

QUARTERLY ACTIVITY REPORT

April - June, 2000

Walter W. Turner, Commissioner
KY Department of Workers Claims

WORKERS' COMPENSATION LEGISLATION - HOUSE BILL 992

Seeking to modify changes to the current workers' compensation program which were implemented through House Bill 1 in December 1996, Representatives Greg Stumbo and Ira Branham proposed House Bill 992 in the 2000 Legislative Session. After significant amendments made by a joint House-Senate Conference Committee, House Bill 992 passed both houses of the Legislature on April 11. Governor Patton signed the bill into law on April 21 and the law became effective July 14, 2000.

Some of the most notable changes made by House Bill 992 are listed below. Arbitrators were eliminated from the claims adjudication process. ALJs will conduct benefit review conferences as part of their claims adjudication functions. The Workers Compensation Board was to have been eliminated by July 1, 2000, but House Bill 992 reinstated the Board. Grid factors and multipliers were amended which will result in an increase in PPD benefits. The death benefit was raised to \$50,000. The attorney fee cap for arbitration was eliminated. Reopening of claims can now occur one year from a previous motion to reopen, and the two year waiting period to reopen after an award has been eliminated. The lump sum settlement bar was raised from \$10 per week to \$100 per week. The penalty against employers who violate safety regulations was raised from 15% to 30%.

The Department is publishing a guidebook to provide a better explanation of the claims process and the impact of the amendments in House Bill 992. The guidebook will be published in early fall and will also be available on our website.

WORKERS COMPENSATION CONFERENCES HIGHLIGHTS:

WORKERS' COMPENSATION SEMINAR 2000

The Workers' Compensation Seminar sponsored by CompEd, Inc. in association with the Kentucky Bar Association Workers' Compensation Section was held in Louisville on June 1st and 2nd. In addition to offering continuing education credits for practitioners in the field, this annual conference also offered an excellent forum for reacquainting oneself with the components necessary to make the workers' compensation system advance positively. DWC Commissioner Walt Turner addressed the assembly and presented an overview of HB992 and its practical impact.

Conference participants included government workers, insurance personnel, attorneys, judges and members of the health care industry. In an effort to gain a better understanding of the complexities and intricacies of the workers' compensation system and how issues can best be handled, a wide variety of topics were covered. These included the recent changes in the workers' compensation law enacted by the General Assembly and helpful practice tips.

Ultimately, the three hundred people in attendance were presented information that will assist them in their workers' compensation practice and improve benefit delivery. All present were challenged to make the entire workers' compensation system function better.

The CompEd, Inc. Workers' Compensation Seminar for next year is scheduled for June 6-7, 2001.

WORKERS COMPENSATION
CONFERENCES HIGHLIGHTS continued:

KENTUCKY WORKERS' COMPENSATION 2000

The Kentucky Workers' Compensation 2000 conference, sponsored by the International Association of Industrial Accident Boards and Commissions, together with the Kentucky Department of Workers Claims and the newly formed Kentucky Workers' Compensation Educational Association, was held in Covington, at the Northern Kentucky Convention Center on June 8-9, beginning with a welcoming reception on the prior evening.

Presentation topics for the conference included: the impact of statutory changes upon employees, employers, and the service industry; the delivery of medical services; ethical dilemmas; workers compensation case law updates; and workplace safety.

Of particular interest were presentations on the role of pharmaceuticals in the treatment of work related injuries and unfair claims settlement practices. Several breakout sessions designed for specific groups included: EDI Compliance, Guaranty Funds, and DWC Adjudication.

The conference was attended by more than 200 people representing various sectors of the workers' compensation industry.

Attendees earned continuing education credits and availed themselves of the opportunity to ask questions of presenters and panel members. Attendees learned about the vision and purpose of the newly formed association involving the entire workers' compensation service community.

KYWCEA is a non-profit organization chartered to bring together claims professionals and other workers' compensation stakeholders to promote leadership, professionalism and education. For more information about KYWCEA and/or membership in the organization, contact KYWCEA c/o KEMI, 250 W. Main Street, Lexington, KY 40507.

