

## THE BOTTOM LINE

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## Workers’ Compensation 2006

In 2004 we called Washington a “high benefit-high cost” state for workers’ compensation insurance. Nothing has changed since then to warrant modifying that characterization. Indeed, Washington’s support of injured workers has grown faster than 45 other states and the District of Columbia in recent years and consistently ranks in the top handful of states for its generous benefits (WashACE 2004, NASI 2005).

National expert John Burton says that while “there is a reasonably close relationship between total benefits provided to workers and the employers’ costs of workers insurance,” differing industrial mixes with varying risks of workplace injury make direct state-to-state comparisons difficult (Burton 2006). Therefore, it is important to understand both the array of benefits offered by workers’ compensation systems and how these benefits are delivered in order to compare Washington with other states.

Although such an in-depth analysis and comparison is beyond the scope of this brief, we present information below on how Washington’s workers’ compensation system works and how its performance compares with other states. In addition, we suggest several facets of our system that are contributing to high costs and that, if ignored, will eventually threaten system integrity.

### TOTAL BENEFITS GROW FASTER IN WASHINGTON

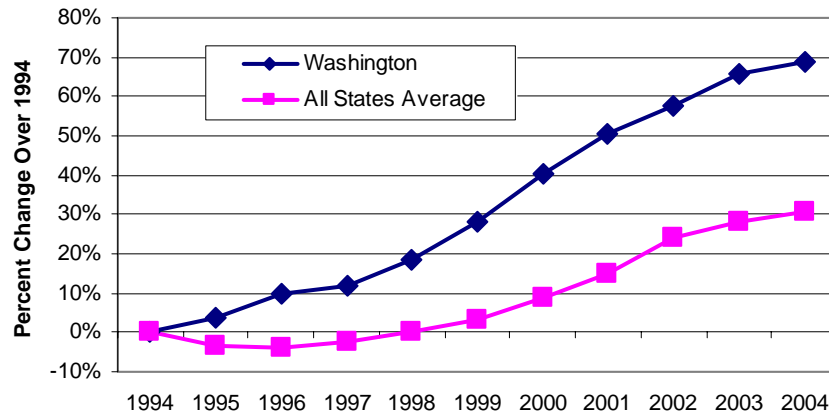
Total workers’ compensation benefits paid to or on behalf of injured workers in Washington have grown from \$1.1 billion in 1994 to \$1.8 billion in 2004—69 percent growth over ten years. This compares with 30.5 percent growth for all states over the same period (UWC 2006, see Figure 1).

Workers’ compensation systems throughout the country have developed based on an agreement between labor, business and government to take care of workers injured on the job. This agreement benefits everyone—workers receive medical care and partial wage replacement while they are out of work, employers avoid costly and time-consuming litigation, and the larger economy is protected. Nonetheless, states differ significantly in their coverage of various benefits. The box on page 3 describes many of Washington worker compensation benefits and how they compare with benefits offered in other states.

### WASHINGTON RANKS 3<sup>RD</sup> HIGHEST IN BENEFITS PER WORKER

Table 1 (page 7) illustrates how Washington ranked against the other states on benefits paid in 2004. We paid an average of \$699 per covered employee in workers’ compensation benefits in 2004—the 3<sup>rd</sup>

**Figure 1. Total (Indemnity & Medical) Benefits Growth**



Source: UWC-Strategic Services on Unemployment & Workers' Compensation, 2006

Washington's total benefit payments per \$100 of covered payroll rose nearly 15 percent from \$1.57 to \$1.80, compared with all-states growth of just 5 percent (from \$1.05 to \$1.10, UWC 2006).

