hunting (4.7 and 5.5), construction (3.8 and 3.9), manufacturing (3.4 and 4.4), wholesale trade (3.0 and 3.2), and educational services (1.8 and 2.1).

³⁶ The comparisons of industry rates have not been adjusted for industry mix within each state.

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- The private industry total case rate for non-fatal injuries of 3.5 per 100 full-time worker injuries was a 5 percent decrease from 2010 to 2011, and the rate for the public sector (state and local government) decreased by 3 percent from 7.2 in 2010 to 7.0 in 2011.
- According to the Director's Office of Policy, Research and Legislation, the largest decrease in injury and illness by major industry category was in educational services, from 2.3 to 1.8 per 100 full-time worker injuries in 2010 and 2011 respectively, followed by a decrease in transportation and warehousing from 6.4 to 5.1 per 100 full-time worker injuries in 2010 and 2011, and by a decrease in health care and social assistance, from 5.9 to 5.0 per 100 full-time worker injuries in 2010 and 2011.³⁷
- According to the Director's Office of Policy, Research and Legislation, the largest increase in injury and illness by industry sectors was in real estate and rental and leasing services, from 2.9 to 3.4 per 100 full-time worker injuries in 2010 and 2011 respectively, followed by finance and insurance with an increase from 1.3 to 1.5 per 100 full-time worker injuries in 2010 and 2011, and agriculture, forestry, fishing and hunting, from 4.1 to 4.7 in 2010 and 2011.³⁸
- Over the past decade (2001-2011), the number of fatal injuries declined 32 percent, from 459 to 310.³⁹ From 2010 to 2011, the number of fatal injuries increased by 10 percent. The highest number of fatal injuries was in trade, transportation and utilities (89), followed by construction (50) and natural resources and mining (44).
- In private industry, the top ten occupations with the most non-fatal injuries and illnesses in 2011 are: laborers and freight, stock, and material movers, hand; janitors and cleaners, except maids and housekeeping cleaners; heavy and tractor-trailer truck drivers; farm workers and laborers, crop, nursery, and greenhouse; stock clerks and order fillers; retail salespersons; maids and housekeeping cleaners; light truck or delivery services drivers; nursing assistants; registered nurses.
- In California state government, the top ten occupations with the most non-fatal injuries and illnesses in 2011 are: correctional officers and jailers; registered nurses; janitors and cleaners, except maids and housekeeping cleaners; psychiatric technicians; fire fighters; police and sheriff's patrol officers; psychiatric aides; landscaping and groundskeeping workers; office clerks, general; compliance officers.
- In local government, the top ten occupations with the most non-fatal injuries and illnesses in 2011 are: police and sheriff's patrol officers; janitors and cleaners, except maids and house-keeping cleaners; fire fighters; correctional officers and jailers; teacher assistants; bus drivers, transit and intercity; landscaping and grounds keeping workers; secondary school teachers, except special and career/technical education; elementary school teachers, except special education; first-line supervisors of fire fighting and prevention workers.
- Transportation and material moving (79), construction and extraction (55), and building and grounds cleaning and maintenance (25) occupations accounted for 44 percent of the fatal injuries in 2011. Farming, fishing, and forestry (31), protective services (23), installation, maintenance, and repair (21), sales and related (20), and management (19) were the other occupations with the most number of fatal injuries in 2011. Transportation and material moving occupations were the number one cause of fatal injuries accounting for 22 percent of fatal injuries in 2011.
- Transportation incidents accounted for 31 percent of fatal injuries in 2011 and are a major cause of fatalities among: transportation and material moving (45); construction and extraction (13); and farming, fishing, and forestry (11) occupations.

³⁷ DIR, Director's Office of Policy, Research and Legislation, Table 1: Incidence rates of non-fatal occupational injuries and illnesses by selected industries and case types, 2010, 2011.

³⁸ Ibid.

³⁹ The number of fatalities excludes the number of fatalities for the Federal government.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Establishment Size and Type

- The lowest rate for the total recordable non-fatal cases in 2011 was experienced by the smallest private employers. Employers with 1 to 10 employees and 11 to 49 employees had incidence rates of 1.8 and 3.0 cases, respectively, per 100 full-time employees. Employers with 1 to 10 employees experienced no change in incidence rates compared to 2010. There was a 9 percent decrease in incidence rates for employers with 11 to 49 employees from 2010 to 2011.
- Establishments with 50 to 249 employees reported the highest rate of 4.3 cases per 100 full-time employees, followed by 3.9 cases per 100 full-time employees for both types of establishments with 250 to 999 and 1,000 and more employees in 2011. Establishments with 250 to 999 employees experienced a 5 percent increase in incidence rates per 100 full-time employees from 2010 to 2011.

Types of Injuries

- All types of work injuries declined from 2002 to 2011 in the private sector. The number of sprains, strains, and tears declined from 2002 to 2011; however, these injuries remain by far the most common type of work injury accounting for 37 percent of days-away-from-work cases in the private sector. The biggest decline (72 percent) from 2002 to 2011 was in amputations. Tendonitis and carpal tunnel experienced a 66 percent and 65 percent decline, and chemical burns and corrosions experienced a 60 percent decrease between 2002 and 2011.
- In the private sector, overexertion and bodily reaction were the leading causes of days-away-from-work injuries, cited in about 41 percent of days-away-from-work cases in 2011. Contact with objects, equipment was the second common cause of injury, accounting for 24 percent of injuries.
- In California state government, the two main causes of injury were overexertion and bodily reaction and falls, slips, and trips, accounting for about 37 and 21 percent of days-away-from-work cases, respectively, in 2011.
- In local government, the main causes of injury were overexertion and bodily reaction and falls, slips, and trips, accounting for 38 and 22 percent of days-away-from-work cases, respectively, in 2011.
- The most frequently injured body part is the back, accounting for about 14 percent of the cases in state government and about 17 percent cases in local government in 2011. In the private sector, back injuries account for 21 percent of non-fatal cases.

Demographics

- Over the period from 2002 to 2011 in the California private sector, the number of days-away-from-work cases for women decreased by 37 percent. Days-away-from-work cases for men decreased by 49 percent.
- Between 2002 and 2011, in private industry, all age groups experienced a decline. The biggest decline (63 percent) occurred among 16 to 19 year-old workers. The age group 35 to 44 experienced a 58 percent decline, and the age groups 20 to 24 and 25 to 34 both experienced a 54 percent decrease in the numbers of cases with days away from work.
- In 2011, out of 360 fatalities (including the Federal government), approximately 92 percent were male and 8 percent were female. The biggest decrease in the number of fatalities (15 percent) was seen in the 65 and older age group (from 40 to 34 cases), followed by a 13 percent decrease in the age group 55 to 64 (from 78 to 68 cases) and a decrease from 7 to 5 cases in the age group 18 to 19. Age groups that experienced increase in number of fatalities are 25 to 34 (23 percent increase), 35 to 44 (34 percent increase), and 45 to 54 (27.5 percent increase). There was no change in the number of fatalities in age group 20 to 24.
- The highest number of fatalities in 2011 by race or ethnic origin categories was experienced by "Hispanic or Latino" and "White, non-Hispanic" groups, accounting for 40 and 49 percent of the fatalities respectively. From 2010 to 2011, there was an increase in fatal injuries for all ethnic

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

groups excluding Asians (a 16 percent decrease from 32 to 27) with the highest increase of 27 percent in “White, non-Hispanic” group (from 137 to 174 cases), followed by 1.4 percent increase in “Hispanic or Latino” group (from 142 to 144 cases), and an increase from 10 to 13 cases in “Black or African American” group.

Occupational Injury and Illness Reporting

Occupational injury and illness information is the responsibility of BLS within the U.S. and DOL and the Director's Office of Policy, Research and Legislation within the California DIR. Occupational injuries and illnesses are recorded and reported by California employers through several national surveys administered by DOL with the assistance of DIR.

OSHA Reporting and Recording Requirements

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

Although there are exemptions for some employers from keeping Cal/OSHA injury and illness records, all California employers must report injuries to the Director's Office of Policy, Research and Legislation. Every employer must also report any serious occupational injuries, illnesses or deaths to California OSHA within DIR.

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

BLS Annual Survey of Occupational Injuries and Illnesses

To estimate the number of occupational injuries and illnesses in the U.S., BLS established a nationwide annual survey of employers' occupational injuries and illnesses. The state-level statistics on non-fatal and fatal occupational injuries and illnesses are derived from this survey. In California, the DIR Director's Office of Policy, Research and Legislation conducts the survey for BLS.

Non-Fatal Injuries and Illnesses

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

Fatal Injuries and Illnesses

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

OSHA Occupational Injury and Illness Survey

Federal OSHA administers the annual *Occupational Injury and Illness Survey*. OSHA utilizes this collection of employer-specific injury and illness data to improve its ability to identify and target agency interventions to those employers who have serious workplace problems. For this survey, OSHA collects data from 80,000 non-construction establishments and from up to 15,000 construction establishments.

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Occupational Injury and Illness Prevention Efforts

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

Cal/OSHA Program

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

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

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

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

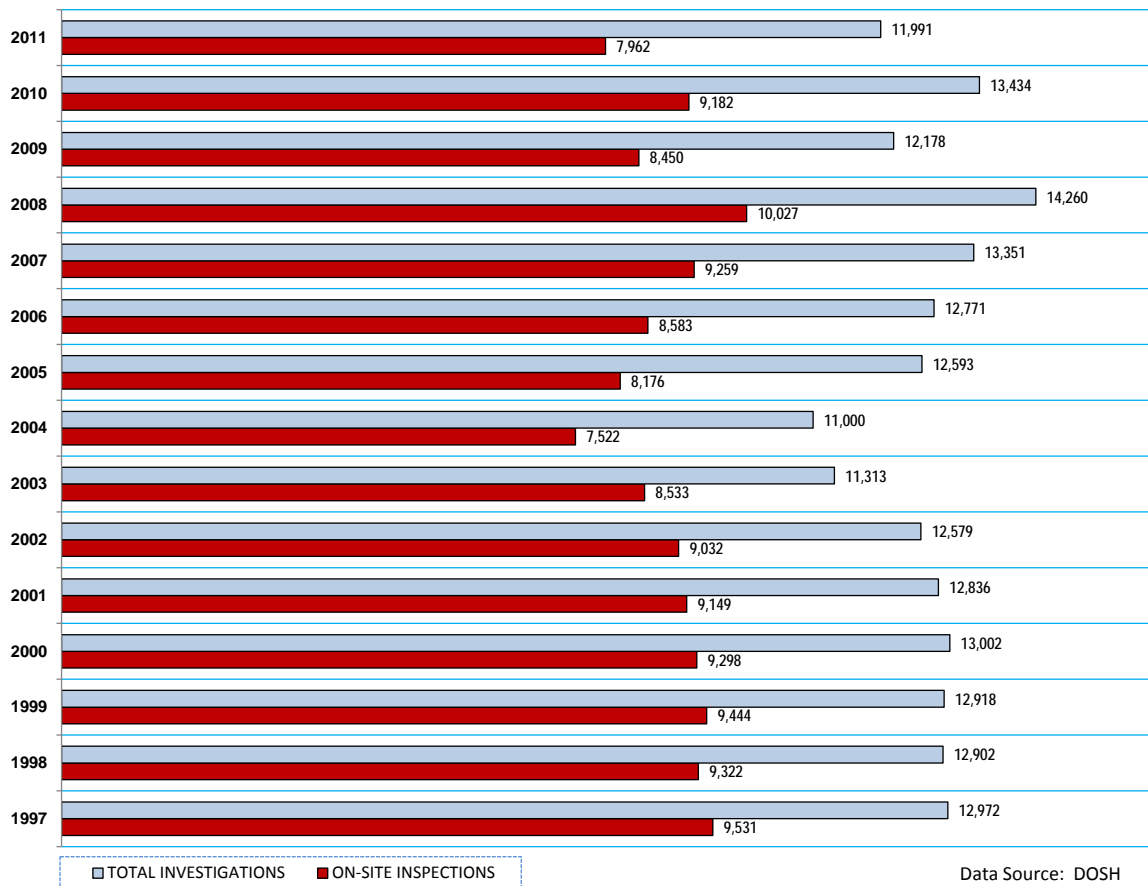
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Profile of Division of Occupational Safety and Health (DOSH) On-Site Inspections and Violations Cited

The trends in types of inspections have varied in the past few years, with Accidents and Complaints being consistently predominant. However, starting in fiscal year (FY) 2006, Programmed Inspections started to reach higher levels as compared to Accidents and Complaints.

The following figure shows the total numbers of investigations and on-site inspections for the period from calendar year (CY) 1997 through 2011.⁴⁰ The total number of investigations averaged 12,870, and the number of on-site inspections averaged 9,300 from 1997 to 2002. From 2002 to 2004, there was a decrease in both the number of investigations (14 percent) and the number of on-site inspections (20 percent). From 2004 to 2008, there was a 29.6 percent increase in investigations and a 33 percent increase in the number of on-site inspections. After a 17 percent decrease in investigations and almost a 19 percent decrease in the number of on-site inspections from 2008 to 2009, there was again a 10 percent increase in total number of investigations and about a 9 percent increase in on-site inspections from 2009 to 2010. In 2011, both the number of investigations and number of on-site inspections returned to their 2009 level.

Figure 113: Numbers of DOSH Investigations and On-Site Inspections, 1997 - 2011

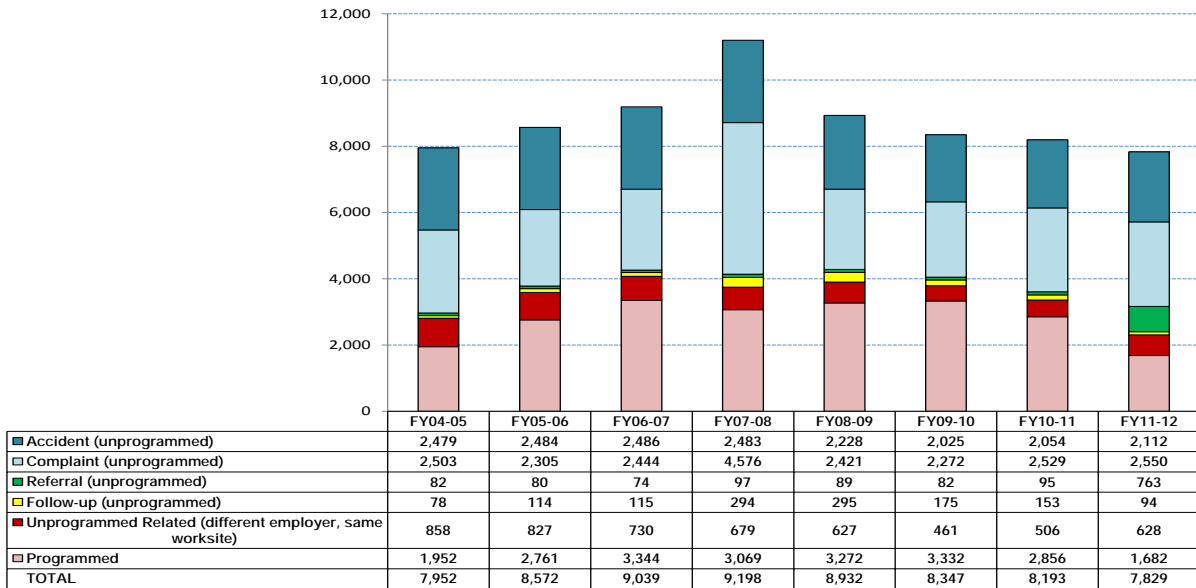


⁴⁰ The numbers of investigations, on-site inspections and violations for calendar years could differ from the fiscal year numbers provided later in this section.

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The figure below shows that total Inspections increased from 7,952 in FY 2004-05 to 9,198 in FY 2007-08, and then decreased to 7,829 in FY 2011-2012.

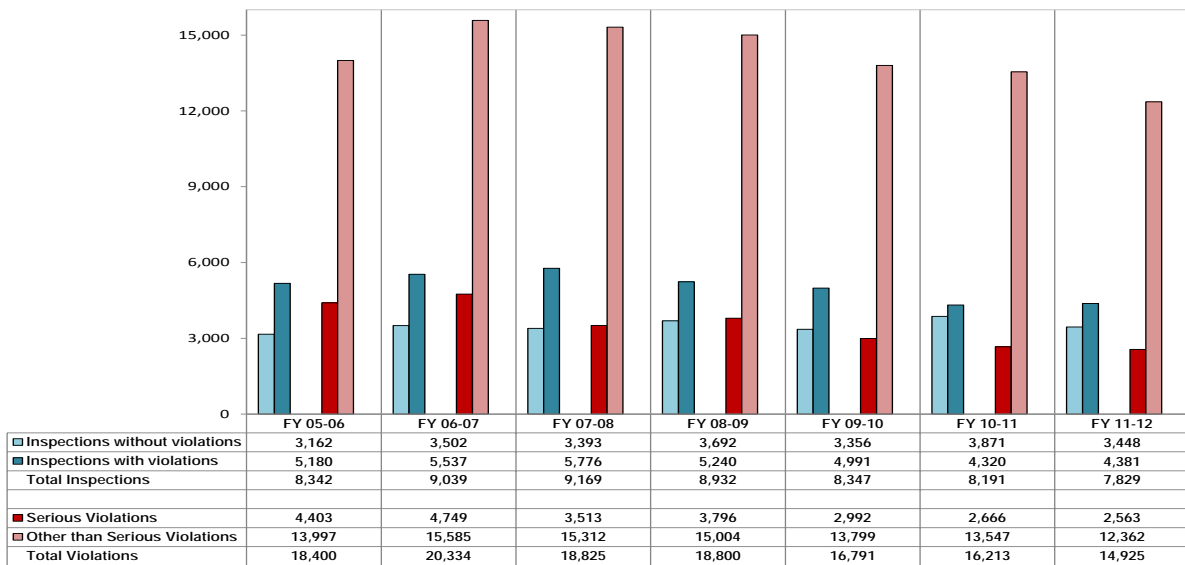
Figure 114: DOSH Inspections by Type, FY 2004-05 to FY 2011-12



Source: DIR - Division of Occupational Safety and Health

The number of violations is greater than inspections due to the fact that most inspections where violations occur yield more than one violation. Violations are further broken down into serious and other-than-serious. In FY 2011-12, 56 percent of inspections resulted in violations cited. Total violations have decreased by 27 percent from their peak in FY 2006-2007 to FY 2011-2012. The breakdown by type is shown in the figure below.

Figure 115: DOSH Inspections and Violations Cited, FY 2005-06 to FY 2011-12

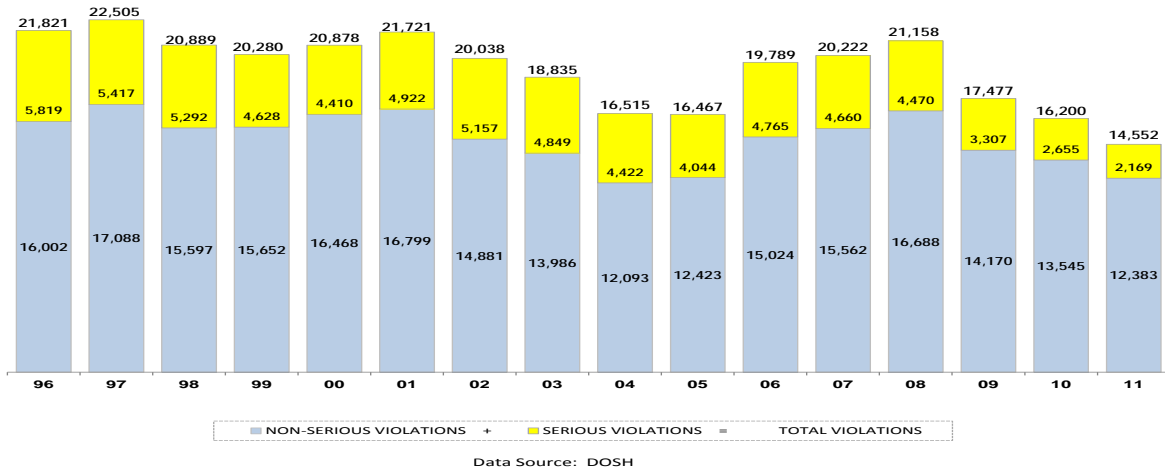


Data Source: DIR - Division of Occupational Safety and Health

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The following figure shows the total numbers of violations, including the number of serious DOSH violations from CY 1996 to CY 2011. The total number of DOSH violations averaged 21,350 per year from 1996 to 2001. From 2001 to 2005, there was a 24 percent decrease in the total number of DOSH violations, and from 2005 to 2008, the total number of violations increased again by 28.5 percent. From 2008 to 2011, there was a 31 percent decrease in the total number of DOSH violations.

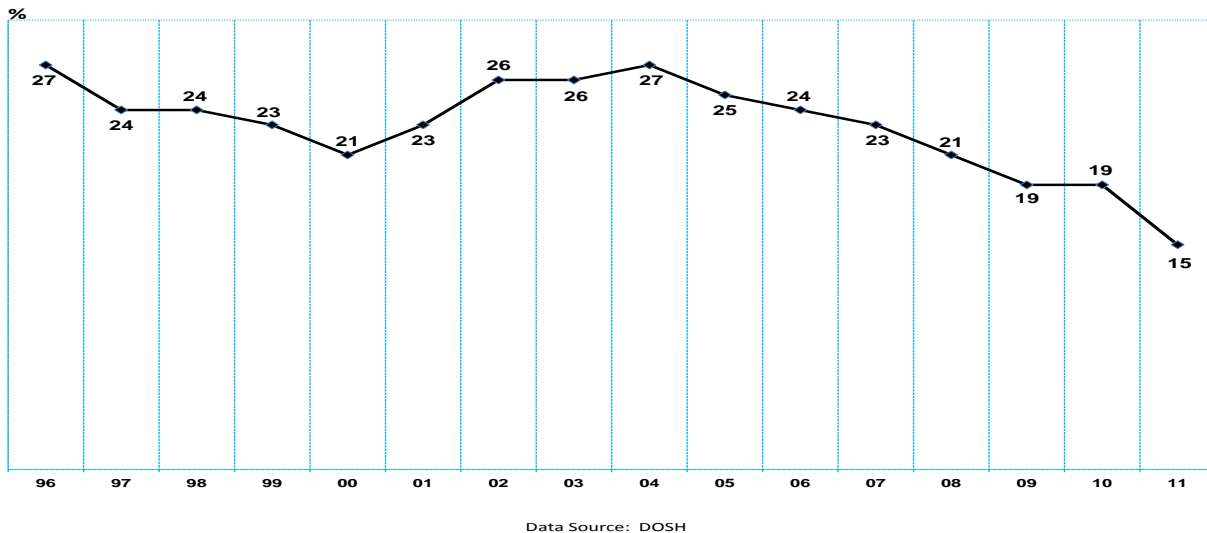
Figure 116: DOSH Violations, 1996 - 2011



As the figure above shows, the number of serious violations decreased by 37.4 percent from 1995 to 2000, increased by 17 percent from 2000 to 2002, and then again decreased by 21.6 percent from 2002 to 2005. The number of serious DOSH violations increased by 18 percent from 2005 to 2006, and then decreased by more than 44 percent from 2006 to 2010. (See [pages 164-165](#) for OSHAB statistics on the number of appeals of DOSH violations that were filed and resolved.)

The figure below shows the trend in the share of serious DOSH violations in the total number of all violations from 1996 to 2011. The share of serious DOSH violations decreased from 27 percent in 1996 to 21 percent in 2000. From 2000 to 2004, the share of serious violations increased to 27 percent of total DOSH violations and then decreased to its lowest level of 15 percent from 2004 to 2011.

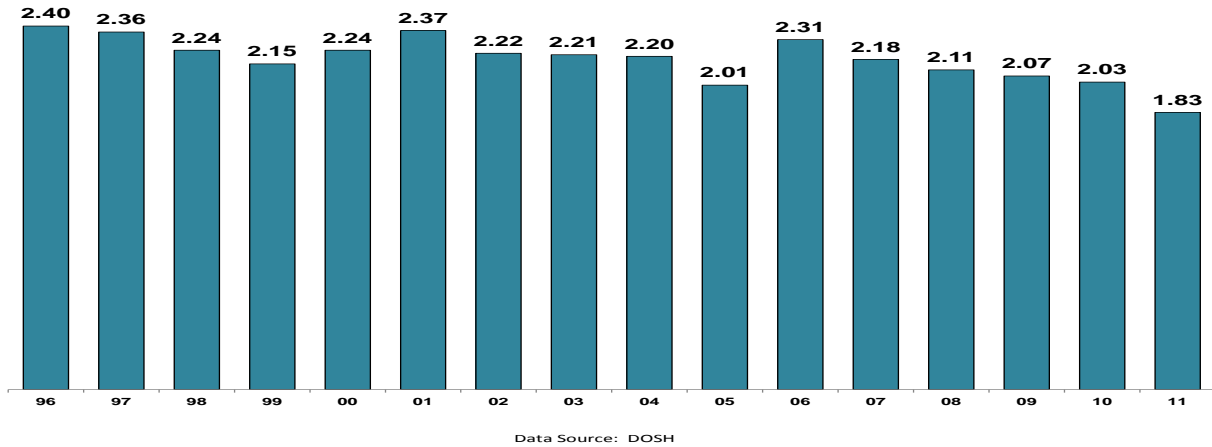
Figure 117: Percent of Serious Violations in Total DOSH Violations, 1996 - 2011



WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

The average number of DOSH violations per inspection decreased by 10 percent from 1996 to 1999. During the next six years, from 1999 to 2004, the average number of violations per inspection averaged 2.2 and then decreased by 8.6 percent from 2004 to 2005. After an increase of 15 percent from 2005 to 2006, the average number of violations per inspection decreased by about 21 percent from 2006 through 2011.

Figure 118: Average Number of DOSH Violations per Inspection, 1996 – 2011



WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Table 32: Twenty-Five Most Frequently Cited Title 8 California Code of Regulations (CCR) Standards in 2011

Standard	Description	Total Violations	Serious Violations	Percent Serious
3203	Injury and Illness Prevention Program	1,796	64	3.6
3395	Heat Illness Prevention	920	68	7.4
1509	Construction Injury Prevention Program	632	10	1.6
5194	Hazard Communication	512	2	0.4
3314	Clean, Repair, Service an Adjust Prime Movers, Machinery and Equipment	477	117	24.5
6151	Portable Fire Extinguishers	462	1	0.2
342	Reporting Work Fatality or Serious Injury	399	1	0.3
461	Permits to Operate Air Tanks	370	0	0
5144	Respiratory Protection Equipment	337	12	3.6
2340.16	Work Space About Electrical Equipment	312	2	0.6
5162	Emergency Eyewash	290	66	22.8
3457	Field Sanitation	203	5	2.5
5193	Bloodborne Pathogens	197	34	17.3
3668	Powered Industrial Truck Operator Training	179	7	3.9
1512	Construction: Emergency Medical Services	171	3	1.8
3276	Use of Fixed Ladders	169	46	27.2
5189	Process Safety Management of Acutely Hazardous Materials	152	12	7.9
4650	Compressed Gas and Air Cylinders	150	13	8.7
3328	Machinery and Equipment	139	30	21.6
3650	Industrial Trucks. General.	139	26	18.7
2340.22	Equipment Identification in Electrical Installations	133	20	15.0
2500.08	Flexible Cords and Cables: Uses Not Permitted	131	2	1.5
3210	Guardrails at Elevated Locations.	121	44	36.4
3241	Live Loads: General Physical Conditions and Structures Orders	121	5	4.1
2340.12	Installation and Maintenance of Electrical Equipment	120	24	20.0

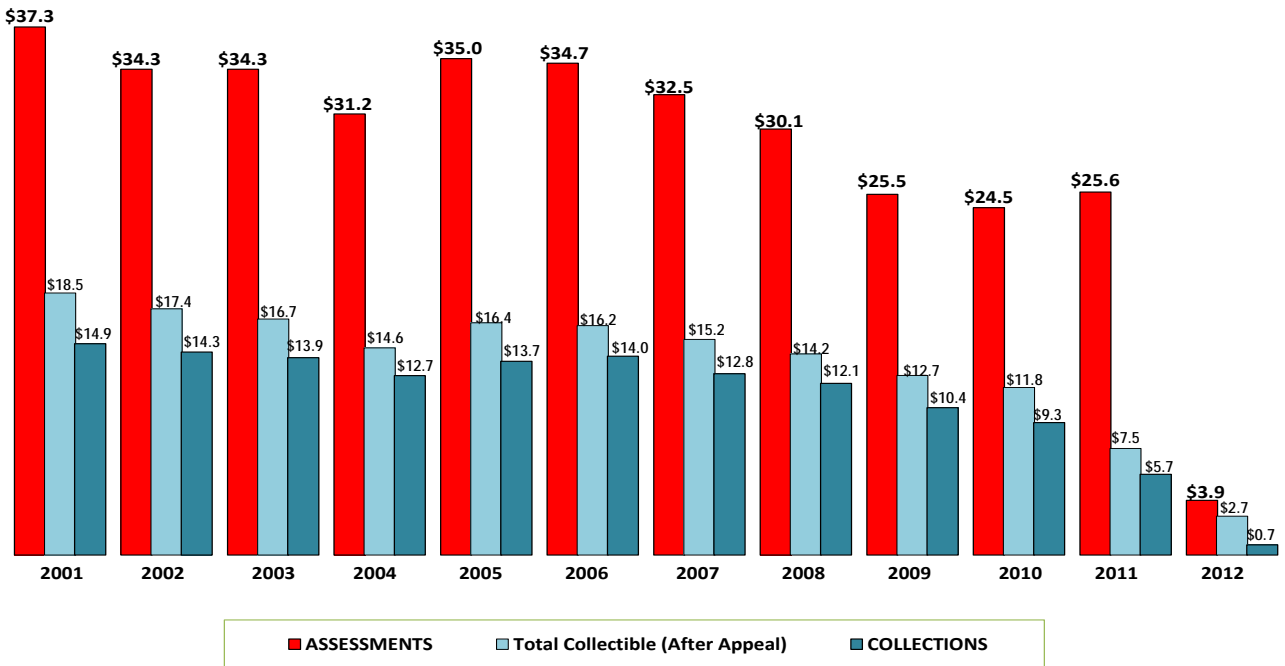
Data Source: DOSH Budget and Program Office

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

The figure below demonstrates the trends in penalties and collections. Total Penalties Assessed was \$25.6 million in 2011. Many employers appeal those “recommended” penalties at the Cal/OSHA Appeals Board, and they may be ordered to pay in full, pay a reduced amount, or have the penalties eliminated due to procedural issues. Because of the appeals process, Penalties Collected will almost always be less than the initial recommended Penalties Assessed. Total Collections were \$5.7 million in FY 2011.

Although the figure below demonstrates the trends in penalties and collections, it cannot be viewed entirely as an indicator of progress in health and safety at places of employment, due to related impacts on the data from DOSH staffing changes and resource changes from year to year, as well as activities at the Appeals Board. Nevertheless, the data do give a sense of the general magnitude and accounting of penalties and collections, as well as provide a starting point for further analysis.

Figure 119: Total DOSH Penalties Assessed and Collected, 2001-2012
(Million \$)

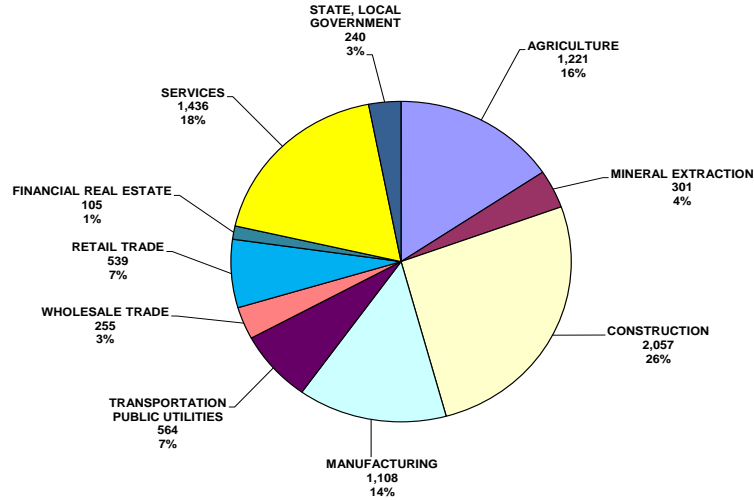


Data Source: DOSH

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

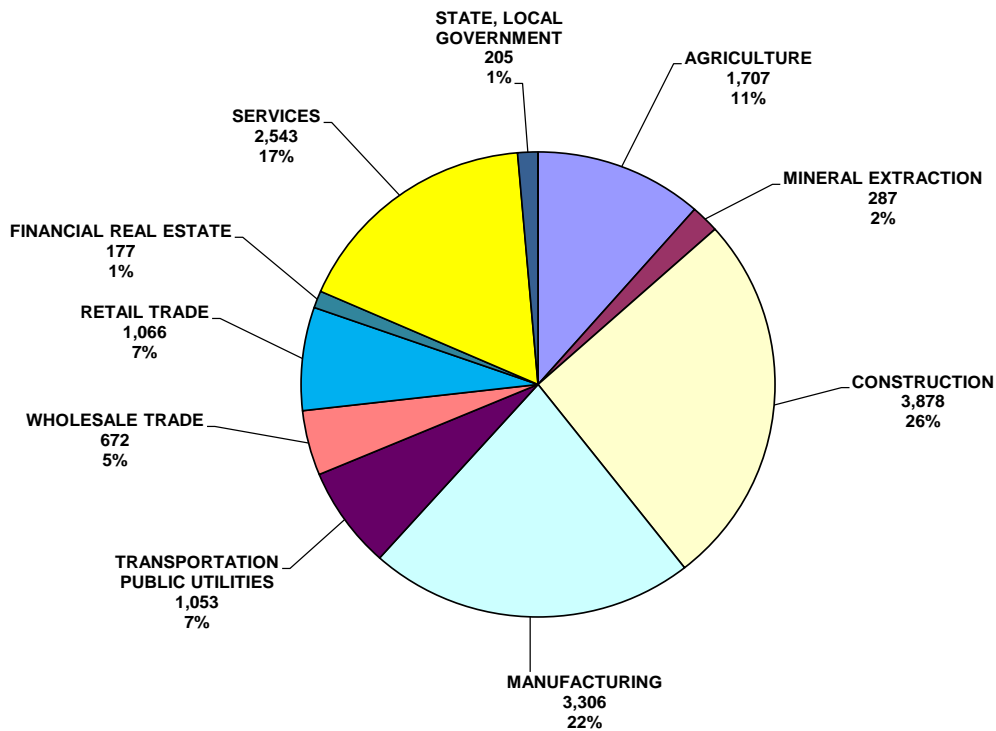
The figure below illustrates the proportion of inspections in major industrial groups. Of the 8,141 workplace health and safety inspections conducted in FY 2010-11, 2,118 (26 percent) were in construction and 6,023 (74 percent) were in non-construction.

**Figure 120: Distribution of Inspections by Major Industry, State FY 2011-2012
(Total Inspections=7,826)**



Despite the fact that the greatest percentage of inspections were in construction, the greatest percentage (26 percent) of violations were found to be in manufacturing, as shown in the figure below.

**Figure 121: Distribution of Violations by Major Industry, State FY 2011-2012
(Total Violations=14,894)**



WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

High Hazard Identification, Consultation and Compliance Programs

Even though a statutory mandate no longer exists, the Division of Occupational Safety and Health (DOSH) reports annually on the activities of the constituent parts of the High Hazard Employer Program, specifically the High Hazard Consultation Program and the High Hazard Enforcement Program.

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

High Hazard Employer Program

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

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

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

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

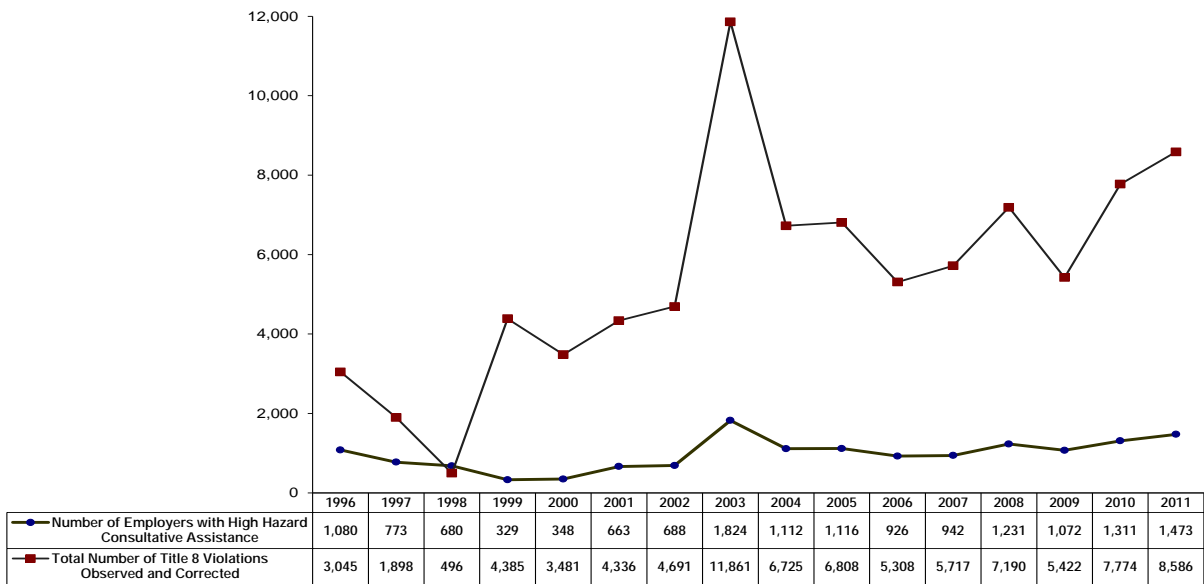
High Hazard Consultation Program

DOSH reports that in 2011, it provided on-site high hazard consultative assistance to 1,473 employers, as compared to 1,311 employers in 2010. During consultation with these employers, 8,586 Title 8 violations were observed and corrected as a result of the provision of consultative assistance.

Since 1994, 16,795 employers have been provided direct on-site consultative assistance, and 94,483 Title 8 violations have been observed and corrected. Of these violations, 33.8 percent were classified as "serious."

The following figure indicates the yearly number of consultations and violations observed and corrected during the years 1996-2011. It should be noted that for years 2002 and 2003, all Consultative Safety and Health Inspection Projects (SHIPs) were included in the High Hazard Consultation Program figures. Effective 2004, only employers with experience modification (Ex-mod) rates of 125 percent and above are included in the High Hazard Consultation Program figures.

Figure 122: High Hazard Consultation Program Production by Year



Data Source: Division of Occupational Safety and Health

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

High Hazard Enforcement Program

Reporting of high hazard enforcement program activities has changed in 2012 and the new data are only available for 2011. In 2011, 482 employers underwent targeted high hazard enforcement inspections. Follow-up inspections were conducted for 68 employers. Taking into account cases where inspections were not conducted for the reason of absence of employees, the total of 536 inspections took place with 1,939 violations being observed and cited. An average number of high hazard violations per targeted inspection was 3.62 in 2011.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

For 2011, the high hazard enforcement program reported the following activity measures.

The distribution of high hazard targeted inspections by Standard Industrial Classification (SIC) in 2011 is shown in the table below.

Table 33: High Hazard Inspections by SIC Code

SIC and Description	Inspections	Percent
0111-0783 Agriculture	31	6%
0811-0971 Forestry	0	0%
1011-1499 Mining, Oil, and Gas	2	0.4%
1521-1799 Construction	122	23%
2011-3999 Manufacturing	196	37%
4011-4971 Transportation / Communication/ Electricity / Gas / Sanitary Services	57	11%
5012-5199 Wholesale Trade	6	1%
5211-5999 Retail Trade	30	6%
6011-6799 Finance, Insurance & Real Estate	3	1%
7011-8999 Services	88	16%
9111-9721 Public Administration	1	0.2%
Total	536	

Violations observed during high hazard targeted inspections are divided into two categories of “serious, willful, and repeat (SWR)” and “other than serious” violations.

Table 34: Violations Observed During High Hazard Inspections

Targeted Inspections	Inspections	Percent
Serious, Willful, Repeat	549	28%
Other Than Serious	1,390	72%
Total	1,939	

(*Not included in previous reports: 7,164 instances)

The next table shows the distribution of enforcement actions taken during high hazard inspections by type in 2011.

Table 35: Enforcement Actions Taken During High Hazard Targeted Inspections

Types of enforcement actions	Inspections	Percent
Warrants	4	0.4%
Order Prohibiting Use	20	2%
Information Memorandums	29	3%
Citations	928	94.6%

The table below shows the most frequently observed violations during high hazard inspections in 2011.

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Table 36: Most Frequently Observed Violations During High Hazard Targeted Inspections

Title 8 Section	Description
3203	Injury and Illness Prevention Program
6151	Portable Fire Extinguishers
14300.32	Recordkeeping
3314	Control of Hazardous Energy
5162/5185	Emergency Eyewash and Shower Equipment
3395	Heat Illness Prevention
461	Permit to Operate Air Tank
2340.016	Clear Space About Electrical Installations
2340.022	Identification of Equipment
5194	Hazard Communication

Safety Inspections

DOSH has three major public safety programs devoted to conducting inspections to protect the public from safety hazards:

- The Amusement Ride and Tramway Unit conducts public safety inspections of amusement rides, both portable and permanent, and aerial passenger tramways and ski lifts.
- The Elevator Unit conducts public safety inspections of different conveyances, including power-cable driven passenger and freight elevators, manlifts, and escalators.⁴¹
- The Pressure Vessel Unit conducts public safety inspections of boilers and pressure vessels to ensure their safe operation in places of employment.

Health and Safety Standards

The Occupational Safety and Health Standards Board (OSHSB), a seven-member body appointed by the Governor, is the standards-setting agency within the Cal/OSHA program. The mission of OSHSB is to promote, adopt and maintain reasonable and enforceable standards that will ensure a safe and healthy workplace for California workers.

To meet the DIR Goal 1 on ensuring that California workplaces are lawful and safe, the Board shall pursue the following goals:

- Adopt and maintain effective occupational safety and health standards.
- Evaluate petitions to determine the need for new or revised occupational safety and health standards.
- Evaluate permanent variance applications from occupational safety and health standards to determine if equivalent safety will be provided.

⁴¹ For a list of conveyances, please see <http://www.dir.ca.gov/Title8/sub6.html>

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

OSHSB also has the responsibility to grant or deny applications for variances from adopted standards and respond to petitions for new or revised standards. The OSHSB safety and health standards provide the basis for Cal/OSHA enforcement.

For further information ...

<http://www.dir.ca.gov/OSHSB/oshsb.html>

Occupational Health and Safety Appeals Board (OSHAB)

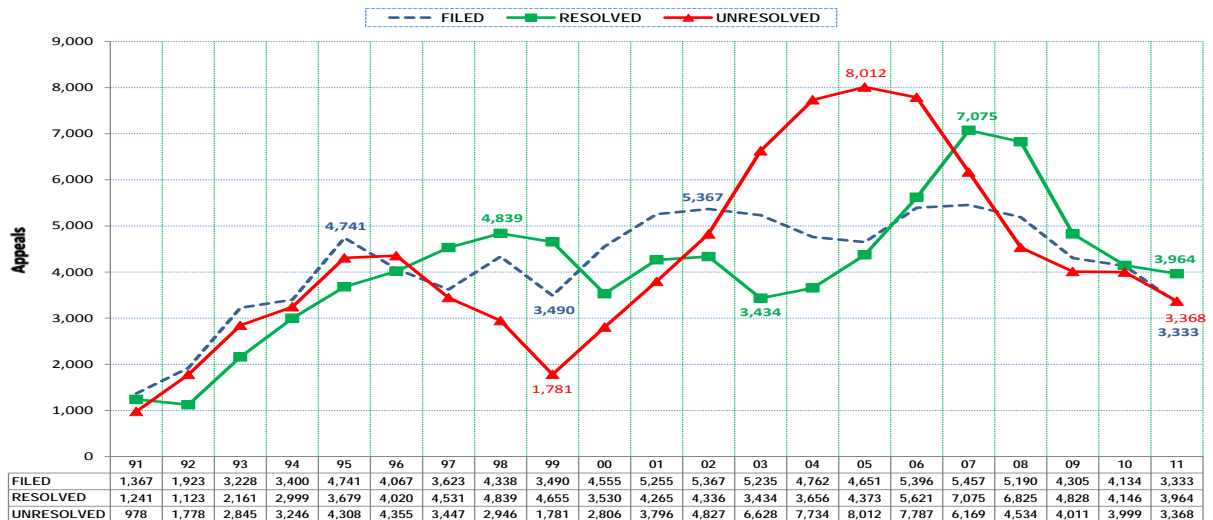
The Occupational Safety and Health Appeals Board (OSHAB) consists of three members appointed by the governor for four-year terms. By statute, the members are selected each from the field of management, labor and the general public. The chairman is selected by the governor.

The mission of OSHAB is to fairly, timely and efficiently resolve appeals and to provide clear, consistent guidance to the public, thereby promoting workplace health and safety. OSHAB handles appeals from private and public sector employers regarding citations issued by DOSH for alleged violation of workplace health and safety laws and regulations.

The figure below shows the OSHAB workload: appeals filed, resolved, and unresolved. From 1991, the numbers of appeals filed with OSHAB yearly grew steadily until 1995, reaching 4,741 cases in that year. From 1995 to 2009, the number of appeals filed yearly stabilized at an average number of 4,695 cases, with a maximum of 5,457 appeals filed in 2007.

From 1991 to 1996, an average of 82 percent of filed appeals was resolved each year. From 1997 to 2000, the OSHAB processed appeals in a shorter time frame (10 months) than the Fed/OSHA standard, averaging 123 percent of yearly filed cases; therefore, the number of unresolved appeals reached its minimum in 1999. From 2000 to 2006, processing of appeals had slowed down again because an average of 83 percent of filed appeals was resolved each year, increasing the number of unresolved cases to its maximum of 8,012 cases in 2005. From 2005 to 2011, the numbers of unresolved cases decreased by 58 percent since an average of 116 percent of yearly filed cases were resolved in 2008, 2009 and 2010. In 2011, the numbers of resolved cases were higher than the numbers of filed cases, decreasing the numbers of unresolved cases to 1997 level.

Figure 123: Occupational Safety and Health Appeals Board (OSHAB) Workload, 1991-2011

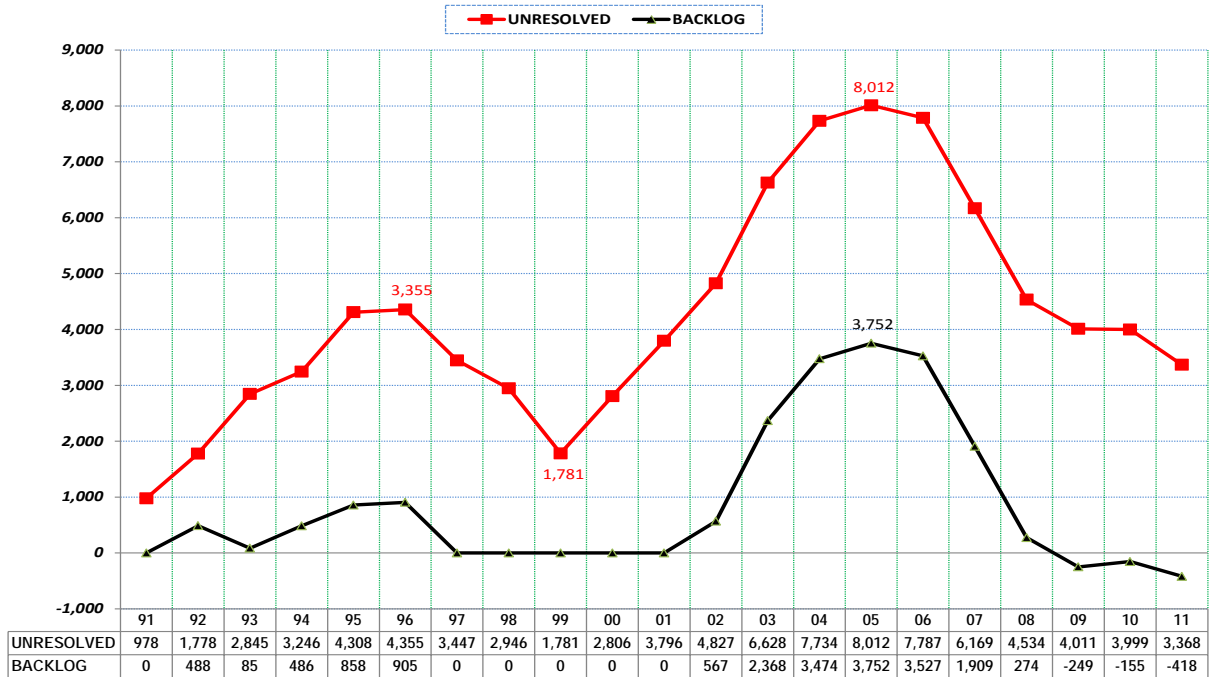


Data Source: OSHAB

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

The trend and level of backlogged appeals reflect changes in unresolved cases as they accumulate from previous years. As the figure below shows, the pattern of backlog repeats the pattern of unresolved cases described in the above paragraph.

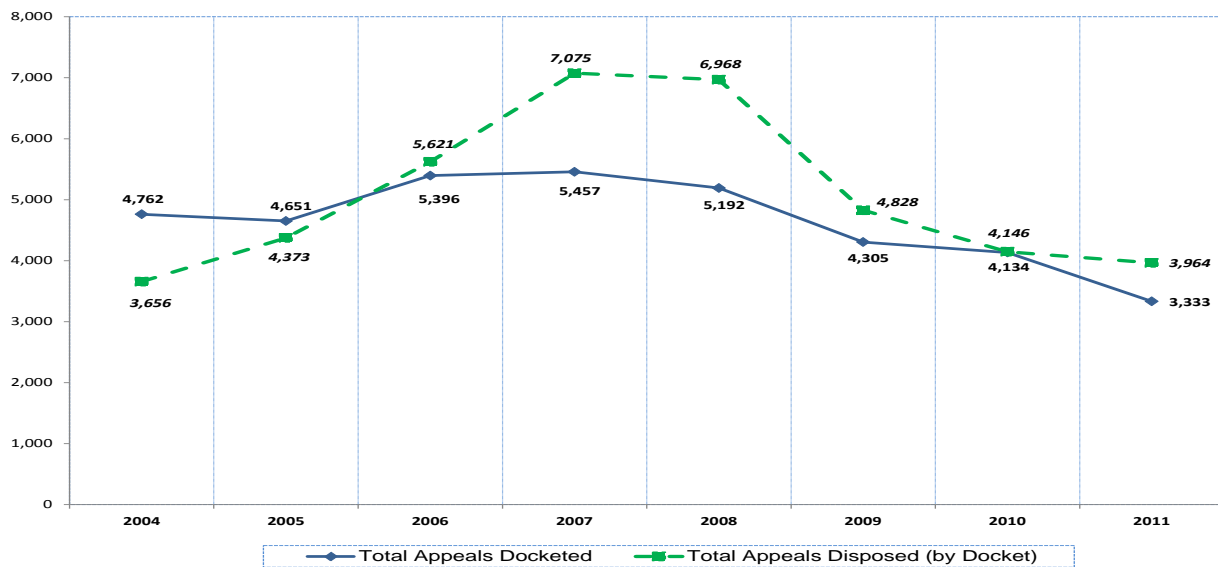
Figure 124: Occupational Safety and Health Appeals Board Backlogs, 1991-2011



Data Source: OSHAB

The figure below shows the total number of appeals docketed and disposed from 2004 to 2011. In 2011, 119 percent of appeals were resolved.

Figure 125: Occupational Safety and Health Appeals Board: Appeals Docketed and Disposed, 2004-2011



Data Source: OSHAB

WORKPLACE HEALTH AND SAFETY PERFORMANCE MEASURES

Educational and Outreach Programs

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

Worker Occupational Safety and Health Training and Education Program

The Commission on Health and Safety and Workers' Compensation (CHSWC) is mandated by Labor Code Section 6354.7 to maintain the Worker Occupational Safety and Health Training and Education Program (WOSHTEP). The purpose of WOSHTEP is to promote injury and illness prevention programs. For further information about WOSHTEP and its activities, see the "Projects and Studies" section of this report.

