

QUARTERLY ACTIVITY REPORT

October 1 - December 31, 1998

Walter W. Turner, Commissioner
KY Department of Workers Claims

4TH QUARTER ACTIVITY

760 Awards Rendered

652 Settlements Approved

12,696 Injuries Reported

1,076 Claims Filed

340 Reopenings

617 Appeals Filed

775 Prelitigated Agreements

Medical Fee Schedules

During the last quarter of 1998, the Department completed the process of reviewing and updating the Workers= Compensation Medical Fee Schedule for Physicians. The new fee schedule, effective January 1, 1999, prescribes reimbursement for medical services rendered to injured workers.

DWC utilized the services of consultant PriceWaterhouseCoopers (PwC) to assist in revising the fee schedule. KRS 342.035 requires the Department to benchmark its fee schedule against what general health insurers pay for like services in the same community. PwC provided the Department with expertise in the area of private health care fee arrangements along with vast data resources. In addition, the Department sought comments and assistance from members of the medical provider and payer communities. The result of this collaborative effort is an updated, detailed schedule of fees with concise rules of interpretation.

Adequate medical reimbursement levels for medical services are necessary to assure employee access to skilled providers. The new fee schedule contains fee increases adequate to keep pace with the medical consumer price index. The Department also recognizes that a clearly written fee schedule with concise rules of interpretation tends to decrease disputes and delays in the delivery of services. Significant time has been spent to clarify and improve ground rules. Providers and payers were consulted and provided insight into areas needing revision. Of particular importance is the clarification of billing practices for mid-level practitioners. Surgical cascade rules have been modified and a new section addressing reimbursement for office-based supplies and injectables has been added to the schedule.

While assessments of the impact of the new fee schedule on overall program costs vary, Tom Daley, Regional Actuary for the National Council on Compensation Insurance (NCCI) has reported that program-wide increases in physician costs range from 6%-8% compared to costs under the 1996 schedule. Mr. Daley projects that the fee schedule changes will produce an increase between 1.3% and 1.8% of total Kentucky workers= compensation systems costs.

Late in the quarter, the Department began gathering information necessary to update hospital cost-to-charge ratios. Reimbursement for medical services delivered in the hospital setting is based upon a ratio assigned by the DWC on a yearly basis. Notice letters to individual institutions will be mailed in early 1999. The anticipated effective date for 1999 cost-to-charge ratios is March 1, 1999.

Constituent Services

In the final quarter of calendar 1998, the Division of Ombudsmen and Workers Compensation Specialist Services went on-line with a new system to track “requests for assistance” (RFA’s). Previously, each call to an Ombudsman or Specialist was recorded on paper. Occasionally, impatient constituents would call repeatedly with the same problem, and two or three staff members would be working to resolve it, without knowing others were already assisting. The new computerized tracking system notifies each staff member if the caller has already accessed an Ombudsman or Specialist, so that services are not duplicated.

Another benefit of the computerized RFA system is data analysis. The Department will be able to identify which aspects of workers’ com-

ensation generate the most dispute or confusion. This, in turn, will be used to strengthen training areas and develop suggestions for statutory or regulatory amendments.

On December 17, 1998, The Kentucky Supreme Court ruled that the Specialists employed by the Department of Workers Claims were not engaged in the “unauthorized practice of law,” overturning conclusions previously drawn by the state bar association. The decision was based upon the fact that Specialists are closely supervised by an attorney, similar to paralegals (*Turner v. KY Bar Association*).

During the last quarter, Ombudsmen and Specialists fielded 5,362 requests for assistance.

The Specialists were involved in 2,571 new requests for assistance with 2,271 completed. This staff also assisted with 458 new mediations, and successfully resolved 59% of mediations in this quarter.

Specialists assisted with 23 claim filings and received 50 new rehabilitation referrals, and secured prompt approval for evaluations in 38 claims.