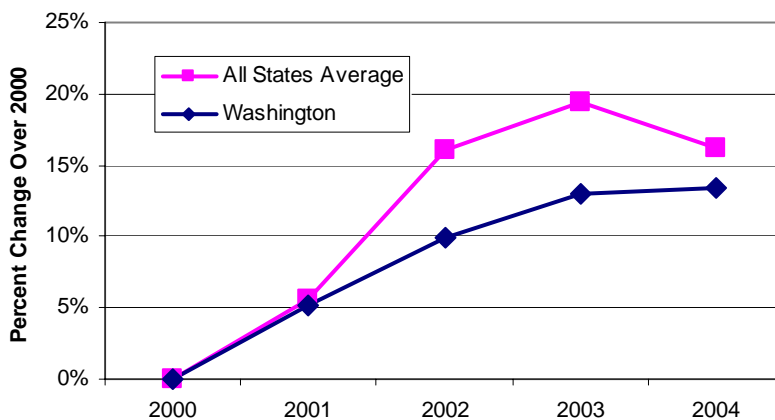
**WASHINGTON'S MEDICAL PAYMENT GROWTH IS SIMILAR TO OTHER STATES, BUT CASH PAYMENTS CONTINUE GROWING WELL AHEAD OF OTHER STATES**

Breaking these numbers down, we find that Washington's efforts to rein in medical costs have worked, with Washington growing more slowly than the all-states average in recent years. While all-states medical payments per \$100 of covered payroll grew about 16 percent between 2000 and 2004, Washington grew just 13 percent over the same period, as shown in Figure 2 (UWC 2006).

Washington's cash payments, however, have continued to grow well ahead of the all-states average. Per \$100 of covered payroll, cash payments to cover lost wages grew only three percent nationally between 2000 and 2004, while in Washington these payments grew by 15 percent (see Figure 3, UWC 2006).

The fact that cash benefits in Washington have grown at a more rapid rate than medical benefits is striking. One would expect medical benefits, driven by the extraordinary inflation in medical costs, to increase more rapidly than cash benefits, as has been the case nationally.

**Figure 2: Growth in Medical Payments per \$100 Payroll**



Source: UWC-Strategic Services on Unemployment & Workers' Compensation 2006

highest of all the states, following West Virginia and California (UWC 2006).

Similarly, Washington ranked high in average benefits paid in comparison to salary. At \$1.80 paid per \$100 of payroll, Washington ranked 5<sup>th</sup>, behind West Virginia, Montana, California and Alaska (UWC 2006).

Benefits are paid to or on behalf of injured workers both to replace lost wages and to cover medical care associated with workplace injuries. From 2000 to 2004,

In part, the high rate of growth in cash benefits in Washington is the on-going consequence of legislation passed in 1975, which provides for automatic annual adjustments. Rather than tying these adjustments to the cost of living, Washington tied them to the state's growth in average wages, an aggressive benchmark that has grown well ahead of the cost of living. This auto-escalation policy was felt immediately with steep increases in cash payments to injured workers the year following its passage.

## THE BASICS OF WASHINGTON'S WORKERS' COMPENSATION SYSTEM

### Type of Law

**Compulsory system.** As with all states but New Jersey and Texas, workers' compensation is compulsory in Washington.

**No waivers for type of employee.** Like most states today, our system does not allow waivers for any type of employee, that is, all employees must be covered by workers' compensation insurance.

**Exclusive state fund.** Washington is one of only five states with an exclusive state fund, where no private insurance carriers are allowed to insure employers.

**Self-insurance allowed.** Washington, like all states but Wyoming, allows individual employers to self-insure as long as they can demonstrate financial capability. Thirteen states do not allow employers to form groups through which to self-insure. Washington restricts most private employers from forming groups for purposes of self-insurance, allowing only school districts and public and private hospitals to group self-insure.

**No numerical exemptions allowed.** Washington is among 28 other states that allow no numerical exemptions for the number of workers a firm employs.

**Farm workers covered.** All Washington farm workers must be covered by workers' compensation insurance, except children under 18 years of age employed by his/her parents. Workers aged 18 to 21 years living and working on their family's farm may be excluded.