School Action for Safety and Health

Per the mandate set forth in the Labor Code, CHSWC is to assist inner-city schools or any school or district in implementing effective occupational injury and illness prevention programs (IIPPs). CHSWC has established a model program, California's School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention programs. For further information about SASH and its activities, see the "Projects and Studies" section of this report.

The California Partnership for Young Worker Health and Safety

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

Cal/OSHA Consultation

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

Partnership Programs

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

UPDATE: THE CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

Background

In California, approximately two-thirds of the total payroll in the State is covered for workers' compensation through insurance policies, while the remainder is through self-insurance. There are more than 200 private for-profit insurers and one public nonprofit insurer, the State Compensation Insurance Fund (State Fund).

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

Minimum Rate Law and Open Rating

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

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

Insurance Market After Elimination of Minimum Rate Law

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

Price Competition

Open rating apparently spurred competition among insurers seeking to retain or add to their market share. Some insurers attempted to increase their market share by writing coverage at low prices that eventually proved to be below loss costs. This deregulated market kept premium rates near their historic lows throughout the latter half of the 1990s, even though losses were no longer declining.

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

Insurers Liquidated Since 2000

2000

California Compensation Insurance Company
 Combined Benefits Insurance Company
 Commercial Compensation Casualty Insurance Company
 Credit General Indemnity Company
 LMI Insurance Company
 Superior National Insurance Company
 Superior Pacific Insurance Company

2001

Credit General Insurance Company
 Great States Insurance Company
 HHH America Compensation & Liability Insurance Company
 Amwest Surety Insurance Company
 Sable Insurance Company
 Reliance Insurance Company
 Far West Insurance Company
 Frontier Pacific Insurance Company

2002

PHICO
 National Auto Casualty Insurance Company
 Paula Insurance Company
 Alistar Insurance Company

2003

Western Growers Insurance Company
 Legion Insurance Company
 Villanova Insurance Company
 Home Insurance Company
 Fremont Indemnity Corporation
 Wasatch Crest Insurance Co. (No WC policies)
 Pacific National Insurance Company

2004

Protective National Insurance Company
 Holland-America Insurance Company
 Casualty Reciprocal Exchange

2005

Cascade National Insurance Company/Washington
 South Carolina Insurance Company/South Carolina
 Consolidated American Insurance Company/South Carolina

Source: CIGA
 (continued on the next page)

Insurance Market Changes

Since 2000, a significant number of workers' compensation insurance companies have experienced problems with payment of workers' compensation claims. Forty (40) insurance companies have gone under liquidation, and 24 companies have withdrawn from offering workers' compensation insurance during that time. However, since 2004, 63 insurance/reinsurance companies have entered⁴² the California workers' compensation market, while only 20 companies withdrew from the market.⁴³

Changing Insurers

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

Reinsurance

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

Impact of Recent Workers' Compensation Reforms on Insurance Companies

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

In 2007, SB 316 eliminated a duplicative reserve requirement that was inadvertently not removed when risk-based capital requirements went into effect for workers' compensation insurers in 2002. That same bill also mandated a study by the Commission on Health and Safety and Workers' Compensation (CHSWC) of the causes of many of the insolvencies in this decade.

⁴² Based on information provided by CDI on newly licensed workers' compensation insurance companies as of 10/31/2012.

⁴³ The information on the companies that have withdrawn and entered the market since 2004 is through 10/31/2012.

(continued from previous page)

Insurers Liquidated Since 2000

2006

Vesta Fire Insurance Company
Hawaiian Insurance & Guaranty Company
Municipal Mutual Insurance Company

2010

Insurance Corporation of New York (The)

2011

Atlantic Mutual Insurance Co./New York
Centennial Insurance Company/New York
Reinsurance Company of America/Illinois

2012

Frontier Insurance Company of New York

Source: CIGA

The study has been completed and includes recommendations to contain the risk of future insolvencies. (See "California's Volatile Workers' Compensation Insurance Market: Problems and Recommendations for Change.")

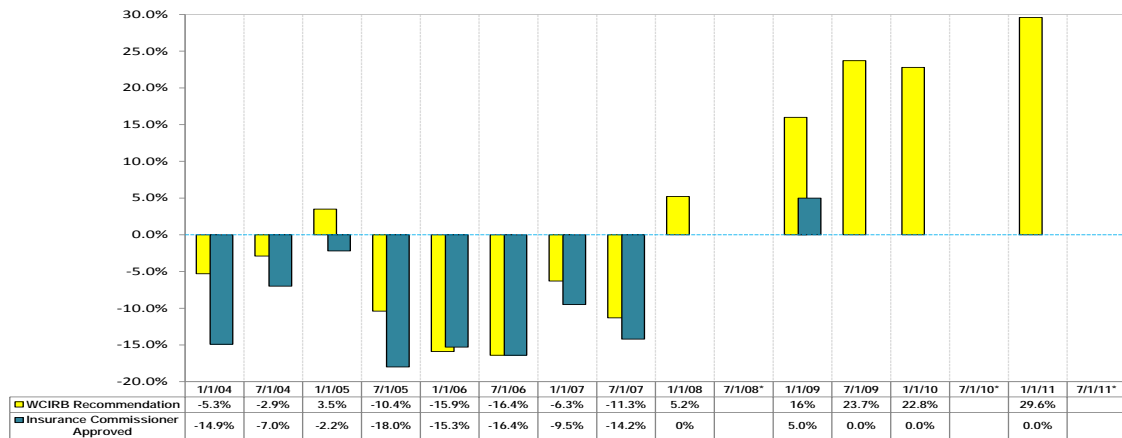
<http://www.dir.ca.gov/chswc/Reports/2009/InsolvencyReport.pdf>

Workers' Compensation Advisory Premium Rates

As a result of 2003 legislative reforms, WCIRB recommended changes and the IC approved either decreases or no changes in the pure premium advisory rates between January 2004 and January 2011, with the exception of the January 2009 filing.

On April 12, 2012, the WCIRB submitted its July 1, 2012 pure premium rate filing to the California Insurance Commissioner recommending an increase in advisory pure premium rates effective July 1, 2012. The advisory pure premium rates proposed for the 494 standard classifications currently in effect average \$2.51, which is 4.1 percent more than the corresponding industry average filed pure premium rate of \$2.41 as of January 1, 2012. On May 29, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective July 1, 2012, that average \$2.49 per \$100 of payroll. (A history of pure premium rates since 1993 appears later in this section.)

Figure 126: Changes in Workers' Compensation Advisory Premium Rates - WCIRB Recommendation v. Insurance Commissioner Approval



* WCIRB did not issue any recommendations for changes to pure premium rates effective 7/1/2008, 7/1/2010, and 7/1/2011, and the IC did not issue the interim advisory rates for these periods.

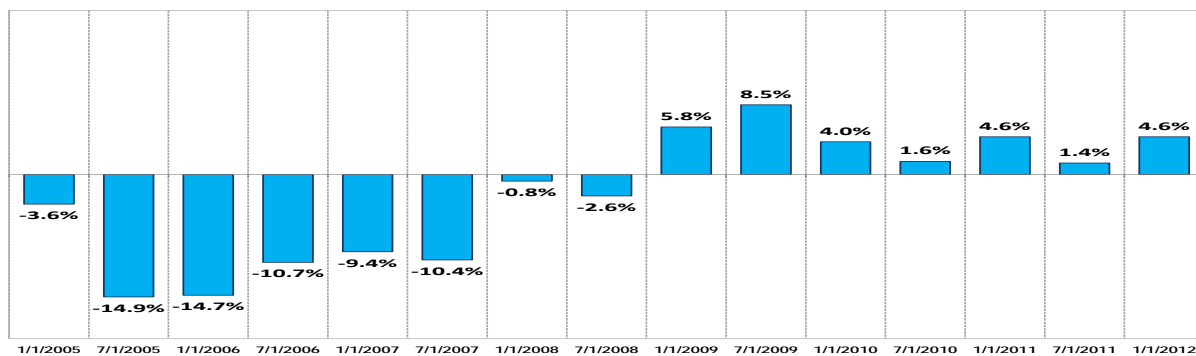
Note: On September 27, 2010, the WCIRB amended its January 1, 2011 filing to propose a change in the claims cost benchmark of +27.7 percent in lieu of the +29.6 percent reflected in its August 18, 2010 filing.

Data Source: WCIRB

California Workers' Compensation Filed Rate Changes

As a result of 2003 workers' compensation legislative reforms and the subsequent decisions by the IC on advisory premium rates, workers' compensation insurers have reduced their average filed rates between 2004 and 2008 (the figure below shows the average filed rates from 2005 and on). However, in 2009, average rates filed by insurers increased.

Figure 127: Average Workers' Compensation Rate Changes Filed by Insurers



Data Source: California Department of Insurance (CDI)

California Workers' Compensation Rate Changes

Workers' compensation legislative reforms enacted in 2003 and the subsequent decisions by the Insurance Commissioner on advisory claims cost benchmarks and pure premium rates led to insurers filing a series of significant manual rate reductions. Despite recent manual rate increases filed by insurers, the top ten California workers' compensation insurers still maintain greatly reduced filed rates as indicated in the chart below.

As of January 1, 2012, the cumulative premium weighted average manual rate reduction filed by insurers with the CDI since enactment of the reforms in 2003 is approximately 41 percent for all writers including State Compensation Insurance Fund (State Fund). Eight consecutive advisory benchmark rate reductions occurred as a result of the passage of AB 227, SB 228, and SB 899, and insurers filed cumulative manual rate reductions averaging 56 percent from January 2004 through July 2008. For the first time since the reforms, the advisory benchmark rates were increased effective January 1, 2009, and filed insurer manual rates increased 5.8 percent. Filed insurer manual rates were further increased 8.5 percent on July 1, 2009, 4.0 percent on January 1, 2010, 1.6 percent on July 1, 2010, 4.6 percent on January 1, 2011, and 1.4 percent on July 1, 2011 at times when the advisory benchmark rates remained unchanged. In response to the January 1, 2012 advisory benchmark rate revision, filed insurer manual rates increased 4.6 percent.⁴⁴

WCIRB reports that actual rates charged in the market place as of June 30, 2012, had fallen by approximately 63 percent since the enactment of AB 227, SB 228, and SB 899. The average rate per \$100 of payroll fell from \$6.29 in the second half of 2003 to \$2.32 in 2011.⁴⁵

California Workers' Compensation Top 10 Insurers Rate Filing Changes

COMPANY NAME	GROUP NAME	Market Share 2011	Cumulative Rate Change 1-04 to 1-12	1-1-2012 % Filed Rate Change	1-1-2011 % Filed Rate Change	1-1-2010 % Filed Rate Change	7-1-2009 % Filed Rate Change
STATE COMPENSATION INSURANCE FUND		12.92%	-40.34%	-1.07%	5.20%	5.00%	15.00%
TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA	Travelers Group	7.23%	-41.28%	9.10%	5.10%	0.00%	13.00%
ZENITH INSURANCE COMPANY	Fairfax Financial Group	3.12%	-25.97%	5.20%	2.90%	2.70%	4.00%
EMPLOYERS COMPENSATION INSURANCE COMPANY	Employers Holdings Group	3.03%	-50.04%	3.90%	2.45%	3.00%	10.50%
EVEREST NATIONAL INSURANCE COMPANY	Everest Re Group	3.01%	-47.10%	9.70%	5.50%	2.00%	5.00%
ZURICH AMERICAN INSURANCE COMPANY	Zurich Ins Group	2.91%	-49.62%	6.50%	10.00%	1.70%	10.00%
CYPRESS INSURANCE COMPANY	Berkshire Hathaway Group	2.45%	-53.21%	8.68%	1.10%	6.30%	10.30%
STAR INSURANCE COMPANY	Meadowbrook Insurance Group	2.30%	-45.05%	12.90%	7.60%	9.40%	1.90%
INSURANCE COMPANY OF THE WEST	ICW Group	2.13%	-39.85%	18.80%	10.00%	10.00%	0.00%
COMPANION PROPERTY & CASUALTY INSURANCE COMPANY	BCBS of SC Group	1.95%	0.00%	0.00%	0.00%	New Company	N/A

⁴⁴ Source: California Department of Insurance, RFLA3 Rate Filing Bureau.

⁴⁵ Source: WCIRB Summary of June 30, 2011 Insurer Experience, released October 8, 2012, Exhibit 2.

UPDATE: THE CALIFORNIA WORKERS' COMPENSATION INSURANCE INDUSTRY

Since the first reform package was chaptered, 61 new insurers have entered the California market and existing private insurers have increased their writings. The significant rate reductions totaling 41 percent since the first reforms were enacted and State Fund's declining market share (53 percent at its peak in 2003, down to 13 percent in 2011) point to the dramatic success of the cost containment reforms and a stabilizing market with increased capacity and greater rate competition. However, the estimated 2011 accident year combined loss and expense ratio of 138 percent⁴⁶ points to an erosion of the effectiveness of the cost containment reforms over time.⁴⁷

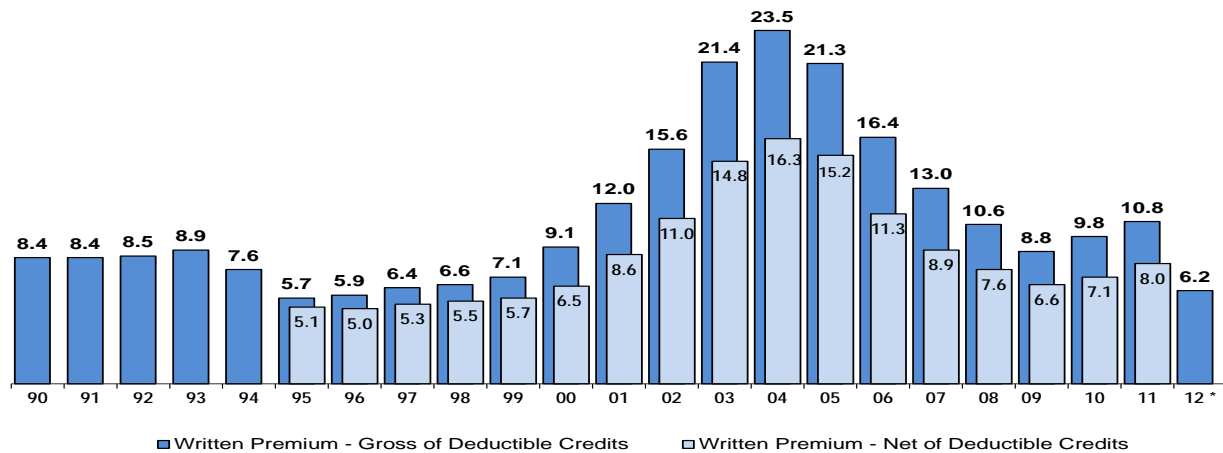
Workers' Compensation Premium

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

At the end of 1999, the IC approved an 18.4 percent pure premium rate increase for 2000, and the market began to harden after five years of open rating, though rates remained less than two-thirds of the 1993 level. Since then, the market has continued to firm, with the IC approving a 10.1 percent increase in the advisory rates for 2001 and a 10.2 percent increase for 2002. The total written premium has increased by 37 percent to \$21.4 billion from 2002 to 2003 and increased by about 10 percent to a peak of \$23.5 billion from 2003 to 2004. The written premium declined by 62 percent from \$23.5 billion to \$8.8 billion between 2004 and 2009 due to rate decreases. From 2009 to 2011, there was a 23 percent increase in written premium.

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

Figure 128: Workers' Compensation Written Premium as of June 30, 2012 (Billion \$)



* January through June of 2012.

Data Source: WCIRB Summary of June 30, 2012 Insurer Experience Report, released October 8, 2012, Exhibit 1

⁴⁶ Source: WCIRB Summary of June 30, 2012 Insurer Experience, released October 8, 2012.

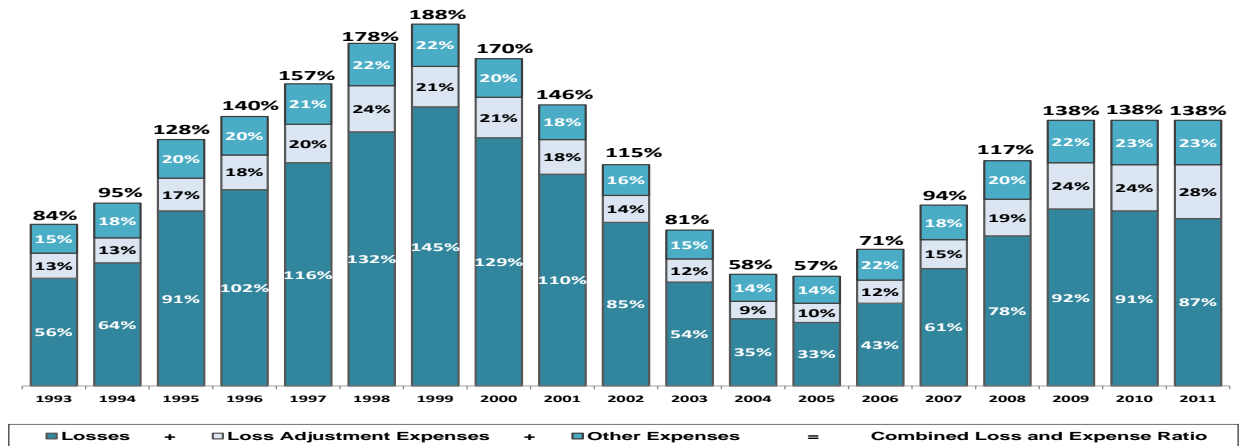
⁴⁷ Source: California Department of Insurance, RFLA3 Rate Filing Bureau

Combined Loss and Expense Ratio

The accident year combined loss and expense ratio, which measures workers' compensation claims payments and administrative expenses against earned premium, increased during the late 1990s, declined from 1999 through 2005, and increased annually from 2005 to 2009. The combined loss and expense ratio stabilized at 138 percent from 2009 to 2011.

In accident year 2011, insurers' claim costs and expenses amounted to \$1.38 for every dollar of premium collected.

Figure 129: California Workers' Compensation Combined Loss and Expense Ratios (as of June 30, 2012)



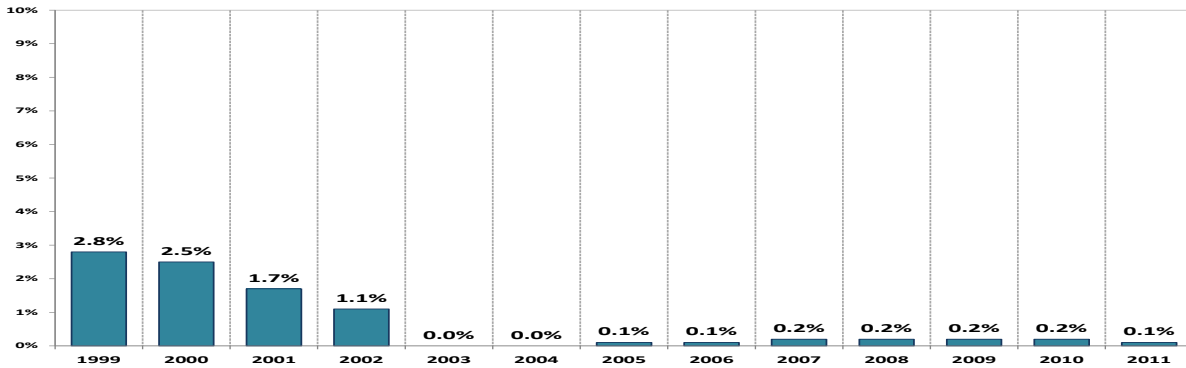
Data Source: WCIRB

WCIRB estimates that the total cost of benefits for injuries occurring prior to January 1, 2012, was approximately \$4.2 billion more than insurer-reported loss amounts.⁴⁸

Policy Holder Dividends

Dividends paid to policyholders increased slightly from 1998 to 1999, were less than 3 percent from 1999 to 2002, were not paid at all in 2003 and 2004, and then were reinstated from 2005 through 2011 at a very low rate.

Figure 130: Insurer Policy Holder Dividends as a Percentage of Earned Premium (by Calendar Year)



Data Source: WCIRB

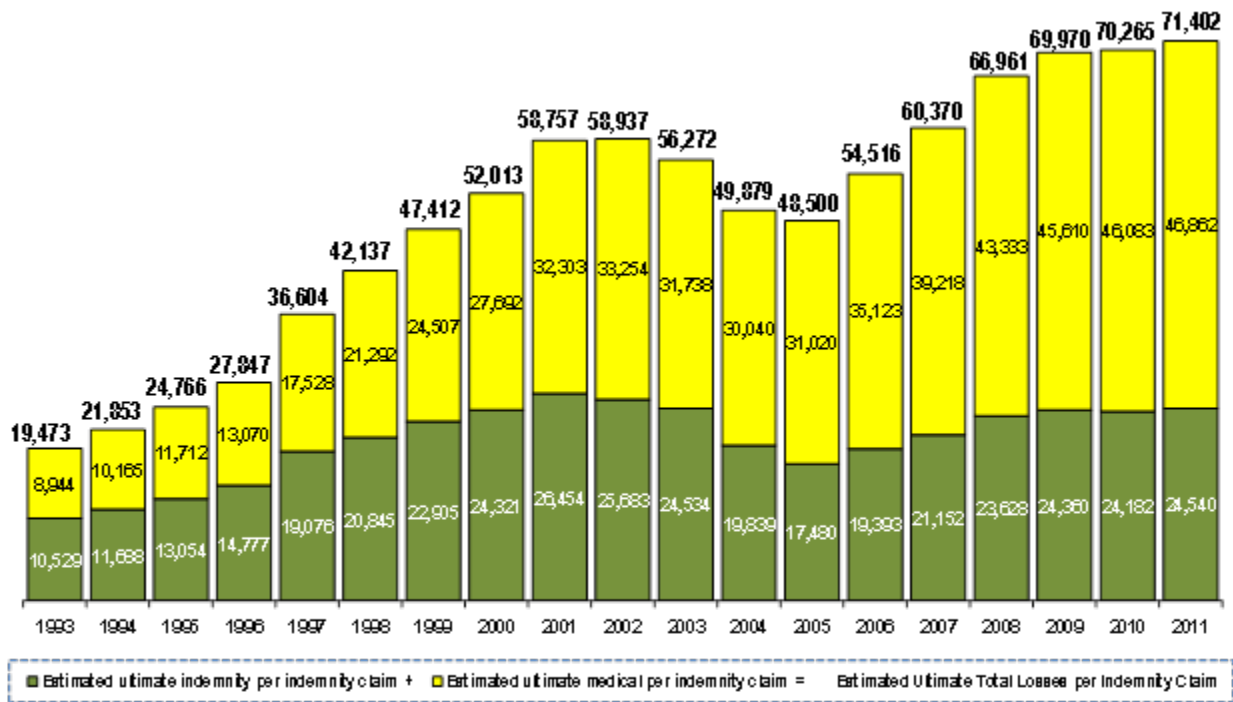
⁴⁸ Source: WCIRB Summary of June 30, 2012 Insurer Experience, released October 8, 2012, Exhibit 9.1

Average Claim Costs

At the same time that premiums and claim frequency were declining, the total amount insurers paid on indemnity claims jumped sharply during the late 1990s.

The total average cost of indemnity claims increased, tripling from 1993 to 2002 and then decreased by 18 percent from 2002 to 2005, reflecting the impact of AB 227, SB 228 and SB 899. However, the total indemnity and medical average costs per claim increased by 47 percent between 2005 and 2011. It should be noted that the 2011 medical average severity showed 1.7 percent increase from its 2010 level, and the 2011 indemnity average cost per claim showed 1.5 percent increase compared to its 2010 level.⁴⁹ WCIRB's estimates of average indemnity claim costs have not been indexed to take into account wage increase and medical inflation.

Figure 131: Estimated Ultimate Total Loss* per Indemnity Claim as of June 30, 2012 (Dollar \$)



* Excludes medical-only

Source: WCIRB Summary of June 30, 2012 Insurer Experience Report, issued October 8, 2012, Exhibits 8.1-8.3

⁴⁹ Source: WCIRB Summary of June 30, 2012 Insurer Experience, released October, 2012 Exhibits 8.1, 8.2, and 8.3.

Insurer Profit/Loss

Workers' compensation insurers experienced large fluctuations in profits and losses during the past decade, as measured by actual dollars and percentage of earned premium. Since the reforms of 2004, insurer underwriting profits have been uncharacteristically high. Investment income typically was the main source of insurer profits, but underwriting profits from policies have been a recent development. In 2008, workers' compensation insurers experienced losses for the first time since 2004. The pre-tax underwriting losses went up to 17 percent in both 2009 and 2010, and then reached 22 percent of earned premium in 2011.

**Figure 132: Insurer Pre-Tax Underwriting Profit/Loss, 1999-2011
(Million \$)**

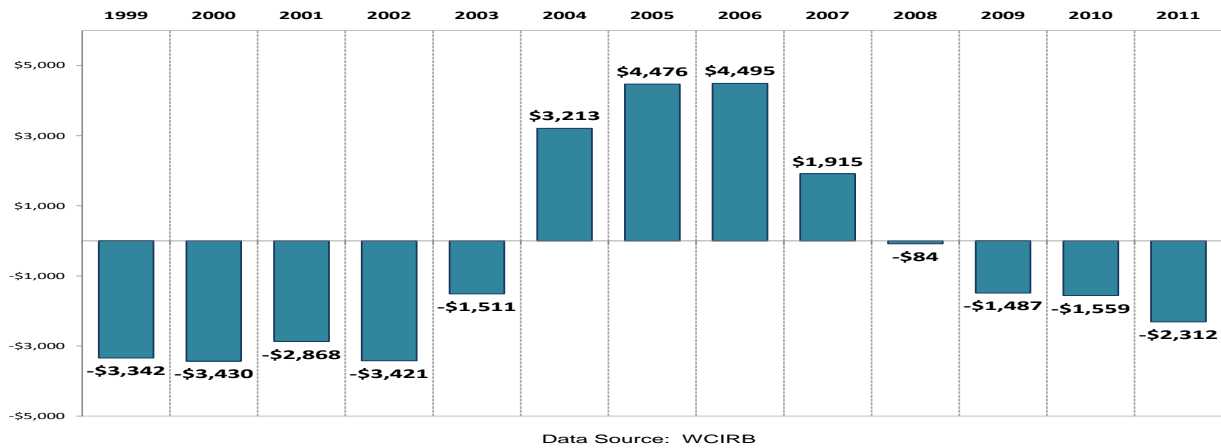
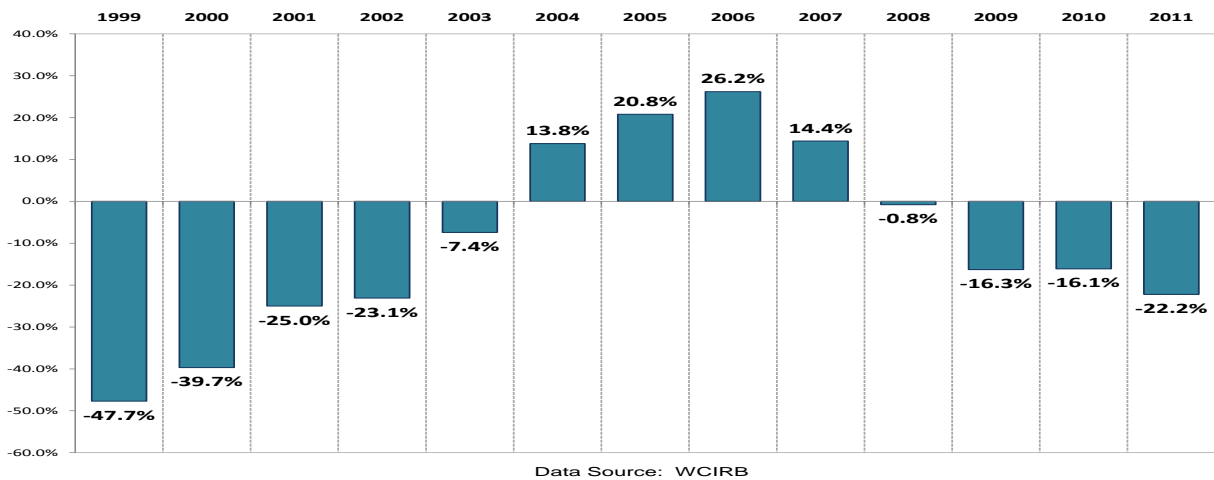


Figure 133: Insurer Pre-Tax Underwriting Profit/Loss as a Percentage of Earned Premium, 1999-2011



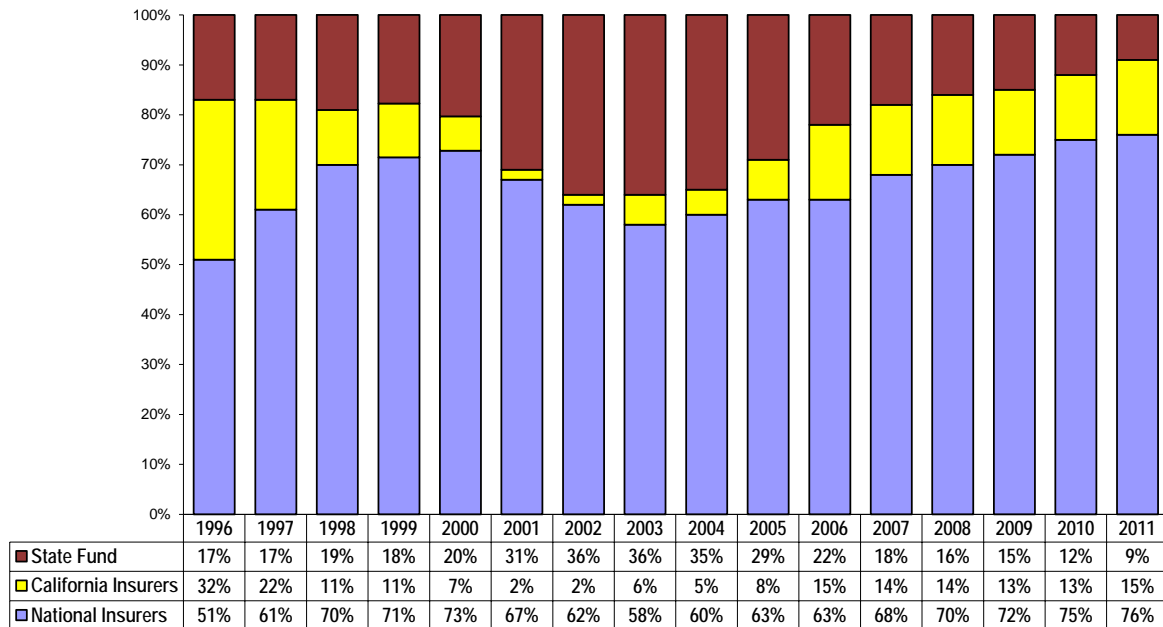
Current State of the Insurance Industry

Market Share

A number of California insurers left the market or reduced their writings as a result of the decrease in profitability, contributing to a major redistribution of market share among insurers since 1993. The figure below shows changes in the workers' compensation insurance market share from 1996 to 2011.

According to WCIRB, from 2002 through 2004, State Fund attained about 35 percent of the California workers' compensation insurance market, double the market share it had in the 1990s. However, between 2004 and 2011, State Fund's market share decreased to 9 percent. The market share of California domestic insurers, excluding State Fund, increased from 5 percent to 15 percent between 2004 and 2006 and then averaged about 14 percent from 2006 to 2011.

Figure 134: Workers' Compensation Insurance Market Share in California by Type of Insurer Based on Written Premium Prior to Deductible Credits



Source: WCIRB

Please note that totals may not equal to 100 percent due to rounding

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

September 11, 2001 Impact on Insurance Industry

The problems in the reinsurance market caused by the events of September 11, 2001, have significantly affected the cost and availability of catastrophe reinsurance and, correspondingly, have a significant effect on the cost of workers' compensation insurance. This effect extends to more than acts of terrorism and is a critical component of any evaluation of the California workers' compensation insurance marketplace. The insurance industry has remained concerned about the renewal of the Terrorism Risk Insurance Act, often known as TRIA, which was reauthorized in 2007 to extend to December 2014.

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

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1993

Insurance Commissioner action:

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

1994

WCIRB recommendation:

No change in pure premium rates.

Insurance Commissioner action:

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

1995

WCIRB recommendation:

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

Insurance Commissioner action:

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

1996

WCIRB recommendation:

An 18.7 percent increase in pure premium rates.

Insurance Commissioner action:

An 11.3 percent increase effective January 1, 1996.

1997

WCIRB recommendation:

A 2.6 percent decrease in pure premium rates.

Insurance Commissioner action:

A 6.2 percent decrease effective January 1, 1997.

1998

WCIRB recommendation:

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

Insurance Commissioner action:

A 2.5 percent decrease effective January 1, 1998.

1999

WCIRB recommendation:

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

Insurance Commissioner action:

No change in pure premium rates in 1999.

**Advisory Workers' Compensation Pure Premium Rates
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2000

WCIRB recommendation:

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

Insurance Commissioner action:

An 18.4 percent increase effective January 1, 2000.

2001

WCIRB recommendations:

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

Insurance Commissioner action:

A 10.1 percent increase effective January 1, 2001.

January 1, 2002

WCIRB recommendations:

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

Insurance Commissioner action:

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

April 1, 2002

WCIRB recommendations:

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

Insurance Commissioner action:

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

July 1, 2002

WCIRB recommendation:

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

Insurance Commissioner action:

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

January 1, 2003

WCIRB recommendations:

On July 31, 2002, the WCIRB proposed an average increase in pure premium rates of 11.9 percent for 2003. On September 16, 2002, the WCIRB amended the proposed 2003 pure premium rates submitted to the California Department of Insurance (CDI). Based on updated loss experience valued as of June 30, 2002, the WCIRB proposed an average increase of 13.4 percent in pure premium rates to be effective on January 1, 2003, and later policies.

**Advisory Workers' Compensation Pure Premium Rates
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January 1, 2003

Insurance Commissioner action:

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

July 1, 2003

WCIRB recommendation:

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

Insurance Commissioner action:

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

January 1, 2004

WCIRB recommendations:

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

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

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

Insurance Commissioner action:

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

July 1, 2004

WCIRB recommendation:

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

Insurance Commissioner action:

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

January 1, 2005

WCIRB recommendation:

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

Insurance Commissioner action:

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

**Advisory Workers' Compensation Pure Premium Rates
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July 1, 2005

WCIRB recommendations:

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

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

Insurance Commissioner action:

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

January 1, 2006

WCIRB recommendations:

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

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

Insurance Commissioner action:

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

July 1, 2006

WCIRB recommendations:

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

Insurance Commissioner action:

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

**Advisory Workers' Compensation Pure Premium Rates
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January 1, 2007

WCIRB recommendation:

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

Insurance Commissioner action:

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

July 1, 2007

WCIRB recommendation:

On March 30, 2007, the WCIRB recommended an 11.3 percent decrease in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2007.

Insurance Commissioner action:

On May 29, 2007, the Insurance Commissioner approved an average 14.2 percent decrease in advisory pure premium rates effective July 1, 2007, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2007. As a result of the change in pure premium rates, the experience rating eligibility threshold was reduced to \$13,728.

January 1, 2008

WCIRB recommendations:

On September 23, 2007, the WCIRB recommended 4.2 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after January 1, 2008.

On October 13, 2007, the Governor signed Assembly Bill (AB) 338 which extends the time period for which temporary disability payments may be taken. On October 19, 2007, the WCIRB amended its January 1, 2008 pure premium rate filing to propose an overall 5.2 percent increase in pure premium rates in lieu of 4.2 percent to incorporate the impact of AB 338.

Insurance Commissioner action:

On November 28, 2007, the Insurance Commissioner approved no overall change to the advisory pure premium rates effective January 1, 2008.

July 1, 2008

WCIRB recommendation:

On March 26, 2008, accepting a recommendation made by the WCIRB Actuarial Committee, the WCIRB Governing Committee decided that the WCIRB would not propose a change in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2008.

**Advisory Workers' Compensation Pure Premium Rates
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January 1, 2009

WCIRB recommendations:

On August 13, 2008, the WCIRB recommended a 16 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after January 1, 2009. See the WCIRB website below for further details and updates to this information.

At its September 10, 2008 meeting, the Governing Committee agreed that the WCIRB's January 1, 2009 pure premium rate filing should be amended to reflect the most recent accident year experience valued as of June 30, 2008, as well as a revised loss development methodology. The original filing should be supplemented to include a recommendation that the proposed January 1, 2009 pure premium rates be adjusted to reflect (a) the impact of the Division of Workers' Compensation proposed changes to the Permanent Disability Rating Schedule (+3.7%) if adopted as proposed and (b) the impact of SB 1717 (+9.3%) if signed into law by the Governor.

Insurance Commissioner action:

On October 24, 2008, the Insurance Commissioner approved a 5 percent increase in pure premium rates effective January 1, 2009, applicable to new and renewal policies with anniversary rating dates on or after January 1, 2009.

July 1, 2009

WCIRB recommendations:

On March 27, 2009, WCIRB recommended a 24.4 percent increase in advisory pure premium rates for California to be effective on policies incepting on or after July 1, 2009.

WCIRB amended its filing on April 23, 2009, to reflect the revised aggregate financial data calls recently submitted by an insurer to WCIRB. These revisions reduced the indicated July 1, 2009, increase in the claims cost benchmark from 24.4 percent to 23.7 percent.

Insurance Commissioner action:

On July 8, 2009, the Insurance Commissioner approved no change to the pure premium rates effective July 1, 2009, applicable to new and renewal policies with anniversary rating dates on or after July 1, 2009.

January 1, 2010

WCIRB recommendation:

On August 18, 2009, the WCIRB submitted a pure premium rate filing to the California Insurance Commissioner recommending a 22.8 percent increase in advisory pure premium rates with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2010.

Insurance Commissioner action:

On November 9, 2009, the Insurance Commissioner approved no change to the pure premium rates effective January 1, 2010, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2010.

**Advisory Workers' Compensation Pure Premium Rates
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July 1, 2010

WCIRB recommendations:

On April 7, 2010, WCIRB voted not to submit a pure premium rate filing for July 1, 2010. The WCIRB's analysis of pure premium and loss experience valued as of December 31, 2009, showed that the indicated July 1, 2010 change in pure premium rates was essentially unchanged from the indication reflected in the January 1, 2010 filing.

Insurance Commissioner action:

The Insurance Commissioner did not issue the interim advisory rate for this period.

January 1, 2011

WCIRB recommendation:

On August 18, 2010, the WCIRB submitted a pure premium rate filing to the California Insurance Commissioner recommending a 29.6 percent increase in advisory pure premium rates with respect to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2011. On September 27, 2010, the WCIRB amended its January 1, 2011 filing to propose a change in the claims cost benchmark of +27.7 percent in lieu of the +29.6 percent reflected in its August 18, 2010 filing.

Insurance Commissioner action:

On November 18, 2010, the Insurance Commissioner approved no change to the pure premium rates effective January 1, 2011, applicable to new and renewal policies as of the first anniversary rating date of a risk on or after January 1, 2011. Other proposed changes to the USRP, ERP and Miscellaneous Regulations were approved as filed with the exception that the experience rating eligibility was increased to \$16,700 to reflect the 0 percent approved change in the Claims Cost Benchmark.

July 1, 2011

WCIRB recommendations:

On May 19, 2011, the WCIRB decided not to submit a pure premium rate filing for July 1, 2011. The WCIRB noted that a decision on a mid-year filing would likely not be available prior to the WCIRB's upcoming January 1, 2012 Advisory Pure Premium Rate Filing in mid-August, and two pending filings with the CDI had the potential to create a confusion.

Insurance Commissioner action:

The Insurance Commissioner did not issue the interim advisory rate for this period.

Advisory Workers' Compensation Premium Rates

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January 1, 2012

WCIRB recommendations:

On August 22, 2011, the WCIRB submitted its January 1, 2012 pure premium rate filing to the California Insurance Commissioner. The pure premium rates proposed in this filing are benchmarked to the average insurer filed pure premium rate. The average of 494 classification pure premium rates is \$2.33 per \$100 of payroll and 1.8 percent less than the corresponding average of insurer filed pure premium rates for July 1, 2011.

Insurance Commissioner action:

On November 4, 2011, the Commissioner issued a decision approving new advisory pure premium rates effective January 1, 2012, which average \$2.30 per \$100 of payroll.

July 1, 2012

WCIRB recommendations:

On April 12, 2012, the WCIRB submitted its July 1, 2012 pure premium rate filing to the California Insurance Commissioner recommending an increase in advisory pure premium rates effective July 1, 2012. The advisory pure premium rates proposed for the 494 standard classifications currently in effect average \$2.51, which is 4.1 percent more than the corresponding industry average filed pure premium rate of \$2.41 as of January 1, 2012.

Insurance Commissioner action:

On May 29, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective July 1, 2012, which average \$2.49 per \$100 of payroll.

January 1, 2013

WCIRB recommendations:

On October 1, 2012, the WCIRB submitted its January 1, 2013 pure premium rate filing to the California Insurance Commissioner. The WCIRB is not recommending a January 1, 2013 increase in the advisory pure premium rate level. Instead, the WCIRB is proposing January 1, 2013 pure premium rates that average \$2.38 per \$100 of payroll, which is the industry average filed pure premium rate as of July 1, 2012. The amended January 1, 2013 Pure Premium Rate Filing incorporated new proposed advisory pure premium rates as well as proposed changes to the reporting requirements of *the California Workers' Compensation Uniform Statistical Reporting Plan - 1995* and to the eligibility threshold of the *California Workers' Compensation Experience Rating Plan - 1995*.

Insurance Commissioner action:

On November 30, 2012, the Commissioner issued a decision approving new advisory pure premium rates effective January 1, 2013, that average \$2.56 per \$100 of payroll which is 2.8 percent higher than the industry average filed pure premium rate of \$2.49 per \$100 of payroll as of November 9, 2012.

https://wcirbonline.org/resources/rate_filings/current_rate_filings.html

Source: WCIRB

SPECIAL REPORT: SENATE BILL 863: 2012 WORKERS' COMPENSATION REFORMS

Introduction

Senate Bill 863 (SB 863) was the product of months of negotiations between representatives of labor unions and employers who historically came together to work on a comprehensive workers' compensation reform package. Everything in SB 863 was negotiated and agreed on by those parties.

The negotiators started with two guiding principles. First, that permanent disability benefits paid to injured workers to compensate them for the lasting effects of work-related injuries were too low and had to be increased. The second principle was that the costs associated with providing medical treatment and benefits to injured workers and administering workers' compensation claims had begun to rise significantly. If costs were permitted to continue to rise, employers would be faced with increases in their workers' compensation insurance rates, which would add additional financial stress to many businesses.

Labor and management agreed that in order for benefits to be increased, costs would have to be decreased where possible. They also agreed that where possible, the workers' compensation process should be made more efficient.

Implementation of the changes brought about by the bill will be overseen by teams from both the California Department of Industrial Relations (DIR) and the Division of Workers' Compensation (DWC).

Highlights of the Bill

Changes in permanent disability

Both the minimum and maximum weekly benefit amounts have been increased, with the increases being phased in over a two year period. At the end of those two years, the maximum weekly permanent disability rate will rise to \$290.

How permanent disability ratings are calculated has also been changed. The current rating formula includes a modifier of between 1.1 and 1.4, depending on the body part that is injured. The modifier is intended to take into account the injured workers' diminished future earning capacity, if any, as a result of his or her injury. For injuries that occur on or after Jan. 1, 2013, the rating formula will no longer include the "future earning capacity modifier." Instead, all injuries will be adjusted by a factor of 1.4.

Under the current rating system, there are also modifiers based on the injured worker's age at the time of the injury, and his or her occupation. Those modifiers will continue to be used, and the Administrative Director of the Division of Workers' Compensation has been authorized to develop a new schedule of occupational modifiers, to allow for more accurate consideration of today's wide range of occupations. Currently, Labor Code Section 4662 describes circumstances in which injured workers may receive a permanent disability award of 100%. That section has not been changed by SB 863.

Add-ons for permanent disability due to sleep disorders or sexual dysfunction resulting from physical injuries, which are now permitted, will no longer be available. Additionally, permanent disability add-ons for psychiatric injuries resulting from physical injuries are limited to "catastrophic" injuries and cases in which the injured worker was either the victim of a violent crime, or witnessed a violent crime.

"Pure" psychiatric claims which do not arise as a result of physical injuries are not affected by this change. Injured workers can still receive treatment for sleep problems, sexual dysfunction and/or psych consequences of their injuries, even if permanent disability is no longer available for them.

SPECIAL REPORT: 2012 WORKERS' COMPENSATION REFORMS

Changes to supplemental job displacement vouchers

Under the current system, injured workers may be offered supplemental job displacement vouchers that can be used to pay for job retraining. The voucher amount is a sliding scale ranging from \$4,000 to \$10,000. The amount is based upon the injured worker's permanent disability rating, and it is not required to be offered until the permanent disability rating has been finally determined, either by way of an award by the Workers' Compensation Appeals Board (WCAB), or by a settlement agreement between the injured worker and his or her employer.

As a result of SB 863, the voucher amount will be fixed at \$6,000 for all qualifying injured workers, and it is to be offered when the injured worker reaches permanent and stationary status and the treating doctor reports on work abilities and limitations resulting from the injury.

Creation of "Return to Work Fund"

SB 863 also establishes a \$120 million per year "Return-to-Work Fund," to be established and administered by the DIR. Payments from the fund will be available to injured workers whose permanent disability ratings are disproportionately low in comparison to their wage loss. Eligibility for the benefits and the specifics of how the fund will be administered will be based on research to be performed by the DIR in consultation with the Commission on Health, Safety and Workers' Compensation (CHSWC).

Injured workers will be able to appeal decisions regarding Return to Work Fund eligibility or the amount to be paid out will be to the trial-level WCAB.

Introduction of independent medical review

Another significant change is in how medical treatment disputes will be resolved. As of Jan. 1, 2013, for injuries occurring on or after that date, and as of July 1, 2013, for all dates of injury, Independent Medical Review (IMR) will be used to decide disputes regarding medical treatment in workers' compensation cases.

Under the current system, it typically takes nine to 12 months to resolve a dispute over the treatment needed for an injury. The process requires: (1) negotiating over selection of an agreed medical evaluator; (2) obtaining a panel, or list, of state-certified medical evaluators if agreement cannot be reached; (3) negotiating over the selection of the state-certified medical evaluator; (4) making an appointment; (5) awaiting the examination; (6) awaiting the evaluator's report, and then if the parties still disagree; (7) awaiting a hearing with a workers' compensation judge; and (8) awaiting the judge's decision on the recommended treatment. In many cases, the treating physician may also rebut or request clarification from the medical evaluator, and the medical evaluator may be required to follow up with supplemental reports or answer questions in a deposition.

SB 863 replaces those eight steps with an IMR process similar to group health that takes approximately 40 (or fewer) days to arrive at a determination so that the appropriate treatment can be obtained.

IMR can only be requested by an injured worker following a denial, modification, or delay of a treatment request through the utilization review (UR) process. Employers and insurance carriers cannot request review of treatment authorizations.

An injured worker can be assisted by an attorney or by his or her treating physician in the IMR process. There is a right to appeal an IMR determination, to the trial level WCAB, on the basis of fraud, conflict of interest, or mistake of fact. The reviewer's underlying medical decision-making, however, cannot be overturned by a judge. The remedy, if an appeal is granted, is referral to a different reviewer for another review.

IMR will not be available in cases in which there is a dispute over anything other than the medical necessity of a particular treatment requested by the injured worker's physician (such as cases where the injury itself is in dispute).

SPECIAL REPORT: 2012 WORKERS' COMPENSATION REFORMS

Improving medical provider networks

Medical Provider Networks (MPNs) have been criticized for including doctors who are no longer practicing, do not accept workers' compensation patients, or are otherwise unavailable to injured workers. Injured workers have also expressed frustration at not being able to obtain care in specialty areas, and doctors not being available within reasonable time frames.

SB 863 addresses these issues in several ways. First, the current requirement that 25% of doctors within an MPN practice in areas other than occupational medicine has been removed. Also, doctors are required to affirmatively confirm their participation in a network.

Networks will also be required to provide medical access assistants who will be available to injured workers to assist them in locating appropriate doctors within the network.

SB 863 also provides for better monitoring of MPNs by the DWC through continuous and random reviews, and authority to impose penalties less severe than revocation to address access problems.

Additionally, disputes about whether or not an injured worker is subject to an MPN will now have to be resolved as soon as they arise, rather than being held over to the end of a claim. Treatment obtained from a non-network provider, without either authorization from the employer or insurance carrier or a workers' compensation judge's order permitting outside of network treatment, will not have to be paid for by the employer or carrier. If unauthorized treatment is unsuccessful, and results in a worsening of the injured worker's condition, or a need for additional treatment, the employer/carrier will have no obligation to pay for that, either.

Similarly, reports issued by unauthorized non-network providers cannot be the sole basis for an award of compensation by a workers' compensation judge. Those reports must be reviewed and commented on by the authorized network treater and any qualified medical evaluator (QME) or agreed medical evaluator (AME).

Introduction of independent bill review

SB 863 creates an In Independent Bill Review (IBR) process to resolve disputes regarding the amount to be paid to doctors.

IBR will not apply to disputes about treatment authorization (those will go through IMR), cases where the injury itself is in dispute, or where there is a dispute about whether or not the provider is authorized to treat the injured worker.

There are also new requirements regarding how billing is to be submitted and how employers or carriers communicate their payment decisions to providers.

Changes regarding liens

There are also changes regarding liens filed against an injured workers' claim, for medical treatment and other services provided in connection with the claim but not paid for by the employer or insurance carrier.

A filing fee of \$150 will now be required for all liens filed after Jan. 1, 2013, and a \$100 activation fee will be required for liens filed before then, but activated for a conference or trial after Jan. 1, 2013.

There are also provisions for dismissal of liens by operation of law after Jan. 1, 2014 if no filing or activation fee has been filed, as well as an 18-month statute of limitations for filing liens for services rendered after July 1, 2013 and a 3-year statute of limitations for services provided before then.

Assignments of lien claims are also now strictly limited, and are allowed only where the assignor has gone out of business.

SPECIAL REPORT: 2012 WORKERS' COMPENSATION REFORMS

Fee schedule

SB 863 requires the creation of fee schedules for copy services, home health care, vocational expert fees and interpreters. The DWC will also be able to administer interpreter certification exams and post lists of certified interpreters on its web site.

The Official Medical Fee Schedule (OMFS), which governs fees paid to medical providers, will also be updated, to incorporate Medicare's Resource-Based Relative Value Scale.

Changes for qualified and agreed medical evaluators

There is a new limit of ten office locations for QMEs.

In cases in which the injured worker is represented by an attorney, there is no longer a requirement that the parties try to reach an agreement on an AME before seeking a QME panel. Additionally, in cases in which the injured worker is represented, the parties may agree to use an AME.

Changes for self-insured employers

Self-insured employers are required to pay deposits to help ensure that their workers' compensation liabilities will be covered. SB 863 changes the method of calculating the deposit amount, basing it now on an annual actuarial report to be issued by Dec. 31 of every year.

The bill also precludes "professional employer organizations," temporary agencies, and employee leasing organizations from being self-insured, as well as prohibiting an employer who has been illegally uninsured from becoming self-insured unless the employer receives approval from the Self-Insurers' Security Fund.

Self-insured public entities' annual reporting requirements have been strengthened, and CHSWC is now required to perform a study of the self-insured public entity program and make preliminary recommendations to improve the program by Oct. 1, 2013.

Source: DWC, October 2012 at http://www.dir.ca.gov/dwc/SB863/SB863_Overview.htm. Reprinted with permission.

For further information ...

California Legislative Information

at: http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml;jsessionid=b9df23b3cba2187a3cf8037f929e?bill_id=201120120SB863

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Introduction

The mission of the Labor Enforcement Task Force (LETF) is to combat the underground economy in order to ensure safe working conditions and proper payment of wages for workers, create an environment where legitimate businesses can thrive, and support the collection of all California taxes, fees and penalties due from employers.

Task force members include:

- Labor & Workforce Development Agency (LWDA)
- Department of Industrial Relations (DIR), including Division of Labor Standards Enforcement (DLSE) and Division of Occupational Safety and Health (DOSH)
- Employment Development Department (EDD)
- Contractor's State Licensing Board (CSLB)
- California Department of Insurance (CDI)
- Board of Equalization (BOE)
- Bureau of Automotive Repair (BAR)
- State Attorney General and district attorneys throughout California

Beginning January 2, 2012, the Department of Industrial Relations (DIR) assumed responsibility for administering the newly formed LETF. Executive and strategic operations teams were established to plan, evaluate, and monitor the program.