CLAIMS ACTIVITY

| | |
|----------------------------|-------|
| INJURIES REPORTED | 10379 |
| CLAIMS FILED | 880 |
| PRELITS | 867 |
| AGREEMENTS | 658 |
| AWARDS | 588 |
| DISMISSALS | 447 |
| REOPENINGS | 273 |
| TRANSFERS TO ALJs | 572* |
| APPEALS TO ALJs | 355 |
| APPEALS TO BOARD | 125 |
| APPEALS TO CT. OF APPEALS | 53 |
| APPEALS TO KY. SUPREME CT. | 27 |

* Due to the elimination of the Arbitration Division under HB 992, large numbers of claims were transferred to ALJs

SELF-INSURANCE

Routine activities of the Self-Insurance Branch (such as premium calculation review, surety calculations and group audits), have been complicated with unexpected issues, making the 2nd quarter an extremely active one. Major issues include the financial demise of Frontier Insurance Company, which has posted self insurance surety bonds with DWC for several companies. As of March 2000, Frontier had filed with DWC about \$80 million dollars in surety for the purpose of paying claims in the event of insolvency of one or more of the companies. Efforts have been directed toward replacing Frontier surety bonds in order to assure a financial safety net for potential claimants.

Numerous meetings have taken place with the representatives of Frontier and the affected companies to resolve the problem. Most of the bonds have now been replaced.

The reorganizational bankruptcy of Fruit of the Loom caused the Commissioner to call in an 11 million dollar letter of credit, proceeds of which were transferred to the Kentucky Self-Insured Employers Guaranty Fund for the purpose of paying workers' compensation benefits. A smooth transition occurred and the benefit stream for Fruit of the Loom claimants continuously flows.

**PROOF OF COVERAGE
TRANSACTIONS**

| Trading Partners: | NCCI | KEMI | Workers Complink | Claimport | Total |
|---|----------------|---------------|---------------------|---------------|----------------|
| Processed & accepted automatically | 0 | 7,600 | | 14,388 | 22,004 |
| Processed & rejected automatically | 0 | | | | |
| Processed & accepted manually | 8,655 | 5,245 | 3,875 | 12,335 | 30,110 |
| Processed & rejected manually | 4,422 | 663 | 697 | 7,694 | 13,476 |
| Mass rejected | 240,206 | 0 | 0 | 23,682 | 263,888 |
| Total Transactions | 253,283 | 13,574 | 4,572 | 58,049 | 329,478 |
| % of Total Transactions Accepted to Total Transactions Received: | | | | | |
| | 3% | 95% | 85% | 46% | |

COVERAGE

During the 2nd quarter, the backlog of transactions from NCCI was eliminated, bringing relief to a situation that had greatly inhibited the ability of the Coverage Branch to establish a timely and accurate database. With the improved methods by which the carriers currently submit POC data, via the “new” vendors, the coverage database is up-to-date. Due to improved data processing, coverage information is more current and easier to use.

Communication has continued with the vendors and KEMI to correct problems immediately in order to avoid another backlog. This has ensured that the database remains current. The error rate has declined; acknowledgments have been faster and more reliable; and the department has finally utilized automatic processing, a function of the EDI plan, to submit proof of coverage.

ENFORCEMENT

The effort to assure that businesses comply with the mandatory insurance coverage provision of Kentucky’s workers’ compensation laws continues to be strong, as reflected in the following:

| | | | |
|----------------------|-----------|---------------------------|-------|
| Citations Issued: | 121 | Investigations Conducted: | 3,040 |
| Penalties Assessed: | \$130,800 | Employers in Violation: | 393 |
| Penalties Collected: | \$ 78,434 | | |

OMBUDSMAN BRANCH

NUMBER OF REQUESTS RECEIVED: 2113

| | |
|-----------------------|------|
| COMPLETED | 1896 |
| PRIOR MONTH COMPLETED | 312 |
| PENDING | 384 |

TYPE OF CALL:

| | |
|---------------------|------|
| CLAIMANT | 1083 |
| CARRIER | 193 |
| EMPLOYER | 228 |
| ATTORNEY | 239 |
| MEDICAL PROVIDER | 175 |
| GOVERNMENT OFFICIAL | 37 |
| MEDICAL REVIEW | 20 |
| OTHER | 136 |
| TOTAL: | 2111 |