### Benefit Coverage

**Temporary Total Disability (TTD).** TTD benefits go to workers unable to work for some temporary period of time after an injury. While most states call for a benefit that is 66⅔ percent of the worker's pre-injury wage, Washington covers between 60 and 75 percent of a worker's wage depending on the number of dependents a worker contributes to supporting. The amount of these benefits are capped by a 'maximum monthly benefit.' Washington has the 8<sup>th</sup> highest maximum weekly wage replacement amount in the country – \$905.17 per week, up to 120% of the state's average monthly wage. Washington is one of only six states covering more than 110 percent of the state's average monthly wage. Like most states, we have a maximum benefit period that continues for the duration of the temporary disability and is subject to social security benefit offsets from the federal government.

**Permanent Total Disability (PTD).** Like TTD, Washington covers between 60 and 75 percent of a worker's wage with a maximum of \$905.17 per week, up to a maximum of 120 percent of the state's average monthly wage. Washington's maximum benefit period for PTDs is life, unlike most states with a maximum period covering the duration of the disability or less and, like only 15 other states, benefiting from federal social security benefit offsets.

**Permanent Partial Disability (PPD).** PPD benefits are provided to workers who have sustained injuries resulting in a permanent disability, like loss of an ear or an arm, but who are not completely disabled. Monthly PPD payments are not statutorily prescribed in Washington, but the state's maximum amount is \$154,529.25 for a non-scheduled injury (100% total bodily impairment). Payments are based on a schedule of specific permanent physical impairments with a relatively complicated formula for sorting payments and payment schedules.

Washington law provides for the payment of fixed sums, based on the percentage of disability for scheduled disabilities, adjusted for changes in cost of living, and paid in monthly installments until exhausted.

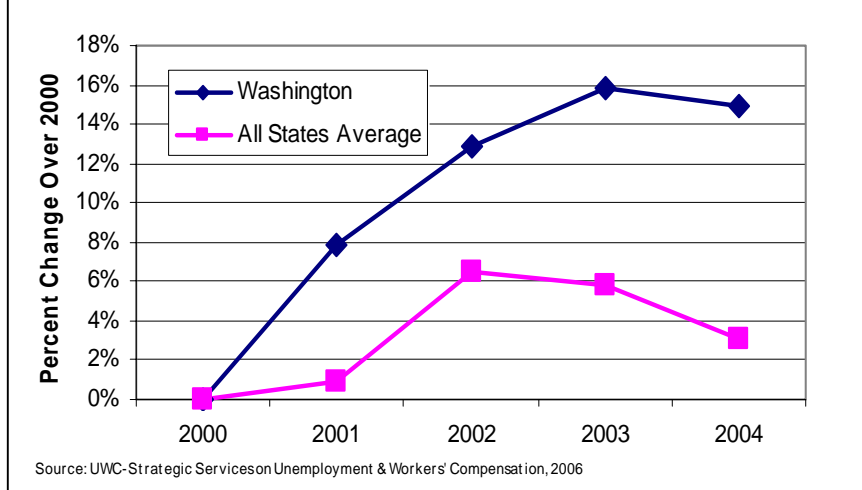
**Death.** Washington pays 60 percent of a worker's wage to his/her surviving spouse, if the death is related to a workplace injury. If he or she has children this benefit maximum increases to 70 percent. Payment maximums and their percent of the state's average weekly wage differ, depending on the date of injury. Maximum period of benefit extends to the life of surviving spouses and until children reaching age 18 (if enrolled in full-time school, benefits continue to age 21). Upon remarriage, benefits to the spouse are discontinued; however, benefits to the dependent children continue.

**Maximum Burial Allowances.** Washington has a maximum burial reimbursement of 200 percent of the state's average monthly wage, depending on date of injury, or about \$8,000, currently.

**Waiting Periods.** Washington is one of 22 states with a short three-day waiting period for benefit payments. Compensation may be retroactive in Washington if the disability continues for 14 days or more from the date of injury.

**Attorney Fees.** Washington is one of only three states with attorney fees as high as 30 percent of indemnity benefits. In Washington these are secured in statute. Most states allow attorneys to collect 20 to 25 percent of benefits, some with caps. In addition are statutory provisions where attorney fees may be added to the benefit award. It is unlawful in Washington for attorneys to accept unapproved fees for service and attorney fees may not become liens against awards. Lay-people may represent claimants.