Targeting and Enforcement

LETF teams focus primarily on employers in the agricultural, automotive, construction, garment and restaurant industries. To target noncompliant employers, DIR continues to refine its methods, which are both data-driven (proactive) and complaint-driven (responsive).

LETF teams include inspection staff from DLSE, DOSH, EDD and CSLB, as well as from other member agencies depending on the industry. Within every team, staff from each agency develop potential targets using their respective databases and other sources of information.

In addition, DIR receives complaints and tips directly from the public to identify potential targets. The complaints and tips come in through a live hotline, answered between 8:00 a.m. and 5:00 p.m., and an LETF email address. Both are posted at the LETF website: <http://www.dir.ca.gov/letf/letf.html>.

Lists of potential targets are then sent to EDD for screening to learn if the employer is registered with EDD and how many employees the employer has, and to the Workers' Compensation Insurance Rating Bureau (WCIRB) to learn if the employer is insured.

After creating a target list, teams conduct physical surveillance to confirm the information obtained in the targeting process and gather additional information relevant to an inspection. Physical surveillance can include both visual examination from a distant location and on-site visiting of the premises where there are customers.

DIR held meetings and conducted training sessions with LETF staff in January, May and November 2012, and will continue to conduct management and peer training every quarter to help staff follow and refine the LETF targeting protocol. DIR staff supervise and support LETF staff on an ongoing basis with targeting and field operations.

SPECIAL REPORT: LABOR ENFORCEMENT TASK FORCE

Education and Outreach

DIR staff have spoken on Spanish-speaking radio shows, made public presentations, and participated in television interviews, as listed in the following table, to inform the public about the LETF.

Table 37: Education and Outreach Events

	Quarter 1	Quarter 2	Quarter 3
Spanish-speaking radio shows	10	11	11
Public presentations	17	10	19
Television interviews	3	1	0

DIR is currently designing and planning a statewide program to conduct the following:

- Design and produce new educational materials in coordination with other agencies in the LETF.
- Translate new educational materials into the languages commonly spoken by employers and employees in the underground economy.
- Notify organizations serving low-wage workers in each county or major city about the new websites and materials.
- Publicize spots describing the campaign and successful enforcement actions via TV, radio, Facebook, YouTube, theatre screens, posters, blogs, email news releases, and newspapers.

In addition, DIR communications staff will utilize web design expertise to ensure that appropriate LETF webpages appear in search engine results and users can effectively navigate LETF website information.

New Partnerships

On August 15, 2012, DIR held day-long advisory committee meeting to invite members of the community to advise LETF staff on the most effective strategies in enforcement, education, and outreach, and to work collaboratively in these areas. A total of 34 advisors attended the meeting, representing 29 community groups, legal aid organizations, labor unions, and employers (mostly small businesses). The committee members discussed common violations in the underground economy, how the members hear about violations, why employers and workers operate in the underground economy, and key strategies.

DIR is currently planning a series of smaller, roundtable meetings to follow up on: strategies to address: misclassification of employees as independent contractors; employers who cheat the workers' compensation system to the detriment of employers that follow the requirements; wage theft; retaliation; and sharing of information and data.

SPECIAL REPORT: WORKERS' COMPENSATION REFORM AND RETURN TO WORK: THE CALIFORNIA EXPERIENCE

Introduction

Promoting the early and sustained return to work of injured and disabled workers is an important goal of state workers' compensation systems. Return to work benefits workers by reducing the adverse economic consequences of an injury, and it benefits employers by reducing disability benefits and other costs. In California, workers who are permanently disabled as a result of a workplace injury have been found to have poor return-to-work rates on average. The poor return-to-work rates have meant that permanently disabled workers in California have had worse economic outcomes, even though the workers' compensation costs for California employers were among the highest in the country.

Evidence of the poor adequacy and poor affordability of permanent partial disability (PPD) benefits was a key factor in the multiple reform efforts to workers' compensation in California in early 2000s. The notion that improving return to work could make the system more affordable while also improving the adequacy of benefits motivated many of the reforms to the California workers' compensation system. This report discusses how these reforms affected return to work and the adequacy of benefits for disabled workers in the California workers' compensation system.

Background and Legislative History

In order to understand the role of workers' compensation reforms on the rates of return to work by injured and disabled workers in California and the implications for the adequacy of disability benefits, the Commission on Health and Safety and Workers' Compensation (CHSWC) study by RAND addressed the following broad set of research questions:

- How do public policies, both within and outside the workers' compensation system, influence return to work?
- How have these policies changed in California over the past ten years?
- How have rates of return to work by injured and disabled workers in California changed in the past ten years?
- What has been the impact of reforms in the workers' compensation system on benefit adequacy for injured and disabled workers? How, if at all, have changes in benefit adequacy been influenced by changes in return to work?

The study classifies return-to-work policy efforts into three broad categories: medical management; incentive-based approaches; and accommodation-based approaches. The medical management approaches attempt to improve return to work by improving the quality and timely receipt of medical care or by improved coordination and communication with medical providers. Some reforms that target this involve the assignment of control of provider choice or the direct regulation of care through utilization review or treatment guidelines. The incentive-based approaches use financial rewards (or punishments) to influence the behavior of employers or the workers themselves, often by manipulating disability benefits based on return-to-work status. Finally, accommodation-based methods alter the requirements of the job, either the schedule or the tasks required or the physical environment, in order to make it easier for a disabled worker to perform the necessary tasks. Some states adopt subsidies to accommodations in order to improve employment for disabled workers.

From 2001-2004, California adopted reforms that impacted all three of these approaches to improve return to work. In 2003, Senate Bill (SB) 228 made massive changes to medical treatment delivery for workers' compensation cases, including the adoption of utilization review based on treatment guidelines

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and caps on certain therapies. In 2004, SB 899 enacted a two-tier permanent disability benefit that requires employers to pay 15 percent higher benefits when they make no offer of return to work and 15 percent lower benefits when an offer is made. The State also made significant changes to the vocational rehabilitation services offered, switching to a voucher program. There were important changes outside of the workers' compensation system as well. In 2001, the State reformed the Fair Employment and Housing Act (FEHA), which protects the disabled from discrimination by their employers, in such a way that potentially penalizes employers who fail to offer "reasonable" accommodations to workers disabled due to a workplace injury. Any or all of these could have affected return to work.

In addition to the two-tiered benefit adopted in 2004, the State also dramatically reformed the evaluation system for permanent disabilities. One effect of this reform is that permanent disability benefits were cut substantially. A cut in disability benefits would reduce the overall level of income replacement (defined as the fraction of lost wages replaced by benefits) for injured workers, unless return to work improved and reduced earnings losses enough to offset the decline in benefits. The study combines administrative data on workers' compensation benefits and earnings of injured and disabled workers in order to estimate how return to work changed after the reforms and to evaluate the net impact on the replacement of lost income.

Findings

Study findings include:

- A survey of employers that suggests both large and small employers are keenly aware of return-to-work issues and have taken steps to improve return to work. Their answers suggest that workers' compensation costs play a key role in determining their return-to-work decisions.
- Workers' compensation reforms and the changes to FEHA have impacted decisions to accommodate disabled workers in workers' compensation cases. About 40 percent of employers identified both the workers' compensation reforms and changes to FEHA as important factors in return-to-work decisions. These survey findings confirm that policies both within and outside the workers' compensation system are potentially important tools for influencing return to work.
- The empirical findings suggest that return to work improved dramatically in California during the study period. Workers injured in 2003-2006 were significantly more likely to be working one or two years after an injury than workers injured in 2000-2002. Overall employment and employment for the at-injury employer showed improvement. Some of the biggest gains in return to work were observed for the most severely disabled workers.
- Pinpointing exactly why return to work improved so much is a challenge. According to this study, return to work was improving even before Senate Bill (SB) 899 reforms were adopted. Workers injured in 2003 and 2004 were not eligible for the tiered benefit, rendering it unlikely to be a driving factor behind the observed trend. At the same time, the study finds modest evidence that the tiered benefit improved return to work for workers employed at medium-sized firms. The findings also cast doubt on the effectiveness of the old vocational rehabilitation system in California in terms of improving employment outcomes for injured workers. The results suggest that the biggest gains in employment for injured workers came from workers who were most likely to participate in the vocational rehabilitation system. This does not necessarily mean that the system had no positive effect on return to work, but it suggests that any such effects were minor. The timing of the return-to-work gains suggests that the changes to FEHA, the medical treatment reforms, or the general activities by employers to improve return to work in response to rising costs might have been important factors.
- Examination of the reforms on the income replacement provided to injured workers indicated that the impact was striking. Indemnity benefits fell dramatically, and most of the decline was experienced by workers with permanent disabilities. Part of the decline experienced by workers with permanent disabilities was due to the changes to the disability rating schedule, and part was

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due to the repeal of the vocational rehabilitation system. The reforms also appear to have led to a decline in the fraction of workers who receive permanent disability benefits.

- The decline in indemnity benefits led to a decline in the average replacement rate of lost income. Replacement rates fell about 26 percent on average. The gains in return to work helped offset some of the declines, but not all. Estimates are that if return to work had stayed at its lowest point, replacement rates would have fallen 15 percent more than they ultimately did.
- Declines in replacement rates were experienced most profoundly by the most severely disabled workers. This is despite the fact that the most severely disabled workers experienced the biggest gains in return to work. It is also noteworthy that replacement rates for these workers fell the most, even though SB 899 specifically raised benefits for workers with more severe disabilities and lowered them for workers with less severe disabilities (as measured by the disability rating system). Given the changes to the rating system, however, very few individuals are so severely disabled as to qualify for the higher disability benefits. Additionally, the most severely disabled were more likely to have qualified for vocational rehabilitation benefits.
- Some have argued that there has been an upward trend in physician disability ratings which tie directly to permanent disability benefits. The study reviewed whether there was a significant increase in disability ratings from 2006-2009. There was some evidence of an increase, with permanent disability ratings rising about 8-10 percent per year from 2007-2009. This offsets about a third of the decline in the level of permanent disability awards that workers are eligible for, with a decline of 40 percent from 2004, as opposed to the 60 percent that was observed immediately after adoption of the new schedule.

Recommendations

CHSWC recommendations include:

- Despite the improvements in return to work, the study finds that the level of income replacement provided to disabled workers fell significantly. To maintain previous levels of benefit adequacy, an increase in benefit levels is necessary.
- While California clearly made strides in terms of return-to-work gains, there still are areas where the State could improve. The general lack of use and impact of the workplace-modification subsidy program are discouraging; it still seems that more could be done to improve return to work at smaller employers. Most of the return-to-work programs discussed are likely to be geared towards larger employers, who have more flexibility to modify staff and reallocate workers. More research needs to be done to understand what kinds of programs would be most effective for smaller businesses:
 - For example, do self-insurance pools of smaller employers do a better job of promoting return to work than insured small employers do on their own?
 - Would a premium discount for an approved return-to-work program help improve return to work? Would these programs be cost-effective for small employers?
- There are also important issues that should be monitored going forward. The study found evidence of a general trend towards increasing disability ratings over time, and it is particularly prominent in cases with attorney representation. If the medical-legal system is introducing uncertainty or subjectivity into the rating process, this could be another factor.
- Further work is needed to understand the impact of medical treatment guidelines and utilization review on return to work and employment.

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- Another implication of this study is the need to further explore the potential gains to the integration of occupational and non-occupational disability compensation. While much work needs to be done to understand the potential implications and challenges of integration of care, both overall and with respect to the impact on return to work, it is an area that merits further consideration.

Update

SB 863 changes the specifications for the return-to-work offer that excuses an employer from liability for the supplemental job displacement benefit. This bill also fixes the amount of the voucher independent of the permanent partial disability rating. In addition, the time for the employer to offer the voucher has changed. Finally, the bill expands the list of eligible expenses that can be covered by the voucher and prohibits compromise or settlement of the right to the voucher (Labor Code Section 4658.7).

For further information ...

"Workers' Compensation Reform and Return to Work: The California Experience," RAND (2010).
<http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf>

SPECIAL REPORT: IDENTIFYING RISKY OPIOIDS PRESCRIBING PRACTICES

Introduction

Given the pressing need to reduce the risk of opioid overdose and misuse among injured workers in California, the California Department of Industrial Relations (DIR) and the California Commission on Health and Safety and Workers' Compensation (CHSWC) are working to develop criteria that can be used to screen for higher-risk prescribing practices within the workers' compensation system. The objective of the current study was to search for information on opioid prescribing that can be used to inform the development of such screening criteria for assessing opioid-prescribing risk. This study was also used to evaluate publicly available opioid treatment guidelines and systematic reviews and identify how this information can be used to mitigate the risks associated with opioid pain medications.

Background

In California and nationally, policymakers and individual physicians are striving to attain an elusive goal: balancing adequate pain control with minimizing the risks associated with prescription pain medication. Overdoses due to prescription opioid medication are leading to an increasing number of emergency department visits, hospitalizations and deaths. According to the Centers for Disease Control and Prevention, fatalities associated with prescription opioids rose from 4,000 to nearly 14,000 annually between 1999 and 2006.⁵⁰ Now there are nearly as many accidental deaths due to use of opioids as due to motor vehicle accidents.⁵¹

There are several factors that may be contributing to this epidemic of prescription drug abuse and accidental overdoses. One is that opioids have inherent risks. Opioids suppress the drive to breathe, particularly in combination with sleeping/anti-anxiety medication or alcohol. Opioids can be addictive, more so for some people than for others. The public mistakenly perceives prescription drugs as being safer than street drugs; while abuse of prescription drugs has risen, use of street drugs has dropped.⁵² Also, over the past two to three decades, there has been a dramatic change in the standard of care for pain management, with an increasing emphasis on adequately controlling pain. Physicians are often taught that there is no objective measure of pain so providers should be responsive to patients' subjective complaints.⁵³ Therefore, the overall result has been a dramatic increase in the number of patients receiving opiates, particularly for non-cancer pain, and a rise in the total doses prescribed and used.⁵⁴ The increase in the prescribing of opioids has been for both appropriate and inappropriate indications, though defining inappropriate use can be challenging.⁵⁵

In workers' compensation settings, opioid-prescribing issues take on unique implications due to: the responsibility that employers bear for disability costs; the association between chronic pain and workplace factors such as job satisfaction, disputed disability claims, or receipt of disability payments; and the fact

⁵⁰ Warner M, Chen L, Makuc D. Increase in fatal poisonings involving opioid analgesics in the United States, 1999-2006. 2009 [updated 2009; cited 2012 May 20]; Available from: <http://www.cdc.gov/nchs/data/databriefs/db22.pdf>.

⁵¹ Murphy SL, Xu J, Kochanek KD, Division of Vital Statistics. Deaths: Preliminary Data for 2010. 2012 [updated 2012; cited 2012 March 8]; Available from: http://www.cdc.gov/nchs/data/nvsr/nvsr60/nvsr60_04.pdf.

⁵² Ibid.

⁵³ Katz LY, Cox BJ, Clara IP, Oleski J, Sacevich T. Substance abuse versus dependence and the structure of common mental disorders. *Compr Psychiatry*. 2011;52 (6):638-43 and American Pain Society Quality of Care Committee. Quality improvement guidelines for the treatment of acute pain and cancer pain. *JAMA*. 1995; 274(23):1874-80.

⁵⁴ Centers for Disease Control and Prevention. CDC Grand Rounds: Prescription Drug Overdoses — a U.S. Epidemic; 2012 Contract No.: Document Number]; and Pletcher MJ, Kertesz SG, Kohn MA, Gonzales R. Trends in opioid prescribing by race/ethnicity for patients seeking care in US emergency departments. *JAMA*. 2008;299(1):70-8.

⁵⁵ Pletcher MJ, Kertesz SG, Kohn MA, Gonzales R. Trends in opioid prescribing by race/ethnicity for patients seeking care in US emergency departments. *JAMA*. 2008;299(1):70-8 and Webster BS, Verma SK, Gatchel RJ. Relationship between early opioid prescribing for acute occupational low back pain and disability duration, medical costs, subsequent surgery and late opioid use. *Spine (Phila Pa 1976)*. 2007;32(19):2127-32.

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that similar injuries tend to have worse outcomes in workers' compensation settings than otherwise.⁵⁶ In addition, opioid use may be associated with poorer outcomes in workers' compensation settings. One study by a large workers' compensation insurer found that individuals with back problems who were prescribed opioids at doses above 140 mg of morphine equivalents over the first 15 days of their claim had longer disability and higher medical care costs.⁵⁷

In the California workers' compensation system, a recent study suggests potential issues with particular opioids and that a small number of physicians represent outliers with high-risk prescribing practices. One percent of physicians who prescribed opioids within the California workers' compensation system were the source of 33 percent of all opioid prescriptions.

CHSWC Study by RAND

Scope of the Study

Higher-risk prescribing practices could be defined as practices that warrant scrutiny because they are thought to be associated with an increased risk of suboptimal patient outcomes. The screening criteria for assessing opioid-prescribing risk are, therefore, analogous to a screening test for cancer in which a positive test is not diagnostic but rather needs to be followed by a second test that can be used to confirm or rule out the diagnosis. The screening criteria for assessing opioid-prescribing risk would generally not represent absolute rules but rather aspects of care where providers should venture only with specialized expertise and/or considerable caution. One potential strategy would be for prescriptions flagged by the screening criteria to undergo review by a third party, and, if the third party feels that the treatment plan is unsafe or not in accordance with widely accepted standards of care, some intervention could be undertaken to mitigate the situation.

When considering how to define higher-risk prescribing practices, it is essential to consider the types of data that will be available to a future monitoring system. Such a system would, in all likelihood, rely on patients' medical care claims data, including claims from multiple dates over time. The system will be less burdensome to implement if it relies on prescription claims rather than complete medical claims. The information contained in prescription claims may include, at a minimum: medication name and formulation; route of administration; dose per unit of medication; and number dispensed. Over time, the number and frequency of refills would be available.

This suggests that the following specific elements of prescribing would be feasible for monitoring:

- Types of opioid medications, formulations and routes of administration.
- Daily doses of opioid medications, in morphine equivalents.
- Issues relating to medications and time, such as speed.
- Drug-drug interactions: other medications prescribed with the opioid that increase risk of adverse and overdose events.

If the system for identifying risky prescribing practices includes additional information from the patient's medical claims, particularly diagnosis codes, it may be possible to identify other characteristics about the

⁵⁶ Loeser JD, Henderlite SE, Conrad DA. Incentive effects of workers' compensation benefits: a literature synthesis. *Med Care Res Rev.* 1995;52(1):34-59.

⁵⁷ Franklin GM, Stover BD, Turner JA, Fulton-Kehoe D, Wickizer TM. Early opioid prescription and subsequent disability among workers with back injuries: the Disability Risk Identification Study Cohort. *Spine (Phila Pa 1976).* 2008;33(2):199-204 and Swedlow A, Gardner L, Ireland J, Genovese E. Pain management and the use of opioids in the treatment of back conditions in the California workers' compensation system. Oakland, CA: California Workers' Compensation Institute; 2008 Contract No.: Document Number].

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patient's situation that define it as high-risk. For example, patients who have sleep apnea are at a particularly high risk of opioid overdoses.⁵⁸

The research questions this project set out to address focused, therefore, on the four above elements of prescribing and their relationship to patient outcomes. The study sought to understand how specific types of medications, formulations, routes, doses, durations of therapy, and drug-drug interactions affected outcomes such as pain control, functional status, and adverse events including the risk of overdose, addiction and mortality. To answer these questions, the study focused its search for information on publicly available medical treatment guidelines, systematic literature reviews, meta-analyses, and information on individual medications released by the Food and Drug Administration. The study restricted its search to information published since 2007, since studies have shown that new studies can render guidelines out-of-date as quickly as three years after publication.⁵⁹

This opioid study conducted a systematic search for publicly available guidelines and systematic reviews. The public domain databases used were: National Guidelines Clearinghouse; MEDLINE via PubMed; and websites of relevant specialty societies. The study used websites of California, Colorado, and Washington state workers' compensation systems. The publicly available guidelines and reviews selected were based on the following criteria: they addressed acute, sub-acute or chronic pain in general; they were published between January 1, 2007 and May 15, 2012; and they were published in English.

When identifying publicly available guideline recommendations or topic areas as potential screening criteria for assessing opioid-prescribing risk, the researchers did so on the basis of the following criteria:

- The potential screening criterion was believed to be associated with one or more adverse patient outcomes, such as overdose, addiction, substance misuse, mortality, or another adverse outcome.
- The association was supported by one of the following types of evidence:
 - Strong, high-quality research evidence (such as randomized controlled trials or well-executed observational studies).
 - Recommended by multiple guidelines, contradicted by few guidelines, and not contradicted by strong, high-quality research evidence.
 - Included in Food and Drug Administration (FDA)-prescribing information.
 - Recommended by one or more guidelines, contradicted by no other guidelines, not contradicted by research evidence, and believed to pose a substantial risk to specific populations (e.g., specific drug-drug interactions).
- Applying the screening criterion appeared potentially feasible using billing data.

In addition to affecting the types of medications and doses prescribed, other strategies may also reduce risks associated with opioid use. Consequently, secondary objectives included: considering practices that may affect the risks associated with prescribing opioids, such as strategies for minimizing prescription opioid use when appropriate; screening for substance abuse with a medical history; assessing patients' individual risks of misuse; performing urinary drug tests; and entering into written treatment agreements with patients.

Summary of Findings

Chronic pain, defined as pain lasting at least three months longer than the expected period of healing, is unfortunately very common. Opioids can be an appropriate means of treating patients with chronic pain,

⁵⁸ Webster LR, Cochella S, Dasgupta N, Fakata K, Fine P, Fishman S, et al. An analysis of the root causes for opioid-related overdose deaths in the United States. *Pain Medicine*. 2011; June (12 Supplemental 2):S26-35.

⁵⁹ Shekelle PG, Ortiz E, Rhodes S, Morton SC, Eccles MP, Grimshaw JM, et al. Validity of the Agency for Healthcare Research and Quality Clinical Practice Guidelines: How Quickly Do Guidelines Become Outdated? *JAMA*. 2001;286(12):1461-67.

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particularly those with moderate to severe pain. Four of the systematic reviews this study identified found that oral opioids are significantly more effective than placebo in treating chronic pain, with declines in pain in the range of 30-50 percent. Use of opioids for chronic pain has also been associated with significant improvements in measures of functional status (such as on SF-36).⁶⁰ According to two of these studies, opioids are also more effective at improving pain and functional status than non-steroidal anti-inflammatory drugs (NSAIDs).⁶¹ Nevertheless, the increasing use of opioids has been accompanied by real risks of substance misuse, addiction, diversion, overdose and death. The Institute of Medicine Report *Relieving Pain in America* summarizes the ongoing challenges involved in balancing effective treatment of pain against the known risks associated with opioid therapy and provides specific recommendations for national and other policy audiences.⁶²

The risks of overdose, substance misuse and mortality may be higher in workers' compensation settings than otherwise, based on a systematic review published this year that documents opioid prescribing practices in workers' compensation and other settings. In workers' compensation settings, opioids are used more often in the treatment of chronic non-cancer pain, and the doses used tend to be higher.

Workers' compensation settings have an additional unique issue as well: the value of ensuring that the patients being prescribed opioids return to their baseline functional status as quickly as possible. Observational studies, including one in California, found use of higher-dose opioids associated with longer disability and higher workers' compensation claim costs.⁶³

Higher-risk practices are those that are thought to be associated with suboptimal patient outcomes. The potential screening criteria for identifying them focus on areas of practice where providers should proceed with caution or not at all. Those prescriptions flagged as positive for the screening criteria could undergo review by a third party, and if the third party feels that the treatment plan is unsafe or not in accordance with widely accepted standards of care, some intervention could be undertaken to mitigate the situation. Most likely, any criteria implemented as a state policy or by workers' compensation payors would be applied to pharmaceutical claims (billing) data so the criteria should be able to identify high-risk practices based on medication name and formulation, route of administration, dose per unit of medication, number dispensed, and patterns of refills over time.

The research questions in this study focused on how specific types of medications affected outcomes such as pain control, and adverse events including the risk of overdose. The search was restricted to information published since 2007, since studies have shown that new studies can render guidelines out of date as quickly as three years after publication.⁶⁴

The study identified 20 recent publicly available guidelines that appeared relevant. Of these, two had particularly high-quality literature reviews and addressed a range of topics relevant to patients with

⁶⁰ Noble M, Treadwell JR, et al. Long-term opioid management for chronic noncancer pain; 2010 Contract No.: Document Number] and Papaleontiou M, Henderson CR, Jr., Turner BJ, Moore AA, Olkhovskaya Y, Amanfo L, et al. Outcomes associated with opioid use in the treatment of chronic noncancer pain in older adults: a systematic review and meta-analysis. *J Am Geriatr Soc.* 2010;58(7):1353-69. PMID: 3114446; and

Furlan AD, Sandoval JA, Mailis-Gagnon A, Tunks E. Opioids for chronic noncancer pain: a meta-analysis of effectiveness and side effects. *CMAJ.* 2006;174(11):1589-94. PMID: 1459894; and

Kalso E, Edwards JE, Moore RA, McQuay HJ. Opioids in chronic non-cancer pain: systematic review of efficacy and safety. *Pain.* 2004;112(3):372-80.

⁶¹ National Institute for Health and Clinical Excellence. Neuropathic pain: the pharmacological management of neuropathic pain in adults in non-specialist settings. London; 2010 [updated 2010; cited 2012 May 1]; Available from: www.nice.org.uk/guidance/CG96 and American College of Physicians. ACP PIER - Pain Guideline; 2012 Contract No.: Document Number].

⁶²Institute of Medicine. *Relieving Pain in America: A Blueprint for Transforming Prevention, Care, Education, and Research.* Washington, DC; 2011 Contract No.: Document Number].

⁶³ Webster BS, Verma SK, Gatchel RJ. Relationship between early opioid prescribing for acute occupational low back pain and disability duration, medical costs, subsequent surgery and late opioid use. *Spine (Phila Pa 1976).* 2007;32(19):2127-32; and Swedlow A, Gardner L, Ireland J, Genovese E. Pain management and the use of opioids in the treatment of back conditions in the California workers' compensation system. Oakland, CA: California Workers' Compensation Institute; 2008 Contract No.: Document Number 1.

⁶⁴Shekelle PG, Ortiz E, Rhodes S, Morton SC, Eccles MP, Grimshaw JM, et al. Validity of the Agency for Healthcare Research and Quality Clinical Practice Guidelines: How Quickly Do Guidelines Become Outdated? *JAMA.* 2001;286(12):1461-67.

SPECIAL REPORT: IDENTIFYING RISKY OPIOIDS PRESCRIBING PRACTICES

chronic pain. The study extracted a great deal of information from all of the publicly available guidelines relating to the risks of adverse events. Selecting a variety of potential screening criteria based on this work appears quite feasible.

The publicly available guidelines and other information sources identified two individual medications as posing particularly high risks of overdose, substance misuse, or toxicity: immediate release fentanyl preparations; and meperidine. Methadone can also be included as a screening criterion to ensure that patients are started on the drug in a safe manner. These three are clear candidates for consideration as potential screening criteria, meaning that particularly close scrutiny is warranted (the first two) or the drug should not be prescribed to outpatients (meperidine).

In terms of selecting a dose of each opioid to use as a screening criterion for inappropriate prescribing, this too appears feasible. That said, it is difficult to determine the dosing levels at which the optimal balance is achieved between effectiveness and an acceptably low risk of overdose.

This report also identifies, based on the public guidelines reviewed, potential screening criteria for when patients are switched from one opioid to another. These transitions are fraught with risks of overdose due to the characteristics of the different drugs, as well as variability across individual patients in how they metabolize different opioids. Doses calculated using the old standby equi-analgesic dosing tables must be adjusted downward by 25-50 percent for most drugs to allow for the possibility that patients may not be nearly as tolerant to the new medication; other adjustments are required for fentanyl and methadone, as explained in the section above.

As a window into how many patients might have care that will be flagged by such potential screening criteria, Swedlow et al. have provided detailed relevant information on opioid claims in the California workers' compensation system.⁶⁵ The Swedlow study did not provide information on dose or drug-drug interactions. However, a study by Dembe et al. based on opioid claims in the Ohio workers' compensation system did provide that information. With regard to dose, that varied greatly.⁶⁶

If prescribing practices in California are similar to those in Ohio, the potential screening criteria suggested by the various guideline recommendations will identify quite a number of medical claims warranting review. Thus, it would be helpful to test how a system of claims-based screening criteria that identify risky opioid prescribing practices would actually work. The publicly available guidelines and other documents the study reviewed suggest possible screening criteria. The next step would be to identify the various types of data sources that could be available for examining prescribing practices.

Conclusions

- Opioid-related substance abuse and overdoses are growing problems, partly due to prescribing practices. Both issues can lead to poor outcomes and increase workers' compensation costs.
- New standards of care and policies are emerging to address these issues.
- Using administrative data to identify high-risk prescriptions may be feasible.
- There are a few recent relatively high-quality guidelines on opioid treatment; one of these could be evaluated further for implementation in the California workers' compensation system.

For further information...

"Identifying Risky Opioid Prescribing Practices." UCLA, 2012.

"Memorandum on Evaluation of Opioid Prescribing Guidelines Using AGREE II," UCLA, 2012.

⁶⁵Swedlow A, Ireland J, Johnson G. Prescribing Patterns of Schedule II Opioids in California Workers' Compensation: California Workers' Compensation Institute; 2011 Contract No.: Document Number I.

⁶⁶Dembe A, Wickizer T, Sieck C, Partridge J, Balchick R. Opioid use and dosing in the workers' compensation setting. A comparative review and new data from Ohio, *Am J Ind Med.* 2012;55(4):313-24.

SPECIAL REPORT: OCCUPATIONAL SAFETY AND HEALTH STUDIES

Evaluation of the California Injury and Illness Prevention Program

Introduction

Details are scarce about the effectiveness of Cal/OSHA's Injury and Illness Prevention Program (IIPP) standard and whether some compliance officers are especially good at reducing workplace injury and illness rates.

The purpose of the Commission on Health and Safety and Workers' Compensation (CHSWC) study by RAND was to conduct research that evaluates the effectiveness of the IIPP standard at reducing injury and illness rates and compliance officers' inspections. The research can help to improve the ability of occupational health and safety agencies to prevent injuries and illnesses, potentially a significant number of injuries and illnesses.

Background

As part of the inspection process, inspectors review employers' compliance with required programs such as the Injury and Illness Prevention Program (IIPP). The requirement of the IIPP is specified in Title 8 CCR Section 3203 of the General Industry Safety Orders which took effect in July 1991. The regulations required all employers in California to establish an IIPP. Having an IIPP is considered the first step toward creating a system for identifying, correcting and preventing workplace safety and health hazards. Section 3203 has been the most frequently cited standard in general industry in California ever since it was promulgated.

Other Labor Code sections and regulations address specific industrial safety and health hazards and prevention requirements by type of workplace, type of equipment, environmental contexts and industry sectors. The Division of Occupational Safety and Health (DOSH) enforces the laws on IIPPs and safety standards through various means, including inspections and citations. Data on occupational injuries and illnesses can be used to measure or test the impact of safety and health standards, including enforcement efforts.

Objective and Scope of the Study

The purpose of the study is to answer the following descriptive and causal questions. The descriptive questions are:

- Has compliance with specific IIPP provisions improved over the years?
- How does the number of IIPP violations cited vary with the type of establishment and type of inspection?

The questions that attempt to examine causal issues are the following:

- Did injury and fatality rates decline in California, relative to other states, after the implementation of the IIPP standard?
- Do workplaces that do not comply with the IIPP have worse injury, fatality and loss performance than compliant firms?
- Did workplaces that had been cited for IIPP violations and which came into compliance improve their injury performance relative to other workplaces?

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Data

The above research relied on the following sources of data: California Unemployment Insurance; California Workers' Compensation Information System (WCIS); OSHA Integrated Management Information System; and the California Workers' Compensation Insurance Rating Bureau (WCIRB).

Findings

The study findings include:

- There is an important difference between inspections citing violations of Labor Code Section 3203(a), the requirement to have a written safety and health document, and inspections citing violations for its specific subsections, or those that require hazard surveys, accident investigations and training. The former carry small penalties and are cited primarily in first-time inspections, mainly at quite small, non-union workplaces. The latter have larger penalties and are cited at larger sites, especially in the course of accident investigations and are not concentrated in first-time inspections.
- Looking at trends over time, after a decline during the first two years of the IIPP, the number of violations per inspection has remained fairly constant for both types.
- The number of Labor Code Section 3203(a) violations in first-time inspections has not decreased over time. Thus, either due to lack of information or lack of deterrence, newly inspected establishments are no more likely to have written programs now than 20 years ago. On the other hand, once an establishment has been cited for an IIPP violation, the likelihood of finding another violation declines substantially.
- Examining changes in fatality rates to see whether California experienced any improvement relative to other states in the years after the IIPP took effect in 1991 did not indicate any improvement. Even if improvement had been found, it would have been unclear whether the improvement was due to the IIPP or to other factors.
- Employers who were cited for a violation of Labor Code Section 3203(a), the basic requirement to have a written IIPP document, actually had better performance (either Ex-mods or prior injury rates) than firms that had no IIPP violations. In contrast, employers who were cited for violations of the subsections of Labor Code Section 3203(a), especially the requirements to train employees and to investigate accidents, had worse performance than employers who were not cited for any IIPP violation or who were cited only for Labor Code Section 3203(a). This last finding was true for both accident investigations and for other inspection types.
- A citation of subsection of Labor Code Section 3203(a) for failing to provide appropriate training was linked both to poorer performance prior to inspection and to improved performance after the inspection. This finding was true for both accident investigations and for other inspection types.

The RAND study concludes with a consideration of policy implications. Some Cal/OSHA staff suggested that the inspectors' reviews of the IIPP often, perhaps usually, went no further than determining that the employer had a document. It interpreted the findings above to show that, when enforced, the provisions of the IIPP, especially for training, do make a difference. The study suggested that the IIPP would be more effective if inspectors made it the focus of the inspection. In that scenario, inspectors would link hazards and violations they found to the IIPP, asking "why didn't your IIPP lead you to identify and abate that hazard." This approach would very likely require more time to carry out inspections; if inspection resources are fixed, the result would be fewer inspections. Whether the added impact of this approach in each inspection would compensate for the reduced number of inspections would require further study.

Injury and Illness Prevention Program in High Hazard Industries

Another CHSWC study by RAND which is in process will look at enforcement of the IIPP and its effects in industries that Cal/OSHA has designated as high-hazard. It builds on current work that has identified the average effects of IIPP enforcement in all of manufacturing and in other industries, including wholesale trade, health care, transportation and utilities.

Effective Occupational Safety and Health Inspectors and Inspections Practices

Background

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

The Cal/OSHA Enforcement Unit conducts inspections of California workplaces based on worker complaints, accident reports and high hazard industries' risks. There are 23 Cal/OSHA Enforcement Unit district offices located throughout the State of California. Inspections are conducted by Cal/OSHA safety engineers and industrial hygienists who respond to complaints, referrals and accidents, as well as plan an inspection schedule in hazardous industries. There is no existing research on whether some compliance officers are more effective than others at reducing workplace injuries and illness rates. One earlier study found that health inspections were more effective than safety inspections in preventing injuries. This unexpected finding may reflect that health inspections involve more time on-site than safety inspections do and thus give the compliance officer more time to observe the workplace. A study found that the number of violations cited was smaller for inexperienced compliance officers, although the effect was not statistically significant.

The most recent study of the impact of inspections on injury and illness rates, covering the years from 1999 through 2006 in Pennsylvania, estimated that the average effect in manufacturing was approximately a 20 percent reduction in the rate of lost-time injuries over the two years after the year of inspection. This reduction was seen, however, only when the inspection levied penalties, an outcome that generally accompanies citations for serious violations. A majority of the inspections did levy penalties.

Findings

This RAND study of Cal/OSHA inspectors found that they varied considerably in their inspection practices. These practices included: the number of violations cited per inspection; the number of different standards that they cited; and whether an employee accompanied them during the inspection.

To some degree, the study found that these individual variations were associated with different practices among the district offices. Since inspectors often stay with the district office where they begin, they appear to be socialized in the practices of that office. If Cal/OSHA puts a high priority on uniform behavior among inspectors, it may need to increase the training that addresses these issues.

As found in a prior study, injury rates declined more when more experienced inspectors conducted inspections. However, no other characteristics that were clearly linked to better outcomes were found.

The Impact of Experience Rating on Small Employers: Would Lowering the Threshold for Experience Rating Improve Safety?

Introduction

At the request of the Commission on Health and Safety and Workers' Compensation (CHSWC), Commission staff held a Health and Safety Research Advisory Committee meeting on November 19, 2007, in Oakland, to identify key health and safety areas where further research and study could help

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improve workplace health and safety in California. The Advisory Committee included stakeholders in the health, safety and workers' compensation communities representing insured and self-insured employers, labor, health and safety researchers, and state agencies.

One of the recommendations of the Health and Safety Research Advisory Committee was to rigorously identify the consequences of different:

- Safety policies and practices such as workers' compensation experience rating.
- Workplace health and safety activities for different types of employers by size, age of firm and industry.

In addition to the above recommendations, the Experience Rating Task Force, established in 2007 in response to concerns expressed by the California Insurance Commissioner made recommendations regarding research on workers' compensation experience modification rating (Ex-mod). The Task Force report suggested that research opportunities to "evaluate the effectiveness of experience rating as a safety incentive" should be undertaken "to the extent such research is likely to produce meaningful results relevant to potential future Rating Plan changes."

The CHSWC study by RAND identifies whether the application of and changes to workers' compensation Ex-mod would have an effect on the safety experience of small employers. The study examines whether jurisdictions should lower their thresholds for experience rating to include small employers. Lastly, it discusses whether experience rating, in general, is the best manner of setting premium rates.

The findings of the study include:

- The number of claims at firms that became experience-rated had a decline of 6 to 9 percent compared to those whose status did not change.
- Almost all of the reduction in losses was due to the reduction in claim frequency; almost none was due to a decline in the average cost per claim.
- Reducing the threshold for experience rating in order to extend it to more small firms would reduce claims among the newly experience-rated firms by 7 to 11 percent and would reduce total losses by 10 to 15 percent.
- Analysis of the extra cost that a newly experienced-rated employer could incur by reporting a claim under the current rules indicated a surprisingly big effect; thus, any extension of experience rating to impact more firms should be mindful of the potential cost to employers.

The Effects of Apprenticeship on Losses in Construction Class Codes

This study is an analysis of data from the Division of Apprenticeship Standards (DAS). The study will determine: if apprentices who fall in a low-wage class consistently have safer experience than the average for the class; whether employers deserve a discount on premium rates for apprentices to avoid subsidizing low-wage employers who do not hire apprentices; and whether apprentices are safer than similar workers who do not undergo the rigorous training, including safety training.

Safety and Apprenticeship Training

Unions and employers in the building trades have long cooperated on programs to train new skilled workers under jointly managed apprenticeship programs. These programs are extensive (usually several years) and intensive (involving classroom and on-the-job instruction). During their training, apprentices are paid initially at a substantial discount of the collectively bargained wage of journeymen. As they gain experience and training, the apprentices' wages are increased to near that of the journeymen. When the

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training is complete, the apprentices become journeymen and receive the journeymen wages and benefits.

In California, most construction-specific class codes are “split” into two classes: one for high-wage workers (nearly all union members); and one for low-wage workers (dominated by non-union workers, but also including union apprentices).

The CHSWC study by RAND has identified the following issues:

- Are apprentices who fall in the low-wage class consistently safer than the average for the class, and hence do union employers deserve a discount on premium rates for apprentices to avoid subsidizing non-union, low-wage employers?

Objective and Scope of the Study

The purpose of the study is to determine:

- Whether apprentices who fall in the low-wage class are consistently safer than the average worker in the low-wage class and whether an estimate of the appropriate discount for union employers can be determined which reflects this difference and offsets the possible subsidy of low-wage employers.

Data

The researchers will use data from DAS and WCIRB to conduct their analysis.

Status: In process.

For further information ...

See the CHSWC website.

SPECIAL REPORT: INJURY AND ILLNESS PREVENTION PROGRAMS FOR SCHOOLS, GENERAL INDUSTRY AND SMALL BUSINESS

The following injury and illness prevention training programs and resources have been developed by the Commission on Health and Safety and Workers' Compensation (CHSWC) for schools, general industry and small business.

School Action for Safety and Health (SASH) Program

Background

Per the mandate set forth in the Labor Code, CHSWC is to assist inner-city schools or any school or district in establishing effective occupational injury and illness prevention programs (IIPPs). Priority shall be given to schools or districts with high risk.

A significant number of school employees are injured on the job each year. In 2008, the incidence rate of occupational injuries and illnesses for California school employees was higher than for all other industries in California: 7.6 cases per 100 full-time employees as compared to 4.4 cases per 100 full-time employees. Common causes of injuries and illness for school employees include over-exertion, repetitive motions, slips and falls, vehicle collisions, and assaults. These injuries are often serious and involve lost work time, including days away from work or days of restricted activity or both. Work-related injuries and illnesses impact the school community, not only the injured employee, but also his or her family, co-workers, districts, and students.

School districts are frequently cited by the Division of Occupational Safety and Health (Cal/OSHA) for occupational health and safety violations. The most common citation issued by the Cal/OSHA against schools is for not having a written Injury and Illness Prevention Plan (IIPP). Other common citations are for lack of chemical safety training under the Hazard Communication Standard, violation of the Asbestos Standards, and violation of sanitation standards. Between 2004 and 2008, California assessed school districts \$273,000 in penalties for violations of Cal/OSHA standards.

CHSWC has established a schools safety and health model program, California's School Action for Safety and Health (SASH) to help schools statewide improve their injury and illness prevention practices. The program includes training and resources to enable schools or school districts to develop or improve IIPPs and to make other health and safety improvements that will help protect school or school district employees from injuries and illnesses on the job. The target audience is composed of K-12 schools and school districts at high risk of occupational injury and illness, including, but not limited to, the Youth Authority overseen by the California Department of Corrections and Rehabilitation (CDCR).

The SASH program was developed to help:

- Ensure that employees do not have to deal with the consequences of a work-related injury or illness.
- Prevent disruptions in the class routine so that students can continue to learn and be successful in school.
- Boost employee morale and productivity when they see problems addressed and injuries prevented.
- Reduce the expenses that often go along with an injury, including the costs of workers' compensation claims, hiring substitutes, and Cal/OSHA fines.

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GENERAL INDUSTRY AND SMALL BUSINESS

On June 27, 2008, CHSWC hosted a roundtable discussion that brought together representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and school-related agencies and organizations in California. (See list of participants in the "Projects and Studies" section of this report.) The objectives of the meeting were to determine how best to structure and implement the model program, including a training program for schools or schools districts with the priority training going to schools or school districts with high incidence rates and a pilot with schools from around the State.

Subsequent Advisory Group meetings were held on June 30, 2009, and March 29, 2010, to provide feedback on the project.

Following a needs assessment conducted with Advisory Committee members and others to determine the types of training and resources to be provided by the SASH program, staff at the University of California (UC) Berkeley's Labor Occupational Health Program (LOHP) developed resource materials and a one-day training program, as well as established a SASH Resource Center at LOHP.

The resource materials include: schools-specific factsheets, checklists and other tools; occupation-specific tip sheets; an electronic IIPP template and accompanying guide; and an online resource list for more information. All materials are provided on CHSWC's website. To date, LOHP has worked with Joint Powers Authorities serving school districts, county offices of education, unions, and school district staff to conduct numerous SASH training programs statewide.

LOHP and CHSWC will continue to conduct the SASH training programs at county offices, disseminate materials, and promote effective health and safety programs for school district employees. Further development of the model program would include: expanding partnerships with key constituents throughout the State; expanding the target population statewide; developing a network of expert trainers; ensuring that measures of accountability are applied; and institutionalizing the program by identifying continuing health and safety education opportunities for schools.

Program Components

The SASH Program offers:

- A free training program to help build the capacity of district-level health and safety coordinators to be resources to other employees and develop an IIPP to identify, prevent and eliminate hazards.
- Written materials that support injury and illness prevention activities.
- Problem-solving assistance provided in an ongoing manner by a statewide SASH Resource Center.

The free one-day SASH training program has been designed for school district staff responsible for employee safety and health. These employees are typically from human resources/administration and/or the maintenance and operations departments. Training is provided by University of California trainers and held in convenient locations so participants do not have to travel far to attend.

Participants learn valuable skills in how to:

- Identify and solve safety problems.
- Prepare written IIPPs.
- Involve other employees in carrying out prevention activities.

Once participants complete the training, they become "SASH Coordinators" for their district and receive a certificate from the CHSWC and the University of California.

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SASH materials are free and designed to help school employees identify and address health and safety issues in the school environment. Materials include:

- An online template for writing an IIPP, with an accompanying Guidebook.
- Factsheets on hazards commonly found in schools, including:
 - Overview of the SASH Program
 - Underlying Causes of Injury and Illness
 - Job Hazards in Schools; Investigating Job Hazards
 - Controlling Hazards
 - Prioritizing Health and Safety Problems
 - Addressing Ergonomic Hazards
 - Preparing for Emergencies at School
 - Basics of Cal/OSHA
 - Key Cal/OSHA Standards that Apply to Schools
 - Elements of an Effective Workers' Compensation Program
 - Health and Safety Committees
- Checklists and other tools to help identify problems, investigate and learn from accidents, and keep track of safety activities, including:
 - Inspection Checklist
 - Incident/Accident/Near Miss Investigation Report
 - Hazard Correction Record
 - Employee Training Record
- Tip sheets for employees on hazards and solutions for their particular occupation, including:
 - Teachers and teaching aides
 - Maintenance staff
 - Groundskeepers
 - Food service employees
 - Custodians
 - Administrative and office staff
 - Bus drivers
- A poster for school employees promoting their involvement in safety activities.
- An online Resource Guide that provides additional school-related materials on particular hazards/issues and a list of agencies and organizations.

The SASH Resource Center is located at LOHP. In collaboration with UCLA's Labor Occupational Safety and Health (LOSH) Program, the Resource Center is available to help school districts find additional information and obtain assistance after the trainings.

Accomplishments

In addition to the materials above, training classes have been offered and will continue to be offered statewide. To date, 34 one-day SASH training classes have been conducted for 609 attendees from 226 school districts in 29 counties with school district and county office of education staff, including two pilot trainings. The trainings have been very well received. Some of the attendees have assisted in setting up additional trainings in other areas. Different training options are being explored and implemented. One new format for course delivery, including a longer training with the option of video conferencing in from remote sites, which will allow for two-way conferencing and participation in activities, was held with the Mendocino County Office of Education.

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Follow-up activities after attending a SASH class include sending attendees a class roster so attendees can stay in touch and use each other as resources and sending out a newsletter. Two-page SASH newsletters for SASH Coordinators (SASH training attendees) are distributed through email. The newsletters include the answers to common questions asked during training sessions, as well as other relevant information.

National SASH Program – Promoting School Employee Injury and Illness Prevention Programs

The objective of the National Institute for Occupational Safety and Health (NIOSH)-funded project, Promoting School Employee Injury and Illness Prevention Programs, is to evaluate the effectiveness of the California SASH program in order to develop a model national program targeting school districts and other educational entities in other states. As part of National SASH, the degree to which SASH trainees are equipped with the skills and resources they need to apply what they have learned in the SASH training will be evaluated. This is being accomplished through an electronic survey sent to all SASH trainees three months after participants have attended a SASH training. Follow-up telephone interviews will also be conducted with a smaller number of SASH trainees. Analysis of the data collected and entered into an Access database will result in concrete recommendations for improving the SASH program and implementing similar programs across the nation.

Partnerships

The following organizations were involved in shaping the SASH Program activities and materials:

- California Association of School Business Officials (CASBO)
- California Department of Education
- California Federation of Teachers (CFT)
- California School Employees Association (CSEA)
- California Teachers Association (CTA)
- Contra Costa County Schools Insurance Group
- Kennan & Associates
- North Bay Schools Insurance Authority
- San Diego County Schools Risk Management JPA
- Schools Insurance Authority

For further information ...

“Summary of June 27, 2008 Schools Injury and Illness Prevention Program Roundtable”
(December 2008).

http://www.dir.ca.gov/chswc/Reports/CHSWC_SummarySchoolsInjuryIllnessPreventionProgramRoundtable.pdf

School Action for Safety and Health (SASH) Program Information and Resource Center
<http://www.dir.ca.gov/chswc/SASH/index.htm>

SASH Brochure
http://www.dir.ca.gov/chswc/SASH/Publications/SASH_brochure.pdf

SASH Flyer
http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Flier.pdf

Injury and Illness Prevention Program Template
<http://www.dir.ca.gov/chswc/SASH/index.htm>

SASH Factsheets, Tools, Tip Sheets, Resource List, Worksheets, and IIPP Guide and Template.
<http://www.dir.ca.gov/chswc/SASH/index.htm>

SASH Online Resource Guide

<http://www.lohp.org/docs/projects/sash/sashonlineresourceguideweb.pdf>

SASH Poster

http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Poster.pdf

Taking Action for Safety and Health: Injury and Illness Prevention Program Training for General Industry

Background

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program, Taking Action for Safety and Health, which assists employers and employees throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

This program is especially timely given that federal OSHA is considering promulgating a federal IIPP standard modeled on Cal/OSHA's IIPP standard. Development and implementation of this training program and IIPP materials allows CHSWC to take a leadership role in creating a model that can be useful nationwide.

Description

The purpose of the program is to create a focused training program specifically aimed at developing effective IIPPs and targeting a range of industries in California. The program will draw on materials from two key Commission programs: the Worker Occupational Safety and Health Training Program (WOSHTEP); and SASH.

The first phase of the program includes:

- A one-day interactive training program targeting staff responsible for creating or implementing IIPPs.
- Adapted training materials, including a generic model IIPP guide and template and program tools including a factsheet on promoting employee involvement; a sample new employee safety orientation training outline and activities; sample accident investigation forms; and hazard identification worksheets.

During the second phase of the project, the following activities will be implemented:

- Conducting at least two to three sessions of the training program. Recruitment will target a variety of industries in order to assess program effectiveness.
- Developing a Roll-out Plan: an outreach and dissemination plan will be developed to support roll-out of the program in subsequent years. Depending on available funding, the program will eventually be made available statewide.

For further information about this program, see the "Projects and Studies" section of this report.

Model Injury and Illness Prevention Program Training for Small Businesses

Background

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees. Small businesses need training and resources to help them develop effective IIPPs.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program, "Taking Action for Safety and Health," that assists small business owners and managers throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

Description

The program draws on materials from two key Commission programs: the Worker Occupational Safety and Health Training Program (WOSHTEP); and the School Action for Safety and Health (SASH) program.

The first phase of the project includes:

- A half-day interactive training program targeting small business owners and managers to help them create and implement their IIPP.
- Adapted training materials, including a model IIPP guide and template and program tools.

During the second phase of the project, the following activities will be implemented:

- Conducting sessions of the training program statewide.
- Developing a Roll-out Plan: an outreach and dissemination plan will be developed to support roll-out of the program in subsequent years. Depending on available funding, the program may eventually be made available statewide.

Partnerships

The following organizations were involved in shaping the activities and materials:

- Department of Industrial Relations
- Cal/OSHA
- State Compensation Insurance Fund (State Fund)
- Small Business California
- California Small Business Association
- California Department of Public Health Occupational Health Branch

For further information about this program, see the "Projects and Studies" section of this report.

PROJECTS AND STUDIES

Introduction

In response to its Labor Code mandate, the Commission on Health and Safety and Workers' Compensation (CHSWC) has engaged in many studies to examine the health and safety and workers' compensation systems in California. CHSWC has concentrated these efforts on areas that are most critical and of most concern to the community.

CHSWC studies are conducted by staff and independent researchers under contract with the State of California. Advisory Committees are composed of interested members of the workers' compensation community and the public who provide comments, suggestions, data and feedback.

Studies were initially formed to evaluate changes to the system after the implementation of workers' compensation legislative reforms in the early 1990s and to assess the impact on workers and employers. While that focus continues, the scope of CHSWC projects has also evolved in response to findings in the initial studies and to concerns and interests expressed by the Legislature and the health and safety and workers' compensation community.