Ombudsmen Activity, Oct. - Dec. 1998

NUMBER OF REQUESTS RECEIVED	2,791
COMPLETED	2,596
PRIOR MONTH COMPLETED	1,087
PENDING	427
TYPE OF CALL:	
CLAIMANT	1,372
CARRIER	317
EMPLOYER	233
GOVERNMENT OFFICIAL	47
MEDICAL PROVIDER	196
ATTORNEY	261
MEDICAL REVIEW	24
OTHER	341
TOTAL:	2,791
SUBJECT BREAKDOWN OF CALLS:	
MEDICAL FEE SCHEDULE	123
LEGAL QUESTIONS	412
REHABILITATION	23
PROCEDURAL QUESTIONS	1,375
MEDICAL FEE DISPUTE	74
CLAIMS STATUS INQUIRY	175
FRAUD	13
1 ST REPORT OF INJURY INQUIRY	66
COVERAGE	494
MANAGED CARE	18
REFERRAL TO OUTSIDE AGENCIES	280
UTILIZATION REVIEW	34
INFORMAL MEDIATION	505
OTHER	156
TOTAL:	3,784
OTHER OMBUDSMAN ACTIVITIES:	
FRAUD REFERRALS	10
ENFORCEMENT REFERRALS	13
SPEAKING ENGAGEMENTS	5
LETTERS/FAXED REQUESTS	249
FORM REQUESTS	302
TOTAL:	579

ALJ Activity

During the fourth quarter of 1998, the fourteen Administrative Law Judges continued to perform their traditional duties, which include adjudication in de novo appeals from arbitrator decisions and in claims transferred from arbitrators prior to an initial arbitrator decision because of complex legal or factual issues. During this quarter, the Administrative Law Judges scheduled 98 formal hearings in these claims. They also held informal conferences in most of these claims, to reduce the number of contested issues and promote settlements. The Administrative Law Judges issued 280 formal opinions during this quarter.

Additionally, they presided at enforcement hearings from citations issued by Commissioner Turner for Chapter 342 violations. The Administrative Law Judges rendered 27 appellate decisions in claims appealed from the Frankfort arbitrator motion docket. A number of Administrative Law Judges also spoke on program topics related to Kentucky workers’ compensation at various seminars. The Administrative Law Judges issue opinions on remand from appellate bodies.

In addition to the foregoing duties, one half of the Administrative Law Judges served as Acting

Arbitrators on a six-month rotation schedule. This rotation is in accordance with KRS 342.230(3) which states "...the Commissioner shall have the authority to assign the duties of an Arbitrator to an ALJ who shall work in that capacity as deemed necessary by the Commissioner."

These Acting Arbitrators were assigned 433 cases, held 489 benefit review conferences and issued 327 benefit review decisions.

Arbitrator Activity

During the 4th quarter of 1998, 973 benefit review conferences were held, and 542 decisions were rendered. A total of 905 claims were resolved during this time period, with 30% settled. While the number of benefit review conferences held and the number of claims settled are slightly less than in the previous quarter, the percentage of claims resolved by decision remained virtually the same.

Arbitrators continued their efforts toward compliance with the 90-day determination requirement in KAR 25:101 with only 212 cases exceeding the prescribed time frame. Most of those cases are in abeyance, have settlements pending or the parties have requested additional time to present proof.

Appeals Branch

For the fourth quarter of 1998, 108 appeals were filed with the Workers Compensation Board (Board). The Board disposed of 154 appeals, and is 100% in compliance with the 1994 legislative mandate in rendering decisions within 60 days of the last brief filed. There are presently 41 appealed claims ripe for decision and 102 appealed claims that are being held in abeyance awaiting precedent setting decisions upon cases involving the same issue now pending before the Court of Appeals, Supreme Court or for other reasons. There was 55 Board claims appealed to the Court of Appeals and 24 claims appealed to the Supreme Court. The Court of Appeals disposed of 89 appeals and the Supreme Court disposed of 29 appealed claims. There are presently 362 claims on appeal to the Court of Appeals and Supreme Court.

Information Systems

In preparation for the year 2000, the Department of Workers= Claims has allocated 6 staff members to review and modify the department's computer system. The DWC database was first designed in the early 1970s as an alternative to paper

record keeping. As technology progresses, the DWC computer system has been expanded to accommodate new mediums for reporting injury and claim information. In the past, the DWC has been successful in consolidating electronic reporting with data received in a paper format. A database once developed as an alternative to paper record keeping has now evolved into a system that provides program statistics, monitors carrier performance, and allows easy access to injury and claim information. Now much attention is being placed on front end edits, standardized coding, data cleanup, and database consolidation to ensure quality statistics and better monitoring of carrier, agency, and program performance.

Continued efforts to improve the DWC's computer system have resulted in a complete information system redesign which will no longer reside on the state mainframe but will operate on an AS400 platform. The DWC system redesign is targeted for completion during the third quarter of 1999.