**Figure 3: Growth in Cash Payments per \$100 Payroll**



These increases in cash payments have kept a steady upward pace ever since.

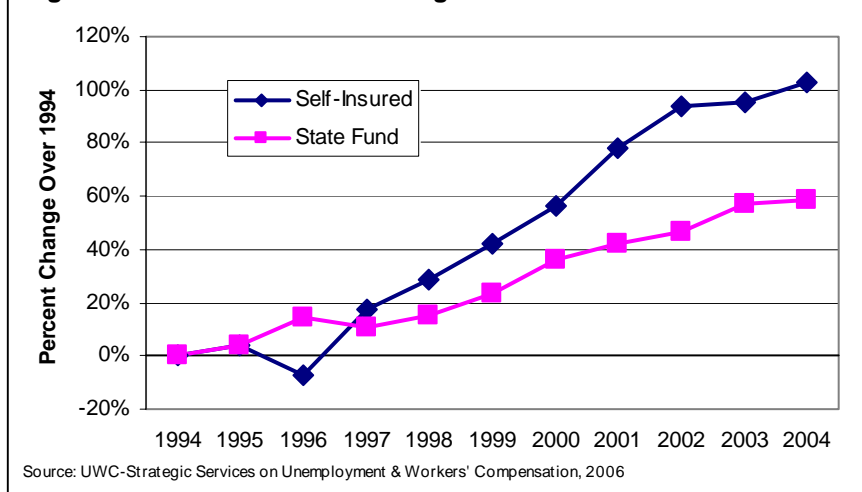
Additionally, the growth in cash payments is due to court decisions such as *Cockle*, and to a lesser degree *Avundes* (both discussed below) and others.

Today, cash payments to injured workers can top \$48,460 over 12 months, reflecting the state's policy of pegging wage replacement benefits to 120 percent of the state's average wage.

**WORKERS' COMPENSATION SYSTEM CHARACTERISTICS IMPACT SELF-INSURED EMPLOYERS MORE QUICKLY THAN EMPLOYERS INSURED BY THE STATE FUND**

The employer community frequently lists workers' compensation costs as one of its top issues requiring legislative attention. As we described in our 2004 report, financial market conditions from the mid-1990's to early 2000 flooded Washington's state-run industrial insurance system with extraordinarily high earnings on its invested funds. As a result, the state fund, as it is called, was temporarily able to pay out increasing benefits without raising insurance premiums. Employers who were self-insured—and who therefore did not participate in the state fund—felt the effects of Washington's workers' compensation policies more quickly than state fund employers, as the self-insured employers paid benefits directly to workers or their medical providers. The state's 389 self-insured employers employ about 33 percent of state workers. Their benefit payments grew even faster (nearly 103 percent between 1994 to 2004) than benefits paid to workers in the state fund (59 percent) as shown in Figure 4 (UWC 2006).

**Figure 4: Benefit Growth Washington State Fund vs. Self-Insured**



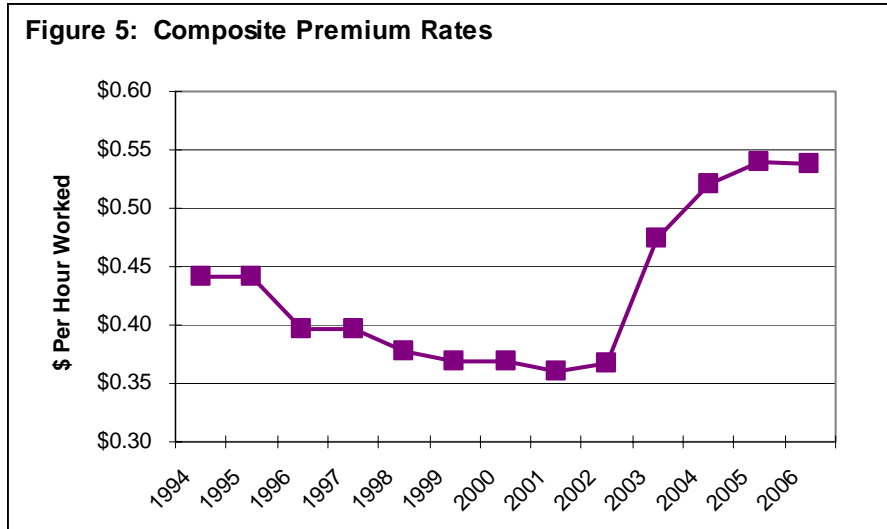
But, state fund employers, insulated by premiums temporarily subsidized by excess investment earnings, did not avoid the effects of Washington's generous policies for long. Although benefit payout by the state fund increased by 59 percent between 1994 and 2004, the state fund's composite premium (an average of premiums charged to all employers and employees over all workers' compensation risk classifications) stayed relatively flat (actually declining in some years) until 2002, reflecting the insulating effects of investment earnings on premiums charged. In