This report contains synopses of current and recently completed projects and studies followed by an overview of all CHSWC projects and studies. These projects are categorized as follows:

- I. Permanent Disability, Temporary Disability, Benefits, 2012 Workers' Compensation Reforms – CHSWC Studies, and Other
- II. Return to Work
- III. Return to Work and Disability Management
- IV. Medical Care
- V. Worker's Compensation Reforms
- VI. Administrative Efficiency
- VII. Fraud
- VIII. Insurance Industry
- IX. Information for Workers and Employers
- X. Occupational Safety and Health

PROJECTS AND STUDIES

SYNOPSIS OF CURRENT CHSWC PROJECTS AND STUDIES

PERMANENT DISABILITY, TEMPORARY DISABILITY, BENEFITS AND OTHER

Permanent Disability

This section starts with a discussion of the comprehensive evaluation of permanent disability (PD) by the Commission on Health and Safety and Worker's Compensation (CHSWC) and continues with descriptions of CHSWC's other ongoing studies.

Background

The most extensive and potentially far-reaching effort undertaken by CHSWC is the ongoing study of workers' compensation PD in California. The ongoing CHSWC evaluation incorporates public discussions with studies by RAND and other independent research organizations. The CHSWC evaluation studies deal with major policy issues regarding the way that California workers are compensated for PD incurred on the job.

The determination of PD is one of the most challenging tasks of the workers' compensation system. The manner in which California rates and compensates injured workers for permanent partial disability (PPD or simply PD) affects the adequacy of injured workers' benefits, the ability of injured workers to return to gainful employment, the likelihood of litigation, the efficient operation of the Division of Workers' Compensation (DWC) adjudication system, and the cost of the workers' compensation system to employers. In addition to the direct costs to employers for PD benefits, there are indirect costs generated as a consequence of the method of determining PD.

CHSWC's PD project was originally conceived as having two phases. The focus of the first phase was to measure the long-term earnings losses and other outcomes for workers with PD claims. The focus of the second phase was intended to refine these measures and, at the same time, provide policymakers with suggestions for reforms intended to improve outcomes for injured workers at reasonable cost to employers. The second phase was nearing completion in 2004 when it was overtaken by a crisis in California workers' compensation that precipitated wholesale changes to the method of evaluating and compensating permanent disabilities. The project has become an ongoing effort to evaluate the effects of changes in the system and provide continuing information to policymakers contemplating further changes.

Permanent Disability

Initial Wage Loss Study

The initial report from the CHSWC study of PD, "Compensating Permanent Workplace Injuries: A Study of the California System," examines earnings losses and the replacement of earnings losses for workers with PPD claims at insured firms in California in 1991-92. The main findings of this report include:

- PPD claimants experienced large and sustained earnings losses over the five years following injury. These losses amounted to approximately 40 percent of the earnings these workers would have made if injury had not occurred.
- Workers' compensation benefits replaced only 40 percent of pre-tax earnings losses and only 50 percent of after-tax earnings losses.
- Losses are largely driven by lower employment rates among PPD claimants over the years following injury.
- Earnings losses and disability ratings are not closely related, particularly for low-rated claims. Replacement rates, the fraction of losses that are compensated by benefits, were lowest for the lowest-rated claims.

PROJECTS AND STUDIES

Status: Completed.

For further information ...

"Compensating Permanent Workplace Injuries: A Study of the California System," RAND (1998).

http://www.dir.ca.gov/chswc/Reports/2009/PD_1998.pdf

"Findings and Recommendations on California's Permanent Partial Disability System-Executive Summary," RAND (1997).

<http://www.dir.ca.gov/CHSWC/Reports/PPDFindingsAndRecommendations.pdf>

Policy Advisory Committee

A CHSWC Permanent Disability Policy Advisory Committee was established to review the RAND report and the community's responses and to recommend further action. The committee began meeting in November 1997.

Goals Established by the CHSWC Permanent Disability Policy Advisory Committee

- Decrease in an efficient way the uncompensated wage loss for disabled workers in California.
- Increase the number of injured workers promptly returning to sustained work.
- Reduce transaction and friction costs, including costs to injured workers.

The CHSWC Policy Advisory Committee raised additional questions about the wage loss study and other areas of the RAND report.

The workers' compensation community wanted additional information on how other factors, such as demographics and local economic conditions, affected the outcomes of the wage loss study. Observations were also made about the initial study parameters, as the study lacked data on employees of self-insured employers and data beyond the 1991-1993 period.

The Permanent Disability Policy Advisory Committee urged CHSWC to study those issues further, and CHSWC voted to continue the comprehensive evaluation of workers' compensation PD. Continuation of the evaluation of PD includes the following projects.

Enhancement of the Wage Loss Study to Include Self-Insureds

Stakeholders objected to the 1998 report, "Compensating Permanent Workplace Injuries: A Study of the California System," because they believed that self-insured employers, which account for one-third of claims in California (an estimate that CHSWC in 2008 has revised to 30 percent, including self-insured employers and the State), would have better outcomes for PPD claimants. Stakeholders felt that since self-insured employers are larger and higher-paying firms and since they directly bear the full cost of their workers' compensation claims, they would likely have more programs to encourage return to work (RTW) and a more motivated workforce.

Private Self-Insureds

The report entitled "Permanent Disability at Private, Self-Insured Firms" was released in April 2001. This report includes an unprecedented data-collection effort on PD claims at self-insured firms in California. The findings of this report include:

- Better RTW at self-insured firms led to a lower proportion of earnings lost by PPD claimants. During the five years after injury, self-insured claimants lost a total of 23 percent of both pre- and post-tax earnings, compared to the insured claimants' proportional losses of about 32 percent.

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- Since workers at self-insured firms have higher wages, they are more likely to have weekly wages that exceed the maximum temporary disability (TD) payment. Therefore, workers' compensation benefits replaced a smaller fraction of losses at self-insured firms. Workers at these self-insured firms experienced lower five-year wage-replacement rates (48 percent) than workers at insured firms (53 percent).
- At both insured and self-insured firms, replacement rates were very low for workers with the lowest indemnity claims. At the self-insured and insured firms, claimants with total indemnity falling below the 20th percentile had 14 percent and 11 percent of their lost earnings replaced by benefits, respectively.
- PPD claimants with high pre-injury earnings and high indemnity claims experienced large dollar losses that were not compensated by benefits.

Status: Completed.

For further information ...

CHSWC Report: "Permanent Disability at Private Self-Insured Firms," RAND (2001).

<http://www.dir.ca.gov/CHSWC/Reports/PD-Study.pdf>

Permanent Disability – Phase 2

Legislation Based on Permanent Disability Interim Report

The multi-year study of PD was nearing its conclusion when a crisis in the worker's compensation system precipitated a series of reforms affecting the four major types of benefits: medical treatment; TD; PD; and vocational rehabilitation. The PD reform was enacted by Senate Bill (SB) 899 in 2004. The amended Labor Code Section 4660 called for a revision of the PD rating schedule (PDRS) with explicit reference to an interim report from the nearly completed study. The final report was published in 2005, containing a thorough review of PD compensation, including the underlying rationale for PD compensation, the measurement of wage loss, and the measurement of how well the California system was meeting its goals.

The final report observed that the California PDRS had come to be regarded as costly, inequitable, inconsistent, and prone to disputes. Workers who sustained similar earnings losses for different types of injuries received different amounts of compensation. The CHSWC "Permanent Disability Study" by RAND consisted of a detailed analysis of the PDRS in order to provide empirical findings that could guide a revision that would be consistent with the economic losses experienced by permanently disabled workers. The study empirically identified the components of the schedule that contribute to inconsistency and made recommendations to reduce them. By the time the final report was published, parts of its recommendations had already been enacted into law.

The CHSWC study by RAND recommended:

- Basing PD ratings on a more objective method of evaluation, such as the American Medical Association *Guides to the Evaluation of Permanent Impairment*, fifth edition (AMA Guides).
- Adjusting PD ratings to ensure that ratings were proportional to wage losses across different types of injury.

Status: Completed.

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For further information ...

- “Evaluation of California’s Permanent Disability Rating Schedule: Interim Report,” RAND (2003).
<http://www.dir.ca.gov/CHSWC/Reports/PermanentDisabilityRatingSchedule-InterimReport.pdf>
- “An Evaluation of California’s Permanent Disability Rating System,” RAND (2005).
http://www.dir.ca.gov/CHSWC/Reports/Eval_Of_CA_PD_System.pdf

Legislative Changes and Administrative Implementation

With the enactment of Senate Bill (SB) 899 in 2004, the Governor and the Legislature intended to enact a PD rating system that would promote “consistency, uniformity, and objectivity.”⁶⁷ The legislation carried out recommendations that emerged from CHSWC studies and included other changes as well. SB 899 made changes to:

- The goal of the rating schedule, giving consideration to diminished future earning capacity in place of consideration to diminished ability to compete in an open labor market (Section 4660(a)), as well as promoting consistency, uniformity and objectivity (Section 4660(d)).
- The criteria for medical evaluations, using the AMA *Guides* in place of the often subjective criteria traditionally used in California (Section 4660(b) (1)).
- The adjustment factors to be included in the Schedule for Rating Permanent Disabilities, specifying that diminished future earning capacity be a numeric formula based on average long-term loss of income according to empirical studies (Section 4660(b)(2)).
- The apportionment of disability between industrial injuries and other causes when a disability is caused by the combination of two or more injuries or diseases (Sections 4663 and 4664).
- The number of weeks of PD benefits payable for each percentage point of permanent partial disability (PPD), reducing payments by up to 15 weeks on all awards of less than 70 percent PPD (Section 4658(d)(1)).
- The dollar amount of weekly PD benefits depending on whether the employer offers to continue to employ the permanently disabled worker, if the employer has 50 or more employees (Section 4658(d)(2) and (d)(3)).

Implementation of SB 899 required the Administrative Director (AD) of the Division of Workers’ Compensation (DWC) to adopt a revised PDRS. At the request of the AD, RAND prepared a separate report which quantified the ratio of average PD ratings to average proportional earnings losses for each of 23 injury categories in the RAND data. The AD adapted those ratios in the development of the new PDRS effective January 1, 2005.

For further information ...

- “Data for Adjusting Disability Ratings to Reflect Diminished Future Earnings and Capacity in Compliance with SB 899,” RAND (2004).
http://www.rand.org/pubs/working_papers/2004/RAND_WR214.pdf
- Schedule for Rating Permanent Disabilities, State of California (2005).
<http://www.dir.ca.gov/dwc/PDR.pdf>

⁶⁷ Labor Code Section 4660(d).

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Permanent Disability Rating Schedule Analysis

The Legislature requested that CHSWC report on the impact of the change in the PDRS, as well as how the schedule could now be amended in compliance with Labor Code Section 4660(b)(2), which requires the use of findings from the RAND report and other available empirical studies of diminished future earning capacity.

In response to this legislative request, CHSWC developed a paper that evaluated the impact of the changes in the PDRS using data from the Disability Evaluation Unit (DEU) that did not exist when the latest reform was adopted.

Findings

- At the time the 2005 schedule was adopted, adequate empirical studies did not exist to permit accurate calculation of the relationship between impairments evaluated according to the *AMA Guides* and diminished future earning capacity.
- The 2005 schedule reduced the average PD rating (rated percentage of disability) in rated cases by about 43 percent for unrepresented cases and by about 40 percent for represented cases.
- The legislative and administrative changes reduced PD compensation by about two-thirds, with about half of that reduction attributable to lower ratings under the 2005 PDRS compared to the previous rating schedule.
- Revisions of the schedule can be formulated immediately and revised periodically. (See CHSWC study "Permanent Disability Rating Schedule Analysis.")

The CHSWC "Permanent Disability" report provides a methodology for updating the PDRS to obtain more consistent ratings for all types of injuries. The report recommends a new mathematic formula using administrative data from DWC and the latest available wage loss data to make all ratings calculations consistent. The ratings are then entered into the existing system to calculate the level of benefits. An important recommendation in the report is that periodic revision to the rating schedule be adopted such that any future trends in medical impairments and earnings losses can be detected and incorporated in the formula.

The report also suggests that, beyond using a consistent methodology, overall levels of ratings and compensation should be considered a separate public policy issue. The report acknowledges that issues of benefit adequacy and affordability are issues for policymakers to debate. Subsequent unpublished work has suggested that the goal of equity across types of injuries can be achieved through amendments to the PDRS as contemplated in the CHSWC report, but the goal of benefit adequacy may require a combination of legislative action and amendments to the PDRS.

Status: Completed. CHSWC voted on February 9, 2006, to approve and release the report "Permanent Disability Rating Schedule Analysis."

For further information ...

"Permanent Disability Rating Schedule Analysis" (February 23, 2006).

<http://www.dir.ca.gov/chswc> and <http://www.dir.ca.gov/CHSWC/Reports/CHSWC-PD-Report-Feb23-2006.pdf>

Return-to-Work Study Reveals Diminished Replacement Rate

CHSWC arranged for RAND to examine how return-to-work rates had been affected by the reforms of 2003 and 2004. The 2003 reforms included repeal of the vocational rehabilitation benefit and adoption

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of medical treatment guidelines. The 2004 reforms included changes to PD rating, limitation of TD duration, and other changes. Incidental to this study, RAND examined the percentage of wage losses over the five-year period after injury that was replaced by indemnity benefits (TD and PD combined).

The study found that return-to-work rates had, indeed, improved, although it was difficult to tie the improvement to the effects of the 2003 and 2004 reforms. Return-to-work rates actually began to improve before the reforms occurred. The notable finding with regard to PD compensation, however, was that the average replacement rates had gone down as a consequence of the reforms. The replacement rate (the average percentage of lost wages replaced by TD and PD benefits) had been holding near 50 percent since 2000, but it began to drop in 2004, and by the second quarter of 2006, it was down to 37 percent. Without the improvement in return-to-work rates which began in 2002, the replacement rate would have been about 32 percent.

Although the purpose of the report was to examine changes in return-to-work, it offers insight into the impact of the changes in PD rating and compensation, so the report bears mention in this summary of PD projects and studies.

Status: Completed 2010, final publication 2011.

For further information ...

“Workers’ Compensation Reform and Return to Work: The California Experience.”
<http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf>

Continuing Review

A combined study of medical treatment and disability evaluation commenced in December, 2010, as described below under the headings “BENEFITS: Disability Evaluation and Medical Treatment in the California Workers’ Compensation System.” The ongoing examination of permanent disability awards will provide a platform for monitoring the impacts of the 2012 reform bill, SB 863 (De León).

PROJECTS AND STUDIES

PERMANENT DISABILITY

APPORTIONMENT

Understanding the Effect of Senate Bill 899 on the Law of Apportionment

Background

Apportionment is the process in which an overall permanent disability (PD) that was caused at least in part by an industrial injury is separated into the components that are and are not compensable results of that injury. Senate Bill (SB) 899, signed into law on April 19, 2005, profoundly changed the law of apportionment. Decades of interpretation of the old law of apportionment are called into question, with some principles still being applicable and others being reversed. The Commission on Health and Safety and Workers' Compensation (CHSWC) report provides information on the effect of SB 899 on the prior law of apportionment, how apportionment is likely to be affected by the American Medical Association *Guides to the Evaluation of Permanent Impairment*, fifth edition (AMA *Guides*), and what the key issues are that remain to be resolved. A summary of the report follows.

Repeal of Pre-existing Disease and Previous Permanent Disability or Impairment Language

SB 899 repealed Labor Code Section 4663 which provided that if a pre-existing disease were aggravated by a compensable injury, compensation was allowed only for the portion of the disability due to the aggravation reasonably attributed to the injury. SB 899 also repealed Labor Code Section 4750 which provided that an employee "suffering from a previous PD or physical impairment" could not receive compensation for a subsequent injury in excess of the compensation allowed for the subsequent injury "when considered by itself and not in conjunction with or in relation to the previous disability or impairment" and that the employer was not liable "for the combined disability, but only for that portion due to the later injury as though no prior disability or impairment had existed."

Apportionment by Causation

To replace the repealed sections, SB 899 re-enacted Section 4663 in an extensively revised form and added a new Section 4664. The revised Section 4663 provides that "apportionment of permanent disability shall be based on causation." Apportionment is determined by the approximate percentage of the PD caused by the direct result of the industrial injury and by the approximate percentage of the PD caused by other factors both before and subsequent to the industrial injury, including prior industrial injuries. A PD evaluation is not considered complete unless it includes an apportionment determination. Labor Code Section 4664(a) was added to emphasize that the employer is only liable for the percentage of PD "directly caused" by the injury. The repealed sections do not appear inconsistent with the new sections, but the case law interpreting the repealed sections considerably limited their application.

The problem faced by members of the workers' compensation community is how the authors of this legislation intended permanent disabilities to be apportioned under the new law. The final Senate floor analysis says only that it was intended to "replace present law on apportionment with the statement that apportionment of permanent disability is based on causation." It is clear, however, that the announced purpose of SB 899 was to reduce the cost of providing workers' compensation.

Status: At its April 27, 2007 meeting, CHSWC approved the release of the draft report on apportionment for public comment. At its August 9, 2007 meeting, the Commission received a verbal update on a key judicial interpretation. The report requires updating to reflect subsequent judicial interpretations.

PROJECTS AND STUDIES

BENEFITS

Disability Evaluation and Medical Treatment in the California Workers' Compensation System

Introduction

On April 19, 2004, former California Governor Arnold Schwarzenegger signed into law Senate Bill (SB) 899, a sweeping bill which dramatically overhauled the state's workers' compensation system. Many of the changes focused on the system for evaluating the severity of a disability for workers' compensation claimants with a permanent partial disability (PPD). Prior to SB 899, California used a unique rating system, the California Permanent Disability Rating System (PDRS), which was the subject of considerable controversy. Critics argued that the PDRS was inaccurate and unfair and promoted disputes, making it an important factor in the costliness of the system.

Much of the criticism that was leveled against the PDRS was supported by empirical work conducted on behalf of the Commission on Health and Safety and Workers' Compensation (CHSWC) by the RAND Corporation (Reville et al., 2002; Reville, Seabury and Neuhauser, 2003; Reville et al., 2005). The RAND studies found that while the PDRS performed adequately in terms of ranking individual disabilities based on severity for a given injury type, it did a poor job of evaluating the severity of injuries across different types of injuries. Two central conclusions were drawn from this analysis. First, proportional earnings losses for the higher-rated cases are larger for every type of impairment. That is, the PDRS identified more severe impairments on average within a given body part. It is also apparent, however, that there were clear disparities between the losses of different impairments that were given similar ratings by the PDRS.

The SB 899 reforms relating to the evaluation of permanent disability augmented some already stringent reforms to medical treatment in the system. While the reforms did lead to a decline in the overall cost of workers' compensation in the State, with a more than 40 percent reduction in premiums between 2004 and 2006, many controversies remain. In particular, there are complaints that the systems for evaluating disability and providing medical treatment are inefficient, inconsistent and fraught with error. CHSWC issued a Request for Proposal (RFP) to conduct this disability evaluation study, and the contract was awarded to RAND. The study commenced in December 2010.

Description

The purpose of the CHSWC/RAND Disability Evaluation and Medical Treatment in the California Workers' Compensation System study is to answer important questions about the disability rating system in California: how effectively it targets benefits to disabled workers; and whether the system imposes barriers to early return to work and better outcomes for employers and disabled workers.

The study will conduct research on disability ratings and worker outcomes in order to assess the accuracy and consistency of disability ratings in California. Recent court decisions that allow for the rebuttal of the rating schedule that have affected system performance will also be discussed. Additionally, this study will identify potential practices and policies that would improve both the quality and efficiency of the medical care provided under the California's workers' compensation system and increase the efficiency of medical benefit administration.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive Officer,
CHSWC*

RAND

Seth Seabury, Ph.D.

Barbara Wynn

Robert Reville, Ph.D.

Hangsheng Liu, Ph.D.

Justin Timbie, Ph.D.

Melony E.S. Sorbero, Ph.D.

Teryl Nuckols, M.D.

UC Berkeley

Frank Neuhauser

Advent Consulting Assoc.

Jerry Bowers, Ph.D.

Vanessa Bowers

CHSWC Staff

Irina Nemirovsky

Nabeela Khan

Chris Bailey

Nurgul Toktogenova

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Objectives of the Study

The objectives of the study are to:

- Conduct research on permanent disability ratings and worker outcomes in order to assess the accuracy and consistency of permanent disability ratings in California including the following:
 - Evaluate how accurately the rating system established in the 2005 Schedule for Rating Permanent Disabilities (incorporated by reference in California Code of Regulations, title 8, section 9805, the “rating system,” predicts the economic consequences of disability for injured workers.
 - Analyze if the rating system is both consistent and fair and if there is a relationship between economic outcomes comparable across injuries to different parts of the body.
 - Evaluate if future earnings capacity (FEC) adjustments currently in place in the rating system accurately predict the relationship between losses and permanent disability ratings across different parts of the body.
 - Determine if the medical-legal process introduces inconsistencies in the application of the PDRS and if so, whether such inconsistencies affect the relationship between permanent disability ratings and economic outcomes.
 - Assess broadly the adequacy, equity and efficiency of workers’ compensation benefits provided to injured and disabled workers in California.
- Evaluate and identify potential practices and policies that would improve both the quality and efficiency of the medical care provided under California’s workers’ compensation system and increase the efficiency of medical benefit administration including the following:
 - Evaluate if medical treatment in California’s workers’ compensation system conforms to external best practices for providing high-quality, affordable care. If not, can these external best practices be adapted and applied to the treatment of injured workers in California?
 - Compare differences in treatment intensity, cost and outcomes for care provided through medical provider networks (MPNs) to out-of-network care to evaluate the impact of MPNs on employer costs, injured worker outcomes and other measures of effectiveness.
 - Compare the administration of medical benefits between insurers and self-insured employers (public and private).
 - Identify and evaluate administrative and legislative modifications which would improve the delivery of medical treatment in the California workers’ compensation system.

Status: In process.

BENEFITS

Qualified Medical Evaluator

Background

The delivery of workers' compensation benefits ordinarily depends on medical findings, and medical findings are often disputed. The California Legislature has placed the Qualified Medical Evaluator, or QME, at the core of California's occupational and injury dispute resolution system. Medical providers are certified as QMEs after passing a test and meeting requirements spelled out in regulations. These requirements are intended to assure that a QME has the expertise to address the issues that will be presented to the QME. The current process is the result of a series of reforms over the past 15 years, reforms that were meant to deliver medical-legal evaluations expeditiously and equitably for both parties. The study and report "Evaluating the QME Process: Is it Equitable and Efficient?" by the Commission on Health and Safety and Workers' Compensation (CHSWC) examine how well the process is operating in fulfillment of those important goals.

Description

The University of California (UC), Berkeley, assisted with the CHSWC study of the QME system. The study uses extensive electronic administrative data made available by the Division of Workers' Compensation (DWC) Medical Unit and Disability Evaluation Unit (DEU) supplemented with samples of paper records. The study covers the period from January 2005 through June 2010. The period includes the 2003-2004 reforms which introduced utilization and treatment guidelines, a new permanent disability rating schedule based on the American Medical Association (AMA) *Guides*, and changes to the way parties in represented cases selected QMEs.

The study describes the criteria for measuring success of the system, and the basic analytic approach to obtaining the outcome measures is discussed. Descriptive data on the dispute process and overall trends are presented as well as data on the assignments of QMEs. The time frame for the different dispute resolution steps requiring QME evaluations and the consistency and fairness of the QME process as it pertains to disability ratings are described. The final section of the study discusses the findings.

Objectives

The objectives of this project are to:

- Examine the fairness of the QME process and whether QME evaluations, over all, are consistent in their measurement.
- Assess the QME process to determine if there is a balance between the supply of QMEs and the demand for QME evaluations.
- Analyze the reasons for the spike in QME requests.
- Discuss the timeliness of the QME process.

Findings

Study findings include:

Project Team

Christine Baker
Executive Officer,
CHSWC

Frank Neuhauser
UC Berkeley

CHSWC Staff

D. Lachlan Taylor
Nabeela Khan
Nurgul Toktotonova
Chris Bailey

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- The number of providers registered as QMEs declined by about 45 percent between 2005 and 2010, but this decline was nearly the same as the decline in disabling injuries. The decline in registered QMEs likely did not lead to scheduling problems and delays.
- There was a dramatic spike in the number of panel QME requests starting in late 2007 and ending in early 2009. This spike is likely the cause of most complaints about difficulty and delay in obtaining QME appointments. The spike was not caused by an increase in requests for medical-legal evaluations related to permanent disability (PD), which remained constant over this period. Most likely, the spike was a result of disputes over medical treatment and the use of QMEs to resolve these disputes. The *Sandhagen* decision clarified the path for medical treatment disputes and substantially reduced the use of QMEs in these cases.
- The perception of delays in the QME process is probably partially the result of this temporary spike in panel requests that has since resolved.
- Remaining problems in scheduling QMEs are the result of mismatches in the demand and supply of specific specialties. Orthopedic specialists account for only 25 percent of registered QMEs, but an orthopedic specialty is requested 45-65 percent of the time. While this ratio has remained stable, it does suggest that efforts should be made to expand the pool of orthopedists willing to participate as QMEs.
- Other specialties with potential for delays are pain specialists and hand specialists who are underrepresented, like orthopedists, relative to the number of requests. Pain specialists are also in an area where requests have been increasing dramatically over the past several years.
- Chiropractors and acupuncturists are heavily overrepresented in QME registrations relative to the fraction of requests for these providers.
- Psychologists and psychiatrists are somewhat overrepresented in registrations, but there may be an increasing problem with scheduling these specialists. Their evaluations typically require more face-to-face time, and the number of requests for psychiatric specialists has increased dramatically since 2005, currently representing over 12.5 percent of all panel QME requests.
- According to this QME study, a small number of QMEs have registered at a very large number of addresses, dominating assignments. Most of these QMEs are assisted in scheduling and possibly developing locations by a small number of facilitating services. The study indicates that:
 - 63 percent of QMEs are registered at only one location. These QMEs are assigned to 23 percent of the panels.
 - 3.9 percent of QMEs are registered at 11 or more addresses. This small number of QMEs conducts nearly 40 percent of all evaluations, mainly because the large number of locations makes them much more likely to be assigned.
- A select group of high-volume QMEs may be very skilled and may execute the assignments quickly and assign ratings in a consistent and equitable manner. However, the evidence in this report supports a different conclusion. The study examined the ratings of 31 very high-volume QMEs who accounted for 10 percent of the reports rated by DEU. There were no advantages in terms of the time from assignment to DEU rating. However:
 - The ratings assigned to reports by these very high-volume QMEs were, on average, substantially and significantly lower than the ratings assigned to the reports of all other QMEs.
 - The ratings were 7 percent to 19 percent lower on high-volume QME reports.

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- This tendency towards conservative evaluation was not limited to QME evaluations; reports by high-volume QMEs were rated 10 percent to 21 percent lower than similar reports rated by DEU when the high-volume QMEs were acting as Agreed Medical Evaluators (AMEs) or writing reports as primary treating physicians (PTPs).
- The conservative tendency also predates the current AMA *Guides*-based schedule. On average, high-volume QMEs write reports that result in ratings substantially lower than other QMEs on both the 1997 and 2005 schedules.
- The conservative tendency of very high-volume QMEs is consistent across the group; only 2 of the 31 QMEs wrote reports that resulted in higher-than-average ratings. Virtually all of the others were conservative and nearly always statistically significant for all types of reports (QME, AME, and PTP) for which they wrote a large enough number of reports to evaluate.

Status: Completed.

For further information ...

“Evaluating the QME Process: Is it Equitable and Efficient?” (September 2010).
<http://www.dir.ca.gov/chswc/Reports/2010/QMEstudy.pdf>

BENEFITS

Review of Disability Evaluation Delays and Supplemental QME Reports, July 2010

Background

Delays in summary ratings of Qualified Medical Examiner (QME) reports are a concern to many stakeholders, and Commission on Health and Safety and Workers' Compensation (CHSWC) staff was asked to examine this issue. Delays are a problem because they prevent the parties from closing the claim, and they foster dissatisfaction on all sides. The problems are compounded when there is a deficiency in the report which requires clarification or correction by the QME but the claims administrator is not allowed to request a supplemental report until the Disability Evaluation Unit (DEU) has issued the rating.

Description

The CHSWC analysis used a database of all summary ratings and consultative ratings issued in a 16-month period from September 2008 through December 2009. The CHSWC report summarized the length of time parties waited for a DEU rating.

Findings

Across the 16 months of ratings examined, the ratings were prepared an average of 104 days after DEU received the medical-legal reports. The analysis demonstrated the difference in waiting time for attorney-represented cases (consultative ratings) and unrepresented cases (summary ratings). Across the 16-month period, the average was 129 days for cases without attorneys and 84 days for cases with attorneys. Month-by-month figures were also calculated for the mean and the median for both consultative and summary ratings. The patterns refute complaints that the delays have been growing longer. After growing longer in the first six months of 2009, the delays generally grew shorter in the second six months. By December 2009, every parameter except the mean time to rating for unrepresented cases had improved over December 2008. The mean time to rating for unrepresented cases stood at 119 days in December 2009.

Comments and Recommendations

Required timelines in Labor Code Section 4061(e) and 8 California Code of Regulations, Section 36(e) are discussed in the CHSWC report "A Review of Disability Evaluation Delays and Supplemental QME Reports," along with a description of the concern that claims administrators sometimes improperly influence a QME's conclusions without the worker having the knowledge or resources to resist those tactics.

CHSWC recommends continuing examination of this issue.

Status: Completed.

For further Information ...

"A Review of Disability Evaluation Delays and Supplemental QME Reports" (June 2010).
http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_DEUDelaysandSupplementalQMEReports.pdf

Project Team

Christine Baker,
Executive Officer,
CHSWC

Frank Neuhauser
UC Berkeley

CHSWC Staff

D. Lachlan Taylor

Nabeela Khan

Nurgul Toktogonova

Chris Bailey

BENEFITS

Identifying Risky Opioid Prescribing Practices

Background

In California and nationally, the overprescribing of opioid medications is a pressing problem. Overdoses due to prescription opioid medications lead to emergency department visits or worse, death. In recent years, there have been nearly as many accidental deaths due to opioid poisonings as due to motor vehicle accidents. Over the longer periods of time, using opioids puts patients at increasing risk for tolerance (requiring increasing doses to obtain an effect), dependence (withdrawal symptoms upon cessation of use), or the development of substance abuse disorder (involving impaired control over use). Furthermore, unused medications sitting around a home are a common source of the lethal substances abused by teenagers and young adults. Finally, a small proportion of patients seek medical care to obtain and use opioids for non-medical purposes or to provide the drugs to others. Sometimes these individuals may go from physician to physician to obtain prescriptions.

Description

The California Department of Industrial Relations (DIR) and the California Commission on Health and Safety and Workers' Compensation (CHSWC) are currently working to develop criteria that can be used to identify high-risk prescribing practices within the workers' compensation system that warrant closer scrutiny. The criteria would potentially be used to identify risky prescribing practices. Those practices would then undergo review by a third party, and if the third party feels that the treatment plan is unsafe or not in accordance with widely accepted standards of care, some intervention might be required to mitigate the situation.

The objective of the current study commissioned by the DIR and CHSWC was to perform a systematic literature search for information that can be used to identify higher-risk prescribing practices within the workers' compensation system.

Higher-risk practices are those that are thought to be associated with suboptimal patient outcomes. The potential screening criteria for identifying them focus on areas of practice where providers should proceed with caution or not at all. Those prescriptions flagged as positive for the screening criteria could undergo review by a third party, and if the third party feels that the treatment plan is unsafe or not in accordance with widely accepted standards of care, some intervention could be undertaken to mitigate the situation. Most likely, any criteria implemented as a state policy or by workers' compensation payors would be applied to pharmaceutical claims (billing) data so the criteria should be able to identify high-risk practices based on medication name and formulation, route of administration, dose per unit of medication, number dispensed, and patterns of refills over time.

The research questions this project set out to address focused, therefore, on how specific types of medications, formulations, routes, doses, durations of therapy, and drug-drug interactions affected outcomes such as pain control, functional status, and adverse events including the risk of overdose, addiction, and mortality. To answer these questions, the study focused its search for information on publicly available medical treatment guidelines, systematic literature reviews, meta-analyses, and information on individual medications released by the Food and Drug Administration (FDA). The study restricted its search to information published since 2007, since studies have shown that new studies can render guidelines out-of-date as quickly as three years after publication.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

RAND Corporation

Teryl Nuckols, M.D.

CHSWC

Irina Nemirovsky

PROJECTS AND STUDIES

Conclusions

- Opioid-related substance abuse and overdoses are growing problems, partly due to prescribing practices. Both issues can lead to poor outcomes and an increase in costs in workers' compensation settings
- New standards of care and policies are emerging to address these issues on opioids.
- Using administrative data to identify high-risk prescriptions may be feasible.
- There are a few recent relatively high-quality guidelines on opioid treatment; one of these could be evaluated further for implementation in the California workers' compensation system.

Status: Completed.

PROJECTS AND STUDIES

BENEFITS

Workers' Compensation Safety Officer Study

The proposed Assembly Bill (AB) 2451 would have extended the statute of limitations to allow a safety officer's dependents to receive workers' compensation death benefits. Governor Brown vetoed AB 2451 because additional research needs to be conducted on this subject, and he directed the Department of Industrial Relations to obtain more information.

The Commission on Health and Safety and Workers' Compensation (CHSWC) voted on December 14, 2012, to conduct the study. The study will examine the impact of the statute of limitations on death benefits for firefighters and peace officers.

Status: In process.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

PROJECTS AND STUDIES

2012 WORKERS' COMPENSATION REFORM – CHSWC Studies

Copy Services Fee Schedule Study

Background

Senate Bill (SB) 863, signed into law in September 2012, requires the Department of Industrial Relations (DIR) Administrative Director (AD) to adopt new fee schedules. In particular, Labor code 5307.9 requires a copying services fee schedule.

Labor Code Section 5307.9 states: "On or before December 31, 2013, the administrative director, in consultation with the Commission on Health and Safety and Workers' Compensation, shall adopt, after public hearings, a schedule of reasonable maximum fees payable for copy and related services, including, but not limited to, records or documents that have been reproduced or recorded in paper, electronic, film, digital, or other format. The schedule shall specify the services allowed and shall require specificity in billing for these services, and shall not allow for payment for services provided within 30 days of a request by an injured worker or his or her authorized representative to an employer, claims administrator, or workers' compensation insurer for copies of records in the employer's, claims administrator's, or workers' compensation insurer's possession that are relevant to the employee's claim. The schedule shall be applicable regardless of whether payments of copy service costs are claimed under the authority of Section 4600, 4620, or 5811, or any other authority except a contract between the employer and the copy service provider."

Before SB 863, DIR began to examine copy services issues and conducted a two-part survey of providers and clients of copy services. Full review of the survey will be done.

Description

DIR is seeking guidance and recommendations in the formulation of the required new fee schedule so that the fees approximate fair market values and are reasonable, simple, transparent and unambiguous.

Issues to be examined in the study include:

- California Evidence Code Sections 1158 and 1563 set out what copy services may be provided at a "reasonable cost" and what the financial impact is of adopting these sections into a fee schedule for California's workers' compensation system.
- How the current copy services market rates compare to the rate for copy services in other court or administrative systems in California or other U.S. states with a large volume of workers' compensation cases.
- Which copy services, including services which could be considered as part of a "basic fee," should be included in a fee schedule.
- What transition policies should be considered to soften payment redistribution, if any, and what the financial impact of potential policies on aggregate payment levels is.

Status: A Request for Proposal (RFP) was released in November 2012 for this study, and Berkeley Reserarch Group (BRG) has been chosen to conduct the study. A final report is due by July 30, 2013. Technical assistance on rulemaking will continue until the deadline for regulations on December 31, 2013.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

2012 WORKERS' COMPENSATION REFORM – CHSWC Studies

High-Quality Medical Care Study

Background

At the request of Honorable Darrell Steinberg, President pro Tempore of the Senate, and the Honorable John A. Pérez, Speaker of the Assembly, the Director of the Department of Industrial Relations (DIR) is to work with the Commission on Health and Safety and Workers' Compensation (CHSWC) to conduct a study on high-quality medical care in the workers' compensation system with special emphasis on specialist doctors.

<p><i>Project Team</i></p> <p>Christine Baker <i>Director, DIR</i></p> <p>D. Lachlan Taylor <i>Acting Executive Officer, CHSWC</i></p> <p>Berkeley Research Group</p>
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Description

The Division of Workers' Compensation (DWC) is required by statute to conduct a study each year to determine the availability of health care to injured workers. The state wishes to ensure that injured workers have access to quality medical care. Senate Bill (SB) 863 calls for a reduction in fees for certain specialist medical care. At present, specialist care is paid at 180 percent of the rate specialists are paid by Medicare for the same services. Under the new law, that amount will be reduced in stages until it reaches 120 percent of the Medicare rate. Lawmakers are concerned that the fee reduction may decrease access to quality care for injured workers. However, there are other sections of the new law which enable participants in the workers' compensation system to obtain treatment expeditiously.

Berkeley Research Group (BRG) was retained by the DWC to conduct Medical Access studies over the three years commencing in May 2012 to determine whether injured workers have access to and are satisfied with the medical care they receive in the workers' compensation system. BRG conducted a survey of injured workers and is presently engaged in analyzing the results as well as in analyzing the medical claims and payment data submitted to the Workers' Compensation Information System (WCIS). Part of BRG's mission under the present contract is to measure access to specialist care. CHSWC is overseeing and monitoring this study together with DWC staff.

It is expected that the Medical Access Study will be expanded to include recommendations regarding adjustments to the fee schedule and maintaining access to highly-skilled specialists.

Status: In process.

PROJECTS AND STUDIES

2012 WORKERS' COMPENSATION REFORM – CHSWC Studies

Wage Loss and Return-to-Work Program Studies

Background

On September 18, 2012, Governor Brown signed into law comprehensive workers' compensation reform legislation, Senate Bill (SB) 863. SB 863, with an effective date of January 1, 2013, makes changes to measurement and compensation of permanent disability benefits as well as return to work.

Description

SB 863 requires two studies to be conducted on wage loss and the return-to-work program. SB 863 added Labor Code Section 4660.1 (i) mandating the Commission on Health and Safety and Workers' Compensation (CHSWC) to conduct a study to compare average loss of earnings for injured workers with permanent disability ratings. SB 863 also added Labor Code Section 139.48 that requires the Director of the Department of Industrial Relations (DIR), in consultation with CHSWC, to undertake a study to determine eligibility and payments related to the return-to-work (RTW) program. The annual funding for the RTW program will be 120 million dollars. The RTW program is intended to make supplemental payments to injured workers whose permanent disability benefits are disproportionately low in comparison to their earnings loss.

The purpose of the studies will be to:

- Compare average loss of earnings for employees who sustained work-related injuries with permanent disability ratings under the schedule.
- Develop and evaluate a methodology and criteria for determining the eligibility for payments and the amount of payments for the purpose of making supplemental payments to workers applying for Return-to-Work Program funds.
- Determine if ratings under the new SB 863 permanent disability schedule are more proportional to earnings losses than ratings under the pre-SB 863 schedule.

Status: In process.

Requests for Proposal (RFPs) have been issued for the Wage Loss and Return-to-Work studies, and RAND has been selected to conduct the study. A final report for the Wage Loss Study by October 30, 2015, and a final report on the Return-to-Work Study by July 30, 2013.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

CHSWC Staff

Irina Nemirovsky

Nabeela Khan

Nurgul Toktogenova

2012 WORKERS' COMPENSATION REFORM – CHSWC Studies

Public Sector Self Insured Program Study

Background

On September 18, 2012, Governor Brown signed into law comprehensive workers' compensation reform legislation, Senate Bill (SB) 863. At a fundamental level, this reform is an effort by the direct parties to the workers' compensation agreement (employees and employers) to return to the principles of relatively certain defined benefits and relatively timely delivery of those benefits. SB 863 added Labor Code Section 3702.4 which requires the Commission on Health and Safety and Workers' Compensation (CHSWC) to undertake a study to examine the public self-insured program and provide recommendations for its improvement.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

Description

Objectives of the study are to address costs for administration, workers' compensation benefit expenditures, and solvency and performance of public self-insured workers' compensation program, as well as provisions in the event of insolvencies.

Goals of the study and of examining the public sector self-insured will include:

- Enable public employers and the public to compare administrative costs among public employers and identify factors contributing to unnecessary administrative costs.
- Enable the public and regulatory authorities to evaluate the ability of self-insured public employers to meet their workers' compensation obligations.
- Recommend steps that the State could take to manage the risk of insolvency and to provide for a response in the event of default by public employers that are self-insured for workers' compensation.

Conclusion

A Request for Proposal (RFP) is in the process of being issued, and the contractor will submit a final report by December 31, 2013.

Status: In process.

PROJECTS AND STUDIES

OTHER

System Monitoring

Introduction

The Commission on Health and Safety and Workers' Compensation (CHSWC) is required by Labor Code Section 77 to issue an annual report on the state of the workers' compensation system, including recommendations for administrative or legislative modifications which would improve the operation of the system. Additional areas may be important to monitor on a regular basis. As indicated by a report entitled "Medical Care Provided California's Injured Workers: An Overview of the Issues" (RAND, June 2007), the State of California lacks a comprehensive performance monitoring system that supplies actionable information on a routine basis.

At the Commission's August 19, 2010 meeting, Commissioner McNally requested that CHSWC staff review what additional information could be included in the workers' compensation oversight monitoring.

Description

CHSWC staff met with a number of employers and others to determine where additional information was needed to monitor the system. The goal was to identify key indicators to evaluate how well the system is doing for injured workers and employers.

One of the recommendations was to create an ongoing report of promptness of first payment comparing insured and private self-insured and public self-insured without identifying individual participants. At the system monitoring group's request, CHSWC requested data from the Division of Workers' Compensation (DWC) about the promptness of first payment, as well as requested that the data be broken down by market sector and whether or not the claims were administered by a third-party administrator. Since the Workers' Compensation Information System (WCIS) database does not break out the self-insureds by private and public self-insured, CHSWC broke out this data by matching federal employer identification numbers (FEINs) from the Office of Self Insurance Plans (OSIP) with WCIS FEIN data. Subsequently, DWC ran the timeliness of payment report by market segment.

CHSWC held a meeting on March 16, 2011, with employers to review the findings of the timeliness of payment report.

Preliminary findings included:

- Overall, insureds and the State of California are more timely in paying claims than private and public self-insureds.
- The third-party administrator (TPA)-administered private self-insureds were more timely in paying claims than the self-administered private and public self-insureds as well as TPA-administered insureds and public self-insureds.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

CHSWC Staff

Irina Nemirovsky

Consultants

Saul Allweiss
Attorney

Martin Brady
*Schools Insurance
Authority*

Suzanne Guyan
Consultant

Sean McNally
KBA Engineering

Mark Priven
*Bickmore Risk
Services*

Bruce Wick
CALPASC

William Zachry
Safeway

Technical Assistance

Martha Jones
DWC

Liza Dizon
*DIR Office of
Information
Services*

PROJECTS AND STUDIES

Next Steps

- Compare information from the DWC Audit Unit on the timeliness of payment with the current report that was run by DWC to test the validity of data.
- Select employers will compare their internal data on timeliness of payments to the timeliness of payment report results run by DWC.

Status: In process.

RETURN TO WORK

Workers' Compensation Reform and Return to Work: The California Experience

Introduction

The effectiveness of a workers' compensation system can be assessed by two important measures: adequacy and affordability. Adequacy reflects the extent to which indemnity benefits compensate an appropriate amount of workers' earnings losses from workplace injury. Affordability reflects the extent to which workers' compensation benefits, including the delivery costs, affect the cost to employers. In California and in many other states, compensation for injured workers with permanent partial disabilities has been the most expensive portion of the indemnity benefits and the most controversial part of the system. The poor adequacy and poor affordability of the California permanent partial disability (PPD) system were both key factors in the multiple reform efforts to workers' compensation in California in the early 1900s. According to the Commission on Health and Safety and Workers' Compensation (CHSWC) study by RAND, "Workers Compensation Reform and Return to Work: the California Experience," the system could achieve improvements in both adequacy and affordability by improving return to work of permanently disabled workers.

Description

The study reviews the role of public policy in promoting return to work and discusses how public policy can be used to improve outcomes for injured workers and employers. Policy efforts are classified into three broad approaches: medical management; incentive-based; and accommodation-based. Medical management approaches attempt to improve return to work by improving the quality and timely receipt of medical care or by improved coordination and communication with medical providers. Some reforms that target this approach involve the assignment of control of provider choice or direct regulation of care through utilization review or treatment guidelines. Incentive-based approaches use financial rewards or punishments to influence the behavior of employers of the workers themselves, often by manipulating disability benefits based on return-to-work status. Finally, accommodation-based methods alter the requirements of the job, either the schedule, the tasks required or the physical environment, in order to make it easier for a disabled worker to perform the necessary tasks. Some states adopt subsidies for accommodations in order to improve employment for disabled workers. Over the past ten years, California has adopted reforms that affect all of these.

To evaluate the return-to-work rates of injured and disabled workers after the reforms, the study analyzed data on workers' compensation claims for workers who were injured from 2000-2007 reported to the Workers' Compensation Insurance Rating Bureau (WCIRB) and Division of Workers' Compensation (DWC) Disability Evaluation Unit (DEU). These data were linked to quarterly earnings data from the Employment Development Department (EDD). The study matched injured workers to uninjured "control" workers to estimate the change in post-injury outcomes that are attributable to the injury.

Objectives

Objectives of this study are to:

- Examine public policies within and outside the workers' compensation system and their influence on return to work as well as the changes in these policies in the past ten years in California.
- Analyze the change in the rates of return to work of injured and disabled workers in California in the past ten years.

Project Team

CHSWC

Christine Baker

RAND

Robert Reville, Ph.D.

Seth Seabury, Ph.D.

Stephanie Williamson

Christopher McLaren

Adam Gailey

Elizabeth Wilke

UC Berkeley

Frank Neuhauser

PROJECTS AND STUDIES

- Examine the impact of reforms to the workers' compensation system on the adequacy of benefits for injured and disabled workers and whether the changes in benefit adequacy have been influenced by changes in return to work.

Findings

Study findings include:

- Return-to-work outcomes improved considerably for injuries that occurred from 2002-2005. Moreover, the biggest gains were experienced by workers with the most severe injuries. The study noted gains in overall employment and in employment for at-injury employers. Overall, the improvements in return to work represent a significant gain for disabled workers.
- Results do not pinpoint why return to work improved so much. The study's findings indicate that return to work was improving even before Senate Bill (SB) 899 reforms were adopted. Workers injured in 2003 and 2004 were not eligible for the tiered benefit, so that is unlikely to be a driving factor behind the observed trend. The timing of the trend suggests that changes to the Fair Employment and Housing Act (FEHA) or the adoption of medical treatment guidelines could have an effect.
- Adequacy of benefits has fallen since the reforms. Indemnity benefits fell dramatically with most of the decline experienced by workers with permanent disabilities. The reforms also appear to have led to a decline in the fraction of workers who receive permanent disability benefits. The gain in return to work offset some of the decline but not all. This suggests that an increase in benefits is necessary to return replacement rates to their previous levels or to improve them.
- There is some evidence of increasing disability ratings over time, which could offset some of the decline.
- More work is needed to understand the following: trends in return to work; explorations or other methods to improve return to work; role of the medical treatment reforms; greater exploration of the potential gains from further integration of the occupational and non-occupational systems that affect return to work of disabled workers; and the overlap between California FEHA and the Americans with Disabilities Act (ADA).

Status: Completed.

For further information ...

"Workers' Compensation Reform and Return to Work: The California Experience" (November 2010).

<http://www.dir.ca.gov/chswc/Reports/2010/WCRReformandReturntoWork.pdf>

RETURN TO WORK

How Effective Are Employer Return-to-Work Programs?

Background

Employers often adopt programs that are designed to improve return to work (RTW) of injured employees in order to manage their workers' compensation costs. Policymakers may wish to encourage increased emphasis on RTW by employers as a means to improve outcomes for injured workers and curb system costs; however, much is still unknown about the effectiveness of employer RTW initiatives.

Description

The Commission on Health and Safety and Workers' Compensation study by RAND examines the effectiveness of employer-based RTW programs adopted by a sample of large, private, self-insured employers in California. The study combines data on duration of time out of work for workers' compensation claimants with information on employer RTW programs from a survey of 40 large, private self-insured California employers to estimate the impact of the programs on time out of work. The data include detailed information about the formal programs and practices used to lower the duration of work-injury absences, including information such as the frequency of use of various modifications and accommodations.

Objectives

Objectives of the study included:

- Examine the effectiveness of employer-based RTW programs.
- Provide information on the most effective RTW practices of California employers. This information is intended to assist employers and employees to determine which RTW practices may be applicable to their needs.
- Help policymakers evaluate the merits of employer-based initiatives as a tool for improving RTW.

Findings

Findings include:

- Employer-based RTW programs led to a significant reduction in the duration of injury absences:
 - Workers in an RTW program return approximately 1.4 times sooner compared to workers injured at a firm without a program. This corresponds to a three to four-week reduction in the median-injury duration of injury-related absences.
- Much of the impact of RTW programs appears to be driven by a large improvement in RTW for workers who experience more severe, permanently disabling injuries.
- RTW programs have a much bigger impact on male workers, likely due to higher injury rates and more dangerous jobs.

Project Team

CHSWC

Christine Baker
Executive Officer

RAND

Robert Reville, Ph.D.

Seth Seabury, Ph.D.

Chris McLaren Pardee
*RAND Graduate
School*

CHSWC Staff

Irina Nemirovsky

PROJECTS AND STUDIES

- Employer-based RTW programs are cost-effective when adopted by large, self-insured firms, but it is unclear if RTW initiatives would provide a cost-effective means of improving employment outcomes for disabled workers at small or medium-sized firms.

Status: Completed.

For further Information ...

"How Effective are Employer Return to Work Programs?" (March 2010).

http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_RANDRTW.pdf

RETURN TO WORK AND DISABILITY MANAGEMENT

International Forum on Disability Management 2010: *Collaborating for Success*

Background

As part of its commitment to disability management, the Commission on Health and Safety and Workers' Compensation (CHSWC) and the Department of Industrial Relations (DIR) collaborated with the International Association of Industrial Accident Boards and Commissions (IAIABC) to host the International Forum on Disability Management (IFDM) 2010: *Collaborating for Success*, in Los Angeles, on September 20th through 22nd. The Forum was devoted to multinational dialogue on disability management. Held every two years since 2002, IFDM is the only global conference dedicated to in-depth discussion of problems, trends and best practices in disability management. A major goal of IFDM is to bring key policymakers into the discussion and be an agent of change.

Description

IFDM 2010 brought together over 400 attendees, representing over 33 countries across the world, from the health, safety and workers' compensation communities.

The purpose of IFDM 2010 was to bring together policymakers, such as legislators and heads of the executive branches, dynamic leaders in labor, business and insurance, and experts in disability management, including people mastering personal disability. Representatives of organizations with an interest in disability issues and a commitment to more effective systems for overcoming barriers to the rehabilitation and full integration of workers with disabilities in gainful employment participated in presentations, discussions and workshops.

The goals of the conference included:

- Highlight how disability management benefits workers, businesses and society.
- Offer convincing evidence that disability management processes are being widely adopted and are successfully helping disabled individuals find and maintain gainful employment.
- Identify public policy and institutional changes that countries and policymakers can feasibly use to manage disability in their workforce.
- Highlight success stories for large, medium-size and small employers in disability management, including prevention and stay-at-work and return-to-work programs.
- Acquaint participants with leading international experts on disability management through presentations and informal networking.
- Share best practices for gaining stakeholder cooperation and achieving measurable gains in disability management.

Advisory Committee

Christine Baker, Chair
CHSWC

Gregory Krohm
IAIABC

John C. Duncan
DIR

Carrie Bibens
*Clinical, Vocational,
Medical Quality
Assurance, Unum*

Elyce Biddle
NIOSH

Susanne Bruyère
*Cornell University,
Industrial Labor
Relations School*

Nick Buys
*Learning and
Teaching, Griffith
University, Australia*

Marcia Carruthers
*Disability
Management
Employer Coalition*

Brenda Croucher
*Assoc. of Workers'
Compensation
Boards of Canada*

Lex Frieden
*Baylor School of
Medicine*

Joyce Gravelle
*National Institute for
Disability
Management &
Research
(NIDMAR)*

Henry Harder
*Health Sciences
Programs, College
of Arts, Social and
Health Sciences,
University of
Northern British
Columbia*

Nikola Lafrenz
*Federal Ministry of
Labour and Social
Affairs, Germany*

PROJECTS AND STUDIES

- Provide a forum for sharing different models of government safety net programs and incentives.
- Identify disability management performance metrics, data gathering, analysis, interpretation, reporting and dissemination that lead to better disability management among employers and regulatory agencies.

