

QUARTERLY ACTIVITY REPORT

October 1, 1999-December 31, 1999

Walter W. Turner, Commissioner
KY Department of Workers Claims

4TH QUARTER CLAIMS ACTIVITY

Injuries Reported	10,807
Claims Filed	945
Reopenings	250
Awards Rendered *	817
Settlements Approved *	797
Prelitigated Agreements *	913
Dismissals	250
Transfers from Arbitrator to ALJ	161
Appeals from Arbitrator to ALJ	474
Appeals to Board	162
Appeals to Court of Appeals	91
Appeals to Supreme Court	13

*Includes awards/settlements/prelits with no money.

Y2K PREPARATION / ROLLOVER

Technical Services Branch worked during the fourth quarter in assuring the integrity of DWC data systems upon transition from 1999 to 2000. During that period, year 2000 compliance of all computer hardware was verified, revisions or replacements for noncompliant software were installed, virus protection was assured, and pretesting of systems was performed. On January 1, 2000, agency personnel tested all data retrieval systems, e-mail systems, EDI programs, and imaging systems for integrity. As was anticipated, no Y2K-related errors were discovered, and upon return to work on January 4, 2000 all DWC data systems were fully operational.

ADMINISTRATIVE LAW JUDGES

During the fourth quarter of 1999, the fourteen administrative law judges held 336 informal conferences and 481 hearings in cases appealed or transferred from arbitrators. They issued 326 opinions on claims from arbitrators, as well as 27 decisions in cases remanded from the Workers' Compensation Board, Court of Appeals or Supreme Court. The ALJs also issued decisions in appeals from the arbitrator motion docket and presided at enforcement hearings.

In addition to these duties, the ALJs serve as acting arbitrators on a six-month rotation. During the final quarter of 1999, they held 298 benefit review conferences and issued 249 benefit review determinations.

EDI - PROOF OF COVERAGE

The submission of proof of coverage information through electronic data interchange continues to challenge the Department's resources. On October 1, 1999 the Department terminated NCCI's authority to submit data on behalf of the workers' compensation carriers requiring the carriers to utilize one of three (3) alternatives. The preliminary results are in and they contain both good and bad news. Unfortunately when NCCI was terminated they had built a significant backlog estimated at approximately 400,000 records. Subsequent efforts to solicit assistance from NCCI in processing these records have failed. Consequently, the Department will process these as expeditiously as possible but complete elimination of the backlog is not expected prior to July 1, 2000. The good news is that the current system is resulting in increased efficiency with fewer rejections. A comparison was made between the fiscal year's

first quarter total submissions under the old process and the second quarter submissions utilizing new vendors. Second quarter total submissions decreased sixty-five percent (65%) and mass rejections decreased eighty-eight percent (88%). Furthermore, the ratio of accepted submissions to total submissions has almost doubled from a first fiscal quarter rate of thirty-three percent (33%) to a second quarter rate of sixty-three percent (63%). Although the journey through the "EDI-POC tunnel" is long there does appear to be a promising light at the end. The Department anticipates continuing good news in future reports.

ENFORCEMENT

The Enforcement Branch continues its efforts to encourage the timely, voluntary compliance with the Kentucky Workers' Compensation Act by all Kentucky employers. During the period October through December 1999 the Enforcement Branch continued its record pace in several key categories. DWC officers conducted 2,057 investigations of Kentucky businesses verifying compliance with the Workers' Compensation Act bringing the calendar year total to 9,418. Eighty (80) citations were issued this quarter resulting in a calendar year total of five hundred and fifty (550). Combine these high achievements with quarterly collections of \$72,323 and calendar year collections of \$409,976 and it is clear that the Enforcement Branch is a vital element in the Department's administration of the workers compensation laws in Kentucky.

Subsequent to the passage of HB1 in December 1996 some voices raised the concern that large numbers of employees would voluntarily opt out of the workers compensation system and reject coverage. A review of the facts reveals the opposite has occurred. The number of employees filing notice with the Department to reject coverage under the Kentucky Workers' Compensation Act reached its lowest level since 1987 and continued declining for the third calendar year in a row reaching a low of 7,303.

SELF-INSURANCE

The Self-Insurance Branch monitors the financial conditions of the self-insured employers including the group self-insurance funds. Departmental auditors working with Department of Insurance Examiners are completing examinations on two self-insurance funds and reports are imminent.