2002 premiums began a steep, two-year climb, plateauing in 2004-05 at \$0.54 per hour worked. See Figure 5.

## EMPLOYER COSTS FROM STATE-TO-STATE ARE DIFFICULT TO COMPARE

Employer costs to support Washington's workers' compensation system are difficult, if not impossible, to compare reliably with other states. At the highest level, state economies differ in the levels of occupational risk present in their basic sectors. In addition, however, Washington's system of risk classification uses different occupational categories than other states.

**Figure 5: Composite Premium Rates**



And premium rates in our state-administered insurance system are based on the number of hours worked, rather than the dollars paid in wages and salaries, common in other states.

Beyond these roadblocks to comparison, about a third of our state's workers are employed by one of 389 organizations large enough to fund their own self-insurance program. These employers – including Boeing, Microsoft, Starbucks, Alaska Airlines, Costco, Safeway, and a multitude of cities, counties,

school districts, and public utility districts – do not pay a particular premium rate for workers' compensation insurance. Rather, they pay benefits directly to injured workers or their health care providers—about 27 percent of the total cash and medical benefits paid in 2003. Their costs are embedded in each payment they make—those intended to cover lost wages, medical expenses, and system administration, oversight, and litigation, as well as those unintended costs that can result from a unique and highly complex set of regulations.

Although self-insurance is not unusual across the country, cost of workers' compensation for self-insured employers are not captured in state-based rate comparisons. In particular self-insured employers' workers' compensation costs are not included in the controversial Oregon analysis, conducted biennially by the state of Oregon, which assesses how Oregon's workers' compensation system costs stack up against similar costs in other states. While the study, therefore, only misses the 12 percent of Oregon's workforce employed by self-insured employers, one-third of Washington's workforce – those workers employed by 389 of the state's largest employers – are ignored.

Even so, the Department of Labor and Industries (DL&I) continues to rely on the study to support its claims that Washington has a “high benefit-low cost” workers' compensation system. Based on a sampling of just 50 (of about 450) of Oregon's most common risk classifications, Oregon analysts caution readers—especially singling out Washington readers—to avoid generalizing about other states from the study's findings (DCBC 2005).

The Oregon study has gained critics, largely in reaction to the misapplication of its findings. Eric Oxfeld, President of the National Foundation for Unemployment Compensation and Workers' Compensation in Washington D.C., for example, dismisses its applicability elsewhere saying the study is an “Oregon-specific study—done by Oregon to make Oregon look good.”

Nonetheless, Washington employers are not so much concerned about comparative rates per se, as what they suggest about the effectiveness of laws and regulations in achieving the objectives of compensation and medical care for injured workers. Washington has generous injured-worker benefits. There are troubling aspects of the system, however, that contribute to unnecessary costs and inefficiencies, sometimes, even abuse of system policies. Such problems rob money and other resources from injured workers and are, therefore, wasteful and counter-productive to accomplishing the objectives of the system.

The balance of this report will address several of these issues, which are the current focus of legislative reform discussion. Representatives of both large and small businesses in Washington shared their views with us, discussing key concerns about which they will be seeking legislative attention.