Key topics included:

- Advancing Awareness and Support for Effective Disability Management Outcomes and Best Practices
- Building Political Consensus to Advance Policy on Disability Management
- Partnerships in Disability Management
- Integration into the Workforce
- Vocational Rehabilitation
- Addressing Specific Problems During Medical Treatment
- The Importance of Coordination Among Stakeholders in the Return-to-Work Process
- An Overview of Government Programs in Disability Management
- Employer Best Practices
- How Medical Providers Can Improve Outcomes in Disability Management
- Measuring Disability Management: Quantitative and Qualitative Analysis
- Employer Success Studies
- Utilizing Research and Analysis to Evaluate Government Programs
- Examining the Competencies of Disability Management Practitioners
- A Comprehensive Societal Disability Management Strategy
- Integrating Young Adults with Disabilities into the Workforce
- Engaging Stakeholders; Government Programs
- Linking Health, Wellness and Productivity
- New Resources for Your Disability Management Toolkit
- Demographics
- Mental Health, Challenges in Return to Work
- Integration of Care
- Prevention: The Most Effective Disability Management Strategy
- New Paradigms in Disability Management
- Fostering Labor and Management Collaboration in Formulating Return-to-Work Policies
- Job Retention and Return to Work in the Context of the UNCRPD
- Next Steps in Moving Disability Management Forward

Status: Completed.

Advisory Committee

Bryon MacDonald
*California Work
Incentives Initiative
World Institute on
Disability*

Sean McNally
*Commissioner,
CHSWC
Grimmway Farms*

Friedrich Mehrhoff
*German Social
Accident Insurance*

Barbara Murray
*International Labour
Organization*

Robin Nagel
*Integrated Disability
Management
Workplace Safety,
Labor Management
Partnership, Kaiser
Foundation Health
Plan, Inc.*

Patricia Owens
*Disability Programs
and Issues, U.S.
Government
Accountability
Office, Education,
Workforce, and
Income Security
Team*

Susan Parker
*Office of Disability
Employment Policy,
U.S. Department of
Labor*

Tom Rankin
*President Retired,
California Labor
Federation (AFL-
CIO)*

CHSWC Staff

IAIABC Staff

PROJECTS AND STUDIES

IFDM 2012

The Royal Society of Medicine in the United Kingdom hosted the 2012 International Forum on Disability Management (IFDM) in London, England, September 10-12, 2012, on the tenth anniversary of the conference. The Royal Society of Medicine, together with Unum and a national/international advisory committee, organized the conference. For further details, please visit the IFDM 2012 website at: <http://ifdm2012.rsm.ac.uk/>.

For further information ...

International Forum on Disability Management (IFDM) 2010

www.ifdm2010.org

International Forum on Disability Management (IFDM) 2012

<http://ifdm2012.rsm.ac.uk/>

Commission on Health and Safety and Workers' Compensation

www.dir.ca.gov/chswc

International Association of Industrial Accident Boards and Commissions

www.iaiaabc.org

RETURN TO WORK AND DISABILITY MANAGEMENT

California Consortium to Promote Stay at Work/Return to Work

Background

In June 2007, the Commission on Health and Safety and Workers' Compensation (CHSWC) participated in a Stay at Work (SAW)-Return to Work (RTW) Northern California Summit "Preventing Needless Work Disability by Helping People Stay Employed." The American College of Occupational and Environmental Medicine (ACOEM) guideline of the same title (advocating effective SAW-RTW processes) was featured and launched breakout discussions focusing on specific recommendations of the guideline among employer, labor, insurer and medical provider stakeholders, and other interested participants. (See <http://www.acoem.org/guidelines.aspx?id=566>.)

From 2008 through 2010, CHSWC has participated in the California Consortium to Promote SAW/RTW (<http://www.CASAWRTW.org>). This voluntary, multi-disciplinary group of stakeholders was created to continue the initial work of the Summit. CHSWC supports the following disability management definition and goals/objectives of the California Consortium to promote SAW/RTW.

Disability Management

- The concept of "Integrated Disability Management" took hold in more favorable economic times (1980's-90's, nationwide) as expressed by an early U.S. proponent, Rochelle V. Habeck, Ph.D., CRC: "Disability Management is a proactive approach to reducing the economic and human costs associated with disability by either preventing the occurrence of disability or by remediating the effects of disability." Parallel outcomes were linked here to essential interventions: prevention and remediation. These themes were echoed in a 1999 statement of the Washington Business Group on Health: "Disability Management is a workplace prevention and remediation strategy that seeks to prevent from occurring or, lacking that, to intervene early following the onset of disability, using coordinated, cost-conscious, quality rehabilitation service that reflects an organizational commitment to continued employment of those experiencing functional work limitations. The remediation goal of disability management is successful job maintenance, or optimum timing for return to work, for persons with disability."
- Recognition has grown in recent years that working individuals and their employers need clear, specific, timely and actionable clinical opinion from physicians in the form of activity guidance: what the affected individual may safely do, and what s/he is restricted from doing while undergoing medical and functional recovery from an injury or personal health event reasons. Disability management, featuring strategies for preventing needless work disability, depends as much upon such clinical activity guidance in conjunction with medical treatment as it does on the receptive and flexible operations of workplaces to interpret such guidance. It is the employer's responsibility to craft temporary or longer-term job accommodations that enable the affected employee to remain safely and productively at work, while healing. The interdependency of these primary stakeholders' contributions in conjunction with the willingness of the affected employee to work, rather than withdraw

Project Team

Christine Baker
Director, DIR

**CA Consortium
Participants (partial
listing)**

Robin Nagel
Kaiser Permanente

Mel Belsky, M.D.
Safeway

Robert Clarke
Stanford University

Malcolm Dodge
Sedgwick CMS

Roberta Etcheverry
DMG, Inc.

Kathryn Florek
Sutter Health

Bryon MacDonald
*World Institute on
Disability*

William Molmen, Esq.
*Integrated Benefits
Institute*

Carol Morodomi
Onsite Ergonomics

Annu Navani, M.D.
Pain Medicine

Barry Niman
UC San Diego

Anne Searcy
The Zenith

Steve Wiesner, M.D.
Kaiser Permanente

Raine Wilson
*State of CA DIR
DWC*

CHSWC Staff

Irina Nemirovsky

Selma Meyerowitz

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needlessly from the workplace, is an issue of urgent economic priority in the United States and the global economy. These strategies comprise some of the most effective means of reducing costs to employers while improving and significantly protecting the health, income security and productivity of their workforces.

- Disability management involves key stakeholders concerned with the human and fiscal challenges of work disability: employers of all sizes, both public and private; workers; health care providers; risk managers; labor unions; jurisdictional and local government agencies; the insurance industry; policymakers; and the public. These and other stakeholders are active in the health and safety and workers' compensation communities of California, as well as in the workplace, labor and disability insurance arena beyond the statutory boundaries defining workers' compensation (occupational injury and illness.)

Goals/Objectives of the California Consortium to Promote SAW/RTW:

Vision

"The Vision of the California Consortium to Promote SAW-RTW is to establish in the minds of employers, employees, health care providers, carriers and policymakers the salutary effects of productive employment and the relationship of ongoing employment to health maintenance, disability prevention and accommodation."

Mission

"The California Consortium to Promote SAW-RTW will provide resources and strategies for interested stakeholders to ensure that more California employees stay at and/or return to work."

Ongoing Objectives of the California Consortium

- Promote discussion of the health benefits of productive employment and the relationship of sustained employment to disability prevention and (fulfillment of) statutory requirements for the interactive process for reasonable accommodation under state and federal laws.
- Discuss incentives for large, medium-size and small employers and for workers to develop and implement effective disability management, including prevention, SAW and RTW programs.
- Assist stakeholders by identifying available resources and service providers in order to help large, medium-size and small employers, health care providers, and labor representatives implement and manage prevention, SAW, RTW and temporary transitional work programs.
- Share effective practices for gaining stakeholder engagement and cooperation as well as for demonstrating measurable fiscal value to stakeholders through disability management.
- Optimize decision-making for the development and implementation of disability management programs through the provision of accessible, evidence-based data and information.
- Determine and implement disability management performance metrics, data-gathering, analysis, interpretation, reporting and dissemination that both demonstrate and continuously improve quality in effective disability management.

In May 2011, members of the Consortium identified six areas for strategic focus:

- Disseminating information through the Consortium's website and use of social media.

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- Using data to manage work disability.
- Focusing on change management systems in promoting work disability prevention.
- Promoting SAW-RTW for California's aging workforce.
- Promoting multi-stakeholder communications in preventing needless work disability, including featuring an employer-employee checklist.
- Engaging California healthcare providers in preventing needless work disability.

In addition, the Consortium developed a "SAW-RTW Stakeholders' Communication Needs Assessment" as an interdisciplinary work product in 2010 that fairly represents reasonable expectations of each core stakeholder (employer, insurer/third-party administrator, healthcare provider, employee/co-workers, and organized labor) of the others, in regard to SAW-RTW dynamics. This document has also served as a response to a request in May 2011 from the Department of Industrial Relations (DIR) Director for recommendations on SAW-RTW.

Status: Ongoing.

For further information ...

California Consortium to Promote Stay-at-Work (SAW)/Return-to-Work (RTW)
<http://www.CASAWRTW.org>

MEDICAL CARE

Coordination Between Healthcare Reform and Workers' Compensation

Background

There will be policy implications for workers' compensation as a result of the requirements of the new healthcare laws in the United States. The Commission on Health and Safety and Workers' Compensation (CHSWC) study on coordination between healthcare reform and workers' compensation will look at areas where workers' compensation and healthcare overlap and/or should or should not overlap.

The CHSWC study will focus on: (1) where there are important interactions between the two systems; (2) where an effort led by the CHSWC could have a substantial impact on California and national implementation efforts; and (3) where ideas might be attractive to funding partners.

Key areas thought to be important to the coordination of workers' compensation and the changes relating to implementation of the healthcare reform legislation include:

- *Cost effectiveness of medical treatment regimes*

Healthcare reform legislation explicitly sets aside funding for studies about cost-effectiveness of medical treatment. A challenge is that outcome measures in health care are often limited. Either the types of measures are limited or nonexistent or the data have to be collected on a case-by-case basis, and the resulting number of observations is too limited to study many issues. Workers' compensation has outcome measures, particularly length of disability, earnings loss, return to work, and residual permanent impairment, which are not available in any other system and answer broader questions about the secondary economic effects of treatment regimes. This makes workers' compensation ideal for large-scale studies of treatment strategies. A RAND project with Kaiser plans to employ some of these measures to evaluate the effectiveness of quality measures. This is one of many opportunities that can lead to important advances in medical treatment and be attractive to funders.

- *Third-party liability for treatment costs*

Healthcare reform envisions substantial efforts to develop portable electronic medical records that coordinate all of a person's medical care and medical history. At least one implication is the potential for disputes and/or recoveries by one payor from another. Most specifically, property-casualty insurers, e.g., workers' compensation insurers, because they have responsibility for treatment for the life of the claim, will be subject to increased recovery efforts. These recovery efforts can be retroactive, potentially happening years after an injury. Anticipating and studying these issues could reduce friction and potentially develop efficient solutions that reduce cost for all parties.

- *Changing employer responsibility for employment-based health insurance*

The interaction of employment-based health insurance and the shifting of claims between occupational and non-occupational reporting is poorly understood. The expansion of health insurance availability and the unknown impact of reform on employment-based health insurance make understanding the direction of cross-subsidy between these systems important for workers' compensation insurers, health insurers, workers, and employers.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

PROJECTS AND STUDIES

- *Impact of occupational conditions on state and federal budgets*

Healthcare reform involves a substantial increase in the role of government programs in delivering or subsidizing the delivery of healthcare treatment, particularly for the key group with expanded coverage, the working poor. Consequently, understanding the cost shifting between occupational and non-occupational medical systems will become much more important to federal, state, and local government budgets. This is an area of research that could have important fiscal consequences and could also suggest solutions that would streamline delivery and improve efficiency.

- *Piloting an integrated occupational and non-occupational medical treatment database*

One complicated but potentially valuable project would be to pilot an effort to link at least some occupational and non-occupational treatment histories for a set of workers. This would involve linking Workers' Compensation Information System (WCIS) medical treatment data to one or more health insurers and possibly Medicare/MediCal databases. There could be many issues with implementing an integrated research database, and these issues would need to be resolved to achieve other efforts. Attempting this initially with several employers with broad-based health benefits, reasonably stable insurer-employer relationships and stable workforces, for example, state agencies or the University of California or California State University systems, would be the best initial step.

Status: In process.

For further information ...

Compensation: Could Integration Pay for Covering the Working Uninsured?" (October 2009).

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"Summary of Occupational and Non-Occupational Integrated Care Roundtables" (2008).

http://www.dir.ca.gov/chswc/Reports/SummaryOandNO_ICR2008.pdf

"Integrating Group Health and Workers' Compensation Medical Care Factsheet" (2008).

http://www.dir.ca.gov/chswc/Reports/CHSWC_IntegrationofCareFactsheet.pdf

"Comparing the Costs of Delivering Medical Benefits Under Group Health and Workers' Compensation – Could Integration Pay for Covering the Working Uninsured?" (October 2009). www.dir.ca.gov/chswc/PublicCommentsandFeedback.html

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MEDICAL CARE

Medical Care Provided Under California's Workers' Compensation Program: Effects of the Reforms and Additional Opportunities to Improve the Quality and Efficiency of Care

Background

California's workers' compensation system was at the center of intense debate and legislative activity during the period leading up to reforms in 2003 and 2004. High rates of growth in medical care expenditures resulted in a series of reform efforts to control medical-treatment expenses for injured workers and to improve program efficiency. The Commission on Health and Safety and Workers' Compensation (CHSWC) asked RAND to examine the impact that such policy changes could have on the medical care provided to injured workers. This CHSWC study by RAND focused on policies and incentives in the post-reform period that affected the use and costs of care and recommended policy changes that would improve the quality and efficiency of care.

Project Team

CHSWC

Christine Baker
Executive Officer
D. Lachlan Taylor
Irina Nemirovsky
Nabeela Khan
Nurgul Toktogonova

Description

The purpose of this study was to analyze the effects that the reforms had on access to medically appropriate care and efficiency of service delivery. The Medical Access study also recommends additional changes that might increase both quality and efficiency of care in California's workers' compensation system.

The study focused on the following:

- What has been the reform provisions' impact on overall medical expenditures and on the use and payments for major types of services? Would additional policy changes improve the quality or efficiency of care, reduce administrative burden, or improve program oversight?
- What has been the experience to date with medical provider networks (MPNs)? Should additional policy changes be considered to improve the performance of MPNs?
- What has been the reform provisions' impact on medical cost-containment expenses and selected activities, i.e., utilization review (UR) and resolving medical-necessity disputes? Would additional policy changes increase administrative efficiency?
- Is it feasible to use the Workers' Compensation Information System (WCIS) to establish an ongoing system for monitoring access to medically appropriate care? What are its limitations, and how might they be addressed?

Recommendations

The main recommendations of the study are as follows:

- *Create Incentives for Providing Medically Appropriate Care Efficiently.* Implementing a resource-based fee schedule that provides for regular updates and equitable payment levels can improve medical treatment. Other incentives include: creating non-monetary incentives for providing medically appropriate care; reducing unnecessary expenditures for inpatient hospital care by eliminating the duplicate payment for spinal hardware as well as the inflationary impact of coding improvement; and reducing unnecessary expenditure for ambulatory surgery by reducing the Official Medical Fee Schedule (OMFS) multiplier for procedures performed in freestanding

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ambulatory surgery centers. Incentives for inappropriate prescribing practices can be reduced by curtailing in-office physician-dispensing and implementing a pharmacy benefit network provisions.

- *Increase Accountability for Performance.* The following revisions in the Labor Code should increase accountability: revising the MPN certification process to place accountability for meeting MPN standards on the entity contracting with the physician network; and strengthening DWC authorities so they can provide intermediate sanctions for failure to comply with MPN requirements, as well as providing penalties for the failure of a claim administrator to comply with the data-reporting requirements. The Labor Code should be modified to remove payors and MPNs from the definition of individually identifiable data so that performance on key measures can be publicly available.
- *Facilitate Monitoring and Oversight.* The Division of Workers' Compensation (DWC) could be provided with more flexibility to add needed data elements to medical data reporting, for example, revise WCIS reporting requirements to require a unique identifier for each MPN. Additionally, medical cost-containment expenses should be required to be reported by category of cost (e.g., bill review, network leasing, utilization review (UR), case management). Information should be compiled on the types of medical services that are subject to UR denials and expedited hearings. Lastly, ongoing monitoring of system performance should be expanded.
- *Increase Administrative Efficiency.* Efficiency in the administration of medical benefits could be increased by using an external medical review organization to review medical-necessity determinations. A separate dispute resolution process for medical-necessity determinations also creates a mechanism to monitor the quality of payor decisions and to identify areas in which expansions or revisions in the Medical Treatment Utilization Schedule (MTUS) are needed. Efficiency can also be increased by exploring best practices of other workers' compensation programs and health programs in carrying out medical cost-containment activities.

Status: Completed.

For further information ...

Medical Care Provided Under California's Workers' Compensation Program, RAND (2011).
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Use of Compound Drugs, Medical Foods, and Co-Packs in California's Workers' Compensation Program: An Overview of the Issues, RAND (January 2011).
http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_UseofCompoundDrugsMedicalFoodsCo-Packs.pdf
Inpatient Hospital Services: An Update on Services Provided Under California's Workers' Compensation Program Report, RAND (January 2009).
http://www.dir.ca.gov/chswc/Reports/CHSWC_InpatientHospitalServices.pdf
Facility Services for Ambulatory Surgery, RAND (2009). <http://www.dir.ca.gov/chswc/Reports/2009/FacilityServicesforAmbulatorySurgery.pdf>
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PROJECTS AND STUDIES

MEDICAL CARE

Quality-of-Care Indicators: A Demonstration Project

Ensuring that workers receive high-quality medical care would benefit both workers and employers. Better medical care would enable workers to make faster and more complete recoveries and would reduce time off work which drives economic losses for injured workers. From the employers' perspective, a lack of a recovery can create a need for more medical care over time, thereby increasing medical costs. Reducing temporary disability (TD) and permanent disability (PD) would decrease economic losses for employees.

The Commission on Health and Safety and Workers' Compensation (CHSWC) demonstration project by RAND, the "Quality of Medical Care in Workers' Compensation: Developing General Indicators for Carpal Tunnel Syndrome," attempts to suggest a mechanism for monitoring and improving the quality of care provided to injured workers.

Project Team

CHSWC

Christine Baker
Executive Officer
D. Lachlan Taylor

RAND

Teryl Nuckols, M.D.
Steven Asch, M.D.

Description

A recent landmark study by RAND found that across all health care settings, adults in the U.S. receive only about half of the care recommended by published literature and experts. Researchers also found that quality-of-care problems are pervasive for back and joint injuries, for which a third to half of U.S. patients do not receive appropriate care. The poor quality of care generally provided for back and joint injuries suggests that many injured workers probably do not receive the appropriate care.

The goal of the project was to demonstrate quality measurement in a workers' compensation setting and involved four objectives:

- Develop quality-of-care measures for carpal tunnel syndrome (CTS).
- Pilot test the measure in workers' compensation provider and payor organizations.
- Place measures and supporting tools in the public domain.
- Use the measures to assess quality of care for a larger population of patients.
- Examine the relationship between quality of care and clinical and economic outcomes.

Conclusions

- Quality of care is important in workers' compensation settings, and quality measures are needed.
- Provider organizations can use the CTS measures and tools developed by the study to monitor quality of care.
- Payors could assess the appropriateness of future surgeries for CTS using the algorithm developed in the study.

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Recent Initiatives and Outcomes

- The researchers developed and pilot tested a comprehensive and detailed tool that enables quality of care to be assessed for people with carpal tunnel syndrome by reviewing their medical records. The tool explains how to identify the patients to which each measure applies, how to determine when care adheres to the measure, as well as provides other supporting information. A report containing the tool, the “RAND/UCLA Quality-of-Care Measures for Carpal Tunnel Syndrome: Data Collection Tools,” is posted online at: www.dir.ca.gov/chswc/Reports/2011/CHSWC_QualityofCareMeasuresforCarpalTunnel_Tools_2011.pdf. In addition to the tool, the report provides background information, describes study methods, and includes the algorithm for determining when surgery is necessary, optional, or inappropriate.
- This project, funded by CHSWC, led to a larger project funded by the Agency for Healthcare Research and Quality. This larger project is a five-year endeavor, and about two-thirds of the patients needed have been recruited.

Status: Completed.

For further information ...

Karl J. Sandin, M.D., M.P.H.; Steven M. Asch, M.D., M.P.H.; Charles Jablecki, M.D.; David Kilmer, MD; Teryl K. Nuckols, M.D., M.S.H.S., and the Carpal Tunnel Quality Group. “Clinical Quality Measures for Electrodiagnosis in Suspected Carpal Tunnel Syndrome.” *Muscle and Nerve*. 2010 Apr;41(4):444-52.

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Melinda Maggard, MD, MPH; Walter Chang, MD; Neil Harness, MD; Janak A. Parikh, MD; Steven M. Asch, MD, MPH; Kevin Chung, MD; Teryl K. Nuckols, MD, MSHS and the Carpal Tunnel Quality Group. “Indications for Performing Carpal Tunnel Surgery: Clinical Quality Measures.” *Plastic Reconstructive Surgery*. 2010 Jul;126(1):169-79.

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Teryl K. Nuckols, MD, MSHS; Melinda Maggard, MD, MPH; Neil Harness, MD; Walter Chang, MD; Kevin Chung, MD, MS; Steven M. Asch, MD, MPH and the Carpal Tunnel Quality Group. Clinical Quality Measures for Intra-Operative and Peri-Operative Management in Carpal Tunnel Surgery. *Hand*. 2011; 6(2): 119.

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MEDICAL CARE

Occupational and Non-Occupational Integrated Care

Background

Group health costs have been rising much more quickly than inflation and wages. Costs have been rising even more quickly for treatment of occupational injuries in the California’s workers’ compensation system. This creates major financial challenges for employers, especially those in industries with already high workers’ compensation costs. Furthermore, group health care and workers’ compensation medical care are typically delivered through separate provider systems, resulting in unnecessary, duplicative and contraindicated treatment, and inefficient administration.

Integration of group health and workers’ compensation medical care is an alternative to two separate systems of medical care. Under integrated health care, the same individual physician or health provider group administers treatment for both occupational and non-occupational medical conditions and integrates payment for treatment under a single insurance policy. Integrating workers’ compensation medical treatment with group health treatment offers employers the potential for significant savings and could help improve the quality of care and workers’ overall access to health insurance.

Integration of Care Pilot Program

The Commission on Health and Safety and Workers’ Compensation (CHSWC) has partnered with the California HealthCare Foundation (CHCF) and the University of California (UC), Berkeley, to examine the feasibility of integrated care in California. To conduct a pilot project, partnerships between CHSWC, CHCF, UC Berkeley, DMS Facility Services, and the Service Employees International Union (SEIU) Local 1877 were established. The pilot is part of a carve-out agreement and uses Kaiser Permanente for delivery of both workers’ compensation medical care and group health benefits. The goal of the pilot is to identify areas of administrative savings and ways to reduce litigation. Savings are expected in medical utilization, indemnity costs, and administration. Medical services are expected to be delivered with fewer delays and disputes, enabling injured employees to recover more fully and return to work sooner.

Evaluating the Potential for Savings Under Integration: Study of Cost Savings

CHSWC has issued a working paper titled “Comparing the Costs of Delivering Medical Benefits Under Group Health and Workers’ Compensation — Could Integration Pay for Covering the Working Uninsured?” At its October 22, 2009 meeting, CHSWC voted to create an advisory group to discuss the findings of the issue paper on integrating workers’ compensation medical and group health care. Subsequently, on February 25, 2010, CHSWC held a roundtable to discuss the issue paper in detail, get feedback from the advisory group, and examine the feasibility of adopting integrated care in California. The roundtable was composed of over 40 participants representing employers, labor, government agencies, medical providers, insurance companies, and attorneys.

Study Findings

Study findings indicate that total national savings estimates over the first ten years would be between \$490 billion, based on National Academy of Social Insurance (NASI) data, and \$560 billion, based on California insurer data. Savings for California alone would be about \$10 billion in the first year and \$100 billion for the ten years 2011 to 2020 inclusive.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
Acting Executive Officer, CHSWC

Frank Neuhauser
UC Berkeley

Rena David
Consultant, California HealthCare Foundation

Mark Priven
Bickmore Risk Services and Consulting

Juliann Sum
DIR

Nabeela Khan
CHSWC

Irina Nemirovsky
CHSWC

PROJECTS AND STUDIES

Key reasons for the savings are that it is expensive to deliver medical care separately for a single condition. This is very expensive initially and even more expensive over a life-time of separate treatment. Additionally, life-time medical costs are very difficult to predict, and insurers have to charge a “risk premium” for taking on a highly speculative liability. Health insurers are only estimating medical treatment costs over the next 12 months, a much less risky proposition.

Status: Ongoing.

For further information ...

“Comparing the Costs of Delivering Medical Benefits Under Group Health and Workers’ Compensation – Could Integration Pay for Covering the Working Uninsured?” (October 2009). www.dir.ca.gov/chswc/PublicCommentsandFeedback.html

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PROJECTS AND STUDIES

Roundtable Participants

Catherine Aguilar
*Commissioner,
Commission on
Health and Safety and
Workers'
Compensation*

Linda Atcherley
*Linda Atcherley &
Associates, California
Applicants' Attorneys
Association*

Gideon Baum
*California Senate
Labor and Industrial
Relations*

Dave Bellusci
*Workers'
Compensation
Insurance Rating
Bureau*

Doug Benner
Kaiser Permanente

Kathy Biala
Milestone MMA

Kathleen Bissell
*Liberty Mutual
Insurance Group*

Christy Bouma
*California Professional
Firefighters*

Martin Brady
*School Insurance
Authority*

Julianne Broyles
CAJPA

Andy Chasin
Kaiser Permanente

Chris Citko
*California Department
of Insurance*

Participants (cont'd)

Carolyn Ginno
*California Medical
Association*

Jay Hansen
*State Building and
Construction Trades
Council of California*

Scott Hauge
*California Insurance &
Associates*

Timothy Hoops
WellPoint Inc.

Patrick Johnston
*California Association
of Health Plans*

Lori Kammerer
*Small Business
California*

Doug Kim
*Green & Azevedo,
California Applicants'
Attorneys Association*

Richard Martin
*California Department
of Managed Health
Care*

Keith Mentzer
*Department of
Personnel
Administration*

Robin Nagel
*Kaiser Permanente,
(Via Telephone)*

Russell Novak
*American Insurance
Association*

Bernyce Peplowski
*Zenith Insurance
(Invited)*

Participants (cont'd)

Lynda Ross
Kaiser Permanente

Mark Sektnan
*Association of
California Insurance
Companies*

Ginny Snyder
*Bickmore Risk
Services and
Consulting*

Linda Stutzman
*Disability
Management Insights*

Steve Suchil
*American Insurance
Association*

Alex Swedlow
*California Workers'
Compensation
Institute*

Harriet Traktman
Kaiser-On-the Job

Tammy Watts
Safety Health Center

Mark Webb
Employers Direct

Angie Wei
*Commissioner,
Commission on
Health and Safety and
Workers'
Compensation*

WORKERS' COMPENSATION REFORMS

Medical-Legal Study

Background

Reform legislation changes to medical-legal evaluations were intended to reduce both the cost and the frequency of litigation, which drive up the price of workers' compensation insurance for employers and lead to long delays in case resolution and the delivery of benefits to injured workers.

In 1995, the Commission on Health and Safety and Workers' Compensation (CHSWC) initiated a project to determine the impact of the workers' compensation reform legislation on workers' compensation medical-legal evaluations. CHSWC contracted with the University of California (UC), Berkeley to carry out this study.

Description

The study analysis is based upon the *Permanent Disability Claim Survey*, a set of data created each year by the Workers' Compensation Insurance Rating Bureau (WCIRB) at the request of the Legislature to evaluate the 1989 reforms. WCIRB data summarize accident claim activity, including such measures and elements as disability rating, including a disability rating after apportionment if it was applied, the types of providers, fee schedule types, cost of medical-legal evaluations, zip codes to facilitate regional analysis, and whether the case was settled and, if so, the method of settlement employed.

Findings

The study determined that a substantial decline in total medical-legal costs occurred since 1990s. The changes in total medical-legal costs for insurers result from shifts in its three components: total number of permanent partial disability (PPD) claims; average number of medical-legal evaluations per claim; and average cost of a medical-legal evaluation. From 1990 to 2004, the substantial decline in total medical-legal costs for insurers was the result of significant decreases in all three components of the cost structure. Beginning in 2004, when the average cost of medical-legal evaluations started increasing, the source of savings could be attributed to a decline in PPD claim frequency and to a reduction in the number of evaluations performed per claim.

A significant increase in average cost of a medical-legal evaluation between 2004 and 2008 accident years could be attributed to:

- Increases in the average cost being driven by claims in the Southern California region where medical-legal evaluations have always been substantially more expensive.
- Changes in the mix of codes under which the evaluations were billed to include a higher share of the most complex and expensive evaluations and lesser share of the least expensive type.
- Increases in both the frequency and number of psychiatric evaluations per claim that are nearly always billed under the ML-104 code that is the most expensive.

Status: The medical-legal study was initiated in 1995 and is ongoing.

For further information ...

See "Medical-Legal Expenses" in the "System Costs and Benefits Overview" section of this report.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

Frank Neuhauser
UC Berkeley

Irina Nemirovsky
CHSWC

Nurgul Toktogenova
CHSWC

Advisory Committee

David Bellusci
WCIRB

Larry Law
WCIRB

Karen Yifru
WCIRB

PROJECTS AND STUDIES

ADMINISTRATIVE EFFICIENCY

Electronic Adjudication Management System Study

Introduction

At the request of the Honorable Jose Solario, Chair, Assembly Insurance Committee, the Commission on Health and Safety and Workers' Compensation (CHSWC) conducted an assessment of the Division of Workers' Compensation (DWC) Electronic Adjudication Management System (EAMS). CHSWC contracted with Renee Taylor Consulting, Inc., to do an independent needs assessment.

Description

The needs assessment determined the extent that complaints about the system are justified and what will be or can be done to address them. Successes were also acknowledged.

The needs assessment provides an objective evaluation of how well EAMS is meeting the needs of the workers' compensation system. It looks at whether there are any significant shortcomings and whether the shortcomings can be corrected, and if so, at what further cost. It also assesses whether there are changes in the work processes of the Division necessary to adapt to the limitations of EAMS.

Recommendations of the needs assessment include:

- Restore user groups to serve at a strategic partnership level.
- Increase stakeholder role in requirements analysis/best practice research.
- Re-scope the EAMS architecture based on value analysis.
- Increase access to training and supporting documentation.
- Improve technical support responsiveness to user issues.
- Upgrade DWC scanners to address errors and backlogs.
- Centralize scanning at key regional locations.
- Upgrade and/or further customize Cúram to add functionality.
- Consider other COTS solutions for case management functions.
- Consider alternatives to FileNet.
- Expand E-Filing access to EAMS.
- Expand electronic data interchange options for EAMS.
- Increase staffing to better support EAMS.

The recommendations identified as the highest priorities are: restore user groups to serve at a strategic partnership level; increase stakeholder role in requirements-best practice research; re-scope the EAMS

Project Team

Christine Baker,
Director, DIR

Lachlan Taylor,
*Acting Executive
Officer, CHSWC*

CHSWC Staff

Irina Nemirovsky

Chris Bailey

Consultant

Renee Taylor,
*Renee Taylor
Consulting, Inc.*

PROJECTS AND STUDIES

architecture based on value analysis; increase access to training and supporting documentation; improve technical support responsiveness to user issues; and increase staffing to better support EAMS.

Status: Completed.

For further information ...

“EAMS’ Needs Assessment” (2011).

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_EAMS_AssessmentReport.pdf

“Public Comments on EAMS Information Technology Needs Assessment Report of June 29, 2011.”

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_EAMS_AssessmentReport_publicReport.pdf

PROJECTS AND STUDIES

ADMINISTRATIVE EFFICIENCY

BENEFITS

Liens

Background

The Commission on Health and Safety and Workers' Compensation (CHSWC) Liens Report adopted in January, 2011, made a number of recommendations that were later incorporated into Senate Bill (SB) 863, signed by Governor Brown on September 18, 2012. These included:

- Taking certain treatment and billing disputes away from the jurisdiction of the Workers' Compensation Appeals Board (WCAB) by prohibiting a lien to be filed for matters that are subject to Independent Medical Review (IMR) and Independent Bill Review (IBR) dispute resolution. The resolution of the majority of medical treatment disputes will now be handled by IMR or IBR through the Administrative Director's office.
- Requiring the Workers' Compensation Judge to disallow treatment liens if the provider either knew or in the exercise of reasonable diligence should have known that the condition being treated was caused by the employee's present or prior employment, unless at the time the expense was incurred certain conditions were met.
- Prohibiting liens for unauthorized treatment obtained outside of a medical provider network (MPN) and providing for expedited resolution of disputes over the right to treatment outside of an MPN.
- Requiring payment only to the provider, and not to an assignee, unless the provider has ceased doing business and has assigned all right, title, and interests in the remaining accounts receivable to the assignee.
- Adopting a statute of limitation within which liens must be filed.
- Adopting mandatory filing and activation fees which are payable by a medical lien claimant and reimbursable by the defendant under specified circumstances.

Project Team

Christine Baker
Director, DIR

Frank Neuhauser
U.C. Berkeley

CHSWC Staff

D. Lachlan Taylor

Nabeela Khan

Nurgul Toktogenova

Chris Bailey

Previous reforms have attempted to deal with the issue of liens. Assembly Bill (AB) 749 signed in 2002 placed statutory limitations on the filing of lien claims. In 2003, SB 228 added Labor Code Section 4903.05, requiring a \$100 filing fee for each medical lien filed beginning in 2004, with exceptions for certain publicly funded programs. Effective July 1, 2006, budget trailer bill language in AB 1806 repealed the lien filing fee and added Section 4903.6 to deter the filing of premature and potentially unnecessary liens at DWC district offices. The only one of those measures that was demonstrably effective was the filing fee that sharply reduced the volume of liens filed during the two and a half years it lasted.

Prior to SB 863, California used a unique lien system, which was the subject of considerable controversy. Other states have nothing like the lien phenomenon seen in California. Critics argued that there was a huge backlog of lien claims filed at WCAB offices that was delaying the processing of cases filed by injured workers in many WCAB district offices. In many instances, liens for services provided over ten years earlier were being filed on workers' compensation cases. The Commission observed that the volume of liens provided an environment where indefensible delays and denials by claims administrators as well as fraud and abuse by lien claimants could flourish.

PROJECTS AND STUDIES

Description

Much of the criticism that was leveled against the liens practice was supported by empirical work conducted by CHSWC. The volume of liens created an environment where overbilling, underpayment, and all manner of bad faith conduct could thrive. Filing, processing, and adjudicating liens placed an enormous burden on the already strained workers' compensation courts and an administrative burden on the parties. California employers and insurers were spending roughly \$200 million per year on loss adjustment expenses to handle medical lien claims. Courts were seeing backlogs both in processing the liens into the system and getting the disputes resolved, all taking time away from dealing with the claims of injured workers.

The CHSWC Lien Report (January 2011) characterized the lien problem so that policymakers could target proposed solutions and quantified the problem so that the effects of such proposals could be estimated. The study described the criteria for measuring performance of the system, and the basic analytic approach to obtaining the outcome measures was discussed. The report is based on information furnished by DWC about the number of liens filed over time and on three sources of data about individual liens:

- A list of all 37,965 liens filed electronically from 9/22/08 through 1/25/2010.
- Samples drawn from paper liens filed at five high-volume District Offices.
- A survey of incoming liens reported by participating claims administrators.

Findings

The study findings included:

- The volume of filings is sensitive to procedural changes such as the adoption or repeal of a \$100 filing fee and the adoption of new filing procedures.
- Medical treatment liens account for more than 60 percent of the liens filed and 80 percent of the dollar amounts in dispute.
- \$1.5 billion per year are claimed in medical lien disputes (after adjusting for amended liens).
- One-third of medical liens involve disputes over the application of the Official Medical Fee Schedule (OMFS).
- Authorization for treatment was in dispute in seven out of ten medical liens surveyed.
- Reasons treatment was not authorized were:
 - 37 percent of providers not authorized to treat (mostly out-of-network).
 - 7 percent denied claims.
 - 6 percent medical necessity of treatment rejected by utilization review.
 - 1 percent contested body parts.
 - 20 percent authorization status unknown or not stated.
- Medical provider networks (MPNs) largely avoid lien disputes arising from in-network providers. Where MPNs exist, the largest share of medical liens arises from out-of-network providers.
- Up to 30 percent of medical liens are prematurely submitted before the time has elapsed for the claims administrator to pay or object to the provider's bill. Ten percent of medical liens are submitted on the date the service is provided.

PROJECTS AND STUDIES

- Nearly one-quarter of medical liens are filed more than two years after the last date of services for which payment is claimed, including 6 percent which are filed five or more years after the last date of services.
- A small percentage of medical liens are filed for services that extended for more than a year by providers who were not authorized to treat, according to claims administrators.

Key recommendations included:

- Consider reinstating the filing fee on medical liens to discourage frivolous claims and disputes.
- Adopt explicit fee schedules wherever gaps or ambiguities foster frequent disputes.
- Establish an administrative system for fee schedule dispute resolution, with limited judicial review.
- Adjudicate medical treatment authorization disputes expeditiously.
- Amend existing statute and regulation to effectively deter premature lien filings.
- Enact a statute of limitations requiring that medical liens be filed with the WCAB within a fixed time from the date a medical bill is contested, but in no event later than 18 months from the date of service. (See report for a full set of recommendations regarding statute of limitations.)
- Require lien filers to accurately identify themselves and their relationship to the original owner of the alleged debt and to provide documentation of that relationship upon demand.
- Require accurate representations of facts in claims filed for liens.

Status: Completed.

For further information ...

“Report on Liens” (2011).

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReport.pdf

PROJECTS AND STUDIES

FRAUD

Anti-Fraud Studies and Activities and Related Projects to Assist Injured Workers

This section describes the findings from Commission on Health and Safety and Workers' Compensation (CHSWC) studies on fraud and fraud measurements.

Background

Over the past several years, the Commission has focused on anti-fraud studies to quantify and identify areas of system cost losses and system cost shifting. Partnerships with the Department of Insurance (CDI) and others have created an ongoing agenda to combat fraud through measurement and identification of types of fraud in the system.

The objectives of the fraud studies were to:

- Determine the extent of workers' compensation medical overpayments and underpayments of all types, including suspected fraud, waste, abuse, and billing and processing errors, in order to allocate the appropriate level of resources to detect and evaluate suspected medical provider fraud in California. This study was carried out jointly by Fraud Assessment Commission (FAC) and CHSWC. (See "List of Projects and Studies" in this report.)
- Estimate the percent or number of uninsured employers.
- Identify uninsured employers operating in the underground or "gray" economy.
- Determine under-reporting of injuries.
- Determine misreporting of payroll and estimate the degree of premium avoidance by insured employers.
- Estimate the degree of misreporting of split class codes, when lower-wage worker payrolls are reported as higher-wage ones in order to take advantage of the lower premiums in the higher-wage class codes. (See "List of Projects and Studies" in this report.)

Some of the studies created findings which became initiatives or projects to improve the delivery of services and assist injured workers who may be potential unsuspecting victims of fraud or simply vulnerable to the intricacies of the benefit-delivery system when procedures are not properly followed by employers or the injured workers themselves.

Studies described below include project summaries of these offshoot initiatives. While some reports are completed, the focus on anti-fraud efforts is ongoing.

FRAUD

Underreporting of Injuries: “Reporting of Workers' Compensation Injuries in California: How Many are Missed?”

Background

Underreporting of occupational injuries and illnesses may occur in response to increases in premium costs. Such underreporting is often proposed as a partial explanation for the continuing decline in occupational incidence rates. The Commission on Health and Safety and Workers' Compensation (CHSWC) contracted with Boston University to conduct this injury-reporting study, using a large sample of Workers' Compensation Information System (WCIS) data and Bureau of Labor Statistics (BLS) data and applying a capture-recapture analysis methodology.

Objectives

The purpose of the study was to:

- Describe the proportion of injuries and illnesses that are underreported and the demographic, work and employer characteristics of underreported injuries and illnesses.
- Describe the nature of non-reported injuries/illnesses and the reasons for non-reporting.
- Provide improved estimates of incidence and underreporting for all cases involving more than three days off work or permanent partial disability.

Findings

- The most conservative estimate of reporting of workplace injuries in California suggests that 21 percent to 25 percent of lost-time injuries go unreported to WCIS. A less conservative estimate of underreporting implies that 40 percent of lost-time injuries went unreported.
- Reasonable alternate scenarios allow for the likelihood that reporting an injury to BLS increases the likelihood that it will be reported to WCIS. Under these circumstances, researchers estimate that only about two-thirds of injuries are reported to WCIS. This incomplete reporting places California in the middle of the seven states researchers studied.
- There appears to have been an increase in reporting from injuries occurring in 2003 to injuries occurring between July 2004 and June 2005. This suggests that the 2004 reforms probably did not lead to a decline in the reporting of injuries to WCIS. Researchers do not know whether this increase is a random fluctuation or a stable change.
- From a policy perspective, benefit payment is at least as important as injury reporting. Researchers do not know how many workers receive benefits for injuries that go unreported to WCIS. It seems likely that benefits have been paid but not reported in many cases; however, evidence about this is inadequate to support an estimate.
- Injured workers with unreported injuries may be eligible for workers' compensation benefits but receive none. In this case, the unpaid workers' compensation benefits pose a burden to the injured workers and their families, health insurance programs, and public and private disability programs.

Project Team

Christine Baker,
Executive Officer,
CHSWC

Les Boden, Ph.D.
Boston University
School of Public
Health

Al Ozonoff, Ph.D.
Boston University
School of Public
Health

CHSWC Staff

Irina Nemirovsky

Technical Assistance

Martha Jones
DWC

PROJECTS AND STUDIES

Recommendation

- Improve WCIS reporting.

Status: Completed.

For further information, including additional recommendations ...

"Reporting Workers' Compensation Injuries in California: How Many are Missed?" (August 2008).
<http://www.dir.ca.gov/chswc/Reports/ReportingWorkersCompensationInjuriesinCalifornia2008August.pdf>

PROJECTS AND STUDIES

FRAUD

Premium Avoidance by Insured Employers

Background

In the absence of auditing or accountability, an employer seeking to minimize insurance costs has incentives to misreport payroll for different types of employees. If employers do misreport payroll, it would be expected to be more prevalent during periods when costs are high. Consequently, employers would report less payroll as workers' compensation costs as a percentage of payroll increase. The Commission on Health and Safety and Workers' Compensation (CHSWC) contracted with University of California (UC), Berkeley, to estimate the magnitude of misreported payroll in the system.

Objectives

The purpose of the study is to determine the extent of underreporting by:

- Examining the reporting behavior of employers' reported payroll for premium calculation compared to actual payroll.
- Comparing any underreporting to premium rates in order to determine possible trends and relationships in underreporting/misreporting.
- Describing reporting behaviors in low-risk, low-premium classes and high-risk, high-premium classes at different premium rate levels in history.

Project Team

Christine Baker,
*Executive
Officer, CHSWC*

Frank Neuhauser
UC Berkeley

Colleen Donovan
UC Berkeley

CHSWC Staff

Irina Nemirovsky

Technical Support

Dave Bellusci
WCIRB

Findings

From 1997 to 2005, the most recent data available at publication, there was substantial underreporting of premium by employers. Underreporting ranges from a low of 4 percent in 1997, when rates were substantially lower, to an excess of 10 to 12 percent in 2003-2004, when rates were several times higher than in 1997. This amounts to about \$15 billion of underreported payroll in 1997 and up to \$68 billion in payroll in 2003 (and \$61 billion in 2004).

Between \$15 and \$68 billion of payroll annually is underreported over this period for employers that should be insured for workers' compensation insurance. This includes the underground economy and underreporting by employers that do have insurance. The result is that premium rates are likely to be unfairly high for honest employers who probably face rates three to ten times higher in the high-risk class codes than they would face under full reporting. Underreporting also affects the competitiveness of honest employers. There are only limited incentives for insurers to accurately monitor underreporting, and underreporting is probably offset by the higher premium rates that are observed.

Status: Completed.

For further information, including suggested next steps ...

"Fraud in Workers' Compensation Payroll Reporting: How Much Employer Fraud Exists? What is the Impact on Honest Employers?" (August 2007 and January 2009).

[http://www.dir.ca.gov/chswc/Reports/Fraud in WC payroll Report Aug 14 2007.pdf](http://www.dir.ca.gov/chswc/Reports/Fraud%20in%20WC%20payroll%20Report%20Aug%2014%202007.pdf)
(August 2007)

[http://www.dir.ca.gov/chswc/Reports/2011/Final_Report FAC Premium Avoidance.pdf](http://www.dir.ca.gov/chswc/Reports/2011/Final_Report_FAC_Premium_Avoidance.pdf)
(January 2009)

FRAUD

Uninsured Employers Operating in the Underground or “Gray” Economy

Background

An unknown fraction of employers operate partially or entirely outside the standard economy, going uncovered for workers’ compensation insurance as well as committing other wage and tax violations. Honest employers, workers, state social programs, the state general fund, and the federal government all suffer the consequences of fraudulent underground activity. Despite the important and extensive impact the underground economy has on honest employers and their workers, there are almost no useful estimates of the extent of the underground economy, the amount of premium and taxes avoided, or the differential impact on employers by industry. The main reason for this lack of information is that by operating underground, these employers remain outside most mechanisms used to track and measure economic activity.

Underground or “gray” economy employers may represent a major fraction of the uninsured employer population. Often, these employers are only identified when a worker files a claim with the Uninsured Employers Benefit Trust Fund (UEBTF).⁶⁸

Objectives

The purpose of the study is to:

- Examine the impact of the enforcement mechanisms already in place to deter underground activity.
- Estimate the impact of enforcement mechanisms (sweeps, fines, etc.) on reported employment, reported payroll and related taxes, workers’ compensation coverage, and worker safety.
- Examine the incentives related to fines and penalties imposed during enforcement.
- Propose how enforcement procedures could increase compliance.
- Propose how enforcement procedures could measure the underground economy and support progress towards better compliance.

The main approach of the study is to:

- Identify the population of all employers, industries and geographic areas subject to enforcement sweeps and other systematic enforcement efforts.
- Identify comparable groups of employers by industry and geography, but not affected by the specific, systematic enforcement.
- Compare the affected employers with the comparison not-affected employers and measure the change, if any, in the compliance with:
 - Workers’ compensation coverage.
 - Payroll reporting.

<p><i>Project Team</i></p> <p>Christine Baker <i>Director, DIR</i></p> <p>D. Lachlan Taylor <i>Acting Executive Officer, CHSWC</i></p> <p><i>UC Berkeley</i></p> <p>Frank Neuhauser Ken Jacobs Sylvia Allegretto</p> <p><i>CHSWC Staff</i></p> <p>Irina Nemirovsky Chris Bailey</p>
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⁶⁸ UEBTF is also still commonly called the Uninsured Employers Fund (UEF).

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- Tax payments.
- Other labor and wage regulations.

In addition, the study will:

- Compare various types of enforcement (industry-based, geography-based, community-state partnerships, etc.) and evaluate which approaches are most cost-effective.
- Develop recommendations on refining enforcement and penalty-assessment strategies.

Status: In process.

PROJECTS AND STUDIES

Fraud Studies - Related Initiatives: Uninsured Employers Benefits Trust Fund Project, Information and Assistance (I&A) Officer Customer Service Project, UEBTF Handbook, and Labor Code 90.3 Data Matching

Background

All employers in California 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 for the payment of workers' compensation benefits to injured employees of illegally uninsured employers. Fraudulent misreporting or illegally uninsured employers shift costs to other payors inside and outside of the workers' compensation system.

Description

UEBTF is administered by the director of the Department of Industrial Relations (DIR). Funding comes from assessments on all insured and self-insured employers annually, from fines and penalties imposed on illegally uninsured employers when they get caught, and from recoveries from illegally uninsured employers when UEBTF has paid benefits and is able to obtain reimbursement from responsible employers.

Concerns have been raised about UEBTF from both employers and workers. Law-abiding employers are concerned about cost shifting to UEBTF by illegally uninsured employers. Workers are concerned about the difficulties in obtaining benefits from UEBTF.

Findings

Past findings include:

- Identifying and locating uninsured employers along with proper enforcement would reduce the costs to stakeholders in the workers' compensation system.
- The surest way to reduce the long-term cost of UEBTF is to reduce the prevalence of illegally uninsured employers. In a Commission on Health and Safety and Workers' Compensation (CHSWC) 1998 study on illegally uninsured employers, the rate of uninsured employers was found to be 9 percent of the system as a whole. For new employers and in the targeted industry of auto/truck repair, 15 percent and 20 percent, respectively, were uninsured.
- Labor Code Section 90.3 provided for a program to identify illegally uninsured employers through targeting and data matching. Due to lack of resources, this program was never implemented. In 2007, Senate Bill (SB) 869 was signed into law and set forth administrative funding as well as mandatory reporting on the program's performance.
- There is a lack of knowledge of UEBTF and civil procedure in the workers' compensation community.
- Unrepresented applicants lack easy access to UEBTF. Of some 1,800 claims filed during the 2007-2008 fiscal year, only 4 or 5 were filed by unrepresented applicants according to UEBTF.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

CHSWC Staff

Irina Nemirovsky

Chris Bailey

Shirley James
UEBTF

Steven McGinty
DIR

Juliann Sum
DIR

PROJECTS AND STUDIES

Injured workers will probably continue to require attorneys if they wish to pursue any of the additional remedies available against illegally uninsured employers.

- Applicants' attorneys have consistently complained about the many technicalities and formalities with which they must comply to file a valid claim. The process cannot be greatly streamlined because it is necessary to build a case that can ultimately lead to a civil judgment against the illegally uninsured employer.
- Medical providers incur increased losses on liens while waiting to get paid.
- UEBTF does not get involved early enough in the claims.
- According to UEBTF, it learns of a claim on an average of ten months after the injury.
- Frequently, the claim is not promptly pursued by the injured worker because the employer pays bills directly for a while.
- Other times, the injured worker goes without treatment until a critical situation arises or he or she initially receives treatment from Medi-Cal or another program.

Recommendations

Past recommendations include:

- Publicize and enforce the workers' compensation coverage requirement.
- Provide workers' compensation coverage information.
- Improve methods to help workers access benefits from UEBTF.
- Encourage reporting of suspected illegally uninsured employers.
- Protect and improve UEBTF.
- Further educate the workers' compensation community.

Recent Initiatives and Outcomes

As a result of these past findings, CHSWC has worked with DIR and stakeholders to address emerging issues:

- In collaboration with CHSWC, the Division of Workers' Compensation (DWC) initiated in late May 2009 a pilot enhanced-customer service initiative in one Information & Assistance (I&A) Office to assist unrepresented injured workers in properly identifying employers, file for benefits from UEBT, and serve papers on uninsured employers. The pilot was expanded to Anaheim and since then in 2012, I&A Officers from the San Bernardino district office, the San Bernardino Call Center, Santa Rosa, Van Nuys, San Diego, Oxnard, Fresno and Pomona district offices have been trained to assist in verifying workers compensation coverage.
- CHSWC has funded the development of a UEBTF booklet in simple language for use by uninsured workers, which was translated into Spanish. The booklet, "If Your Employer is Illegally Uninsured: How to Apply for Workers' Compensation Benefits," was made available in June 2011 and is posted at <http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers.pdf>. The Spanish version is posted at: http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers_Spanish.pdf.

PROJECTS AND STUDIES

- Progress is being made in following the requirements of Labor Code Section 90.3, as evidenced by the release of the annual reports required by Labor Code Section 90.3 in 2009, 2010, 2011 and 2012 by the Division of Labor Standards Enforcement (DLSE). In 2011, new data specifications were developed to include separate sampling of new employers, targeted employers, and random employers. In 2013, the 2012 results of those new samples should shed further light on the types of employers that choose to disregard the law.

Status: In process.

For further information ...