In addition to field examinations of self-insured group funds the Branch establishes adequate surety requirements and performs financial analyses of all individually self-insured employers. Though the Department can not guarantee the continued financial solvency for all Kentucky self-insured employers, we can, through the use of appropriate evaluative tools, ensure that adequate surety is available to continue payment of the employer's workers compensation liabilities should a bankruptcy occur. The Self-Insurance Branch fortunately enjoys the experience and expertise of a highly qualified and dedicated staff.

Special projects in response to legislative or industry inquiries have become routine during the past three months. Analysis of total workers compensation system costs, projections of future premiums, and research designed to identify appropriate financial valuation tools in an ever-changing business environment are just a few of the areas where staff resources have been utilized. Furthermore, the Branch continues to provide support to the workers compensation guaranty funds and industry associations in their efforts to administer both the letter and intent of the Kentucky Workers Compensation Act.

FATALITY "REPORT CARDS" ISSUED:

KRS 342.038 requires an employer's insurance carrier or other party responsible for the payment of workers' compensation benefits to make a report to the Department of Workers' Claims within one week of receiving notification of a fatal injury and is the statutory basis for the is-

suance. During December 1999, Benchmarkers in the Division of Information and Research issued the third Fatality "Report Card" to insurance carriers and third party administrators regarding fatalities reported to the Department during calendar year 1998. In addition to monitoring carrier performance, these "report cards" serve as a tool for improving the delivery of services by identifying areas needing improvement and provide a medium for open communication between carriers and the Department.

Some of the challenges that DWC has uncovered during this process include:

1. Trading partners, attempting to transmit changes or corrections (such as the date of death) to a first report of injury previously sent electronically, erroneously sent a second record with a maintenance type code of "00" (original). This record was rejected as a duplicate and returned to the sender. Having to resubmit this record correctly, at a later date, caused a delay in reporting. Instead, changes to a first report record should be sent with a maintenance type code of "02" (change) and corrections should be sent with a maintenance type code of "C0" (correction).

2. Discrepancies on the FROI between the fatality indicators, and the accident description - in some cases, the accident descriptions did not mention the word fatality or death or provide any details that describe death. In some cases, there was a date of death when in fact the claimant was still living. The date of death was populated in error.

3. Difficulties in determining work relatedness - Conducting investigations into the work relatedness of the incident is another of the reasons given by carriers and TPAs for delays in filing. Any injury or death reported by an employer to the carrier should be reported to DWC immediately. If, at the conclusion of investigation, work-relatedness is not proven, a subsequent report denial should be filed.

4. Incorrect addresses for Carriers/TPAs

- Though not a reason for untimely filing, incorrect and incomplete addresses and contacts for insurance companies and third party administrators made mailing report cards a slow, difficult process. It is very important that when a first report is submitted, it has the correct address of the carrier or TPA in the applicable fields. In several instances, carriers/TPAs reported that they were not responsible for the coverage for that particular employer's fatality. Please notify the Insurance Division of the Department of Workers Claims when changes in coverage occur (see KRS 342.340 - Timely Notice of Coverage).

The reporting "violation" was determined by fatality information reported electronically. Carriers and third party administrators were asked to 1) verify that the fatality information received by the Department was in fact correct and 2) provide an explanation of the circumstances concerning the violation. Of the 81 fatalities reported to the Department in 1998, less than one-third of them were filed "untimely", qualifying as a violation for the "report card". Many of these violations were the result of clerical oversight or computer error. Carriers and third party administrators are again encouraged to take whatever steps are necessary to ensure that the data being transmitted through EDI is not only sent timely, but is also accurate.

The issuance of the fatality "report card" will remain an ongoing process to ensure compliance of timely filing of fatalities by carriers and third party administrators. Another issuance, for 1999 fatalities, is planned for January 2000. Though fatalities represent a small fraction of the injuries occurring in the workplace, the ramifications are momentous. The Department continues to work proactively to improve the workers' compensation program for injured workers, their dependents, and insurance companies alike.

WORKERS COMPENSATION ADJUSTERS CONFERENCE

The Department of Workers Claims hosted an educational conference for workers compensation insurance adjusters on the 9th of November, 1999. The full day conference was held in Frankfort and attended by nearly 200 claims managers, claims representatives, case managers, workers compensation program directors, and attorneys. The focus of the conference was “front-line” insurance adjusting including the delivery of indemnity and medical benefits under Kentucky’s workers compensation system.