### **SYSTEM COMPLEXITY CONTRIBUTES TO UNNECESSARY COSTS**

*Simplifying time-loss wage calculations.* Washington's method of calculating wages for time-loss benefits is overly complicated, according to everyone we spoke with. In Washington as a result of the Cockle court decision, health insurance premiums paid by an employer for a worker's health care are included in the state's definition of wages. So, says one business representative, not only is the state's maximum wage replacement for time-loss calculated at 120 percent of a worker's wages (where the majority of states calculate wage replacement at 100 percent of wages or less), Washington's wages are even higher because health insurance premiums are included.

In addition where many states cap their time-loss benefits, Washington's benefits in some cases can continue for the life of the recipient and beyond. Not only do these benefits exceed those offered in the other states, but the data necessary to make the calculations are cumbersome and time-consuming to compile, especially for employers offering an array of different health care programs to employees.

Adding to the complexity of the computation, Washington uses a sliding scale ranging from 60 to 75 percent, depending on the number of dependents a worker contributes to supporting, to calculate time-loss wages. Most states use a flat percentage 66⅔ percent. Employers are the ones that have to provide the worker information. "It comes down to the 'hassle factor,'" says another business representative.

But, it can be more than just a hassle, especially for small businesses. Additional employer staff time and expense is required to gather the necessary data and state oversight time and expense is required to check the data submitted. Ultimately, the complexity of the process contributes to slowing and diminishing the benefit resources available to injured workers.

Unfortunately, it doesn't end here. Further complicating Washington's calculation is the requirement that in many cases an injured worker's time-loss wage be based on an average of several years of wages rather than the most recent year's average wage.

The Avundes court decision has made a difficult situation worse. Under Avundes, a worker's intent regarding full- or part-time work is considered in determining his or her level of time-loss benefit. A construction firm representative gave us an example: A worker had been hired for eight hours of work before being laid off. Three days later the person filed a

Table 1: State Benefit Rankings 2004

	Benefits per \$100 Payroll		Benefits per Employee	
	\$	Rank	\$	Rank
Alabama	1.02	22	335	30
Alaska	1.84	4	696	4
Arizona	0.70	44	254	44
Arkansas	0.70	44	210	50
California	1.91	3	847	2
Colorado	1.01	24	402	18
Connecticut	0.83	38	425	14
Delaware	0.92	28	390	22
D.C.	0.36	51	211	49
Florida	1.13	18	392	21
Georgia	0.82	39	308	39
Hawaii	1.44	8	490	7
Idaho	1.24	16	364	25
Illinois	0.94	26	394	20
Indiana	0.63	48	217	47
Iowa	1.00	25	318	36
Kansas	0.89	35	289	41
Kentucky	1.38	9	452	12
Louisiana	1.02	22	322	34
Maine	1.48	7	463	10
Maryland	0.80	41	329	31
Massachusetts	0.69	46	339	29
Michigan	0.91	32	365	24
Minnesota	0.90	34	364	25
Mississippi	1.06	19	298	40
Missouri	1.32	12	454	11
Montana	2.00	2	541	5
Nebraska	1.05	20	327	32
Nevada	0.86	36	318	36
New Hampshire	0.91	32	354	28
New Jersey	0.77	42	367	23
New Mexico	0.92	28	279	42
New York	0.82	39	410	16
North Carolina	0.92	28	319	35
North Dakota	0.94	26	269	43
Ohio	1.30	13	468	9
Oklahoma	1.38	9	414	15
Oregon	0.92	28	324	33
Pennsylvania	1.26	15	481	8
Rhode Island	0.86	36	318	36
South Carolina	1.29	14	405	17
South Dakota	0.77	42	214	48
Tennessee	1.04	21	359	27
Texas	0.59	49	227	46
Utah	0.67	47	210	50
Vermont	1.33	11	439	13
Virginia	0.59	49	233	45
Washington	1.80	5	699	3
West Virginia	3.76	1	1,114	1
Wisconsin	1.15	17	397	19
Wyoming	1.63	6	500	6
All States	1.10		428	

Source: Fiscal Data for State Workers' Compensation Systems 1993-2003, August 2005, Table 4: Workers' Compensation Benefits per Covered Payroll, by State, 2003, (UWC 2005) UWC - Strategic Services on Unemployment & Workers' Compensation.

workers' comp claim and DL&I took the position that he was full-time because he said it was his intent to work full time. The employer's position was that this worker's income and type of work should be averaged over a three to five-year period, not assumed to be full-time. "Not everyone is doing this," she said, "but some people are making more on time-loss payments than they ever did in wages."