“CHSWC Background Paper: Uninsured Employer Benefits Trust Fund” (April 2007).

<http://www.dir.ca.gov/CHSWC/Reports/UEBTF-Final.pdf>

“2009 Annual Report of the Unlawfully Uninsured Employer Enforcement Program, Labor Code Section 90.3(d).”

<http://www.dir.ca.gov/dlse/UUEEP-2009.pdf>

“2008 Annual Report of the Unlawfully Uninsured Employer Enforcement Program, Labor Code Section 90.3(d).”

<http://www.dir.ca.gov/dlse/UUEEP-2008.pdf>

Division of Labor Standards Enforcement Reports.

<http://www.dir.ca.gov/dlse/DLSEReports.htm>.

INSURANCE INDUSTRY

Insolvent Insurers

Background

Since insurance rates were partially deregulated in 1995, the California workers' compensation system has been very volatile. For reasons that go beyond price deregulation, there have been dramatic swings in workers' compensation prices and insurer underwriting profits, and a substantial number of insurers, including some of the largest market participants, have failed.

Pursuant to Senate Bill (SB) 316, which was signed into law in 2007, the Commission on Health and Safety and Workers' Compensation (CHSWC) conducted the CHSWC/RAND/Navigant Consulting study and report, "California's Volatile Workers' Compensation Insurance Market: Problems and Recommendations for Change." This study identifies and examines factors that contributed to increased market volatility and the large number of insolvencies following price deregulation. It also examines the regulatory system for overseeing the workers' compensation market and how the California Department of Insurance (CDI) responded to the market turmoil that followed the move to open rating. Based on the findings, recommendations were made that aim to reduce the volatility of the market and the frequency of insolvencies while realizing the benefits of a competitive market.

Project Team

RAND

Lloyd Dixon, Ph.D.
James MacDonald

Consulting

William Barbagallo
*Navigant
Consulting*

CHSWC

Christine Baker
Executive Officer

D. Lachlan Taylor

Description

The purpose of this report is to identify the different factors that contributed to increased market volatility and the large number of insolvencies following price deregulation and to suggest policy changes to reduce the severity of these problems in the future. Findings and recommendations are based on information obtained through interviews with a wide range of interested parties, detailed examination of eight insurers groups that became insolvent and eight insurance groups that survived, a review of previous studies, and an analysis of data from the Workers' Compensation Insurance Rating Bureau (WCIRB) and CDI on the overall market.

Findings

Several key factors contributed to the insolvencies and volatility over the past 15 years: inaccurate projections of claim costs; pricing below expected costs; reinsurance contracts that gave insurers and reinsurers insufficient stake in the profitability of the policies they wrote; managing general agents who had little financial interest in the ultimately profitability of policies; under-reserving by insurers; and insurer surplus and capital that were inadequate to provide a cushion against adverse events.

There are four broad themes that run through the 29 policy recommendations: improve predictability; enhance transparency of the system; better align incentives of major players; and improve California CDI oversight.

Status: Completed.

For further information ...

"California's Volatile Workers' Compensation Insurance Market: Problems and Recommendations for Change," RAND, December 2009.

<http://www.dir.ca.gov/chswc/Reports/2009/InsolvencyReport.pdf>

INSURANCE INDUSTRY

Self Insurance Groups

Background

Self insurance groups (SIGs) in the private sector are a comparatively new phenomenon in California. Private sector employers in California must secure the payment of their workers' compensation obligations either by obtaining workers' compensation insurance or by obtaining from the State a certificate of consent to self-insure. Since the early years of the workers' compensation system, individual employers with sufficient financial capacity have been able to obtain the State's consent to self-insure. Public entities have also been permitted to self-insure for decades, either individually or in groups called Joint Powers Authorities (JPAs). Private group self insurance, however, was not authorized by statute until 1993, and the first private sector SIG in California was approved effective January 1, 2002.

By the end of 2007, SIGs reported over \$5.2 billion in covered payroll, nearly 6 percent of the total payroll covered by all private sector self-insurance. There were 28 active SIGs in California as of February 2009, ranging from groups of 3 members up to a group of 743 members. One SIG reported over \$1.1 billion in covered payroll. In 2007, SIGs paid an aggregate of \$21,610,856 in indemnity benefits and \$28,786,674 in medical benefits.⁶⁹ This growth has taken place under a statutory framework that added only a few words to the statutes governing individually self-insured employers and under regulations that were likewise based largely on the regulations that were designed for individually self-insured employers.

Description

Both the market for group self insurance and the regulatory oversight of group self insurance are now undergoing a first stage of maturation. Some SIGs are closing or undergoing changes as their business models prove to be poorly suited to the current economic climate. An extensive overhaul of the regulations was adopted effective March 2, 2009, after more than three years of work by the Department of Industrial Relations (DIR) and its Office of Self Insurance Plans (OSIP). At the same time, other states with longer histories have provided examples of what can go wrong when SIGs are not adequately regulated and supervised.

In the context of these changes, and mindful of the widely publicized failure of several large self insurance trusts in the state of New York, Assembly Member Joe Coto, Chair of the California Assembly Insurance Committee, requested on October 6, 2008, that the Commission on Health and Safety and Workers' Compensation (CHSWC) analyze the statutory and regulatory oversight of workers' compensation self insurance groups and make recommendations to ensure the viability of these programs.

Findings

The CHSWC study found that self insurance groups have the potential to serve the interests of California employers and employees by promptly providing workers' compensation benefits to injured workers at reasonable cost while enabling and encouraging employers to improve safety and provide the earliest appropriate return to work for injured employees.

Self insurance groups also have the potential to drive up costs and disrupt the delivery of benefits when poorly managed. At the least, the members or former members of an underfunded group may be exposed to unexpected costs to make up for the shortage. At the worst, responsibility for payment of a failed

Project Team

Christine Baker
*Executive
Officer,
CHSWC*

D. Lachlan Taylor
CHSWC

James McDonald
Consultant

⁶⁹ Sources: Office of Self Insurance Plans website and e-mail correspondence 1/8/2009.

PROJECTS AND STUDIES

group's obligations may be shifted to employers who were not connected with the failed group, and benefits to injured workers may be interrupted and delayed during the collapse of the group.

The purpose of the CHSWC "Report on Self Insurance Groups" was to review what legislation or oversight might be needed to preserve group self insurance as an option for eligible employers and to assure that the risks are held to a reasonable minimum. California already has regulations designed to protect against the most obvious risks of financial failure and default by self insurance groups. This report recommends additional steps for improved solvency, security and oversight.

Status: Completed.

For further information ...

"Report on Self Insurance Groups" (December 2009).

http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SIGReport.pdf

INFORMATION FOR WORKERS AND EMPLOYERS

Return-to-Work/FEHA/ADA Handbook and Factsheet

Background

Return to work after an injury or illness is important for employers and workers and their families in the State of California. Efforts need to be made to reduce litigation, reduce friction, and provide information to employers, particularly small employers who have the most difficult time complying with requirements regarding return to work. Improved information for all system participants about the requirements of the Fair Employment and Housing Act (FEHA) and the Americans with Disabilities Act (ADA) will be critical to efforts to improve return to work in California.

Return to work is a key issue for the Department of Industrial Relations (DIR) Division of Workers' Compensation (DWC) and the Commission on Health and Safety and Workers' Compensation (CHSWC), as well as for employers and the public sector. For employers, return to work is a complicated area for human resources and workers' compensation professionals. In the public sector, it is challenging to identify how benefits are delivered and coordinated in cases involving job accommodations, as well as how these issues relate to conditions in the economy.

Description

Several stakeholders have requested information to help workers and employers meet their responsibilities under FEHA and ADA. In 2010, the director of DIR requested that CHSWC work with the Department of Fair Employment and Housing (DFEH) and partner with DWC on a new handbook on return to work, FEHA and ADA. The Commission voted at its November 6, 2008 meeting to proceed with this project and convened the Return-to-Work/FEHA/ADA Advisory Group on December 9, 2008. This was a multi-agency effort to improve return to work and improve information for workers and employers in order to reduce confusion and litigation.

The Advisory Group emphasized that there is a need for a new and better approach to return to work especially with an aging workforce and the economy shedding jobs. Public policy is emphasizing that employers bring people back to work. The system in place now has to be reformed to be an affirmative approach, rather than the defensive posture created by the workers' compensation system, with FEHA as the umbrella.

Recommendations for a new Return-to-Work/FEHA/ADA Handbook and next steps included:

- Provide an informational piece that explains to employers, employees, clinicians and other interested parties how various benefits interact with one another.
- Present best practices for bringing an injured employee back to work, including FEHA and workers' compensation and workers' compensation and human resources, and how to make them compatible with the required interactive process.

Project Team

Christine Baker
Executive Officer,
CHSWC

D. Lachlan Taylor
CHSWC

Juliann Sum
UC Berkeley

Advisory Group Members

Cathy Aguilar
Commissioner,
CHSWC

Saul Allweiss
Attorney

Linda Atcherley
California
Applicants'
Attorneys
Association

Stuart Baron
Stuart Baron &
Associates

Joe Carrisi
Southern
California Edison

Roberta Etcheverry
Diversified
Management
Group

Jennifer Harlan
Department of
Fair Employment
and Housing

Scott Hauge
Small Business
California, Cal-
Insurance

Nanette Goldberg
Hauser
Southern
California Edison

Lori Kammerer
Small Business
California

PROJECTS AND STUDIES

- Emphasize the economic necessity of keeping Californians working safely and productively, and emphasize the importance of being proactive and not waiting until there is an investigation in process, and the importance of having a timely, cordial, well-documented engagement with the employee.
- Clarify roles and responsibilities: employers have the privilege and duty to define the essential functions for all jobs; employers have the right to ask for medical information; employees have the duty to bring relevant information to the table to protect their own health and productivity; and clinicians have the responsibility to comment on capacity, or what the patient can safely do between now and the next visit, and they should not define accommodations but should have information about work requirements.
- Provide a tool kit including: common time frames, common vocabulary, and common requirements for the different processes; a model interactive process; sample notifications; and a list of available resources.
- Develop strategies for dissemination, particularly co-branding with other organizations serving small businesses such as: Small Business California; Chambers of Commerce; local and state agencies; Joint Powers Authorities (JPAs); and others. These organizations would promote the handbook and facilitate translation into multiple languages.

Handbook and Factsheet

Handbook: Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California

CHSWC worked with DFEH and partnered with DWC on a new handbook on return to work, FEHA and ADA, *Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California*, prepared by CHSWC and the University of California (UC), Berkeley, in collaboration with DFEH and DWC.

The handbook, which was available beginning in February 2010, is especially geared for small employers and their employees. It briefly describes workers' compensation anti-discrimination and disability rights laws in California, including: how workers' compensation law protects injured employees from discrimination; and what employers' obligations are under FEHA. It also describes six basic steps that constitute best practices to help injured employees return to safe and appropriate work in a timely fashion, including: how employers can comply with the requirements of the interactive process under FEHA; what the time frames are for engaging in the interactive process and offering work; and examples of RTW in construction and agriculture. In addition, it discusses: how to establish an effective program to carry out best practices; how to ensure that everyone assumes their roles and responsibilities; and why employers should evaluate existing jobs and working conditions.

Additional resources are included in Appendix sections for physicians and insurers and about job accommodations, workers' compensation benefits rights and procedures, and disability rights and procedures under FEHA. Appendix A lists additional resources to help employers and employees design, implement, and participate in an effective return-to-work program; it also lists resources of the state agencies that administer workers' compensation and disability rights laws. Appendix B and Appendix C explain how to access the laws and regulations discussed in this handbook.

Members (contd.)

Doug Kim
*California Applicants'
Attorneys
Association*

Sean McNally
KBA Engineering

Robin Nagel
Kaiser Permanente

Carrie Nevans
*Division of Workers'
Compensation*

Michael Nolan
*California Workers'
Compensation
Institute*

Pearl Phoenix
Zenith Insurance

Seth Seabury, Ph.D.
RAND Corporation

Herbert Yarbrough
*Department of
Fair Employment
and Housing*

Mark Webb
Employers Direct

PROJECTS AND STUDIES

Factsheet: “Best Practice in Returning an Injured Employee to Work: Factsheet for Employers”

A Factsheet based on the Handbook, “Best Practices in Returning an Injured Employee to Work: Factsheet for Employers,” was also prepared and made available in February 2010. The Factsheet presents key points from the RTW/FEHA/ADA Handbook: *Helping Injured Employees Return to Work: Practical Guidance Under Workers’ Compensation and Disability Rights Laws in California, February 2010.*

Status: Completed.

For further information ...

“Summary of December 9, 2008 Return-to-Work/FEHA/ADA Advisory Group Meeting” (April 2009). http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SummaryRTWFEHAADAGuidebookRoundtable2009.pdf

Helping Injured Employees Return to Work: Practical Guidance Under Workers’ Compensation and Disability Rights Laws in California

http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf

“Best Practices in Returning an Injured Employee to Work: Factsheet for Employers,” February 2010.

http://www.dir.ca.gov/chswc/CHSWC_FactsheetRTW_2010.pdf

PROJECTS AND STUDIES

INFORMATION FOR WORKERS AND EMPLOYERS

Uninsured Employers Benefits Trust Fund Educational Booklet

Background

Injured workers whose employers are illegally uninsured or whose employers do not provide information about their insurance face significant hurdles in requesting workers' compensation benefits, either from the employer or from the Uninsured Employers Benefits Trust Fund (UEBTF). It is often difficult or impossible to determine the legal name and address of the employer, obtain coverage information from the Workers' Compensation Insurance Rating Bureau (WCIRB) because of the difficulties of naming the employer and finding and properly serving the employer because the employer is avoiding service of process.

Objectives and Scope

Injured workers, legal services organizations, and agencies that investigate workers' compensation fraud have expressed a need for these workers to receive help and support in following the steps described above. The Division of Workers' Compensation (DWC) has produced basic materials on steps to take in a UEBTF case. Further educational work is needed to clarify and fully explain the procedural steps set forth in these materials with easy-to-understand terminology and examples. Funding has been approved for University of California (UC), Berkeley staff to assist the Commission on Health and Safety and Workers' Compensation (CHSWC) in developing a fully designed educational booklet based on DWC materials and advisory input from members of the workers' compensation community.

This project was coordinated with CHSWC's project to streamline the UEBTF process and offer additional services to injured workers of uninsured employers and to pilot these services with the Information & Assistance (I&A) office in Salinas. The booklet was drafted based on the design of the pilot. It is being revised to incorporate comments from the Legal Unit of the Office of the Director of Industrial Relations (DIR).

The booklet is available in English and Spanish online and distributed at I&A Offices.

Status: Completed.

For further information ...

"If Your Employer is Illegally Uninsured: How to Apply for Workers' Compensation Benefits" (June 2011).

<http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers.pdf>.

The Spanish version is posted

at: http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers_Spanish.pdf.

"CHSWC Background Paper: Uninsured Employers Benefits Trust Fund" (April 2007).

<http://www.dir.ca.gov/CHSWC/Reports/UEBTF-Final.pdf>

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

Juliann Sum
UC Berkeley

PROJECTS AND STUDIES

INFORMATION FOR WORKERS AND EMPLOYERS

Benefit Notices: Recommendations

Background

Labor Code Section 77(b) authorizes the Commission on Health and Safety and Workers' Compensation (CHSWC) to issue periodic reports and recommendations to improve and simplify benefit notices. In March and April 2010, CHSWC staff held separate meetings with members of a small task force of knowledgeable advisors from organizations including the Schools Insurance Authority, California Workers' Compensation Institute, Tristar Risk Management, California Applicants' Attorneys Association, and Southern California Edison Company to review specific problems with the current system of benefit notices and discuss possible alternatives.

Objectives

California does not have a streamlined benefit notices program that allows claims administrators to communicate effectively with injured workers. Benefit notices should:

- Help injured workers understand the entire claims process.
- Inform injured workers of their rights and obligations and instruct them on steps to take each stage of the process.
- Be easy to administer.
- Help avoid unnecessary litigation.

Scope of Study

Advisors consulted identified problems with benefit notices including:

- Too voluminous (e.g., overly wordy, redundant, containing factsheets and forms that are not needed by all workers).
- Complex, overwhelming, frightening, vague, confusing (e.g., "you may lose important rights if you do not take certain actions within 10 days"; "you may be asked to return to the physician for a new evaluation").
- Difficult to understand (e.g., indirect wording, unfamiliar terminology).
- Not coordinated as a single system, not standardized.
- Misleading (e.g., workers think they are required to submit the Qualified Medical Evaluator (QME) panel request form; notice that no permanent disability exists sounds like denial of the entire claim).
- Not conveying the main points to workers.
- Difficult to keep updated (i.e., the required factsheets).

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
CHSWC

Juliann Sum
DIR

Consultants

Linda Atcherley
*California Applicants'
Attorneys Association*

Martin Brady
*Schools Insurance
Authority*

Joe Carresi
*Southern California
Edison*

Rhonda Haglen
*Schools Insurance
Authority*

Ann Marie Hanes
*TRISTAR Risk
Management*

Christine King
DWC Audit Unit

Michael McClain
*California Workers'
Compensation Institute*

Brenda Ramirez
*California Workers'
Compensation Institute*

Sue Rending
*TRISTAR Risk
Management*

John Riggs
Walt Disney Co.

Jose Ruiz
State Fund

Jason Schmelzer
*California Coalition on
Workers' Compensation*

Peggy Sugarman
*Grancell Lebovitz,
et. al.*

Julius Young
Boxer & Gerson

PROJECTS AND STUDIES

Suggestions to improve benefit notices included:

- Identify what injured workers need to know at each stage. Relay necessary information at the right time, eliminate unnecessary information, and use plain language. Clearly inform injured workers about applicable deadlines.
- Explore providing background and explanatory information to all injured workers about the entire claims process and workers' rights and obligations. Provide the information early in their claims, and make it continually available to allow workers to access relevant portions later in their claims. The information could be posted on the Internet, for example. Transferring this information from factsheets included with the current benefit notices to an online source would greatly reduce the volume of paper in the system and would allow claims administrators to convey the main points about a particular claim in the individual notices.
- Provide clear information to workers about where and how they can access information on the Internet about workers' compensation and the forms that are needed by some workers. Create mechanisms to allow access for workers who do not have easy access to the Internet, such as providing paper copies upon request.
- Simplify and standardize the language of benefit notices. Consider, for example, using a form similar to Form DIA 500, which was a one-page benefit status notice used in the 1980s by the Division of Industrial Accidents, the predecessor to the Division of Workers' Compensation (DWC). Using a similar form may help claims administrators concisely relay necessary messages to the workers about their claims.

To assess the feasibility of providing background and explanatory information through online sources, CHSWC staff sought data to estimate the extent that injured workers have access to the Internet. Over the course of four working days in April 2010, CHSWC and DWC staff administered a brief questionnaire to injured workers by calling and visiting the Information & Assistance (I&A) offices in Salinas, San Bernardino, San Diego, Oakland, and Stockton. These five offices have high volumes of traffic, serve urban and rural locations in Northern and Southern California, and employ one or more I&A officers. In addition, these offices probably serve populations facing some of the greatest barriers to accessing the Internet.

The workers were asked whether they access the Internet and whether they or anyone in their household accesses the Internet at least once a month. Of the 162 workers who responded, 16 percent indicated they did not have access to the Internet.

Findings

Currently, there is no requirement to provide all injured workers with comprehensive information that workers can use and reference to understand the individual benefit notices they receive in their claims. It was recommended that CHSWC collaborate with DWC to explore and implement methods to provide clear information to all injured workers soon after injury describing the entire workers' compensation claims process and the parties' respective rights and obligations, as well as make this information continually available for workers to access later on in their claims, and to improve California's system of benefit notices.

The bulk of the information currently provided with benefit notices, including the DWC form to request a qualified medical evaluation (QME) panel and the content of the DWC fact sheets on temporary disability benefits, permanent disability benefits, and the QME/agreed medical evaluator (AME) process, would be made available on the Internet for most workers and made available upon request to workers who do not have easy access to the Internet. The notices themselves would become much shorter in length and greatly reduced in total volume. This would allow claims administrators to effectively communicate the main messages. It would also enable injured workers to understand their rights and obligations and not be overwhelmed by the claims process.

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Estimated Costs

Sixteen (16) percent of the workers in the survey described above indicated they did not have access to the Internet. Because a greater percentage of all injured workers in California probably have access to the Internet compared to the workers who participated in the survey, the 16 percent figure is believed to be on the high side. Furthermore, Internet access will probably increase over time for everyone. On the other hand, some workers would request a paper copy even if they are able to access the Internet. Therefore, it is estimated that 10 to 20 percent of newly injured workers would request a paper copy of a written booklet describing the entire claims process if informed of its availability.

There were 625,765 claims in 2008 (CHSWC Annual Report, 2009, page 44). Assuming 10 to 20 percent of newly injured workers would request a paper copy, it is estimated that 60,000 to 130,000 copies will need to be provided. The cost of printing and delivering one booklet similar to the CHSWC *Guide for Injured Workers* is \$5.00. This cost multiplied by 60,000 to 130,000 yields a total cost to print and deliver paper booklets of \$300,000 to \$650,000, or less than \$1 million per year.

Estimated Savings

Improving communications between claims administrators and injured workers will reduce confusion, misunderstandings, disputes and litigation. Insured employers incur legal defense expenses of \$607 million per year (Workers' Compensation Insurance Rating Bureau, 2008 California Workers' Compensation Losses and Expenses report, June 25, 2009, page 4) and represent 70 percent of all California workers' compensation claims per DWC Workers' Compensation Information System (WCIS) data. Dividing the \$607 figure by 70 percent yields an estimated cost of \$867 million for all employers. It was assumed conservatively that providing comprehensive information early in the claims process and substantially clarifying the information in benefit notices will reduce legal defense expenses by 5 percent, or \$43 million per year.

In addition, shortening the length of benefit notices and eliminating enclosures will significantly reduce printing and mailing costs.

Estimated Net Savings

As discussed above, the costs of providing paper copies of an informational booklet to injured workers upon request are estimated be less than \$1 million per year, and the savings in legal defense costs and printing and mailing costs are estimated to be \$43 million or more per year. The overall net savings are estimated to be more than \$42 million per year.

Recommendations

The Commission's July 2010 "Report on Benefit Notices and Recommendations" recommends legislation requiring a system of benefit notices to be written in plain language and a guidebook for injured workers also to be written in plain language, which the benefit notices can refer to. At its August 19, 2010 meeting, the Commission voted to initiate background work on simplification of notices and to revise the 2006 *Guidebook for Injured Workers*.

Since 2006, the revised guidebook includes changes such as the extension of time to receive temporary disability benefits, the new Medical Treatment Utilization Schedule, and changes in the right to pre-designate.

Legislation contained in Assembly Bill (AB) 335 implements these recommendations and was signed into law in 2011. The law now requires the Administrative Director (AD) of the DWC and CHSWC to develop and make available such plain language notices with accompanying information materials. For more information about AB 335, please see "Special Report on 2012 Legislation and Regulations on Health and Safety and Workers' Compensation" in this Annual Report.

PROJECTS AND STUDIES

Update

Major workers' compensation reform, Senate Bill (SB) 863, was signed into law in September 2012. The AD of the DWC and CHSWC will develop notices that inform injured workers about the new programs, rights and requirements created by SB 863.

Status: Completed.

For further information ...

"Report on Benefit Notices and Recommendations," July 2010.

<http://www.dir.ca.gov/chswc/Reports/2010/BenefitNoticesRecommendationspdf.pdf>

INFORMATION FOR WORKERS AND EMPLOYERS

Workplace Wellness: How to Address Both Occupational and Lifestyle Issues on the Job

Background

Integration of wellness and occupational health and safety has become a key focus of efforts by employers of large, medium-size and small businesses and labor. Efforts to develop an integrated approach to health promotion and occupational health and safety programs have focused on research and public health literature, as well as best practices of wellness programs implemented by employers.

Description

On July 16, 2008, the Commission on Health and Safety and Workers' Compensation (CHSWC) hosted a Workplace Wellness Roundtable facilitated by the University of California (UC), Berkeley Labor Occupational Health Program (LOHP). Participants included representatives from employers of large, medium-size and small businesses, labor, research organizations, and state agencies. (See list of participants that follows.) The purpose of the Workplace Wellness Roundtable was to begin a dialogue about strategic approaches, both short-term and long-term, to integrating workplace wellness and occupational health and safety programs in California. Attendees were encouraged to share experience with workplace wellness initiatives and programs and to reflect on how these ideas relate to their own organizations.

Objectives

The objectives for the Roundtable were to:

- Develop a general understanding of what constitutes an integrated approach to health promotion and occupational health and safety programs.
- Explore barriers to integration of workplace health promotion and workplace health and safety programs.
- Discuss strategies for overcoming challenges to integration of programs.
- Identify strategies and resources for promoting more and better programs that address workplace health in a holistic manner for employers of large, medium-size and small businesses.

Booklet on Integrating Wellness and Occupational Health and Safety Programs

As a result of the Roundtable, a booklet, *The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs*, was developed. The booklet addresses the central role that the workplace plays in the health of most Americans. Average working American adults spend more than half their waking lives at work. In order to fully address health, what happens inside and outside the workplace has to be a key focus.

Many employers are required by OSHA law to provide safe and healthy workplaces. Consequently, many employers are voluntarily establishing wellness or health promotion programs to address employee health. They view the workplace as an opportunity to engage workers in efforts to prevent disease, promote better overall health, and possibly lower costs and increase morale and productivity.

Project Team

CHSWC

Christine Baker
Executive Officer

D. Lachlan Taylor

Irina Nemirovsky
Selma Meyerowitz

**UC Berkeley-
LOHP**

Robin Dewey
Laura Stock
Valeria Velazquez

UCLA-LOSH

Linda Delp, Ph.D.

UC Berkeley

Julian Sum

PROJECTS AND STUDIES

There is evidence that wellness programs that emphasize correcting workplace hazards show greater participation rates than those that focus only on individual behavior change and have a greater chance of success if integration with occupational health and safety is a priority.

The objectives of the booklet are to:

- Develop a general understanding of what constitutes an integrated approach to health promotion and occupational health and safety programs.
- Explore barriers to integration of workplace health promotion and workplace health and safety programs.
- Identify strategies for overcoming challenges to integration of programs.
- Identify resources for promoting programs that address worker health in a holistic fashion.

The booklet provides examples of specific wellness/health promotion programs and discusses their effectiveness. It also presents a Checklist and a Planning Worksheet for integrating workplace wellness programs and occupational health and safety, as well as a List of Resource Organizations and a bibliography of publications related to wellness and occupational health and safety.

Status: Completed.

For further information ...

"Summary of the July 16, 2008 Workplace Wellness Roundtable" (December 2008).

http://www.dir.ca.gov/chswc/Reports/CHSWC_SummaryWorkplaceWellnessRoundtable.pdf

The Whole Worker: Integrating Wellness and Occupational Health and Safety Programs

http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP_TheWholeWorker.pdf

PROJECTS AND STUDIES

Wellness Workplace Advisory Group

Lisa Barbato
SEIU UHW West & Joint Employer Education Fund

Charles Boettger
Municipal Pooling Authority

Crystal Brooks
Small Business California

Debra Chaplan
State Building & Construction Trades Council

Judi Freyman
ORC Worldwide

David Harrington
CA Dept of Public Health, Occupational Branch

Tammy Jones
Kaiser Foundation Health Plan, Inc.

Laurel Kincl
University of Oregon, Labor Education & Research Center

Lisa Konarski
Schools Insurance Authority

Advisory Group (continued)

Robin Nagel
Kaiser Foundation Health Plan, Inc. Integrated Disability Management

Laura Punnett
CA Dept of Work Environment

Tom Rankin
Board of Directors, State Fund, California, and formerly President, California Labor Federation (AFL-CIO)

Tom Ryan
San Francisco Labor Council

Jeremy Smith
California Labor Federation, AFL-CIO

Gregory Wagner
Harvard School of Public Health

Alison Weber
Building Skills Partnership, SEIU 1877

Lindy West
UC Berkeley, Health Services

Gregory Wagner
Harvard School of Public Health

OCCUPATIONAL SAFETY AND HEALTH

Occupational Safety and Health for Public Safety Employees: Assessing the Evidence and Implications for Public Policy

Background

The high rate of injury and disability sustained by vital public safety employees, particularly police and firefighters, is of great concern to the workers' compensation community. In October 2004, Assembly Members Juan Vargas and Rick Keene requested that the Commission on Health and Safety and Workers' Compensation (CHSWC) conduct a study of public sector injury prevention. In particular, they requested a comprehensive evaluation and recommendations on effective public safety employee injury and illness prevention measures.

In response to the above bi-partisan request, CHSWC contracted with RAND in September 2005 to conduct a study that will assist the Legislature in its goals to minimize injuries incurred by public safety employees and provide adequate workers' compensation and disability benefits to those who are injured.

Objectives of the Study

The objective of this study, which was funded by both CHSWC and the National Institute for Occupational Safety and Health (NIOSH), was to aid in the design of effective safety interventions by characterizing the important safety and health risks faced by public safety personnel and how those risks differ from those faced by non-safety personnel. To accomplish this, researchers pursued the following research goals:

- Summarize the existing literature on the injury and fatality risks to public safety employees.
- Characterize the perceived risks and the efforts currently used by public safety departments to reduce those risks.
- Describe the differences in the rates of injury, disability and other chronic health problems for workers in public safety occupations compared with workers in other occupations.

Findings and Recommendations

The findings of the study were grouped into four separate categories: (1) characterizing the central occupational health risks to different public safety occupations; (2) describing current efforts at improving safety and identifying areas that represent the most promising targets for reform; (3) comparing the self-reported health of public safety employees with that of workers in non-safety occupations; and (4) examining differences in work-related disability claim rates of public safety employees and non-safety employees by age.

The key findings and recommendations included:

- There is a need for better surveillance of injury data, particularly for injuries to law enforcement and emergency medical personnel.
- The design and targeting of safety and health promotion efforts could also be improved with better monitoring of the types of situations and causes of injury that lead to the most severe and disabling injuries.

Project Team

Christine Baker
Executive Officer,
CHSWC

D. Lachlan Taylor
CHSWC

RAND

Tom LaTourrette, Ph.D.

David Loughran, Ph.D.

Seth Seabury, Ph.D.

CHSWC

Irina Nemirovsky

PROJECTS AND STUDIES

- There is a need to reduce strains, sprains and musculoskeletal disorders among safety employees, which are by far the leading cause of nonfatal injuries.
- Training, increased information analysis and sharing of information, strong safety messages from department leadership, and improvements to protective equipment were areas identified as useful tools for improving safety of public safety employees.

Both firefighters and police officers become more susceptible to disability as they age. Policies designed to reduce the rate of disability retirement may be most effective if focused on either preventing injuries among older safety employees or taking steps to alleviate the impact of injuries on their ability to work.

Status: Completed.

For further Information ...

“Occupational Safety and Health for Public Safety Employees: Assessing the Evidence and the Implications for Public Policy,” RAND (2008).

http://www.dir.ca.gov/CHSWC/Reports/CHSWC_PublicSafetyEmployeesReport2008.pdf

PROJECTS AND STUDIES

OCCUPATIONAL SAFETY AND HEALTH

The Impact of Experience Rating on Small Employers: Would Lowering the Threshold for Experience Rating Improve Safety?

Background

At the request of the Commission on Health and Safety and Workers' Compensation (CHSWC), Commission staff held a Health and Safety Research Advisory Committee meeting on November 19, 2007, in Oakland, to identify key health and safety areas where further research and study could help improve workplace health and safety in California. The Advisory Committee included stakeholders in the health, safety and workers' compensation communities representing insured and self-insured employers, labor, health and safety researchers, and state agencies.

One of the recommendations of the Health and Safety Research Advisory Committee was to rigorously identify the consequences of different:

- Safety policies and practices such as workers' compensation experience modification (Ex-mod) rating.
- Workplace health and safety activities for different types of employers by size, age of firm and industry.

Two areas of research that warrant attention with respect to the above recommendations are how workplace safety behavior is affected by workers' compensation Ex-mod and the safety risk and employer safety behavior within different age firms.

In addition to the above recommendations, the Experience Rating Task Force, established in 2007 in response to concerns expressed by the California Insurance Commissioner, made recommendations regarding research on workers' compensation Ex-mod. The Task Force report suggested that research opportunities to "evaluate the effectiveness of experience rating as a safety incentive" should be undertaken "to the extent such research is likely to produce meaningful results relevant to potential future Rating Plan changes."

Objectives of the Study

Objectives of the study are to identify:

- Whether the application of and changes to workers' compensation Ex-mod has an effect on the safety experience of small employers.

Findings

Preliminary findings of the study *to date* have included:

- The number of claims at firms that became experience-rated had a decline of 6 to 9 percent compared to those whose status did not change.
- Almost all of the reduction in losses was due to the reduction in claim frequency; almost none was due to a decline in the average cost per claim.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

John Mendeloff, Ph.D.
RAND

Frank Neuhauser
UC Berkeley

Seth Seabury, Ph.D.
RAND

RAND

Amelia Haviland, Ph.D.

Elizabeth Steiner

Technical Support

David Bellusci
*Workers'
Compensation Rating
Bureau*

Consultant

Nancy Woods
*Robert Penny
Enterprises*

CHSWC Staff

Irina Nemirovsky

Chris Bailey

PROJECTS AND STUDIES

- Reducing the threshold for experience rating in order to extend it to more small firms would reduce claims among the newly experience-rated firms by 7 to 11 percent and would reduce total losses by 10 to 15 percent.
- Analysis of the extra cost that a newly experienced-rated employer could incur by reporting a claim under the current rules indicated a surprisingly big effect; thus, any extension of experience rating to impact more firms should be mindful of the potential cost to employers.

Status: In process.

OCCUPATIONAL SAFETY AND HEALTH

An Evaluation of the California Injury and Illness Prevention Program

Background

At the request of the Commission on Health and Safety and Workers' Compensation (CHSWC), Commission staff held a Health and Safety Research Advisory Committee meeting on November 19, 2007, in Oakland, to identify key health and safety areas where further research and study could help improve workplace health and safety in California. The Advisory Committee included stakeholders in the health, safety and workers' compensation communities representing insured and self-insured employers, labor, health and safety researchers, and state agencies.

One of the recommendations of the Health and Safety Research Advisory Committee was to rigorously identify the consequences of different regulators' policies and practices with respect to job safety and health standards and enforcement through worksite inspections.

Description

The purpose of the study is to conduct research that addresses the above recommendation with respect to the effectiveness of the Injury and Illness Prevention Program (IIPP) standard, as well as to identify the effects and policy implications of IIPP in California. The research can help to improve the ability of occupational health and safety agencies to prevent injuries, potentially preventing a significant number of injuries and illnesses. The study addresses the following questions about implementation and effectiveness:

Implementation:

- Has compliance with specific IIPP provisions improved over the years?
- How does the number of IIPP violations cited vary with the type of establishment and type of inspection?

Effectiveness:

- Did injury and fatality rates decline in California, relative to other states, after the implementation of the IIPP standard?
- Do workplaces that do not comply with the IIPP have worse injury, fatality and loss performance than compliant firms?
- Did workplaces that had been cited for IIPP violations and then came into compliance improve their injury performance relative to other workplaces?

Findings

Implementation:

- Compliance with the IIPP provision to have a written policy has not improved over the years. For first inspections, between 1991 and 2006, there is little improvement. The reason for this is not clear. It could be that the low penalty assessment has little deterrent effect, that outreach

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
Acting Executive Officer, CHSWC

RAND

John Mendeloff, Ph.D.

Amelia Haviland, Ph.D.

Regan Main

Jing Xia

Clark University

Wayne Gray, Ph.D.

UC Berkeley

Frank Neuhauser

CHSWC Staff

Irina Nemirovsky

Chris Bailey

PROJECTS AND STUDIES

programs have not been as effective, or that a change in mix of establishments inspected over time makes comparison over time difficult.

- Small establishments tend to have worse compliance with IIPP provisions. Again, this could be due to lack of awareness or low risk in terms of being inspected and low penalty amount as deterrent.
- As establishments grow to have more employees, there is a shift from Labor Code Section 3203(a) violations for not having a written IIPP to violations of Labor Code Section 3203-specific subsections, such as lack of employee training in the IIPP program and recording keeping.
- Establishments that have had two or more inspections experience fewer IIPP violations over time; however, a deterrent effect from repeated inspections was not detected within frequently inspected industries.
- Establishments with unions have better IIPP compliance than non-union establishments.
- Accident inspections more than any other type of inspection resulted in citations for subsections of the IIPP provisions.
- Programmed inspections were more likely to cite lack of a written IIPP, rather than any subsection of the provision.

Effectiveness:

- Approach 1: The first effectiveness research test was based on the assumption that, if compliance with the IIPP helped to prevent injuries, then establishments with violations of its provisions should, on average, have poorer safety performance.

Findings: Employers that were cited for a violation of Labor Code Section 3203(a), the basic requirement to have a written IIPP document, actually had better performance (experience modifications (Ex-mods) or prior injury rates) than firms that had no IIPP violations. In contrast, employers that were cited for violations of the subsections of Labor Code Section 3203(a), especially the requirements to train employees and to investigate accidents, had worse performance than employers that were not cited for any IIPP violation or that were cited only for Labor Code Section 3203(a).

- Approach 2: The second effectiveness research test was based on the premise that if compliance with the IIPP improved safety, then employers that were cited for IIPP violations and corrected them would improve their safety performance in the year or two after the inspection. This test examined any change effects (safety improvements) due to violations cited.

Findings: The data revealed no effect when Labor Code Section 3203(a) was cited but substantial improvements after the specific subsections were cited. The average effect using a broad sample (non-accident inspections) was a 26 percent reduction in the total recordable rate of injuries in the following year, although this applied to a small percentage of overall inspections.

Status: Completed.

For further information ...

"An Evaluation of the California Injury and Illness Prevention Program (2012).

<http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluation.pdf> - full report

<http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluationSummary.pdf> - summary

See also special report "Occupational Safety and Health" in this Annual Report.

PROJECTS AND STUDIES

OCCUPATIONAL SAFETY AND HEALTH

Evaluating the Role of the IIPP in Helping to Reduce Injuries in High Hazard Industries

Background

Each year, Cal/OSHA designates high hazard industries based on the latest Days Away, Restricted or Transferred Duty (DART) injury rates calculated for industries in the State from the Survey of Occupational Injuries and Illnesses (SOII). The industries listed are those with DART rates at least twice the average for the private sector in the State in that year.

Cal/OSHA officials have stated that it would be most useful to have more specific information about those industries which are a major focus of attention.

Description

The study will look at enforcement of the Injury and Illness Prevention Program (IIPP) and its effects in industries that Cal/OSHA has designated as high hazard. It will build on current work that has identified the average effects of IIPP enforcement in all of manufacturing and in other industries, including wholesale trade, health care, transportation and utilities. It will focus on the 2011-12 list, the latest list of industries, except for the roofing industry, but will also follow the establishments over time, i.e., almost every year since 2004-05, and focus on the industries which have been on the high hazard lists for a number of years.

The study will identify:

- The number of workers hospitalized due to work injury and acute toxic exposures.
- The selection of industries which had been on the high hazard list but have shown steady (relative) declines since, and which are now on the high hazard list due to (relative) increases in their rates.
- The percentage of inspections and establishments in which particular IIPP sections are violated; the changes over time in those violations both in re-inspections and in first-time inspections; and the pattern of violation of other standards (i.e., other than the IIPP) to see which decline or disappear and which are persistent.
- The relation between the IIPP status found in an inspection and the injury rate in that establishment in the prior two years.
- The change in the injury rate from the year before the inspection to the year following the inspection.
- Whether compliance differs across these high hazard industries and between them and non-high hazard industries.
- Whether the relationship between IIPP compliance rates is different across these industries and between them and other industries.
- Whether the effect of Cal/OSHA inspections is different across these industries and between them and other industries.

Status: In process.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

John Mendeloff, Ph.D.
RAND

CHSWC Staff

Irina Nemirovsky

Chris Bailey

OCCUPATIONAL SAFETY AND HEALTH

Are There Unusually Effective Occupational Safety and Health Inspectors and Inspections Practices?

Background

At the request of the Commission on Health and Safety and Workers' Compensation (CHSWC), Commission staff held a Health and Safety Research Advisory Committee meeting on November 19, 2007, in Oakland, to identify key health and safety areas where further research and study could help improve workplace health and safety in California. The Advisory Committee included stakeholders in the health, safety and workers' compensation communities representing insured and self-insured employers, labor, health and safety researchers, and state agencies.

One of the recommendations of the Health and Safety Research Advisory Committee was to rigorously identify the consequences of different regulators' policies and practices with respect to job safety and health standards and enforcement through worksite inspections.

Description

The purpose of the study is to conduct research that addresses the above recommendation with respect to the effectiveness of compliance officers' inspections to reduce injury and illness rates. The research can help to improve the ability of occupational health and safety agencies to prevent injuries, potentially preventing a significant number of injuries and illnesses. The study addresses four main research questions:

- How much do inspectors vary in the way that they carry out inspections in terms of practices that might have an impact on inspection effectiveness? (Effectiveness is measured in terms of reductions in injury and illness rates that occur at the inspection establishment following inspections.)
- How much of the variation in inspection outcomes can be explained by which inspector carried out the inspection?
- How much of the variation in inspection outcomes can be explained by which Cal/OSHA district the inspector was associated with?
- Are certain inspection practices associated with better inspection outcomes?

Findings

- Substantial variation exists both among the inspectors in many inspection practices and in the inspection practices among the 23 Cal/OSHA districts.
- Inspections by inspectors with more experience tended to reduce injury rates more than inspections by others.
- The identity of the inspector explained very little of the variation in injury rate changes subsequent to the inspections.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
Acting Executive Officer, CHSWC

RAND

John Mendeloff, Ph.D
Amelia Haviland, Ph.D
Regan Main
Jing Xia

Clark University

Wayne Gray, Ph.D.

CHSWC Staff

Irina Nemirovsky
Chris Bailey

PROJECTS AND STUDIES

- No examined inspection practices were found to be associated with better inspection outcomes, i.e. reduced injuries after inspections.

Status: Completed.

For further information ...

“Are There Unusually Effective Occupational Safety and Health Inspectors and Inspections Practices?” (RAND, 2012)

<http://www.dir.ca.gov/chswc/Reports/2012/OccSafetyHealthInspectors.pdf> - full report

http://www.dir.ca.gov/chswc/Reports/2012/OccSafetyHealthInspectors_Summary.pdf -summary

See also special report “Occupational Safety and Health” in this Annual Report.

OCCUPATIONAL SAFETY AND HEALTH

Firefighters Musculoskeletal Injuries

Background

Firefighting is a dangerous and difficult occupation that places considerable toll on the health and safety of workers. Policymakers and researchers have made efforts to understand the adverse conditions that arise at a fire ground and to devise policies and equipment that protect firefighters. However, because much of the attention has focused on monitoring and reducing fatalities and chronic diseases among firefighters, there is still much that is unknown about the causes and consequences of non-fatal acute injuries among firefighters.

In particular, musculoskeletal conditions account for a majority of all nonfatal injuries, dominate the medical costs of workers' compensation claims and are a leading contributor to disability retirements for firefighters. While musculoskeletal conditions represent the most common injury type in virtually all occupations, there are aspects of firefighting that could make firefighters particularly susceptible to work-related musculoskeletal injuries: the work is often physically strenuous; it often takes place under adverse conditions (poor visibility, wet surfaces); and it involves sudden bursts of activity following long periods of inactivity. On the other hand, firefighters are typically drawn from a set of physically more fit and healthier people than the general population, which could lead to fewer musculoskeletal injuries. In addition, the long shifts associated with firefighting lead to a considerable amount of time when firefighters are conducting normal life activities while technically working, leading some to wonder what fraction of injuries occur at work that would likely have otherwise occurred at home.

Given a lack of comprehensive data, however, it is unclear as to just how frequent musculoskeletal injuries are to firefighters in California, how severe these injuries are when they occur, and what the economic consequences are for injured firefighters. Such information is essential in order to design effective policies to protect firefighters against such injuries and safeguard them when they do sustain these types of occupational injuries.

The importance of understanding the frequency and severity of firefighter musculoskeletal disorders (MSDs) has also become heightened due to recent changes to the California workers' compensation system since 2004. These changes include the reduction of permanent disability ratings that occurred due to the adoption of a new disability rating system, new rules for apportioning disability, the adoption of treatment guidelines to provide utilization review, and the imposition of caps on the number of chiropractic and physical therapy visits. Many of these changes could have a disproportionate impact on workers with musculoskeletal injuries, potentially making firefighters more vulnerable to any adverse impacts.

Description

At the request of Assembly Member Sandré R. Swanson, Chair, Assembly Committee on Labor and Employment, to the Commission on Health and Safety and Workers' Compensation (CHSWC), the CHSWC musculoskeletal injury study gathered data and analyzed the types, frequencies and treatments applied to major musculoskeletal injuries incurred by firefighters while performing their job-related duties. The objectives of this project included:

- Describe the average frequency and severity of work-related MSDs experienced by firefighters in California.
- Study the impact of work-related MSDs on the earnings and employment of firefighters several years after injury.

Project Team

CHSWC

Christine Baker
D. Lachlan Taylor
Irina Nemirovsky
Chris Bailey

RAND

Seth Seabury, Ph.D.
Chris McLaren

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- Evaluate the impact of reforms to the disability rating system on the ratings of firefighters with permanently disabling MSDs.
- Assess whether reforms to the medical delivery system impacted the employment outcomes of firefighters with MSDs.

Findings

- Firefighters face considerably more risk of nonfatal injuries than workers in the private sector, but the risk is even more pronounced for MSDs. In addition, firefighters 55 years of age and older are more than 10 times more likely to suffer an MSD relative to private sector workers of the same age, and when injured, they take more than four times longer to return to work.
- Both the frequency and severity of injuries, particularly MSDs, are worse for older firefighters than for younger firefighters.
- Although the frequency and severity of MSDs are greater for firefighters than workers in other occupations, particularly in the private sector, that does not necessarily translate into worse long-term economic consequences for workers.
- Firefighters experienced significant declines in average permanent disability ratings as a result of the reforms to the disability rating system:
 - The declines experienced by firefighters are comparable to those experienced by other workers.
 - The biggest impact on firefighters appears to have come from a disproportionately large fraction of cases that now receive a zero disability rating.
 - Apportionment has led to a small reduction in the average rating for firefighters as it has for other workers. However, while the effects are small on average, there is often a large reduction in ratings whenever apportionment is applied.
- Since chiropractor and physical therapy treatments do not appear to be correlated with significantly better health or return to work relative to treatment by a general practitioner, it does not appear that outcomes for firefighters who are unable to obtain treatment beyond the 24-hour cap will dramatically worsen.
- The study's analysis does not suggest that employment outcomes of firefighters were worse after the adoption of medical reforms designed to limit the utilization of chiropractic and physical therapy treatments.

Status: Completed.

For further information ...

"The Frequency, Severity, and Economic Consequences of Musculoskeletal Injuries to Firefighters in California," RAND, 2010. <http://www.dir.ca.gov/chswc/Reports/2010/FirefightersMusculoskeletal.pdf>

OCCUPATIONAL SAFETY AND HEALTH

Study on Older Workers, Injury Risk and Future Cost Trends

Background

The Commission on Health and Safety and Workers' Compensation (CHSWC), with the assistance of the University of California (UC), Berkeley, is preparing a study on older workers and their post-injury outcomes. One of the recommendations of the Commission's annual report for several years has been to examine disability duration by age. The study will help determine if older workers experience longer average time off work when disabled in California, or if older workers simply experience the kinds of injuries that are associated with longer disability durations. This determination will be ultimately important for both safety and prevention.

Aging Workforce

Key questions about the aging workforce include: do older workers get injured more or less often than younger workers? and how does the duration of disability compare by age? These are important questions for employers, workers, government budgets and benefit programs. The importance is magnified because the workforce is aging, and many older workers are choosing to stay in the labor force for economic reasons.

At best, the research in this area is limited or, at worst, anecdotal. One perspective is that older workers get injured less often because they are safer and more experienced. However, when older workers are injured, it takes longer to recover, costs more in disability payments and medical treatment, is more likely to result in permanent disability, and results in greater economic loss to the worker. The study will seek to assess how true these claims are and if true, whether the cause is age-related or driven by other causes, as well as what the answers to these questions mean for future trends.

Even if the study reveals that older workers are less likely to experience injury, as many claim, key questions still needing to be answered include whether older workers are actually safer due to experience, or whether lower injury rates are simply the consequence of more experience, or whether older workers are migrating into safer jobs (supervisor, etc.).

The study will also examine whether older workers experience longer average time off work when disabled and whether age is the reason, or whether older workers simply experience the kinds of injuries that are associated with longer disability duration, perhaps because of the types of occupations in which they work. For instance, older workers may be more likely to suffer back injuries which take longer to heal than lacerations and contusions. Alternatively, older workers may experience more cumulative injuries, also associated with longer disability, because of greater lifetime exposure to the underlying cause.

If age drives injuries and disability duration, then an aging workforce will lead to increasing occupational medical and disability costs and costs for government programs. On the other hand, to the extent that any differences in older workers' frequency and duration of occupational conditions are due to the types of work into which they migrate over their careers and not a due to their age, a higher proportion of older workers will not lead to changes in medical treatment, insurance, and government benefit costs. In either case, understanding how an older workforce interacts with occupational safety is important for focusing future investments in prevention and research.

Status: In process.

<p>Project Team</p> <p>Christine Baker <i>Acting Director, DIR</i></p> <p>D. Lachlan Taylor <i>Acting Executive Officer, CHSWC</i></p> <p>UC Berkeley</p> <p>Frank Neuhauser</p> <p>CHSWC</p> <p>Irina Nemirovsky</p>
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OCCUPATIONAL SAFETY AND HEALTH

Worker Occupational Safety and Health Training and Education Program

Background

Labor Code Section 6354.7 establishes a Workers’ Occupational Safety and Health Education Fund (WOSHEF) for the purpose of establishing and maintaining a statewide worker-training program. The Commission on Health and Safety and Workers’ Compensation (CHSWC) has developed the Worker Occupational Safety and Health Training and Education Program (WOSHTEP) to raise awareness and promote injury and illness prevention through training and dissemination of materials by a statewide network of providers. This program is designed to prepare workers in California to take a leadership role in health and safety programs at work.

Description

CHSWC has taken the following steps in implementing this program:

- **Prepared a Survey of State, National and International Worker Health and Safety Training Programs.** This survey includes websites and descriptions of available programs and lists courses for each program. The survey can be found as a link on CHSWC’s website at <http://www.dir.ca.gov/CHSWC/TrainingProgramsResources/Surveycover.html>
- **Created a labor-management Advisory Board to oversee program activities, which meets semi-annually.** The WOSHTEP Advisory Board consists of employers and workers or their representatives who assist in guiding development of curricula and broadening partnerships with worker-based organizations, labor studies programs, employers, insurance companies, and other stakeholders in the workers’ compensation community. The Advisory Board prepares an Annual Report on WOSHTEP. (See <http://www.dir.ca.gov/chswc/woshtep.html>)
- **Conducted needs assessments with stakeholders that will continue on an ongoing basis.** Needs assessments are conducted with workers and their representatives, employers, insurers, community-based organizations serving difficult-to-reach workers, and potential training providers.
- **Designed a core curriculum and supplemental training materials based on the results of the needs assessment.** This 24-hour Worker Occupational Safety and Health (WOSH) Specialist curriculum is aimed primarily at “workers who are able to train other workers and workers who have significant health and safety responsibilities, such as those serving on a health and safety committee or serving as a designated safety representative.” Participants who complete six core modules and three supplemental modules become WOSH Specialists.
- **Developed a training-of-trainers curriculum to train a statewide network of trainers as mandated by the statute.** Training-of-trainers sessions are held in Northern, Central and Southern California, and network trainers have been co-teaching with mentor trainers from the Labor Occupational Health Program (LOHP) at the University of California (UC), Berkeley, and the Labor Occupational Safety and Health Program (LOSH) at University of California, Los Angeles (UCLA).
- **Adapted and disseminated statewide WOSH Specialist curriculum materials in collaboration with the State Building and Construction Trades Council (SBCTC), AFL-CIO,** which incorporate

Project Team

Christine Baker
Acting Director, DIR

D. Lachlan Taylor
Acting Executive Officer, CHSWC

CHSWC

Selma Meyerowitz
Irina Nemirovsky

UC Berkeley-LOHP

Michael Wilson, Ph.D.
Laura Stock
Robin Dewey

UCLA-LOSH

Linda Delp, Ph.D.
Deogracia Cornelio
Fernando Tapia

UC Davis-WCAHS

Marc Schenker, M.D.
Sandra Freeland

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WOSHTEP curricula appropriate for apprenticeship and pre-apprenticeship programs. The *Construction Case Study Training Guide* materials include construction industry-specific health and safety case studies, including green case studies, which focus on health and safety and on green jobs. In addition, a factsheet for apprentices on health and safety issues in green jobs, with particular focus on job hazards in the photovoltaic, green building and weatherization industries is being developed.