The morning session of the conference focused on the statutory scheme for the delivery of indemnity benefits. Presenters included Commissioner Turners as well as members of the private sector. Case scenarios from actual workers compensation claims files were presented, discussed, and opened for audience questions and comments. Particularly of interest was the adjudicators forum: “TTD: To Pay or Not To Pay, That is The Question,” as well as a discussion on the payment of TTD when an injured worker has been released to work with “light duty” restrictions.

The afternoon session was spent explaining and exploring the challenges with managing the delivery of medical benefits under Kentucky’s workers compensation system. Several misconceptions about the use and effect of utilization review were discussed. A recently issued policy on the use of PPO’s (Preferred Provider Organizations) was highlighted as well. The

afternoon concluded with an update on unfair claims settlement practices including explanations of specific cases where the Department has issued significant fines to insurance carriers and/or self-insured employers.

Written materials from the conference are available. Contact Donna Elsen Floyd, (502)564-5550, ext. 488.

EDI REPORTING OF MEDICAL BILLS

The production deadline for EDI reporting of medical bill payments was February 1, 2000. DWC has two (2) trading partners in production and continues to monitor test data being transmitted by several companies. Reporting standards have been developed conformant with the International Association of Industrial Accident Boards and Commissions Medical Implementation Guide (IAIABC)(ANSI 837 Health Care Claim, 4010 version). For information regarding reporting standards and implementation procedures, contact Deborah Wingate, (502) 564-5550 x.423 or check the EDI Website at <http://www.state.ky.us/agencies/labor/edi/whatsnew.htm>.

WORKERS COMPENSATION SPECIALISTS & OMBUDSMEN ACTIVITY 4TH QUARTER 1999

Requests for assistance: 3557
 Requests for assistance completed: 3090
 Intervention requests: 455
 Intervention requests
 completed successfully: 240

DWC 4TH QUARTER FISCAL ACTIVITY

Expenditure	Budget	Spent to Date	% Spent
Personnel	12,192,000	5,035,369.44	41.3%
Operating	3,365,000	1,042,819.19	31.0%
Capital Equipment	80,000	-0-	0.0%
Total	15,637,000	6,078,188.63	38.9%

Percent of Fiscal Year Lapsed: 50%

ENFORCEMENT DATA REDESIGN

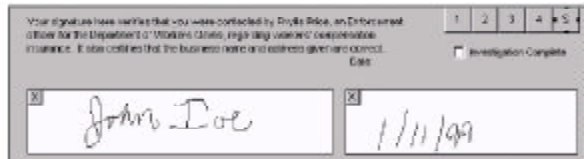
During the Fourth quarter, the implementation of a new Enforcement Branch data reporting system radically changed the way employers' compliance with Kentucky's workers' compensation act is confirmed.

DWC Field Compliance Officers contact Kentucky businesses obtaining the necessary information to confirm compliance. Historically, transfer of information obtained during field investigations required the officer to complete various paper forms submitting them via mail to Frankfort for potential use as evidence in formal hearings.

Shortcomings of this system included among other things:

1. Inefficient statistical tracking procedures.
2. Excessive storage requirements.
3. Slow transmission of records to the home office.
4. Inconsistent reporting among field personnel

The Enforcement Branch redesigned their reporting procedures around the use of small electronic data entry devices (palmtop PCs) in January 1999 adding electronic databases, forms, and providing for queries through which all Enforcement data could be managed. Now, dur-



Signatures of interviewees are also captured electronically.



Transmissions from field offices to Frankfort take seconds rather than days.

ing a field investigation, all data elements are entered via a touch sensitive computer screen using pull-down menus and click-on boxes. Add to this the convenience of recording a message via the built-in microphone and you have a powerful enforcement tool providing greater detail with increased efficiency and accuracy.

With an almost paperless reporting environment, approximately 40,000 sheets of paper a year and the necessary storage space will be saved, Enforcement activity is easily transmitted from field Office computers to home office computers in a few seconds a week, and Enforcement statistics are easily compiled from the new master database.

As of the publication of this report, Enforcement data collected electronically has been effectively used as evidence for citation of noncompliant employers and five of nine compliance officers are using the new electronic system exclusively. The remaining officers are scheduled for inclusion during the first quarter of 2000.



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