SUBJECT BREAKDOWN OF CALLS:

| | |
|-----------------------|------|
| MEDICAL FEE SCHEDULE | 101 |
| RIGHTS & PROCEDURES | 1315 |
| MEDICAL FEE DISPUTE | 20 |
| CLAIMS STATUS INQUIRY | 208 |
| FRAUD | 19 |
| COVERAGE | 192 |
| FIRST REPORT INQUIRY | 82 |
| MANAGED CARE | 25 |
| REHABILITATION | 5 |
| UTILIZATION REVIEW | 22 |
| OTHER | 215 |
| TOTAL: | 2204 |

OTHER OMBUDSMAN ACTIVITIES:

| | |
|----------------------------------|-----|
| FRAUD REFERRALS | 5 |
| ENFORCEMENT REFERRALS | 6 |
| SPEAKING ENGAGEMENTS | 2 |
| LETTERS/FAXED REQUESTS | 255 |
| REFERRALS TO OUTSIDE AGENCIES | 53 |
| FORM REQUESTS | 210 |
| TOTAL: | 531 |

ADMINISTRATIVE LAW JUDGES

During April, May, and June the thirteen administrative law judges held 652 informal conferences, ruled on evidentiary disputes, and identified contested issues. During this period, the ALJs also held 382 formal hearings in claims transferred from the arbitration level or in which de novo review of an arbitrator's decision was requested. The ALJs issued 366 opinions in these claims. They also issued 35 decisions in claims on remand from the Workers' Compensation Board, Court of Appeals, and Kentucky's Supreme Court.

WORKERS' COMPENSATION SPECIALISTS

Requests for assistance: 1947
Requests for assistance completed: 1681
Intervention requests: 320
Intervention requests completed: 164
Assisted claims filed: 19
Other forms of assistance: 26

MEDICAL EVALUATIONS

During this quarter 50 medical evaluations were scheduled at the University of Kentucky and 62 at the University of Louisville. A total of 116 medical evaluations were completed during this same timeframe, 40 at the University of Kentucky and 76 at the University of Louisville.

FATALITIES

During the last quarter of this fiscal year, 22 fatalities were reported to the Department. Of those 22 fatalities, the majority were from the construction and manufacturing industries. Five fatalities were the result of motor vehicle accidents, five were from electrocutions, and two were from falls.

DEPARTMENT OF WORKERS CLAIMS

| | <u>BUDGET</u> | <u>SPENT TO DATE</u> | <u>% SPENT</u> |
|-------------------|---------------|----------------------|----------------|
| Total | \$ 15,637,000 | \$ 12,387,288.51 | 79.2% |
| Personnel | \$ 12,192,000 | \$ 10,211,732.35 | 83.8% |
| Operating | \$ 3,365,000 | \$ 2,104,464.16 | 62.5% |
| Capital Equipment | \$ 80,000 | \$ 71,092 | 88.9% |

At the end of Fiscal Year 1999-2000, the Department had a surplus of \$3,249,711.49. The new full-time personnel cap has decreased from 268 positions to 242, effective July 1, 2000. As of the close of business on June 30, 2000 the DWC employed 213 personnel.

GENERAL COUNSEL

During the months of April, May, and June, the Office of General Counsel issued 29 show cause orders and collected approximately \$92,574 in fines and penalties.

EDI MEDICAL BILL REPORTING

DWC's EDI Medical Bill reporting implementation efforts continued moving forward this quarter. There are now 44 medical bill trading partners, 17 of whom are in production and 28 who are in various phases of testing. EDI medical bill reporting was mandated to be effective for all bills on or after January 1, 2000. Any questions concerning medical bill transmissions or for those needing to begin the testing process should be directed to Preston Gorman, DWC, (502) 564-5550, ext. 426 or preston.gorman@mail.state.ky.us

CHANGE OF ADDRESS:

The Department of Workers Claims website has a new address:

www.state.ky.us/agencies/labor/dwc

During this quarter DWC's homepage received 11,246 hits, an average of 86 per day. The most popular day of the week is Wednesday with the most hits occurring during the hours of 12:00PM - 8:00PM.



This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provision of services.

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