- **Developed materials for the implementation of heat illness training to protect California's farm workers from outdoor heat illness and workers in other industries from indoor heat illness.** Developed *Heat Hazards in Agriculture* tailgate guide and implemented distribution statewide, collaborating with existing *promotora* networks to reach farm workers.
- **Adapted the WOSH Specialist curriculum and materials for NISH-affiliated Community Rehabilitation Programs in California that serve and employ individuals with disabilities.** LOHP provided WOSH Specialist trainings to the managers and supervisors from several community rehabilitation programs (CRPs) on how to teach basic health and safety skills to their workers with disabilities and how to design and implement a successful injury and illness prevention program (IIPP) in their workplaces. This program was promoted by: NISH – Creating Employment Opportunities for People with Severe Disabilities; The ARC in Southern California; and Pride Industries in Northern California.
- **Created a Small Business Resources program component to target very small employers who do not have the resources to send employees to 24 hours of training.** Materials have been developed for owners and managers of small businesses across industries, and industry-specific materials have been developed for the restaurant industry, the janitorial industry, and the dairy industry.
- **Created health and safety programs for young workers, including a Young Worker Leadership Academy.** One or two Academies have been offered annually in Northern California and/or in Southern California.
- **Completed and disseminated a booklet, "The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs."** The booklet outlines what constitutes an integrated approach to health promotion and occupational health and safety programs and provides examples of specific wellness/health promotion programs and their effectiveness.
- **Established Resource Centers that house and distribute training materials and additional health and safety resources.** These Resource Centers are located at LOHP, LOSH and the Western Center for Agricultural Health and Safety (WCAHS) at UC Davis.
- **Prepared a Multilingual Health and Safety Resource Guide to Worker Training Materials on the Web for WOSHTEP.** This Guide, prepared by LOHP, is a collection of worker training materials, such as fact sheets, checklists and other educational resources that are available online. Information from the guide can be printed to distribute to workers participating in workplace injury and illness prevention programs.
(See <http://www.dir.ca.gov/CHSWC/MultilingualGuide/MultilingualGuideMain.html>.)

Next Steps

CHSWC has assessed fees to California workers' compensation insurance carriers pursuant to Labor Code Section 6354.7 for the next fiscal year. Next steps include:

- **Continued WOSH Specialist training by LOHP, WCAHS and LOSH** in a variety of industries for participants in diverse occupations and work settings. Courses are taught through community colleges, at employers' places of business, and in many other settings. Courses are taught in English,

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Spanish and Chinese.

- **Continued Refresher trainings or courses** to update WOSH Specialists on health and safety information to assist them in carrying out activities they choose to do in their workplaces after completion of the WOSH Specialist training.
- **Continued Awareness Sessions** drawing on the WOSH Specialist curriculum to help promote awareness of and interest in the WOSH Specialist course and to provide injury and illness prevention education. These trainings are presented in English and Spanish.
- **Ongoing development of the statewide network of trainers** who will partner with mentor trainers from LOHP and LOSH to deliver WOSH Specialist courses.
- **Continued geographic expansion to the Central Valley and other areas of Northern and Southern California.** WCAHS, the Central Valley partner, is conducting WOSHTEP activities under the direction of LOHP WOSHTEP staff. Expansion in Southern California includes San Diego and the Inland Empire.
- **Ongoing development and dissemination of injury and illness prevention materials on** health and safety topics such as indoor and outdoor heat illness, motor vehicle safety, emergency preparedness, and integration of wellness and occupational safety and health.
- **Ongoing dissemination of health and safety material for small businesses** across industries and for restaurants, janitorial services companies, and the dairy industry.
- **Ongoing Young Worker Leadership Academies and young worker health and safety programs.**
- **Additional outreach to ensure wider use of Resource Centers** in Northern, Central and Southern California and wider distribution of multilingual resource training materials.
- **Ongoing evaluation of WOSHTEP** to identify accomplishments and outcomes.

Status: Ongoing.

For further information ...

WOSHTEP List of Publications

<http://www.dir.ca.gov/chswc/WOSHTEP.html>

PROJECTS AND STUDIES

WOSHTEP Advisory Board Members

Laura Boatman
State Building & Construction Trades Council

Marti Fisher
California Chamber of Commerce

Judith Freyman
Mercer HSE Networks.

Simmi Gandhi
Garment Workers Center

Scott Hauge
Small Business California

Jon Hughes
*United Food and Commercial Workers Union (UFCW)
Local 5*

Tom Rankin
*State Fund, California, and formerly President,
California Labor Federation (AFL-CIO)*

Dorothy Rothrock
*California Manufacturers Technology Association
(CMTA)*

Christina Vasquez
*Union of Needletrades, Industrial and Textile
Employees (UNITE HERE!)*

Chad Wright
Laborers-Employers Cooperation and Education Trust

Advisory Board Ex-officio Members

Christine Baker
Director, DIR

Gail Bateson
Worksafe

Charles Boettger
Municipal Pooling Authority

Mary Deems
California Department of Public Health

Cindy Delgado
Matiecris Management

Deborah Gold
California Division of Occupational Safety and Health

Ken Helfrich
Insurance Company of the West

Scott Henderson
Henderson Insurance Agency

Dori Rose Inda
Watsonville Law Center

Tom Jolliff
Insurance Company of the West

Dave Mack
Chubb Group of Insurance Companies

Michael Marsh
California Rural Legal Assistance

John McDowell
LA Trade Technical College, Labor Studies

Thomas Neale
Chubb & Son

Chris Smith
Zenith Insurance

Bob Snyder
Liberty Mutual Insurance Group

Dave Strickland
Zurich Insurance

Jan Vogt
State Compensation Insurance Fund

Ed Walters
QBE the Americas

Mark Webb
Pacific Compensation Insurance Company

Elen Widess
California Division of Occupational Safety and Health

Len Welsh
State Compensation Insurance Fund

Jim Zanotti
Chartis Insurance

PROJECTS AND STUDIES

OCCUPATIONAL SAFETY AND HEALTH

California Partnership for Young Worker Health and Safety

Background

Over the past five years, an average of 37 teens have died each year in the United States (U.S.) as a result of approximately 146,000 work-related injuries, and an estimated 49,000 are injured severely enough to require treatment in hospital emergency rooms. Most of these injuries are preventable.

Description

The Commission on Health and Safety and Workers' Compensation (CHSWC) continues to put California in the forefront as a nationwide leader in protecting and educating teen workers. Over the past 16 years, CHSWC has sponsored and convened the California Partnership for Young Worker Health and Safety, formalized by Assembly Bill (AB) 1599 in September 2000. The Partnership is coordinated by the Labor Occupational Health Program (LOHP) at the University of California (UC), Berkeley, with key support from the Labor Occupational Safety and Health Program (LOSH) at the University of California, Los Angeles (UCLA), and other members of the Partnership. In addition to serving California, these efforts have inspired similar activity throughout the U.S.

The California Partnership for Young Worker Health and Safety is composed of agencies and organizations dealing with youth employment and education issues, as well as others who can play a role in educating and protecting young workers. Members represent educators, parents, employers, youth training programs, governmental agencies and others.

The purpose of the Partnership is to identify potential strategies to:

- Reduce work-related injuries and illnesses among youth in the California workforce.
- Foster awareness and skills in health and safety that will remain with youth throughout their working lives and allow them to take an active role in shaping safe work environments.
- Promote positive, healthy employment for youth.

During the past year, the Partnership met twice. In addition, subcommittees held conference calls to develop and implement the following activities:

- **Promote the fourteenth annual California Safe Jobs for Youth Month public awareness campaign in May**, which was established by former Governor Gray Davis's proclamation starting in 1999. This year's public awareness and education activities have included: a teen poster contest (with posters distributed to 1,000 schools and hundreds of other youth-serving organizations); a teen video public service announcement (PSA) contest, funded separately by the Department of Industrial Relations (DIR), with the winning PSA shown in movie theaters in for a month; and distribution of the current Safe Jobs for Youth Month Resource Kit to over 100 educators and community groups (primarily through downloads from the website), plus over 4300 downloads of resource kit materials from past years.
- **Support and conduct one Young Worker Leadership Academy.** A statewide Young Worker Leadership Academy (YWLA) was held in Berkeley in February 2012. The Academy is a part of the CHSWC Worker Occupational Safety and Health Training and Education Program

Project Team

Christine Baker
Acting Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

Diane Bush
UC Berkeley-LOHP

CHSWC Staff

Selma Meyerowitz
Irina Nemirovsky

PROJECTS AND STUDIES

(WOSHTEP). This year's Academy was coordinated by LOHP and supported by active participation by Partnership members, including LOSH, DIR, federal Department of Labor, and the Economic Employment Opportunity Commission (EEOC). Young people from six different organizations around the state attended.

The goals of the Academy are: to teach youth about workplace health and safety and their rights on the job; to help youth start thinking about ways to help ensure that young people do not get hurt on the job; and to provide a forum for these youth to plan for specific actions they can take in their own communities to promote young worker safety. Academy alumni youth led many of the activities at the Academies and developed their own outreach projects. The California Partnership continues to seek opportunities for building the skills of YWLA young leaders, including speaking opportunities and ways to reconnect throughout the year, such as through social networking sites.

- **Improve outreach to employers.** With additional funding from federal OSHA, LOHP developed new "one-stop" web-based health and safety resource pages for small business, which Partnership members helped review. The pages have links to resources for getting started, key requirements under the law, and include information on hiring and supervising young workers (<http://lohp.org/projects/smallbusiness/index.html>). Partnership members continue to explore opportunities to integrate information on young workers for employers into existing seminars for employers. Health and safety workshops for small business owners and managers conducted at local Small Business Development Centers have included information on effective supervision and training for young employees.
- **Explore ways to integrate job health and safety education into high school curriculum.** The subcommittee helped organize a meeting with key CA Dept. of Education staff in Career Technical Education, Work Experience, Health Education and Career Readiness. With additional funding from NIOSH and guidance from the subcommittee, LOHP is targeting two districts with strong "linked learning" programs (linking academic and career technical learning) to identify effective points of integration. What is learned in California will be shared nationally.
- **Coordinate the provision of information and resources on young worker health and safety by Partnership members.** Over the past year, Partnership members with direct access to teachers, employers and youth jointly reached and served organizations and individuals throughout California with important health and safety information. Partnership members helped with promoting and recruiting for the YWLA, the poster contest, the video PSA contest, and Safe Jobs for Youth month resources and activities, as well as with providing ongoing links to young worker health and safety information. Information and training were offered in both English and Spanish. In addition, the Partnership provides a space for youth to voice their opinion on young worker health and safety issues. Several youth have made presentations to Partnership members about their issues and concerns and their innovative ideas to help reduce young worker injuries and illnesses.

Partnership accomplishments include:

- More than 400 teachers, employers and youth received direct training or presentations.
- At least 2,000 teachers, employers and youth received written information, such as the fact sheets for teens and for employers, the Safe Jobs for Youth Month Resource Kit produced by LOHP, or articles in Partnership newsletters, such as that of the California Association of Work Experience Educators (CAWEE). In addition, CAWEE estimates that its own members reach approximately 15,000 students, parents and employers with workplace safety information. Thousands more received information through listserv postings, email announcements, radio and video PSAs, and posters.

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- About 40 teachers, employers and youth received direct technical assistance via phone, email, or via the www.youngworkers.org website.
- The www.youngworkers.org website averaged 135 unique visitors per day (1.27 visits/visitor; 1.9 pages per visit, equaling an average of 328 pages visited/day) for a total of 49,000 unique visitors served during the year, or 120,000 pages visited. This represents an increase of 45% percent in the number of visitors compared to last year. The most frequently visited California pages, after the home page, were: the “What is a Union?” page (viewed 16,611 times); the teen info page (viewed 7,200 times); the Around the Nation page (viewed 5,458 times); and the Downloads page (viewed 5,147 times). The most frequent downloads were: the components of the YWLA Guide (7,727); current and past Safe Jobs for Youth Month Resource Kit activities (4,430); the emergencies at work fact sheet (899); and hotel cleaning fact sheet (797).
- At least three newsletter, newspaper or web-based articles have been published.
- Health and safety information continued to be integrated into ongoing statewide activities of many of the partners, including regular in-service training for work experience educators, widespread use of health and safety curricula in job training and work experience programs, and organizational links to the <http://www.youngworkers.org> website. The WorkAbility program, which places youth with learning and cognitive disabilities in the workplace, has required that all of their staff receive training on how to teach their participants about health and safety. Trainings have been conducted for all regions.

In the coming year, priorities are to:

- Continue to strengthen and expand youth involvement by holding at least one YWLA and exploring funding opportunities to hold YWLA reunions and other youth-led events in Northern, Central and Southern California, including exploration of social media networking strategies.
- Continue to strengthen activities of Partnership members, with a focus on outreach and information tools for the employer community, including outreach regarding LOHP’s new “one-stop” employer webpage (see above), and exploring strategies for institutionalizing this information, such as through the business license application process.
- Continue efforts to integrate workplace health and safety training (eg using *Youth @ Work: Talking Safety* curriculum) as systematically as possible in high school settings, with a focus on programs with career and/or work-based learning components.
- Complete a new design for our www.youngworkers.org website, and develop and implement an outreach campaign to increase linkages to the website.
- Expand the membership of the Partnership to include greater representation from employers, youth organizations and youth employment/job training organizations.

PROJECTS AND STUDIES

*California Partnership for Young
Worker Health and Safety*

Sirena Bazile
*U.S. Department of Labor, Wage &
Hour*

Kimberly Born
California Department of Education

Ken Burt
California Teachers Association

Yvette Brittain
State Compensation Insurance Fund

Benny Cheng
Dept. of Labor Standards Enforcement

Mary Jo Edmundson
*California Association of Work
Experience Educators*

Susan Gard
*DIR, Division of Workers'
Compensation*

Michelle Gienger
*Equal Employment Opportunity
Commission*

Fred Glass
California Federation of Teachers

Nick Gleiter
DIR, Cal/OSHA

Vicky Heza
DIR, Cal/OSHA

Margarita Hossaini-Zadeh
*Equal Employment Opportunity
Commission*

Kelly Howard
DIR, Cal/OSHA

Kristine Jensen
*Equal Employment Opportunity
Commission*

(continued)

Jonathan Hughes
*United Food and Commercial Workers
Local 5*

Carlotta LaRue
California Teachers Association

David Lawrence
*California Center for Childhood Injury
Prevention*

Demetria Manuselis
*U.S. Department of Labor, Wage &
Hour*

Erika Monterozza
Department of Industrial Relations

Gina Neves
CA Dept. of Education

Patricia Ortiz
Dept. of Industrial Relations

Lee Pliscou
California Rural Legal Association

Gloria Ramirez
Dept. of Labor Standards Enforcement

Eric Rood
Dept. of Labor Standards Enforcement

Cory Sanfilippo
California Parent Teachers Association

Fernando Tapia
*UCLA Labor Occupational Safety and
Health Program*

Krystal Tena
Watsonville Law Center

Rick Ullerich
DIR, Cal/OSHA

Dorothy Wigmore
Worksafe

PROJECTS AND STUDIES

Status: Ongoing.

For further information ...

Young Worker Websites for information for teens, teen workers in agriculture, employers, parents and educators.

<http://www.dir.ca.gov/YoungWorker/YoungWorkersMain.html>

<http://www.dir.ca.gov/chswc/woshtep.html>

<http://www.youngworkers.org>

<http://www.losh.ucla.edu> (UCLA-LOSH Youth Project)

Engaging Employers in Protecting Young Workers: Tips and Best Practices from the Young Worker Safety Resource Center

(2010). http://lohp.org/docs/pubs/youth_work/ProtectingYoungWorkers.pdf

Teens Speak Out for Safety on the Job. Lessons from the Young Worker Leadership Academy (2008). <http://youngworkers.org/downloads/pdf/TeensSpeakOut.pdf>

Youth @ Work: Talking Safety (2007). <http://www.cdc.gov/niosh/talkingsafety/>

Keeping California's Youth Safe on the Job – Updated Recommendations of the California Partnership for Young Worker Health and Safety (2004).

<http://www.youngworkers.org/downloads/pdf/2004Recommendations904.pdf>

PROJECTS AND STUDIES

OCCUPATIONAL SAFETY AND HEALTH

School Action for Safety and Health Program

Background

Per the mandate set forth in the Labor Code, the Commission on Health and Safety and Workers' Compensation (CHSWC) is to assist inner-city schools or any school or district in establishing effective occupational injury and illness prevention programs (IIPPs). Priority shall be given to schools or districts with high risk of injury and illness.

Description

CHSWC has established a schools health and safety model program, California's School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention practices and resources. The program includes training and resources to enable schools or school districts to develop or improve IIPPs and to make other health and safety improvements that will help protect school or school district employees from injuries and illnesses on the job. The target audience consists of K-12 schools and school districts at high risk of occupational injury and illness, including, but not limited to, the Youth Authority overseen by the California Department of Corrections and Rehabilitation (CDCR).

On June 27, 2008, CHSWC hosted a roundtable discussion that brought together representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and school-related agencies and organizations in California. (See list of participants on the next page.) The objectives of the meeting were to determine how best to structure and implement the model program including a training program for schools or schools districts with the priority training going to schools or school districts with high incidence rates and a pilot with schools from around the State. A second Advisory Group meeting was held on June 30, 2009, to provide feedback on the project. An additional Advisory Group meeting held March 29, 2010, focused on feedback from the two pilot trainings and suggestions for implementation.

The SASH program includes: a needs assessment conducted to determine the types of training and resources; development of materials and resources, including a SASH brochure, Factsheets, Tools, and an online resource guide; establishment of a SASH Resource Center at the University of California (UC), Berkeley Labor Occupational Health Program (LOHP); a pilot group; ongoing statewide trainings; and evaluation.

To date, 34 one-day SASH training classes have been conducted for 609 attendees from 226 school districts and 29 counties with school district and county office of education staff, including two pilot trainings. Follow-up activities after the classes include sending a class roster so attendees can stay in touch and use each other as a resource and newsletters to those who have already attended trainings. Further development of the model program would include: expanding partnerships with key constituents throughout the State; expanding the target population statewide; developing a network of expert trainers; ensuring measures of accountability; and institutionalizing the program by identifying continuing health and safety education opportunities for schools.

A NIOSH-funded project, Promoting School Employee Injury and Illness Prevention Programs, is to evaluate the effectiveness of the California SASH program in order to develop a model national program targeting school districts and other educational entities in other states. The project includes

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

CHSWC

Irina Nemirovsky
Nabeela Khan
Selma Meyerowitz
Nurgul Toktogonova

UC Berkeley-LOHP

Helen Chen
Robin Dewey
Laura Stock

UCLA-LOSH

Linda Delp, Ph.D.
Sarah Jacobs

PROJECTS AND STUDIES

evaluation tools. Analysis of the data collected will result in recommendations for improving SASH and implementing similar programs across the nation.

Advisory Group

Cathy Aguilar
Commissioner, CHSWC

Michael Alvarez
Cal/OSHA Consultation Service

Lee Taylor Austin
San Diego County Schools Risk Management JPA

Denise Banker
Governor's Office of Homeland Security

Martin Brady
Schools Insurance Authority

Margie Brown
Schools Insurance Authority

Julianne Broyles
CAJAPA

Robert Chacanaca
California Federation of Teachers

Zin Cheung
Cal/OSHA Consultation Unit

Christine Dektor
Redwood Empire Schools Insurance Group

John Duncan
Department of Industrial Relations

Michael Egan
California Teachers Association

Mario Feletto
Cal/OSHA Education and Training Unit

Vern Gates
California Teachers Association

Emily Kephart
North Bay Schools Insurance Authority

Lisa Konarski
Schools Insurance Authority

Advisory Group (cont'd)

Bill Krycia
Cal/OSHA Enforcement

Barbara Materna
CA Department of Public Health

Judy Miller
Perris Union High School District

Bob Nakamura
Division of Occupational Safety and Health, Department of Industrial Relations

Ian Padilla
Coalition for Adequate Schools Housing

Manolo Platin
State and Consumer Services Agency

Inez Reed
California Association of School Business Officials

Robert Samaan
Governor's Office of Homeland Security

Julie Smith
Schools Insurance Authority

David Struthers
Keenan & Associates

Diane Waters
School Facilities Planning Division

Kathleen Webb
*Interagency Support Division
Department of General Services*

Mark Weber
Governor's Office of Homeland Security

Charles Williams
CSAC Excess Insurance Authority

Status: Ongoing.

For further information ...

SASH Website <http://www.dir.ca.gov/chswc/SASH/index.htm>

PROJECTS AND STUDIES

OCCUPATIONAL SAFETY AND HEALTH

Model Injury and Illness Prevention Program Training for General Industry

Background

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program that assists employers and employees throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

This program is especially timely given that federal OSHA is considering promulgating a federal IIPP standard modeled on Cal/OSHA's IIPP standard. Development and implementation of the proposed training program and IIPP materials would allow CHSWC to take a leadership role in creating a model that can be useful nationwide.

Description

The purpose of the project is to create a focused training program specifically aimed at creative effective IIPPs and targeting a range of industries in California. The program will draw on materials from two key Commission programs: the Worker Occupational Safety and Health Training and Education Program (WOSHTEP); and the School Action for Safety and Health (SASH) program.

The first phase of the project includes:

- A one-day interactive training program targeting staff responsible for creating or implementing IIPPs.
- Adapted training materials, including a generic model IIPP guide and template and program tools including a factsheet on promoting employee involvement; a sample new employee safety orientation training outline and activities; sample accident investigation forms; and hazard identification worksheets.

During the second phase of the project, the following activities will be implemented:

- Conducting at least 2-3 sessions of the training program. Recruitment will target a variety of industries in order to assess program applicability to a range of occupations and worksites. Based on results of these trainings, the generic one-day training program will be finalized.
- Developing a Roll-out Plan: an outreach and dissemination plan will be developed to support roll-out of the program in subsequent years. Depending on available funding, the program may eventually be made available statewide.

Status: In process.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

UC Berkeley, LOHP

Robin Dewey

Laura Stock

Diane Bush

CHSWC Staff

Irina Nemirovsky

Selma Meyerowitz

PROJECTS AND STUDIES

OCCUPATIONAL SAFETY AND HEALTH

Model Injury and Illness Prevention Program Training for Small Businesses

Background

Injury and Illness Prevention Programs (IIPPs) are required in California workplaces and are a critical component of any health and safety program because they establish key procedures for protecting the health and safety of employees. Small businesses need training and resources to help them develop effective IIPPs.

The Commission on Health and Safety and Workers' Compensation (CHSWC) has designed a model training program that assists small business owners and managers throughout California in their efforts to reduce work-related injuries and illnesses by effectively developing and implementing their IIPPs.

Description

The purpose of the project is to create a focused training program specifically aimed at assisting small businesses create effective IIPPs. The program draws on materials from two key Commission programs: the Worker Occupational Safety and Health Training and Education Program (WOSHTEP); and the School Action for Safety and Health (SASH) program.

The first phase of the project includes:

- A half-day interactive training program targeting small business owners and managers to help them create and implement their IIPP.
- Adapted training materials, including a model IIPP guide and template and program tools.

During the second phase of the project, the following activities will be implemented:

- Conducting at least 2-3 sessions of the training program. Based on results of these trainings, the half-day training program will be finalized.
- Developing a Roll-out Plan: an outreach and dissemination plan will be developed to support roll-out of the program in subsequent years. Depending on available funding, the program may eventually be made available statewide.

Status: In process.

Project Team

Christine Baker
Director, DIR

D. Lachlan Taylor
*Acting Executive
Officer, CHSWC*

Vicky Heza
Cal/OSHA

Len Welsh
State Fund

Scott Hauge
*Small Business
California*

Betty Jo Toccoli
*California Small
Business Association*

David Harrington
*California Department
of Public Health
Occupational Health
Branch*

UC Berkeley, LOHP

Robin Dewey

Laura Stock

Diane Bush

CHSWC Staff

Irina Nemirovsky

Selma Meyerowitz

PROJECTS AND STUDIES

LIST OF PROJECTS AND STUDIES

I. PERMANENT DISABILITY AND TEMPORARY DISABILITY STUDIES

Permanent Disability Schedule Analysis

Status: Completed

CHSWC Reports and Memoranda:

"Impact of the Adoption of AMA-based Permanent Disability Rating Schedule in California" (January 2012).

http://www.dir.ca.gov/chswc/Reports/2012/CHSWC_ImpactOfAMABasedPDSchedule.pdf

"Stakeholder Public Comments About the Permanent Disability Rating Schedule Report"

<http://www.dir.ca.gov/chswc/Reports/2012/CHSWCPDReportComments012612.pdf>

Memorandum to Christine Baker, Executive Officer of CHSWC regarding "Analysis of Ratings Under the New PD Schedule Through June 2007" (August 2007).

http://www.dir.ca.gov/chswc/Reports/memo_on_new_ratings_through_june_30_07_revised_aug_9.pdf

Memorandum to Christine Baker, Executive Officer of CHSWC regarding "Analysis of ratings under the new PD schedule, through January 2007" (February 2007).

<http://www.dir.ca.gov/CHSWC/Reports/MemoOnRatingsThruJan2007.pdf>

"Permanent Disability Rating Schedule Analysis" (2006).

<http://www.dir.ca.gov/CHSWC/Reports/CHSWC-PD-Report-Feb23-2006.pdf>

Impact of Changes to the Temporary Disability Benefits

Status: Completed

CHSWC Memorandum:

"Evaluate and Identify Impact of Changes to the Temporary Disability Benefit"

(2007). http://www.dir.ca.gov/CHSWC/Reports/Memo_On_TD_Benefits_Beyond_2Years.pdf

Initial Wage Loss Analyses

Status: Completed

CHSWC Reports:

"Compensating Permanent Workplace Injuries: A Study of the California System," RAND (1998).

http://www.rand.org/pubs/monograph_reports/MR920

"Findings and Recommendations on California's Permanent Partial Disability System - Executive Summary," RAND

(1997). <http://www.dir.ca.gov/CHSWC/Reports/PPDFindingsAndRecommendations.pdf>

Enhancement of Wage Loss Analysis – Private Self-Insured Employers

Status: Completed

CHSWC Report:

"Permanent Disability at Private Self-Insured Firms: A Study of Earnings Loss, Replacement, and Return to Work for Workers' Compensation Claimants," RAND (2003).

<http://www.dir.ca.gov/CHSWC/Reports/PD-Study.pdf>

Impact of Local Economic Conditions on Wage Loss

Status: Completed

CHSWC Report:

"Trends in Earnings Loss from Disabling Workplace Injuries in California – The Role of Economic Conditions," RAND (2001).

<http://www.dir.ca.gov/CHSWC/Reports/TrendsInEarningsLoss-EcoCondition.pdf>

Permanent Disability Rating Tool

Status: Completed

CHSWC Reports:

"An Evaluation of California's Permanent Disability Rating System," Summary, RAND (2005).

http://www.dir.ca.gov/CHSWC/Reports/Eval_Of_CA_PD_System_Summary.pdf

PROJECTS AND STUDIES

PERMANENT DISABILITY AND TEMPORARY DISABILITY STUDIES (continued)

"An Evaluation of California's Permanent Disability Rating System," Full Report, RAND (2005).

http://www.dir.ca.gov/CHSWC/Reports/Eval_Of_CA_PD_System.pdf

"Evaluation of California's Permanent Disability Rating Schedule," Interim Report, RAND (2003).

<http://www.dir.ca.gov/CHSWC/Reports/PermanentDisabilityRatingSchedule-InterimReport.pdf>

Apportionment

Status: Completed

CHSWC Reports:

"Understanding the Effect of SB 899 (Stats 2004, Chap 34) on the Law of Apportionment" (April 2007).

http://www.dir.ca.gov/chswc/CHSWC_ApportionmentPaper.pdf

"Understanding the Effect of SB 899 (Stats 2004, Chap 34) on the Law of Apportionment" (October 2005).

<http://www.dir.ca.gov/CHSWC/FinalApportionmentPaper.pdf>

"Background Paper on Workers' Compensation Causation and Apportionment" (May 2004).

http://www.dir.ca.gov/CHSWC/Causation_and_Apportionment_Final_May_2004.pdf

Disability Evaluation and Medical Treatment

Status: In process

II. RETURN TO WORK

Return to Work

Status: Completed

"Workers' Compensation Reform and Return to Work: The California Experience," RAND (2011).
Summary

http://www.dir.ca.gov/chswc/Reports/2010/RAND_RTW2011_sum.pdf

Full Document

<http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf>

Return-to-Work Programs

Status: Completed

CHSWC Reports:

"How Effective are Employer Return to Work Programs?" RAND (February 2010).

http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_RANDRTW.pdf

"Report on the Return-To-Work Program Established in Labor Code Section 139.48."

http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_RTWReport.pdf

<http://www.dir.ca.gov/chswc/Reports/2009/ReimbursementProgramRecommendations2009.pdf>

"Best Practices in Returning an Injured Employee to Work: Factsheet for Employers," February 2010.

http://www.dir.ca.gov/chswc/CHSWC_FactsheetRTW_2010.pdf

Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California, February 2010.

http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf

International Forum on Disability Management (IFDM) 2010

Status: Completed

Information and Call for Papers: <http://www.dir.ca.gov/chswc/Conferences/IFDM/IFDM.html>

Return-to-Work Program Established in Labor Code Section 139.48

Status: Completed

CHSWC Reports:

PROJECTS AND STUDIES

RETURN TO WORK (continued)

"Recommendations for the Return-to-Work Program Established in Labor Code Section 139.48" (April 2009).

<http://www.dir.ca.gov/chswc/Reports/2009/ReimbursementProgramRecommendations2009.pdf>

"Report on the California Return-to-Work Program Established in Labor Code 139.48" (April 2009).

http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_ReportontheCaliforniaReturntoWorkProgramEstablishedinLaborCode139_48_2009.pdf

RTW/FEHA/ADA – Coordination and Interaction

Status: Completed

CHSWC Booklet, Factsheet and Report:

Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California (February 2010).

http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf

"Best Practices in Returning an Injured Employee to Work: Factsheet for Employers" (February 2010).

http://www.dir.ca.gov/chswc/CHSWC_FactsheetRTW_2010.pdf

"Summary of December 9, 2008 Return-to-Work/FEHA/ADA Advisory Group Meeting" (April 2009).

http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SummaryRTWFEHAADAGuidebookRoundtable2009.pdf.

Evaluation of Return-to-Work Reforms

Status: Completed

"Workers' Compensation Reform and Return to Work: The California Experience" (November 2010).

<http://www.dir.ca.gov/chswc/Reports/2010/WCReformandReturntoWork.pdf>

Return-to-Work Roundtable

Status: Completed

CHSWC Report:

"Summary of November 17, 2006 CHSWC Return-to-Work Roundtable" (April 2007).

<http://www.dir.ca.gov/CHSWC/Reports/ReturnToWorkRoundtable-Final.pdf>

Assembly Bill 1987 and Return to Work

Status: Completed

CHSWC Report:

"AB 1987 and Return-to-Work Incentives and Alternatives" (April 2006).

<http://www.dir.ca.gov/CHSWC/Reports/RTW-AB1987.pdf>

Review of Literature on Modified Work

Status: Completed

CHSWC Report:

"Does Modified Work Facilitate Return to Work for Temporarily or Permanently Disabled Workers?" (August 1997).

http://www.dir.ca.gov/CHSWC/Modified_Work_Krause.html

Policies and Strategies to Help Injured Workers Return to Sustained Employment

Status: Completed

CHSWC Report:

"Return to Work in California: Listening to Stakeholders' Voices" (July 2001).

<http://www.dir.ca.gov/CHSWC/RTWinCA0701.html>

PROJECTS AND STUDIES

RETURN TO WORK (continued)

Primary Treating Physician Effectiveness in Return to Work (RTW) After Low-Back Injuries

Status: First phase: Completed

Second phase: In process

CHSWC Report:

"Physical Workplace Factors and Return to Work After Compensated Low-Back Injury: A Disability Phase-Specific Analysis," JOEM (March 2000).

http://journals.lww.com/joem/Abstract/2000/03000/Physical_Workplace_Factors_and_Return_to_Work.15.aspx

Predictors and Measures of Return to Work

Status: Completed

CHSWC Report:

"Determinants of Duration of Disability and Return to Work After Work-Related Injury and Illness: Challenges for Future Research" (April 2001).

<http://www.dir.ca.gov/chswc/Determinants.pdf>

III. WORKERS' COMPENSATION REFORMS

Evaluation of System Changes

Status: In process

CHSWC Summary:

"CHSWC Summary of System Changes in California Workers' Compensation" (February 2008).

<http://www.dir.ca.gov/Chswc/Reports/CHSWCRptonSummarySystemChangesDRAFTFeb%202008.pdf>

Assembly Bill 749 Analysis

Status: Completed

CHSWC Summaries:

"CHSWC and AB 749 as Amended" (October 2002).

<http://www.dir.ca.gov/CHSWC/749Report/AB749asamended112202.html>

"CHSWC and AB 749" (February 2002).

<http://www.dir.ca.gov/CHSWC/ab749.html>

Assembly Bill 227 and Senate Bill 228 Analysis

Status: Completed

CHSWC Summary:

"Reforms of 2003, AB 227" (October 2003).

http://www.dir.ca.gov/CHSWC/Reports/Reforms_of_2003-AB227.pdf

"Reforms of 2003, SB 228" (October 2003).

http://www.dir.ca.gov/CHSWC/Reports/Reforms_of_2003-SB228.pdf

Senate Bill 899 Analysis

Status: Completed

CHSWC Summaries:

"Summary of Workers' Compensation Reform Legislation" (2004).

<http://www.dir.ca.gov/CHSWC/Summary-of-SB899.doc>

"Section-by-Section Review of SB 899" (2004).

<http://www.dir.ca.gov/CHSWC/Section-by-section-Review-of-SB899.doc>

Evaluation of the Division of Workers' Compensation (DWC) Audit Function (*Special Study at the Request of the Legislature*)

Status: Completed

CHSWC Reports:

PROJECTS AND STUDIES

WORKERS' COMPENSATION REFORMS (continued)

"CHSWC Report on the Division of Workers' Compensation Audit Function" (1998).

<http://www.dir.ca.gov/CHSWC/FinalAuditReport.html>

"CHSWC Study of the Division of Workers' Compensation Audit Function" (December 1998).

<http://www.dir.ca.gov/CHSWC/AuditSummaryCover.html>

Medical-Legal Study

Status: Ongoing

CHSWC Reports:

"Evaluating the Reforms of the Medical-Legal Process Using the WCIRB Permanent Disability Survey" (July 1997).

http://www.dir.ca.gov/CHSWC/DisabilityReport/data_and_methodology.html

"Evaluating the Reforms of the Medical-Legal Process Using the WCIRB Permanent Disability Survey" Executive Summary (July 1997).

<http://www.dir.ca.gov/CHSWC/DisabilitySummary/execsummary.html>

Vocational Rehabilitation Study

Status: Completed

CHSWC Reports:

"Vocational Rehabilitation Reform Evaluation" (March 2000).

<http://www.dir.ca.gov/CHSWC/Vocrehabreform2000.pdf>

"Vocational Rehabilitation Benefit: An Analysis of Costs, Characteristics, and the Impact of the 1993 Reforms" (August 1997).

<http://www.dir.ca.gov/CHSWC/rehab/rehabcover.html>

Evaluation of Treating Physician Reports and Presumption

Status: Completed

CHSWC Report:

"Report on the Quality of the Treating Physician Reports and the Cost-Benefit of Presumption in Favor of the Treating Physician" (August 1999).

<http://www.dir.ca.gov/CHSWC/Report99/TPhysician.html>

Update of Treating Physician Reports and Presumption Study

Status: Completed

CHSWC Report:

"Doctors and Courts: Do Legal Decisions Affect Medical Treatment Practice"? (November 2002).

<http://www.dir.ca.gov/CHSWC/CHSWCLegalDecAffectMedTreatPractice/ptpfinalrpt.html>

Evaluation of Labor Code Section 5814 Penalty Provisions

Status: Completed

CHSWC Reports:

"Issue Paper on Labor Code Section 5814" (April 2000).

<http://www.dir.ca.gov/CHSWC/LC5814Cvr.html>

"Background Paper on Labor Code Section 5814" (February 1999).

<http://www.dir.ca.gov/CHSWC/LC5814.htm>

"Baseball Arbitration" Provisions of Labor Code Section 4065

Status: Completed

CHSWC Report:

"Preliminary Evidence on the Implementation of 'Baseball Arbitration' in Workers' Compensation" (November 1999).

<http://www.dir.ca.gov/chswc/Baseballarbfinal%27rptcover.htm>

PROJECTS AND STUDIES

WORKERS' COMPENSATION REFORMS (continued)

CHSWC Response to Questions from the Assembly Committee on Insurance

Status: Completed

CHSWC Report:

"CHSWC Response to Questions from the Assembly Committee on Insurance" (2001).

Evaluation of Workers' Compensation Cost and Benefit Changes Since the Beginning of the Reforms (Special Study at the Request of the Legislature)

Status: Completed

CHSWC Report:

"Workers' Compensation Costs and Benefits After the Implementation of Reform Legislation" (August 1999).

<http://www.dir.ca.gov/chswc/Report.htm>

"Executive Summary Impact of the 1993 Reforms on Payments of Temporary and Permanent Disability" (August 1999).

<http://www.dir.ca.gov/chswc/ExecutiveSummary.htm>

"Summary Estimating the Workers' Compensation Reform Impact on Employer Costs and Employee Benefits" (August 1999).

<http://www.dir.ca.gov/chswc/Summary.htm>

Cost Trends 1985-2005

Status: Completed

NASI Brief:

"Workers' Compensation in California and in the Nation: Benefit and Employer Cost Trends, 1989-2005" (April 2008).

<http://www.dir.ca.gov/chswc/Reports/CAWorkers'CompensationBrief2008.pdf>

Temporary Disability Payments Beyond the Two-Year Restriction

Status: Completed

CHSWC Memorandum:

"Impact of Relaxing Restrictions on Eligibility for Temporary Disability Payments Beyond the Current Two Years From Commencement of Benefit Payment" (January 2007).

http://www.dir.ca.gov/CHSWC/Reports/Memo_On_TD_Benefits_Beyond_2Years.pdf

IV. OCCUPATIONAL SAFETY AND HEALTH

Experience Rating Impacts on Safety

Status: Draft version posted for public comment with final version to follow

"Report on Impact of Experience Rating on Small Employers," RAND (2012).

http://www.dir.ca.gov/chswc/Reports/2012/ExperienceRatingSmEmp_draft.pdf

The Injury and Illness Prevention Program (IIPP)

Status: Completed

"An Evaluation of the California Illness and Injury Prevention Program," Full Report and Summary, RAND (2012).

<http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluation.pdf>

<http://www.dir.ca.gov/chswc/reports/2012/IIPPEvaluationSummary.pdf>

"Requirement for Insurer Review of Employer's IIPP," CHSWC (January 2012).

http://www.dir.ca.gov/chswc/Reports/2012/CHSWC_RequirementForInsurerReviewOfEmployer'sIIPP.pdf

PROJECTS AND STUDIES

OCCUPATIONAL SAFETY AND HEALTH (continued)

Cal/OSHA Inspections

Status: Completed

“Are There Unusually Effective Occupational Safety and Health Inspectors and Inspection Practices?” RAND (2012).

<http://www.dir.ca.gov/chswc/Reports/2012/OccSafetyHealthInspectors.pdf>

Aging Workforce

Status: Completed

“Working Safer or Just Working Longer? The Impact of an Aging Workforce on Occupational Injury and Illness Costs” (February 2011).

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_AgingWorkforceOccupationalInjuryIllnessCost.pdf

Research Agenda for Improving Workplace Health and Safety in California

Status: Report completed; individual studies ongoing.

CHSWC Report:

“Research Agenda for Improving Workplace Health and Safety in California” (February 2008).

<http://www.dir.ca.gov/CHSWC/reports/CHSWCReportHealthandSafetyResearchAgendaFeb2008.pdf>

California Occupational Safety and Health Programs

Status: Completed

CHSWC Report:

“Background Report on California Occupational Safety and Health Programs” (February 2008).

<http://www.dir.ca.gov/CHSWC/reports/CHSWCBackgroundReportonCaliforniaHealthSafetyProgramsFeb2008.pdf>

ISO 9001

Status: Completed

CHSWC Report:

“Quality Management and Job Quality: How the ISO 9001 Standard for Quality Management Systems Affects Employees and Employers” (August 2008).

http://www.dir.ca.gov/chswc/Reports/ISO_9001_2008_August.pdf

Occupational Safety and Health for Public Safety Employees

Status: Completed

CHSWC Report:

“Occupational Safety and Health for Public Safety Employees: Assessing the Evidence and the Implications for Public Policy” (2008).

http://www.dir.ca.gov/CHSWC/Reports/CHSWC_PublicSafetyEmployeesReport2008.pdf

Musculoskeletal Injuries to Firefighters in California

Status: Completed

CHSWC Report:

“The Frequency, Severity, and Economic Consequences of Musculoskeletal Injuries to Firefighters in California,” RAND (2010).

<http://www.dir.ca.gov/chswc/Reports/2010/FirefightersMusculoskeletal.pdf>

School Action for Safety and Health Program

Status: In process

CHSWC Report and Materials:

SASH Brochure

http://www.dir.ca.gov/chswc/SASH/Publications/SASH_brochure.pdf

PROJECTS AND STUDIES

OCCUPATIONAL SAFETY AND HEALTH (continued)

SASH Flyer

http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Flier.pdf

Injury and Illness Prevention Program Template

<http://www.dir.ca.gov/chswc/SASH/index.htm>

SASH Factsheets, Tools, Tip Sheets, Resource List, Worksheets, and IIPP Guide and Template.

<http://www.dir.ca.gov/chswc/SASH/index.htm>

SASH Online Resource Guide

<http://www.lohp.org/docs/projects/sash/sashonlineresourceguideweb.pdf>

SASH Poster

http://www.dir.ca.gov/chswc/SASH/Publications/SASH_Poster.pdf

“Summary of the June 29, 2008 Schools Injury and Illness Prevention Program Roundtable” (December 2008).

http://www.dir.ca.gov/chswc/Reports/CHSWC_SummarySchoolsInjuryIllnessPreventionProgramRoundtable.pdf

Project: Worker Occupational Safety and Health Training and Education Program (WOSHTEP)

Status: Ongoing

CHSWC Reports and Materials:

WOSHTEP Brochure

<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP%20Brochures.English.2009.06.09.pdf>

2004-2012 WOSHTEP Advisory Board Annual Reports

<http://www.dir.ca.gov/chswc/woshtep.html>

“State, National and International Safety and Health Training Program Resources” (2003).

<http://www.dir.ca.gov/CHSWC/TrainingProgramsResources/Surveycover.html>

“Workplace Health and Safety Worker Training Materials: An Electronic Multilingual Resource List” (July 2009).

<http://www.dir.ca.gov/CHSWC/MultilingualGuide/MultilingualGuideMain.html>

“Excessive Heat at Work: How to Prevent Indoor Heat Illness Participants Handouts,” English and Spanish (December 2012).

<http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/WOSHTEPIndoorHeatIllnessPreventionParticipantsHandoutsforWebFINAL.pdf>

<http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/WOSHTEPIndoorHeatPreventionMaterialsParticipantsHandoutsSPANFINAL.pdf>

“Indoor Heat Illness Checklist,” (December 2012), English and Spanish

<http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/IndoorHeatIllnessChecklistFINAL.pdf>

<http://www.dir.ca.gov/chswc/WOSHTEP/SpecialistCourseMaterials/IndoorHeatIllnessChecklistSPANFINAL.pdf>

Heat Hazards in Agriculture: A Guide for Employers to Carry out Tailgate Training for Workers (2008).

http://www.dir.ca.gov/chswc/Reports/CHSWC_HeatAgriculturEnglish.pdf

http://www.dir.ca.gov/chswc/Reports/CHSWC_HeatAgricultureSpanish.pdf

“Taking Action for Safety and Health: A Guide to Developing Your Workplace Injury and Illness Prevention Program,” CHSWC (December 2012).

<http://www.dir.ca.gov/chswc/WOSHTEP/iipp/Materials/IIPPGuide.pdf>

Construction Case Study Training Guide (January 2010).

<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/ConstructionCaseStudyTraining.pdf>

The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs

http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP_TheWholeWorker.pdf

“WOSHTEP NEEDS ASSESSMENT REPORT: Opportunities to Integrate Worker Health and Safety Education into Building Trades Apprenticeship Program” (March

2010). <http://www.dir.ca.gov/chswc/WOSHTEP/Publications/ApprenticeshipNeedsAssessment.pdf>

PROJECTS AND STUDIES

OCCUPATIONAL SAFETY AND HEALTH (continued)

NISH Occupational Health and Safety Course Flier

<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/NISHGenericFlier.pdf>

Awareness Session: "Preventing Workplace Injuries and Illnesses" (2010).

Guide – English and Spanish

<http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/AwarenessModuleEnglish.pdf>

<http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/AwarenessModuleSpanish.pdf>

Training Cards – English and Spanish

<http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/CardsEnglish.pdf>

<http://www.dir.ca.gov/chswc/WOSHTEP/Awareness/CardsSpanish.pdf>

Small Business Health and Safety Training Materials (General) (July

2009). <http://www.dir.ca.gov/chswc/SBMRhealthandsafety.htm>

Small Business Restaurant Supervisor Safety Training Materials (Industry-specific) (July 2009).

<http://www.dir.ca.gov/chswc/SBMRMaterials.htm> (English and Spanish)

"Protecting the Safety and Health of Restaurant Workers: A Workbook for Employees," English, Spanish and Korean

<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantWorkbook.pdf>

http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantTrainingGuide_Spanish.pdf

http://www.dir.ca.gov/chswc/WOSHTEP/Publications/RestaurantWorkbook_Korean.pdf

Small Business Janitorial Health and Safety Training Materials (Industry-specific) (July 2009).

http://www.dir.ca.gov/chswc/WOSHTEP/SBMR_Janitorial.htm (English and Spanish)

Small Business Health and Safety Materials for the Dairy Industry – English and Spanish
Training Guide

<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairyTrainingGuide.pdf>

http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairyTrainingGuide_Spanish.pdf

Fotonovela (Picture Book)

<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairySafetyFotonovela.pdf>

http://www.dir.ca.gov/chswc/WOSHTEP/Publications/DairySafetyFotonovela_Spanish.pdf

"Motor Vehicle Safety Programs Fact Sheet"

<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/MotorVehicleSafety.pdf>

Teens Working in Agriculture: Activities for High School ESL Classes (2009).

<http://www.dir.ca.gov/chswc/WOSHTEP/Publications/ESLCurriculumActivitiesBooklet.pdf>

Teens Speak Out for Safety on the Job: Lessons from the Young Worker Leadership Academy (2008).

<http://www.youngworkers.org/downloads/pdf/TeensSpeakOut.pdf>

Workplace Wellness

Status: Completed

CHSWC Booklet and Report:

The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs (2010).

http://www.dir.ca.gov/chswc/WOSHTEP/Publications/WOSHTEP_TheWholeWorker.pdf

"Summary of the July 16, 2008 Workplace Wellness Roundtable" (December 2008).

http://www.dir.ca.gov/chswc/Reports/CHSWC_SummaryWorkplaceWellnessRoundtable.pdf

Low-Wage Workers - Barriers to Occupational Health

Status: Completed

CHSWC Report:

"Barriers to Occupational Health Services for Low-Wage Workers in California" (April 2006).

http://www.dir.ca.gov/CHSWC/Reports/Barriers_To_OHS.pdf

California Partnership for Young Worker Health and Safety

Status: Ongoing

CHSWC Report:

PROJECTS AND STUDIES

“Protecting and Educating Young Workers: Report of the California Study Group on Young Worker Health and Safety” (March 1998).

OCCUPATIONAL SAFETY AND HEALTH (continued)

<http://www.dir.ca.gov/chswc/studgrp.html>

www.youngworkers.org for the California Partnership for Young Worker Health and Safety, providing information for teens, teen workers in agriculture, employers, and educators

Project: Child Labor Photography Exhibit and Teen Workshops

Status: Presented in 2004, 2005 and 2006.

V. WORKERS' COMPENSATION ADMINISTRATION

Assessment of EAMS

Status: Completed

CHSWC Report:

“Electronic Adjudication Management System (EAMS) Information Technology Needs Assessment Report” (June 2011).

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_EAMS_AssessmentReport.pdf

Stakeholder public comments about EAMS Needs Assessment Report.

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_EAMS_AssessmentReport_publicReport.pdf

Liens

Status: Completed

“Liens Report” (January 2011).

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReport.pdf

“Stakeholder Public Comments About Lien Report, Volume 1.”

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReportVolume1.pdf

“Stakeholder Public Comments About Lien Report Volume 2.”

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_LienReportVolume2.pdf

System Monitoring

Status: Completed

“Memo on System Monitoring” (January 2011).

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_MemoOnSystemMonitoring.pdf

Review of Disability Evaluation Delays and Supplemental QME Reports

Status: Completed

CHSWC Report:

“Review of Disability Evaluation Delays and Supplemental QME Reports” (June 2010).

http://www.dir.ca.gov/chswc/Reports/2010/CHSWC_DEUDelaysandSupplementalQMEReports.pdf

Report on Benefit Notices and Recommendations, July 2010

Status: Completed

CHSWC Report:

“Report on Benefit Notices and Recommendations” (July

2010). <http://www.dir.ca.gov/chswc/Reports/2010/BenefitNoticesRecommendationspdf.pdf>

Selected Indicators in Workers' Compensation

Status: Completed

CHSWC Reports:

2004-2011 “Selected Indicators in Workers' Compensation: A Report Card for California.”

<http://www.dir.ca.gov/chswc/AnnualReportpage1.html>

PROJECTS AND STUDIES

WORKERS' COMPENSATION ADMINISTRATION (continued)

The System of Access to Benefits for Injured Employees When Employer May Not Be Insured

Status: Completed

CHSWC Report:

"Background Paper on Uninsured Employers Benefits Trust Fund" (April 2007).

<http://www.dir.ca.gov/CHSWC/Reports/UEBTF-Final.pdf>

Electronic Deposit of Benefits

Status: Completed

CHSWC Report:

"Costs and Benefits of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California" (November 2004).

http://www.dir.ca.gov/chswc/chswc_accesstofunds.pdf/

Workers' Compensation Court Management and Judicial Function Study

Status: Completed

CHSWC Reports:

"Improving Dispute Resolution for California's Injured Workers," Summary, RAND (2003).

<http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution-Summary.pdf>

"Improving Dispute Resolution for California's Injured Workers," Full Report, RAND (2003).

<http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution.pdf>

Court Technology Project

Status: Completed

CHSWC Reports:

"Improving Dispute Resolution for California's Injured Workers" (2003).

<http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution.pdf> - Full Report

<http://www.dir.ca.gov/CHSWC/Reports/ImprovingDisputeResolution-Summary.pdf> - Summary

Final Offer Arbitration in Determining a Permanent Disability Rating Under Labor Code 4065

Status: Completed

CHSWC Reports:

"Preliminary Evidence on the Implementation of Baseball Arbitration" (November 1999).

<http://www.dir.ca.gov/chswc/BasebalArbFfinal.htm>

Local Forms and Procedures – Labor Code Section 5500.3

Status: Completed

For further information ...

CHSWC 1998-99 Annual Report: "Projects and Studies" section.

Profile of Division of Workers' Compensation (DWC) District Office Operations

Status: Completed

For further information ...

CHSWC 1997-98 Annual Report: "Program Oversight" section.

CHSWC Roundtable on Division of Workers' Compensation (DWC) Lien Workload

Status: Completed

For further information ...

CHSWC 1998-99 Annual Report: "Projects and Studies" section.

Evaluation of the DWC Audit Function

(Special Study at the Request of the Legislature)

Status: Completed

PROJECTS AND STUDIES

CHSWC Reports:

WORKERS' COMPENSATION ADMINISTRATION (continued)

"CHSWC Report on the Workers' Compensation Audit Function" (December 1998).

