

QUARTERLY ACTIVITY REPORT

July 1 - September 30, 1999

Walter W. Turner, Commissioner
KY Department of Workers Claims

MEDICAL DISPUTES WHERE DO THEY COME FROM? HOW ARE THEY RESOLVED?

During FY 1999, 488 Requests for Resolution of Medical Dispute were filed with the Department and assigned to Arbitrators for initial resolution. In an effort to obtain information as to the source and type of disputes over the delivery of health care services, DWC researchers examined 100 recently resolved claims, extracting from claim file documents dozens of data fields.

Findings included the fact that 90% of the proceedings to contest services are filed by insurance carriers/self-insured employers, while 9% are initiated by employees attempting to obtain services or payment for medical care previously received. Infrequently, (1%) medical providers initiate the filing to collect payment. Explanation as to why carriers/self-insured employers file the bulk of the applications lies in statutory provisions and case law that requires the carrier/self-insured to either pay bills submitted for treatment of injured workers within 30 days or file a contest with DWC. Often the amount of money purportedly due for medical services is not great. Upon disputes where a dollar value was stated over half (53%) were less than \$1,000.

Most frequently (62% of the time), the underlying issue leading to the request for resolution was whether the medical services were rendered to treat a work-related injury compensable under the Workers Compensation Act. Carriers/self-insured employers asserted in these claims that either there was no work-related injury, or, that the treatment was not for the effects of the injury. The second leading issue was whether or not the proposed or rendered treatment was "medically necessary." In these claims, carriers effectively concede the occurrence of a work-related injury.

Twenty-nine percent (29%) of the disputes were settled. Upon those submitted for adjudicator determination, the employee and the carrier/self-insured prevailed with virtually equal frequency, 48% to 47% respectively. Five percent (5%) of the claims were marked by a split decision evidenced by the medical services/bills being approved in part and denied in part.

Utilization review of the medical services by a vendor retained by the carrier was evident in only 44% of the sampled claims. The relatively low incidence of utilization review is not surprising in light of the finding that the leading issue is "compensability." When compensability of the purported work-related injury is legitimately at issue, referral to utilization review is not required as presumptively the carrier is not going to pay for treatment irrespective of it being "medically necessary." Recommendations of utilization reviewers with respect to whether or not treatment was medically necessary comported with the ultimate determination of the adjudicator 55% of the time.

Analysis failed to reveal any clear cut indication as to the type of medical services most likely to become disputed. General physician and hospital services were at issue 40% of the time, followed by pharmaceutical charges (16%), surgical (13.1%), diagnostics (12.2%), and chiropractic care (11%). Although physical therapy is prescribed extensively for work-related injuries, DWC's sampling of disputed medical services demonstrated that physical therapy services were the subject of only 2% of the challenges.

ARBITRATOR ACTIVITY

During the third quarter, Arbitrators held over 1200 benefit review conferences, issued nearly 600 benefit review determinations and settled 28% of the 979 claims resolved.

ADMINISTRATIVE LAW JUDGES

During the third quarter of 1999, the ALJs held 584 informal conferences and 437 formal hearings. They issued 443 opinions. Additionally, during this quarter, six of the ALJs served as Arbitrators. They held 511 benefit review conferences and issued 325 benefit review determinations. The ALJs also issued remand opinions, attended a semiannual training seminar, and served as speakers at various educational conferences.

3rd QUARTER CLAIMS ACTIVITY

Awards Rendered	789
Settlements Approved	726
Injuries Reported	13,446
Claims Filed	1,220
Reopenings	273
Prelitigated Agreements	787
Dismissals	296
Appeals from Arbitrator to ALJ	534
Appeals to Board	166
Appeals to Court of Appeals	53
Appeals to Supreme Court	26

SELF-INSURANCE

With the advent of House Bill 1, increased emphasis has been placed upon the monitoring and examining of self-insured employer's financial condition. As a result, DWC has utilized Dun & Bradstreet's "Alert Services" program since August of 1997 to monitor the financial condition of the 200 self-insured employers. This service provides a sense of "timeliness" to DWC's

monitoring efforts. Whereas in the past, the financial information utilized was often 12-18 months old, "Alert Services" is designed to update the Department on a daily basis as to any significant changes in a respective employer's financial condition. This service allows DWC to closely monitor a company's current financial "stress" level, payment practices, credit history, operational changes, bankruptcy filings and workers' compensation obligations.

The Self-Insurance Branch continues oversight of Self-Insured Group Funds with the initiation of the audit of the Associated General Contractors Self-Insurance Fund in late September. The examination of Forest Industries is almost complete and a final report is expected soon.

The processing of simulated premiums and the review and calculation of adequate surety are an important responsibility significantly impacting the system. The simulated premium ensures that the self-insured employer bears its statutorily calculated share of the total system costs while the calculation of surety provides a financial resource available for the payment of claims in the advent that the insured becomes unable to meet its workers' compensation obligations. To this end the Branch completed processing the simulated premiums for all self-insured employers providing the information to the self-insured employers and to the Funding Commission to facilitate the special fund assessments. Also, the auditors in the Self-Insurance Branch completed surety calculations for 131 companies and 18 surety revisions during the past three months.

EDI-PROOF OF COVERAGE

Effective July 1, 1999 KEMI, the Commonwealth's competitive state fund, became the first insurance carrier to electronically report proof of coverage information directly to the Department. This initiative has been highly successful due to the concerted efforts of both KEMI and DWC personnel.