Enforcement of Coverage

During this quarter, the Enforcement Branch continued its efforts toward achieving voluntary compliance with coverage requirements through an aggressive program of investigations, database comparisons, and educational opportunities. One hundred twenty-three citations were issued totaling \$205,100 in penalties against employers who did not have workers compensation insurance coverage. During this same period, \$151,201 was collected from current and previously issued penalties. The Enforcement Branch administrative expenses for the quarter totaled \$118,776.

EDI-POC

The Coverage Branch maintained "same-day processing" of proof of coverage notices filed with the Department via NCCI (National Council on Compensation Insurance, Inc.) while completing and implementing an Internet solution for proof of coverage requirements. The Coverage Branch tested the new "filing door" with two large self-insured funds and went on-line in December. This new option was offered to the 10 group self-insurance funds and was met with immediate acceptance. By the end of the quarter, a majority of the funds had already successfully transmitted data through this new process. By the end of January, the Department plans to make this cost-free method for filing proof of coverage information available to all carriers. Additional information regarding this pro-

cess may be obtained by contacting Sandy Tyson or Gary Davis at (502) 564-0905.

Total # FROIs rec'd.....16,760
 Total # SROIs rec'd.....17,274
 Total # POCs rec'd.....77,190

Self-Insurance

Field examinations of the Kentucky School Board Self-Insurance Trust and the Workers Guardian Self-Insurance Fund were completed during the fourth quarter. The Department is reviewing the results which are expected to be issued during the first quarter of 1999. The examination report on KESA, The Kentucky Workers' Compensation Fund, was completed and is scheduled for release in mid-January.

The Department held meetings with representatives of self-insured employers to obtain a more in-depth understanding of the companies' operations. This aided in determining each company's self-insured status.

Staff completed all of the self-insured recertifications and began preparations for the employers' simulated premium and loss filings for the first quarter of 1999.

Additional resources were allocated to enhance and update the DWC web site with forms and information used by the self-insured employers in completing their filings with the Department.

Claim Filings

Received and processed 1,076 new claims, assigned 1,254 claims to the Arbitrators, assigned 121 Arbitrator transfer cases to the ALJs, assigned 516 appeals from Arbitrator's Benefit Review Determination to ALJs, processed 1,011 agreements and lump sum settlements, 205 attorney fee motions, 5,297 statute letters, 2,043 orders, assigned 38 appeals from Motion Docket Orders to the Chief ALJ; and prepared, attended and processed orders from 12 Motion Dockets.

Benchmarking/Carrier Report Cards

The Benchmarking Section spent the fourth quarter of 1998 reviewing feedback received from 164 insurance carriers/trading partners and self-insureds on the most recent report card on Timely Filing of First Reports. One of the main issues that surfaced after distributing the 2nd round of report cards in September, deals with separating the performance of the employers from the performance of the insurers as it relates to compliance with timely filing and the imposition of penalties. In accordance with KRS 342.038(3) "every employer or insurer subject to this chapter shall report to his workers' compensation insurance carrier or the party responsible for the payment of workers' compensation benefits any work-related injury or disease or alleged work related injury or disease within three (3) working days of receiving notification of the incident or alleged incident." And in subsection (1) "...An employer's insurance carrier or other party responsible for the payment of workers' compensation benefits shall be responsible for making the report to the Department of Workers Claims within one week of receiving the notification referred to in subsection (3) of this section." The Department is now considering how best to deal with the concern expressed by insurance companies, third party administrators and self insureds about being held responsible for the late filings of their employers. In addition, DWC plans to meet with the Carrier Performance Task Force during the 1st quarter of 1999 to get their input on this matter and others related to benchmarking.

DWC held a public hearing on November 23, which included a review of the proposed changes to 803 KAR 25:170. These changes brought the regulation concerning electronic filing of claims information into agreement with the statute.



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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Budget Analysis			
Fiscal Year 1998 - 99 as of December 31, 1998			
Annual Budget			
	Allotment	Spent as of 12/31/98	% Spent
Personnel	\$11,724,000	\$5,112,237.39	43.6%
Operating	3,150,000	1,013,035.49	32.2%
Capital Equip.	120,000	0	0%
Total	\$14,994,000	\$6,125,272.88	40.9%
Percent of year lapsed	50.0%		