<http://www.dir.ca.gov/chswc/FinalAuditReport.html>

"Executive Summary - CHSWC Study of the Division of Workers' Compensation Audit Function" (December 1998).

<http://www.dir.ca.gov/chswc/AuditSummaryCover.html>

"Project Description Study of Workers Compensation Audit Function" (1998).

<http://www.dir.ca.gov/chswc/Auditfunctiondesc.html>

VI. INFORMATION FOR WORKERS AND EMPLOYERS

Uninsured Employers Benefits Trust Fund Educational Booklet

Status: Completed

"If Your Employer is Illegally Uninsured: How to Apply for Workers' Compensation Benefits" (June 2011).

<http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers.pdf>.

Spanish version: http://www.dir.ca.gov/chswc/Reports/2011/UninsuredEmployers_Spanish.pdf

Workers' Compensation and Disability Rights Laws in California: RTW, FEHA, and the Interactive Process

Status: Completed

Helping Injured Employees Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California (February 2010).

http://www.dir.ca.gov/chswc/Reports/2010/HandbookRTW_2010.pdf

"Best Practices in Returning an Injured Employee to Work: Factsheet for Employers" (February 2010).

http://www.dir.ca.gov/chswc/CHSWC_FactsheetRTW_2010.pdf

"Summary of December 9, 2008 Return-to-Work/FEHA/ADA Advisory Group Meeting" (April 2009).

http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SummaryRTWFEHAADAGuidebookRoundtable2009.pdf

Medical Booklet and Fact Sheet

Status: Completed

CHSWC Booklet and Fact Sheet:

The Basics About Medical Care for Injured Workers (2006).

<http://www.dir.ca.gov/CHSWC/Reports/MedicalCareFactsheet.pdf>

Getting Appropriate Medical Care for Your Injury (2006).

<http://www.dir.ca.gov/CHSWC/Reports/MedicalCareBooklet.pdf>

Benefit Notices Simplification Project

Status: Completed

CHSWC Reports:

"Project to Improve Laws and Regulations Governing Information for Workers Recommendations: Information for Injured Workers" (May 2000).

<http://www.dir.ca.gov/CHSWC/IWCover.html>

"Navigating the California Workers' Compensation System: The Injured Workers' Experience" (July 1996).

<http://www.dir.ca.gov/CHSWC/navigate/navigate.html>

Workers' Compensation Information Prototype Materials

Status: Completed

PROJECTS AND STUDIES

INFORMATION FOR WORKERS AND EMPLOYERS (continued)

CHSWC Report, Fact Sheets and Video:

"Project to Augment, Evaluate, and Encourage Distribution of the Prototype Educational Materials for Workers" (2000).

Workers' Compensation Fact Sheets and a Video, "Introduction to Workers' Compensation"

<http://www.dir.ca.gov/chswc/EduMaterials.html>

Consolidating and Coordinating Information for Injured Workers

Status: English and Spanish versions completed.

CHSWC Reports:

Workers' Compensation in California: A Guidebook for Injured Workers Third Edition (November 2006).

<http://www.dir.ca.gov/CHSWC/Reports/WorkersCompGuidebook-3rdEd.pdf> (English)

<http://www.dir.ca.gov/CHSWC/Reports/GuidebookSpanishforInjuredWorkers2006.pdf> (Spanish)

"Workers Compensation Update: Predesignating a Medical Group" (March 2007).

<http://www.dir.ca.gov/chswc/Reports/WorkersCompUpdateMarch2007d.pdf>

"Workers Compensation Update: New Law Extends Period for Temporary Disability Payments to Injured Workers" (April 2008).

<http://www.dir.ca.gov/chswc/Reports/WorkersCompUpdate-2008.pdf>

Workers' Compensation Medical Care in California Fact Sheets

Status: Completed

Fact Sheets:

"Workers' Compensation Medical Care in California: Quality of Care, Costs, Access to Care, System Overview" (August 2003).

http://www.dir.ca.gov/chswc/CHSWC_WCFactSheets.htm

Workers' Compensation Carve-Out Booklet

Status: Completed

CHSWC Report:

How to Create a Workers' Compensation Carve-Out in California: Practical Advice for Unions and Employers (2006).

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

Workers' Compensation Carve-Out Guidebook

Status: Completed

CHSWC Report:

Carve-Outs: A Guidebook for Unions and Employers in Workers' Compensation (May 2004).

<http://www.dir.ca.gov/CHSWC/CARVEOUTSGuidebook2004.doc>

Carve-Outs – Alternative Workers' Compensation Systems

Status: Completed

CHSWC Report:

Carve-outs in Workers' Compensation: An Analysis of Experience in the California Construction Industry (September 1999).

<http://www.dir.ca.gov/CHSWC/CarveOutReport/Carveoutcover.html>

VII. MEDICAL CARE

Medical Care Provided Under California Workers' Compensation Program

Status: Completed

CHSWC Report:

PROJECTS AND STUDIES

MEDICAL CARE (continued)

"Medical Care Provided Under California's Workers' Compensation Program: Effects of the Reforms and Additional Opportunities to Improve the Quality and Efficiency of Care," RAND (2011).

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_MedicalCareReformsandOpps_2011.pdf

Separate Appendices Document

http://www.rand.org/content/dam/rand/pubs/monographs/2011/RAND_MG1144.appendixes.pdf

Use of Compound Drugs, Medical Foods, and Co-Packs in California Workers' Compensation Program

Status: Completed

CHSWC Report:

"Use of Compound Drugs, Medical Foods, and Co-Packs in California's Workers' Compensation Program: An Overview of the Issues," RAND (January 2011).

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_UseofCompoundDrugsMedicalFoodsCo-Packs.pdf

Medical Study of Impact of Recent Reforms

Status: Completed

CHSWC Report:

"Working Paper: Pay-for-Performance in California's Workers' Compensation Medical Treatment System," RAND (August 2007).

http://www.dir.ca.gov/chswc/Reports/Pay_for_Performance_Report_2007.pdf

Medical Care Provided California's Injured Workers

Status: Completed

"Identifying Risky Opioid Prescribing Practices," UCLA (2012).

http://www.dir.ca.gov/chswc/Reports/2012/Identifying%20Risky%20Opioid%20Prescribing%20Practices_2012.pdf

"Memorandum on Evaluation of Opioid Prescribing Guidelines Using AGREE II," UCLA (2012).

http://www.dir.ca.gov/chswc/Reports/2012/Memorandum%20on%20Opioid%20Guidelines%20Evaluation_2012.pdf

Status: Completed

CHSWC Report:

"Medical Care Provided California's Injured Workers: An Overview of the Issues," RAND (September 2007)

http://www.dir.ca.gov/chswc/CHSWC_MedCareProvidedCAIW.pdf

Quality-of-Care Indicators: A Demonstration Project Using Carpal Tunnel Syndrome

Status: Completed

"RAND/UCLA Quality-of-Care Measures for Carpal Tunnel Syndrome: Tools for Assessing Quality of Care and Appropriateness of Surgery," (RAND 2011).

Summary at:

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_QualityofCareMeasuresforCarpalTunnel_summary_2011.pdf

Full report at:

http://www.dir.ca.gov/chswc/Reports/2011/CHSWC_QualityofCareMeasuresforCarpalTunnel_Tools_2011.pdf

Appendices at: http://www.rand.org/pubs/technical_reports/TR809.html

CHSWC Study on Spinal Surgery Second-Opinion Process

Status: Completed

CHSWC Report:

PROJECTS AND STUDIES

MEDICAL CARE (continued)

"Report and Recommendations on the Spinal Surgery Second-Opinion Process" (April 2007).
<http://www.dir.ca.gov/chswc/Reports/SSSOP-Final.pdf>

State Disability Insurance Integration Project

Status: In process

CHSWC Draft Report:

"The Impact of Occupational Injury and Illness on Pricing an Integrated Disability Benefit" (October 2008).

http://www.dir.ca.gov/chswc/Reports/SDI_paper_final_draft_2008_Oct_29.pdf

Medical Treatment Studies

Status: In process.

CHSWC Report:

"Inpatient Hospital Services: An Update on Services Provided Under California's Workers' Compensation Program Report," RAND (January 2009).

http://www.dir.ca.gov/chswc/Reports/CHSWC_InpatientHospitalServices.pdf

"Inpatient Hospital Fee Schedule and Outpatient Surgery Study," RAND (February 2002).

<http://www.dir.ca.gov/CHSWC/HospitalFeeSchedule2002/HospfeeschedulePage1.html>

"Ambulatory Surgery Facility Services Provided to California's Injured Workers," RAND (March 2009).

<http://www.dir.ca.gov/chswc/Reports/2009/FacilityServicesforAmbulatorySurgery.pdf>

"Hospital Emergency Department Services Furnished Under California's Workers' Compensation Program," RAND (April 2009).

<http://www.dir.ca.gov/chswc/Reports/2009/EmergencyDepartmentServices.pdf>

"Regulatory Actions that Could Reduce Unnecessary Medical Expenses Under California's Workers' Compensation Program," RAND (July 2009).

<http://www.dir.ca.gov/chswc/Reports/2009/RANDpaper.pdf>

CHSWC Study on Medical Treatment Protocols

Status: Completed

CHSWC Reports:

"Evaluating Medical Treatment Guideline Sets for Injured Workers in California," Full Report, RAND (April 2006).

http://www.dir.ca.gov/CHSWC/Reports/Evaluating_med_tx_guideline.pdf

"Evaluating Medical Treatment Guideline Sets for Injured Workers in California," Summary, RAND (April 2006).

http://www.dir.ca.gov/CHSWC/Reports/Eval_med_tx_guideline_summary.pdf

"Updated and Revised CHSWC Recommendations to DWC on Workers' Compensation Medical Treatment Guidelines" (April 2006).

http://www.dir.ca.gov/CHSWC/Reports/Medical_Treatment_Recommendations_Final_040606.pdf

"CHSWC Recommendations to DWC on Workers' Compensation Medical Treatment Guidelines" (November 2004).

http://www.dir.ca.gov/chswc/CHSWC_Med%20Treat_Nov2004.pdf

"Estimating the Range of Savings from Introduction of Guidelines Including ACOEM" (October 2003).

<http://www.dir.ca.gov/CHSWC/ACOEMGuideline.pdf>

Health Care Organizations

Status: Completed

CHSWC Staff Report:

"A Report on Health Care Organizations (HCOs) in Workers' Compensation" (April 2006).

<http://www.dir.ca.gov/CHSWC/Reports/HCO-WC-Apr2006.pdf>

PROJECTS AND STUDIES

MEDICAL CARE (continued)

Repackaged Drugs Study

Status: Completed

CHSWC Issue Paper:

"Paying for Repackaged Drugs Under the California Workers' Compensation Official Medical Fee Schedule" (May 2005).

http://www.dir.ca.gov/CHSWC/WR260-1050525_Repack.pdf

Pharmacy Reporting Impact Study

Status: Completed

CHSWC Report:

"Impact of Physician-Dispensing of Repackaged Drugs on California Workers' Compensation, Employers' Cost, and Workers' Access to Quality Care" (July 2006).

<http://www.dir.ca.gov/CHSWC/Reports/Physician-Dispensend-Pharmaceuticals.pdf>

Workers' Compensation Pharmaceutical Costs Study

Status: Completed

CHSWC Reports:

"Study of the Cost of Pharmaceuticals in Workers' Compensation" (June 2000).

<http://www.dir.ca.gov/CHSWC/Pharmacy/pharmacover.html>

"Study of the Cost of Pharmaceuticals in Workers' Compensation," Executive Summary (June 2000).

<http://www.dir.ca.gov/CHSWC/Pharmacy/ExecSumPharmaRpt.html>

Payment for Hardware Study

Status: Completed

CHSWC Report:

"Payment for Hardware Used in Complex Spinal Procedures Under California's Official Medical Fee Schedule for Injured Workers," RAND (September 2005).

http://www.dir.ca.gov/CHSWC/Hardware_comp9.pdf

Burn Diagnosis-Related Groups (DRGs) Study

Status: Completed

CHSWC Report:

"Payments for Burn Patients under California's Official Medical Fee Schedule for Injured Workers," RAND (May 2005).

<http://www.dir.ca.gov/CHSWC/WR-263.Burn050525.pdf>

California Research Colloquium on Workers' Compensation Medical Benefit Delivery and Return to Work

Status: Completed

CHSWC Report:

"California Research Colloquium on Workers' Compensation Medical Benefit Delivery and Return to Work," RAND (2006).

http://www.dir.ca.gov/chswc/Reports/2009/MedBenefit_and_RTW_2006.pdf

Integrating Occupational and Non-Occupational Medical Treatment

Status: In process

Occupational and Non-Occupational Integrated Care (ONIC) Roundtables

Status: Completed

CHSWC Report:

"Summary of Occupational and Non-Occupational Integrated Care Roundtables" (December 2008).

http://www.dir.ca.gov/chswc/Reports/SummaryOandNO_ICR2008.pdf

PROJECTS AND STUDIES

MEDICAL CARE (continued)

CHSWC Study on 24-Hour Care

Status: Completed

CHSWC Reports:

"24-Hour Care Roundtable," Summary (December 2006).

<http://www.dir.ca.gov/CHSWC/Reports/24-Hour-Care-Final.pdf>

"Assessment of 24-Hour Care Options for California" (2004).

<http://www.dir.ca.gov/CHSWC/Reports/24HourCare.pdf>

"CHSWC Background Paper: Twenty-four Hour Care" (October 2003).

http://www.dir.ca.gov/CHSWC/CHSWC_24hCare.pdf

Workers' Compensation Medical Payment Systems

Status: Completed

CHSWC Staff Reports:

"Workers' Compensation Medical Payment Systems: A Proposal for Simplification and Administrative Efficiency, Prepared for the Honorable Richard Alarcón, Chair, California Senate Committee on Labor and Industrial Relations" (2003).

http://www.dir.ca.gov/CHSWC/CHSWC_WCMedicalPaymentSystem/CHSWC_WCMedicalPaymentSystem.pdf

"Adopting Medicare Fee Schedules: Considerations for the California Workers' Compensation Program," RAND (2003).

<http://www.dir.ca.gov/CHSWC/Reports/AdoptingMedicareFeeSchedules-summary.pdf>

VIII. COMMUNITY CONCERNS

Analysis of WCIRB Pure Premium Rates

Status: Completed

CHSWC Report:

"Analysis of Proposed WCIRB 2009 Pure Premium Rates Submitted to the California Department of Insurance" (September 2008).

http://www.dir.ca.gov/chswc/Reports/Analysis_of_proposed_WCIRB_2009_pure_premium_rates-20080923.pdf

Public Access to Workers' Compensation Insurance Coverage Information

Status: Completed

CHSWC Reports:

"Workers' Compensation Compliance and Proof of Coverage" (February 2006).

<http://www.dir.ca.gov/CHSWC/Papers/ProofOfCoverage2006.pdf>

"CHSWC Issue Paper on Public Access to Workers' Compensation Insurance Coverage Information" (April 2005).

<http://www.dir.ca.gov/CHSWC/ProofofCoverage.pdf>

DWC Workers' Compensation Audits

Status: In process

CHSWC Report:

"Draft CHSWC Response to Community Concerns Regarding DWC Workers' Compensation Audits" (February 2007).

http://www.dir.ca.gov/CHSWC/Reports/DWC_Audits_022107.pdf

U.S. Longshore and Harbor Workers' Compensation Market in California

Status: Completed

CHSWC Report:

PROJECTS AND STUDIES

COMMUNITY CONCERNS (continued)

"CHSWC Issue Paper on the United States Longshore and Harbor Workers' Compensation Market in California" (April 2005).

<http://www.dir.ca.gov/CHSWC/USLongshoreAndHarborPaper.pdf>

Workers' Compensation and the California Economy

Status: Completed

CHSWC Report:

"Update – Workers' Compensation and the California Economy" (April 2000).

<http://www.dir.ca.gov/CHSWC/CalEconomy/CalEconomyCover.html>

Evaluation of Workers' Compensation Cost and Benefit Changes Since the Beginning of the 1989 and 1993 Reforms

(Special Study at the Request of the Legislature)

Status: Completed

CHSWC Reports:

"Workers' Compensation Costs and Benefits After the Implementation of Reform Legislation (August 1999).

<http://www.dir.ca.gov/CHSWC/Report.htm>

"Executive Summary Impact of the 1993 Reforms on Payments of Temporary and Permanent Disability" (August 1999).

<http://www.dir.ca.gov/CHSWC/ExecutiveSummary.htm>

"Summary Estimating the Workers' Compensation Reform Impact on Employer Costs and Employee Benefits" (August 1999).

<http://www.dir.ca.gov/CHSWC/Summary.htm>

CHSWC 1998-99 Annual Report incorporates this report.

Workers' Compensation Anti-fraud Activities

Status: Completed

CHSWC/Fraud Assessment Commission (FAC) Study:

"Workers' Compensation Medical Payment Accuracy Study" (June 2008).

http://www.dir.ca.gov/chswc/Reports/2009/Navigant_Medical_Payment_Report.pdf

CHSWC Reports:

"Reporting Workers' Compensation Injuries in California: How Many are Missed?" (August, 2008).

<http://www.dir.ca.gov/chswc/Reports/ReportingWorkersCompensationInjuriesinCalifornia2008August.pdf>

"Fraud in Workers' Compensation Payroll Reporting: How Much Employer Fraud Exists? What is the Impact on Honest Employers?" (August 2007).

http://www.dir.ca.gov/chswc/Reports/Fraud_in_WC_payroll_Report_Aug_14_2007.pdf

"Split Class Codes: Evidence of Fraudulent Payroll Reporting" (August 2007).

http://www.dir.ca.gov/chswc/Reports/Split_Class_Codes_13Aug2007.pdf

"Report on the Workers' Compensation Anti-Fraud Program" (August 2001).

<http://www.dir.ca.gov/CHSWC/Finalfraudreport0801.html>

Report on the Campaign Against Workers' Compensation Fraud" (May 2000).

<http://www.dir.ca.gov/CHSWC/Fraud/Fraudcover.html>

"Workers' Compensation Anti-Fraud Activities – Report on the CHSWC Public Fact-Finding Hearing" (September 1997).

<http://www.dir.ca.gov/CHSWC/Fraud/Fraudreport.html>

PROJECTS AND STUDIES

COMMUNITY CONCERNS (continued)

Illegally Uninsured Employers Study

Status: Completed

CHSWC Reports:

“Uninsured Employers Benefits Trust Fund,” Background Paper (April 2007).

<http://www.dir.ca.gov/CHSWC/Reports/UEBTF-Final.pdf>

“Employers Illegally Uninsured for Workers’ Compensation – CHSWC Recommendations to Identify Them and Bring Them Into Compliance” (December 1998).

<http://www.dir.ca.gov/CHSWC/uefcover.html>

IX. INSURANCE INDUSTRY AND COVERAGE

Insurance Insolvency Study

Status: Completed

CHSWC Report:

“California’s Volatile Workers’ Compensation Insurance Market: Problems and Recommendations for Change,” RAND (December 2009).

<http://www.dir.ca.gov/chswc/Reports/2009/InsolvencyReport.pdf>

Self Insurance Groups

Status: Completed

CHSWC Reports:

“Report on Self Insurance Groups” (December 2009).

http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_SIGReport.pdf

“Issue Paper on Tax Status of Self-Insured Groups (SIGs)” (April 2006).

<http://www.dir.ca.gov/CHSWC/Reports/SIG-TaxStatus.pdf>

Training of Claim Adjusters and Bill Reviewers

Status: Completed

CHSWC Report:

“Revised Claims Adjuster and Bill Reviewer Training and Certification by Insurers Report” (April 2009).

http://www.dir.ca.gov/chswc/Reports/2009/CHSWC_TrainingCertificationClaimsAdjusters.pdf.

Proof of Coverage

Status: Completed

CHSWC Background Paper:

“Workers’ Compensation Compliance and Proof of Coverage” (February 2006).

<http://www.dir.ca.gov/CHSWC/Papers/ProofOfCoverage2006.pdf>

State of the California Workers’ Compensation Insurance Industry

Status: Completed

CHSWC Background Papers:

“Study of the California Workers’ Compensation Insurance Market Study” (September 2003).

http://www.dir.ca.gov/CHSWC/Reports/CA_InsuranceMarketStudy.pdf

“State of the California Workers’ Compensation Insurance Industry,” Background Paper (April 2002).

<http://www.dir.ca.gov/CHSWC/StateInsuranceIndustry2002/Stateinsuranceindustry042002.html>

PROJECTS AND STUDIES

X. DISASTER PREPAREDNESS AND TERRORISM

Impact of Terrorism on Workers' Compensation

Status: Completed

CHSWC Issue Paper:

"CHSWC Background Paper on the Impact of Terrorism and California Workers' Compensation" (April 2006).

<http://www.dir.ca.gov/CHSWC/Reports/ImpactTerrorism-WC.pdf>

Forum on Catastrophe Preparedness: Partnering to Protect Workplaces (April 2006)

Status: Completed

CHSWC Staff Report:

"A Report on the Forum on Catastrophe Preparedness: Partnering to Protect Workplaces" (April 2006).

<http://www.dir.ca.gov/chswc/forum2006.html>

XI. CHSWC ISSUE PAPERS

Study of Labor Code Section 132a

Status: Completed

CHSWC Memorandum:

"Update on Labor Code Section 132a and Employer Termination of Health Insurance Coverage: Calif. Supreme Court Decision in *State of California, Dept of Rehab v. WCAB (Lauher)*" (July 2003).

<http://www.dir.ca.gov/chswc/Lauher132aUpdate.pdf>

Information on Industrial Medical Council (IMC) Disciplinary Actions Taken on Qualified Medical Evaluators (QMEs)

Status: Completed

CHSWC Background Paper:

"Recommendations for Improvement of the IMC's Protection of Injured Workers and Regulation of QMEs" (July 2003).

http://www.dir.ca.gov/chswc/CHSWCReport_IMCDisciplinaryrevJuly2003.doc

or http://www.dir.ca.gov/chswc/CHSWCReport_IMCDisciplinaryrevJuly2003.pdf

CHSWC White Paper on Cost/Benefit of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California

Status: Completed

CHSWC Paper:

"CHSWC White Paper on Cost/Benefit of Implementing Electronic Deposit for Unemployment and Disability Benefits in the State of California" (November 2004).

http://www.dir.ca.gov/CHSWC/CHSWC_AccesstoFunds.pdf or

http://www.dir.ca.gov/chswc/CHSWC_Accesstofunds.doc

Strategic Plan

Status: Completed

CHSWC Report:

"CHSWC Strategic Plan" (November 2002).

<http://www.dir.ca.gov/CHSWC/StratPlanReport2002/Stratplan2002.html>

PROJECTS AND STUDIES

XII. OTHER

Pending Final Disposition:

"Comparing the costs of delivering medical benefits under group health and workers' compensation—Could integration pay for covering the working uninsured?" (October 2009).
http://www.dir.ca.gov/chswc/Reports/2009/Medical_Overhead_Cost_Comparision_2009.pdf

CHSWC PARTNERSHIPS WITH THE COMMUNITY

Introduction

Since its inception, the Commission on Health and Safety and Workers' Compensation (CHSWC) has been working closely with the health and safety and workers' compensation community including employers, employees, labor organizations, injured worker groups, insurers, attorneys, medical and rehabilitation providers, administrators, educators, researchers, government agencies, and members of the public.

In certain projects and studies, CHSWC partners with other state agencies or other organizations in areas of mutual interest. Key partnerships include the following.

Return-to-Work/FEHA/ADA Process and Handbook and Factsheet for Injured Workers *Partnership with the California Department of Industrial Relations, the Department of Fair Employment and Housing, and the University of California, Berkeley*

CHSWC has partnered with the California Department of Industrial Relations (DIR), the Department of Fair Employment and Housing (DFEH), and the University of California (UC), Berkeley, to support efforts to reduce litigation, reduce friction and provide information to employers, particularly small employers who have the most difficult time complying with requirements regarding return to work, by providing improved information for all system participants about the requirements of the Fair Employment and Housing Act (FEHA) and the Americans with Disabilities Act (ADA).

A handbook, *Helping Injured Workers Return to Work: Practical Guidance Under Workers' Compensation and Disability Rights Laws in California*, was developed and made available in February 2010. The handbook provides an overview of the laws which govern an injured employee's right to continue working and the employer's obligations to accommodate the employee: workers' compensation law, Labor Code Section 132a, which protects the employee from discriminatory treatment; and disability rights law under FEHA, which requires the employer to engage in a timely, good faith, interactive process to find a reasonable accommodation for the employee's disability. This handbook is especially geared for small employers and their employees.

The handbook includes additional resources in Appendix sections for physicians and insurers and for employers and employees to design, implement and participate in an effective return-to-work program. Also included is a list of state agencies that administer workers' compensation and disability rights laws.

A Factsheet based on the handbook, "Best Practices in Returning an Injured Employee to Work: Factsheet for Employers," was also prepared and made available in February 2010.

Customer Service Initiative

Partnership with Division of Workers' Compensation and Workers' Compensation Enforcement Collaborative

CHSWC has partnered with the Division of Workers' Compensation (DWC) and the Workers' Compensation Enforcement Collaborative (WCEC), based in Watsonville, CA, to overcome hurdles faced by injured workers seeking benefits when their employers are illegally uninsured. In late May 2009, DIR launched a pilot customer service initiative in one Information & Assistance (I&A) Office in Salinas, in Northern California, to assist unrepresented (*in pro per*) injured workers in properly identifying employers and serving papers.

In addition to CHSWC and the Department of Industrial Relations (DIR) and its divisions, members of the WCEC include: the Watsonville Law Center; the Department of Insurance (CDI) Fraud Division; the San

CHSWC PARTNERSHIPS WITH THE COMMUNITY

Francisco, Santa Cruz and Monterey County Offices of the District Attorney; the Fraud Assessment Commission; Kaiser Permanente; the UC Berkeley Institute for Research on Labor & Employment; the Workers' Compensation Insurance Rating Bureau (WCIRB); Salud Para La Gente; Worksafe; La Raza Centro Legal; California Rural Legal Assistance (CRLA); and the California Applicants' Attorneys Association (CAAA).

Injured workers face unique barriers in pursuing claims where the employer is uninsured. Accessing the Uninsured Employers Benefits Trust Fund (UEBTF) is procedurally complicated, especially for unrepresented injured workers. Before UEBTF can be joined in a case, the employer must be correctly identified using the legal name and then be served notice of a claim in order to establish the court's jurisdiction. The process discourages attorneys and deters most injured workers without attorneys. With stakeholder input from the community, CHSWC has published useful guides for injured workers, and it has reported on various barriers to the workers' compensation systems for low-wage workers and other categories of workers with a view to improving access to the workers' compensation system for all injured workers. In particular, CHSWC has reported on UEBTF, including a review of the statutory provisions and DWC guidance materials that detail the required steps in filing a UEBTF claim. In addition, CHSWC has funded a user's guide to be developed and based on the experience of the customer service initiative pilot.

The customer service initiative was developed to test whether more assistance is needed or is productive in assisting injured workers. Once the unique requirements of a UEBTF claim have been completed, the I&A process reverts to normal customer service in the provision of information and assistance.

This initiative began in the Salinas, California I&A Office on June 1, 2009, and continued for one year before results were reviewed. However, preliminary results before the year ended were deemed positive enough to expand the pilot to a Southern California office in Anaheim and since then in 2012, I&A Officers from the San Bernardino district office, the San Bernardino Call Center, Santa Rosa, Van Nuys, San Diego, Oxnard, Fresno and Pomona district offices have been trained to assist in verifying workers' compensation coverage.

Quality-of-Care Indicators Study

Partnership with RAND/UCLA and Zenith Insurance Company

CHSWC has partnered with RAND/UCLA and Zenith Insurance Company on a demonstration project that suggests a mechanism for monitoring and improving the quality of care provided to injured workers. The goal of the study was to demonstrate quality measurement in workers' compensation. The objectives were to:

- Develop quality-of-care measures for carpal tunnel syndrome (CTS).
- Pilot test the measure in workers' compensation provider and payor organizations.
- Place measures and supporting tools in the public domain.
- Use the measures to assess quality of care for a larger population of patients.

Public-private partnerships made the study possible. Funding support was provided by the Commission and Zenith Insurance. The Commission also provided essential technical assistance in developing the project. Partners-in-kind included Kaiser Permanente Northern California Regional Occupational Health and the California State Compensation Insurance Fund (State Fund), which were involved in pilot testing.

Occupational and Non-Occupational Integrated Medical Care Pilot Project

Partnership with the California HealthCare Foundation, University of California, Berkeley, DMS Facility Services, and the Service Employees International Union Local 1877

CHSWC PARTNERSHIPS WITH THE COMMUNITY

The California HealthCare Foundation (CHCF) awarded a grant to CHSWC to develop a proposal to integrate occupational and non-occupational medical treatment, an alternative that could offer savings on medical utilization, unit pricing, and administrative expenses while potentially offering improvements in the quality of health care. As a secondary advantage, the project is expected to expand access to affordable medical insurance.

The project team is calculating the administrative and overhead cost of delivering occupational care under workers' compensation, comparing each cost category from workers' compensation to the counterpart in private health insurance, and calculating the total amount that could potentially be saved if occupational medical treatment and insurance were completely integrated under group health.

CHSWC hosted a series of roundtable discussions of the results and the opportunities and challenges of implementing an integrated occupational and non-occupational medical treatment and insurance product. In addition, the National Academy of Social Insurance (NASI) held a national conference in November 2009 on the issue of integration, which focused on the California example.

Forum and Study Regarding Medicare Secondary Payor *Partnership with RAND Corporation*

CHSWC and RAND partnered on a forum and study regarding Medicare secondary payor. The forum, held in September 2010, brought together parties to discuss the potential impact of Medicare set-asides. Since the early 2000s, Medicare has taken a more aggressive stance on the responsibility of insurers and self-insured employers when they settle the future medical liabilities in a workers' compensation case.

CHSWC and RAND are conducting further research and analysis on the impact of Medicare set-asides on the workers' compensation system.

International Forum on Disability Management 2010: *Collaborating for Success* *Partnership with the Department of Industrial Relations and the International Association of Industrial Accident Boards and Commissions*

CHSWC partnered with the Department of Industrial Relations (DIR) and the International Association of Industrial Accident Boards and Commissions (IAIABC) on the International Forum on Disability Management (IFDM) 2010: *Collaborating for Success*, which was held in Los Angeles, California, September 20-22, 2010. The purpose of the Forum, which is held every two years, is to share information about disability management and to identify barriers and ways to overcome barriers in disability management systems. IFDM 2010 brought together over 400 attendees from 33 countries across the world who represent the health, safety, medical and workers' compensation communities. The diverse audience included employers, workers, disability management practitioners, healthcare providers, advocates for full employment with disabilities, policymakers, such as legislators and heads of the executive branches, dynamic leaders in labor, business and insurance, and experts in disability management, including people mastering personal disabilities. Representatives of organizations with an interest in disability issues and a commitment to more effective systems for overcoming barriers to the rehabilitation and full integration of workers with disabilities in gainful employment participated in the discussion.

The IFDM 2010 Advisory Committee included representatives from the following national and international agencies and organizations: National Institute for Occupational Safety and Health; National Institute for Disability Management and Research; Cornell University, International Labor Relations School; Griffith Health Executive, Griffith University, Gold Coast Campus; Association of Workers' Compensation Boards of Canada; Council on Employee Health & Productivity, National Business Group on Health; Baylor School of Medicine; Health Sciences Programs, College of Arts, Social and Health Sciences, University of Northern British Columbia; Eur., Federal Ministry of Labour and Social Affairs; World Institute on Disability; German Social Accident Insurance; International Labour Organization;

CHSWC PARTNERSHIPS WITH THE COMMUNITY

Kaiser Foundation Health Plan, Inc.; California Consortium to Promote Stay-at-Work/Return-to-Work; U.S. Government Accountability Office, Education, Workforce, and Income Security Team; Netherlands Organisation for Applied Scientific Research; RAND Corporation; Unum; Yukon Workers' Compensation Health and Safety Board; and Disability Management Employer Coalition.

More information on IFDM 2010 is available at: <http://www.ifdm2010.com>; www.dir.ca.gov/chswc.

Northern California Summit and Consortium to Promote Stay-at-Work/Return-to-Work *Partnership with employers, medical providers, insurers, and non-profit disability organizations*

CHSWC partnered with employers, medical providers, insurers, and non-profit disability organizations to plan the first Northern California Summit to Promote Stay-at-Work/Return-to-Work (SAW-RTW) in Northern California on June 21, 2007. The goal of the summit was to advance toward sustained solutions for preventing needless time away from work and the realignments needed to meet this goal.

The Northern California Consortium to Promote SAW-RTW was developed following the June 2007 California Summit. Its mission is to provide resources and strategies for interested stakeholders to ensure that more California employees stay at work and/or return to work.

Key SAW-RTW areas addressed by the Consortium include: dissemination of information through the Consortium's website and use of social media; using data to manage work disability; change management in promoting work disability prevention; promoting SAW-RTW for California's aging workforce; promoting multi-stakeholder communications in preventing needless work disability, including featuring an employer-employee checklist; and engaging California healthcare providers in preventing needless work disability. In addition, the Consortium prepared an "SAW-RTW Needs Checklist" in response to a request in May 2011 from the Department of Industrial Relations (DIR) Director for recommendations on SAW-RTW.

The Consortium also solicits ongoing feedback from Summit participants about positive changes related to SAW-RTW in their organizations and posts that feedback along with resources on SAW/RTW on the Consortium's website: <http://www.casawrtw.org>. In 2010, the Consortium participated in the International Forum on Disability Management (IFDM) 2010: *Collaborating for Success*, held September 20-22, in Los Angeles and participated in planning IFDM 2012.

Workplace Wellness: How to Address Both Occupational and Lifestyle Issues on the Job *Partnership with employers of small, medium-size and large companies, labor, medical providers, and federal and state agencies*

On July 16, 2008, CHSWC hosted a Workplace Wellness Roundtable including participants from employers, labor, research organizations, and state agencies. The purpose of the Workplace Wellness Roundtable was to begin a dialogue about strategic approaches, both short-term and long-term, to integrating workplace wellness and occupational health and safety programs in California. As a result of recommendations from Roundtable participants, a booklet on integration of workplace wellness and occupational health and safety programs in California was developed.

The workplace wellness booklet, *The Whole Worker: Integrating Wellness & Occupational Health and Safety Programs*, helps promote a general understanding of what constitutes an integrated approach to health promotion and occupational health and safety programs; explores barriers and strategies to overcome barriers to integration of workplace health promotion and workplace health and safety programs; and identifies resources for promoting more effective programs that address worker health in a holistic fashion. The booklet is available on the CHSWC website.

Injury and Illness Prevention Programs

School Action for Safety and Health Program

Partnership with representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and state and school-related agencies and organizations in California

Per the mandate set forth in the Labor Code, CHSWC will assist inner-city schools or any school district in establishing effective occupational injury and illness prevention programs (IIPPs). CHSWC has established a model program, the School Action for Safety and Health (SASH) program, to help schools statewide improve their injury and illness prevention practices and resources. The program includes training and resources to enable schools or school districts to develop or improve IIPPs and make other health and safety improvements that will help protect school employees from injuries and illnesses on the job. The target audience focuses on K-12 schools and school districts at high risk of occupational injury and illness.

On June 27, 2008, CHSWC hosted a roundtable discussion that brought together representatives from schools and school districts, the Governor's Office of Homeland Security, labor, and school-related agencies and organizations in California. The program was developed based on a needs assessment conducted to determine the types of training and resources that would be most effective. The SASH program now includes a day-long training program for district-level employees, resource materials and a SASH Resource Center for technical assistance. The program is being implemented statewide. Ongoing evaluation indicates that the program is well received by participants.

The IIPP template and SASH brochure and binder of materials are available on the SASH section of the CHSWC website. The binder materials include: Factsheets, Tools, Tip Sheets, Resource List of organizations and agencies, Worksheets, and IIPP Guide and template. An online resource guide with factsheets related to specific health and safety information for school district employees is also included.

Taking Action for Safety and Health: A Guide to Developing Your Workplace Injury and Illness Prevention Program

Partnership with California Small Business Association, Small Business California, Cal/OSHA, State Compensation Insurance Fund and the California Department of Public Health Occupational Health Branch

Training materials have been developed to help general industry and small business workplaces in California comply with Cal/OSHA's Injury and Illness Prevention Program (IIPP) Standard and, consequently, protect the health and safety of their employees. Materials include: an online IIPP fill-in-the-blank template; a Guide that will help businesses learn how to write an IIPP specific to their business and how to implement the elements of an effective IIPP; It Pays to Take Action for Safety and Health brochure; Factsheets; Tools; and a Resource List of agencies and organizations providing information on the California IIPP standard and on health and safety.

Small Business Health and Safety Resources

Health and Safety Training and Resources for Small Businesses Across Industries

Partnership with the State Compensation Insurance Fund and US Department of Small Business Administration, Small Business Development Centers

Health and safety resources for small businesses across industries have been developed in English and Spanish through the California Worker Occupational Safety and Health Training and Education Program (WOSHTEP), administered by CHSWC. CHSWC has partnered with the State Compensation Insurance Fund (State Fund) to implement training and disseminate health and safety information to small businesses throughout the State of California. Through WOSHTEP, health and safety resources have also been developed for the restaurant, janitorial, and dairy industries.

CHSWC PARTNERSHIPS WITH THE COMMUNITY

Health and Safety Training for Small Business Restaurant Owners

Partnership with the State Compensation Insurance Fund and the California Restaurant Association and the Korean Immigrant Workers' Alliance

CHSWC has partnered with the State Compensation Insurance Fund (State Fund) and with the California Restaurant Association (CRA) to provide health and safety trainings to small business restaurant owners and managers throughout California through WOSHTEP. Findings from the evaluation of these trainings showed that participants increased their understanding and commitment to health and safety; follow-up surveys indicated that participating managers and owners incorporated core program concepts into their training and supervision practices. In addition, CHSWC has partnered with the Korean Immigrant Workers' Alliance (KIWA) to produce health and safety materials for restaurant industry employees in English, Spanish and Korean.

Health and Safety Training and Resources for the Janitorial Industry

Partnership with the State Compensation Insurance Fund and the Service Employees International Union Local 1877

Health and safety training and resources have been developed for the janitorial industry through WOSHTEP. CHSWC has partnered with the State Compensation Insurance Fund (State Fund), the Building Skills Partnership (a program of the Leadership Training & Education Fund between the California Janitors' Union, SEIU 1877), the Pacific Association of Building Services Contractors (PABSCO), and the Independent Maintenance Contractors Association to provide health and safety training on these resources to small businesses within the janitorial industry.

Health and Safety Training and Resources for the Dairy Industry

Partnership with University of California, Davis

Health and safety training and resources have been developed for the dairy industry through WOSHTEP. CHSWC has partnered with the University of California at Davis Western Center for Agricultural Health and Safety (WCAHS) and other WOSHTEP stakeholders to provide materials to owners and managers of dairies to strengthen their health and safety programs. Materials are being used by universities and organizations including the National Farm Medicine Safety, the Canadian Ag Safety Association, the Swedish University of Ag Sciences, the University of Illinois at Urbana-Champaign, Cornell University and Quantico MD, the National Farm Medicine Center in Wisconsin, and the Dairy Herd Network.

Integration of Worker Health and Safety Education into Building Trades Apprenticeship Programs

Partnership with the State Building and Construction Trades Council of California (SBCTC), AFL-CIO, with 13 member unions

Union apprenticeship and pre-apprenticeship training programs provide a potential avenue to integrate worker health and safety education. CHSWC contracted with the UCLA Labor Occupational Safety and Health Program (LOSH) and the UC Berkeley Labor Occupational Health Program (LOHP) to address worker injuries and illnesses in the construction industry by bringing together the resources of WOSHTEP and those offered by apprenticeship and pre-apprenticeship programs.

A needs assessment revealed opportunities to adapt construction-related health and safety materials that are currently part of the WOSHTEP curriculum for apprenticeship and pre-apprenticeship programs. Findings included that: WOSHTEP materials be shortened to be appropriate for the building trades and should include worker safety in green construction; adapted materials could be delivered to apprentices during orientations to their apprenticeship programs, in the classroom, or on-the-job at tailgate safety training; apprenticeship instructors, senior apprentices or journeymen could present training modules; and adapted training could be presented to journeymen as part of their refreshers, upgrades or supervisory training.

CHSWC PARTNERSHIPS WITH THE COMMUNITY

In response to the findings from the needs assessment, LOSH, LOHP and the State Building and Construction Trades Council of California (SBTC), AFL-CIO, developed a *Construction Case Study Training Guide* of 13 case studies (including 4 green construction cases) from real life stories of construction workers who had an occupational fatality, injury or illness on the job. The *Guide* was developed for use in apprenticeship programs to teach about the importance of occupational safety and health.

In addition, a factsheet for apprentices and contractors has been developed which addresses the health and safety issues involved in working in a particularly hazardous job associated with energy efficiency work, applying spray polyurethane foam insulation.

Health and Safety on the Job for Workers with Disabilities

Partnership with NISH, The ARC in Southern California, and Pride Industries in Northern California

Materials and outreach and training based on the Worker Occupational Safety and Health (WOSH) Specialist curriculum, including a trainer-of-trainers' component, were developed for managers, supervisors and employees in sheltered workshops in California that serve and employ individuals with disabilities on: how to provide health and safety training to their workers with intellectual disabilities; and how to design and implement a successful injury and illness prevention program (IIPP) in their workplaces. This program was developed in partnership with NISH – Creating Employment Opportunities for People with Severe Disabilities, The ARC in Southern California, and Pride Industries in Northern California. Additional trainings for other employers of people with disabilities from around the country continue to be conducted in partnership with NISH.

The program also includes materials from the *Staying Safe at Work: Teaching Workers' with Disabilities and Health & Safety on the Job* curriculum developed in 2009 by the University of California, Berkeley Labor Occupational Health Program (LOHP) and the National Institute for Occupational Safety and Health (NIOSH).

Implications of Developments in Workers' Compensation for Social Security Disability Insurance

Partnership with the National Academy of Social Insurance and the Social Security Administration

CHSWC partnered with the National Academy of Social Insurance (NASI) and the Social Security Administration (SSA) in November 2009 to host a seminar to enhance understanding of policy and administrative issues relating to the fit between workers' compensation and social security disability insurance (SSDI). Key topics included how to improve coordination between the two programs and better serve disabled workers. Sessions focused on: priorities in social security disability programs and policy; national trends in workers' compensation; the California experience – growth and retrenchment; social security disability insurance and the offset; pathways from workers' compensation to SSDI; how injured workers learn about SSDI; and California innovations in return to work.

CHSWC AND THE COMMUNITY

For Information about the Commission on Health and Safety and Workers' Compensation (CHSWC) and its activities:

Write:

California Commission on Health and Safety and Workers' Compensation
1515 Clay Street, 17th Floor
Oakland, CA 94612

Phone:

510-622-3959

FAX:

510-622-3265

E-mail:

chswc@dir.ca.gov

Internet:

In 2012, most government departments and agencies were asked to redesign their public website by Governor Brown's Office in order to have a more efficient way to locate information. CHSWC participated in the redesign process and, according to its mandate, continues to post useful information for the public and related stakeholders to use.

Check out www.dir.ca.gov/chswc for:

- What's New
- Research Studies and Reports
- Information Bulletins
- Commission Members
- Meeting Schedules and Minutes
- DIR Young Workers Website
- Information for Workers and Employers
- WOSHTEP
- Conferences
- Public Comments and Feedback
- Resources
- School Action for Safety and Health (SASH) Program

CHSWC Publications

In addition to the many reports listed in the CHSWC Projects and Studies section of this report, CHSWC has published:

CHSWC Annual Reports
1994 through 2012

CHSWC Strategic Plan 2002

CHSWC AND THE COMMUNITY

Acknowledgements

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Their willingness to share the insights and knowledge derived from their years of experience has assisted CHSWC immeasurably in its mission to examine and recommend improvements in the health and safety and workers' compensation systems in California.

American Medical Association (AMA)

Boeing

Christine Coakley, Regulatory and Legislative Analyst

Boston University (BU)

Leslie I. Boden, Ph.D., Professor, School of Public Health

California Applicants' Attorneys Association (CAAA)

Lawrence I. Stern, Esq., President

Linda Atcherley, Past President

Mark Gerlach, Esq.

California Chamber of Commerce (CCC)

Allan Zaremborg, President and Chief Executive Officer

California Coalition on Workers' Compensation (CCWC)

Paul J. Yoder, Managing Director

Jason Schmelzer, Legislative Advocate

California Consortium to Promote Stay-at-Work-Return-to-Work

Robin Nagel, Chair

California Small Business Association

Betti Jo Toccoli, President

California Department of Industrial Relations (DIR)

Christine Baker, Acting Director

Dean Fryer, Deputy Director Communications

Katherine Zalewski, Chief Counsel Office of the Director Legal Unit

Julie Jenkinson, Special Advisor to the Director

Juliann Sum, Special Advisor to the Director

Glenn Shor, Policy Advisor

Renée Bacchini, Special Assistant to the Director

Amy Coombe, Legislative Manager

OD staff

Cal/OSHA Appeals Board

Art Carter, Chair

Michael Wemberley, Executive Officer

Division of Administration (DOA)

Han Ha, Chief

Ann Rose, Personnel Officer

Greg Edwards Chief Financial Officer Budgets Unit

DOA staff

CHSWC AND THE COMMUNITY

Division of Apprenticeship Standards (DAS)

Diane Ravnik, Chief
DAS staff

Division of Labor Standards & Enforcement (DLSE)

Julie Su, Labor Commissioner
Ethera Clemons, Acting Deputy Chief
DLSE staff

Division of Occupational Safety & Health (DOSH)

Ellen Widess, Chief
Deborah Gold, Deputy Chief of Health
Eugene Glendenning, Area Manager for Consultation Service (Fresno)
Dorothy Humphrey, Information Systems Technician
Nancy Lopez, Associate Governmental Program Analyst
DOSH staff

Division of Workers' Compensation (DWC)

Destie Overpeck, Acting Administrative Director
Richard L. Newman, Chief Judge
Susan Hamilton, Special Advisor
Rupali Das, M.D., Executive Medical Director
George Parisotto, Acting Chief Counsel
Martha Jones, Research Manager
Denise Vargas, Chief of Programmatic Services
Shirley H. James, Manager, UEBTF/SIBTF/Collections Unit
Barry Knight, Manager Disability Evaluation Unit
Kathy Patterson, Manager, DWC Medical Unit
Otis Byrd, Workers' Compensation Manager
Bob Wong, Manager, Information & Assistance Unit
Mike Hernandez, Manager Information Services Center
Mark Fudem, Project Manager, EAMS
Christine King, Manager, Audit Unit
DWC staff

Mediation and Conciliation

Annie Song-Hill, Presiding Conciliator Medication and Conciliation
Paul Roose, Supervisor Mediation and Conciliation

Occupational Safety and Health Standards Board (OSHSB)

John MacLeod, Chair
Marley Hart, Executive Officer
David Beales, Industrial Relations Counsel III

Office of Information Services (DIR)

Jim Culbeaux, Chief
Jack Chu, Supervisor, IDMS Systems
Tess Gormley, Senior Information Systems Analyst Supervisor
Elizabeth Nisperos, Associate Programmer Analyst
Manny Ortiz, Data Processing Manager III
Walter Sensing, Senior Business Intelligence Analyst
IT staff

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Office of Policy, Research and Legislation (DIR)

Maria Robbins, Acting Chief
Jessica Yu, Research Manager
OPRL Staff

Self Insurance Plans (SIP)

Jon Wroten, Chief
Jamie Lynn Meyers, Compliance Supervisor
Tina Freese, Workers' Compensation Compliance Officer
SIP staff

Workers' Compensation Appeals Board (WCAB)

Ronnie G. Caplane, Chairwoman
Frank M. Brass, Member
Deidra E. Lowe, Member
Alfonso J. Moresi, Member
Marguerite Sweeney, Member
Rick Dietrich, Secretary
Carol Berman, Assistant Secretary
Neil P. Sullivan, Assistant Secretary
WCAB staff

California Department of Insurance (DOI and/or CDI)

Dave Jones, Insurance Commissioner
Chris Citko, Senior Staff Counsel

California HealthCare Foundation (CHCF)

Rosanna Tran, Program Officer
Marian R. Mulkey, Senior Program Officer
Rena David, Consultant

California Joint Powers Risk Management Authority (CAJPA)

Simone Smith, Association Manager

California Labor Federation, AFL-CIO

Angie Wei, Legislative Director

California Legislature

The Honorable Darrell Steinberg, President pro Tempore, California Senate
The Honorable John A. Pérez, Speaker of the Assembly

California Manufacturers and Technology Association (CMTA)

Jack M. Stewart, President
Dorothy Rothrock, Senior Vice President Government Relations

California Self Insurers Association (CSIA)

Philip Millhollon, Executive Director

California Workers' Compensation Institute (CWCI)

Michael Nolan, President
Michael J. McClain, Vice President, General Counsel & Secretary
Alex Swedlow, Executive Vice President, Research and Development
Brenda Ramirez, Director, Claims and Medical

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Employers' Fraud Task Force

John Maloch, National Chair
Laura Clifford, Executive Director

Harvard Business School

Michael Toffel, Professor

International Association of Industrial Accident Boards and Commissions (IAIABC)

Jennifer Wolf Horejsh, Executive Director
Greg Krohm, Consultant
IAIABC staff

Kaiser Permanente

Kammerer and Company

Lori Kammerer Donohue, Lobbyist

Marriott International

Jill Dulich, Senior Director

National Academy of Social Insurance

Pamela J. Larsen, Executive Vice President
Virginia Reno, Vice President for Income Security Policy

National Institute of Occupational Safety and Health (NIOSH)

John Howard, MD, Director

Public Agency Risk Managers Association (PARMA)

David Pinnecker, President

RAND

Robert T. Reville, Ph.D., Senior Economist
John Mendeloff, Director, RAND Center for Health & Safety in the Workplace
Barbara O. Wynn, M.A., Senior Policy Analyst
Teryl K. Nuckols, M.D., M.S.H.S., Affiliate
Seth A. Seabury, Economist
Tom LaTourrette, Senior Physical Scientist
Lloyd Dixon, Senior Economist
John MacDonald, Behavioral/ & Social Scientist
Steven M. Asch, M.D., M.P.H., Adjunct Policy Analyst
Soeren Mattke, M.D., Senior Scientist
RAND staff

Rutgers University

John F. Burton, Jr., Ph.D., Professor, School of Management & Labor Relations

Safeway, Inc.

William Zachary, Vice-President, Risk Management
Mel Belsky, M.D., Medical Director, Corporate Workers' Compensation

Small Business California

Scott Hauge, President

State Building & Construction Trades Council of California (SBCTC)

Robert L. Balgenorth, President
Laura Boatman, Program Coordinator

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State Compensation Insurance Fund (State Fund)

Tom Rowe, President/Chief Executive Officer
Bernice Peplowski, Medical Director
Brian Watson, Senior Vice President Government and Business Affairs
Len Welsh, Chief of Workplace Safety

University of California (UC), Berkeley Labor Occupational Health Program (LOHP)

Michael Wilson, Director
Laura Stock, Associate Director, LOHP
Robin Dewey, Program Coordinator

Center for the Study of Social Insurance

Frank Neuhauser, Executive Director

University of California (UC), Davis Western Center for Agricultural Health and Safety (WCAHS)

Marc Schenker, Center Director
Sandra Freeland, Associate Director
Teresa Andrews, WCAHS Education and Outreach Specialist

University of California, Los Angeles (UCLA) Labor Occupational Safety and Health Program (LOSH)

Linda Delp, Director
Deogracia Cornelio, Associate Director of Education
Fernando Tapia, Bilingual Educator/Coordinator
Tanya Aykel, Educator and Project Director

Western Occupational & Environmental Medicine Association

Walt Newman, Jr., M.D., President

Members of the Public

Participants in CHSWC meetings, fact-finding hearings and public forums
Participants in CHSWC project advisory committees

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D. Lachlan Taylor, Acting Executive Officer
Irina Nemirovsky, Research Program Specialist II
Nabeela Khan, Research Program Specialist II
Chris Bailey, Research Program Specialist I
Nurgul T. Toktigonova, Research Program Specialist I
Selma Meyerowitz, Associate Governmental Program Analyst
Oliva A. Vela, Associate Governmental Program Analyst
Chellah A. Yanga, Associate Governmental Program Analyst