In response to continuing difficulties associated with coverage data submitted through NCCI the Commissioner informed all carriers that effective October 1, 1999, Kentucky was terminating

the designation of NCCI as a proof of coverage data collection agent and pending further notice, would no longer accept submissions via NCCI. For the entirety of the third quarter Coverage personnel focused upon transition from NCCI towards a small group of vendors. By the end of October, Unicom Communications and Workers COMP-LINK had successfully completed a series of tests designed by departmental personnel to ensure compliance with coverage data needs. These vendors were added to the Internet option developed for the DWC in 1998 that permits carriers to report proof of coverage information directly to Kentucky.

The Coverage Branch continues to be challenged by the presence of a 400,000 plus record backlog left by NCCI and uncertainty with respect to the time required to process that data.

Proof of Coverage updates may be viewed on the Department of Workers Claims' Home Page or you may call either Bob Wilson at 502-564-0905 ext. 404, or Gary Davis at 502-564-0905 ext. 403.

ENFORCEMENT BRANCH SETS NEW HIGH

The Enforcement Branch enjoyed a record quarter during the past three months with DWC officers inspecting 2,711 Kentucky businesses as they verified compliance with the Workers' Compensation Act requirement that all employers maintain workers' compensation insurance. Resulting from these and previous investigations, 189 citations were issued to employers for non-compliance bringing this year's total to 470 citations with quarterly collections totaling \$78,323 and annual collections equaling \$337,653.

In-house training for compliance officers was conducted by Branch personnel as DWC transitioned to a fully electronic environment wherein field personnel access the AS400 computer

database for employer information and submit travel expenses on electronic forms.

Potentially the biggest Enforcement news arrived in relatively small packages earlier this quarter when the Branch accepted delivery of ten (10) HP Jornada 680's. The Branch has completed the field test on these small "palmtop" computers. DWC expects palmtops to significantly reduce the use of paper reports and ensure complete, accurate, and timely management of investigative data.

MEDICAL BILL REPORTING DEADLINE EXTENDED



The Department of Workers Claims has adopted the International Association of Industrial Accident Boards and Commission's (IAIABC) standards to medical bill reporting (ANSI 837 Health Care Claim, 4010 version). Due to delay in the release of the IAIABC Medical Reporting Implementation Guide, the Department of Workers Claims has extended the deadline for being in production with medical bill payment reporting to February 1, 2000. Although the deadline for production status has been extended, medical bill payments made on or after July 1, 1999 must be reported retroactively, once production status is obtained.

EDI NEWSLETTER

The Division of Information and Research issued a newsletter to all trading partners detailing changes and enhancements to the EDI system. Those interested in obtaining the newsletter may contact John Spicer or Preston Gorman at (502) 564-5550 x. 540 or visit the DWC Website at <http://www.state.ky.us/agencies/labor/edi/whatsnew.htm>.



**WORKERS COMPENSATION
SPECIALISTS
ACTIVITY JULY-SEPTEMBER, 1999**

Requests for assistance: 2189
 Requests for assistance completed: 1910
 Mediation requests: 331
 Mediation completed successfully: 173
 Number of assisted claims filed: 29
 Number of other forms assistance: 50

MEDICAL EVALUATIONS

Sixty-seven claimants were scheduled for medical evaluations at the University of Kentucky and 60 at the University of Louisville from July - September, 1999, for a total of 127. The majority of these evaluations, 84, were related to injury claims with 28 from hearing loss, and 8 from Coal Workers Pneumoconiosis.

DWC also received 99 medical evaluation reports during this quarter, 182 from the University of Kentucky and 148 from the University of Louisville. This brings the total number of reports for the first 9 months of the year to 330.

**OMBUDSMEN ACTIVITY
JULY-SEPTEMBER, 1999**

NUMBER OF REQUESTS RECEIVED 1,879
 COMPLETED 1,703
 PENDING 148

TYPE OF CALL:
 CLAIMANT 1019
 CARRIER 168
 EMPLOYER 182
 ATTORNEY 174
 MEDICAL PROVIDER 133
 GOVERNMENT OFFICIAL 31
 MEDICAL REVIEW 22
 OTHER 150
TOTAL: 1,879

SUBJECT BREAKDOWN OF CALLS:
 MEDICAL FEE SCHEDULE 100
 LEGAL QUESTIONS 451
 INFORMAL MEDIATION 178
 PROCEDURAL QUESTIONS 842
 MEDICAL FEE DISPUTE 37
 CLAIMS STATUS INQUIRY 131
 FRAUD 7
 COVERAGE 300
 FIRST REPORT OF INJURY INQUIRY 71
 MANAGED CARE 17
 REHABILITATION 4
 UTILIZATION REVIEW 36
 REFERRAL TO OUTSIDE AGENCY 36
 OTHER 226
TOTAL: 2,436

OTHER OMBUDSMAN ACTIVITIES:
 FRAUD REFERRALS 5
 ENFORCEMENT REFERRALS 12
 SPEAKING ENGAGEMENTS 3
 LETTERS/FAXED REQUESTS 244
 FORM REQUESTS 458
TOTAL: 722



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

KY Department of Workers Claims
 Perimeter Park West, Building C
 1270 Louisville Road
 Frankfort, KY 40601
 502.564.5550

<http://www.state.ky.us/agencies/labor/wrkclaim.htm>