**Final Settlement Agreements.** Pensions – on-going payments provided to workers until their death and sometimes provided to their spouse or children after their death – are expensive. They are increasingly being awarded to injured workers who have sustained permanent total disabilities. State fund pensions, for example, have doubled in the last five years with the average age of pensioners declining. With the aging of the population generally, average pensioner age should be moving the other direction, says one DL&I representative. No one yet understands what is causing these disturbing trends, but under current Washington law there is no ability to negotiate a final settlement.

In other states employers can negotiate what are called "structured settlements." These agreements between the employer and the injured worker allow the worker to receive pension-like payments through a flexibly structured annuity. With this type of agreement the employee can receive the same amount of money he would otherwise receive and he has full control over how the future payments are structured. The self-insured employer benefits from being able to clear his books and avoid the continuing administrative expense of tracking payments to the individual employee. The state fund employer also benefits from faster claims closure. As one small business representative put it, "the longer a [an injured worker's] claim stays open, the longer it affects the employer's experience rating." While this is not precisely true, since an employer's slate is cleared for any specific claim three years after initial filing, speedier claim closures are generally beneficial for everyone.

Although structured settlements are currently allowed by Washington statute for workers' compensation, they cannot be used unless the terms are spelled out in a final settlement agreement. In other words, says one business representative, "without a final settlement we can't use structured settlements."

Compounding the problem, several people we spoke with noted that the Washington law, which allows attorneys to collect 30 percent of a worker's

cash payments, also applies to pension payments. A simple computation demonstrates that any attorney representing a pensioner receiving the maximum annual benefit of \$48,460 (currently) would receive nearly \$14,540 of the total, seemingly without any significant on-going responsibility, except for depositing the employee's check in their account and re-issuing a check to the employee, until benefits are terminated. 'This is an open-door to abuse that needs to be shut,' say business people generally.

***Greater autonomy for self-insured employers.*** Three hundred and eighty nine of Washington's larger public and private employers are self-insured. These employers represent about a third of the state's workforce. Without exception, the representatives of these employers with whom we spoke agreed that little or no purpose is being served by the state's heavy-handed oversight of their claims. "Self-insured employers are treated, if not uniquely, at least unusually in Washington," said one food industry representative. "I know of no other state in which self-insured claims closure is duplicated and second-guessed by the state," he says. This leads not only to delays in getting benefits to injured workers and delays in claims closure, but to unnecessary expense for the system, says another self-insured business's representative.

One area in particular in which self-insured employers want greater autonomy is in directing medical care for injured workers. Currently, workers may go to any physician to seek help with a workplace injury. Self-insured employers want to be able to institute more managed care procedures and incorporate proven and effective 'best-practice' protocols. There are physicians with extensive experience in work-related injuries and specific procedures that have been demonstrated to be most effective in helping workers recover and in returning them to work. Insisting that injured workers seek help from skilled physicians using proven practices benefits everyone, employers say.

One self-insured manufacturer's representative said that Washington State's medical statutes and regulations have been "ahead of the curve," compared with other states. There is a fee schedule that incorporates regular fee increases for the majority of medical services offered, and excellent pharmaceutical rules to mitigate abuse and dependence. Medical treatment protocols, based on a combination of scientific evidence, national and community-based expert opinion, have been developed to guard against unnecessary surgeries. They ensure injured workers are getting services and treatment appropriate to their condition.

***The state fund would similarly benefit from aggressive case management.*** Similar conclusions are being drawn from pilot studies being run by the DL&I. Results from the Renton Center for Occupational Health Excellence (COHE) were released in 2005. The food industry, which has been particularly involved and interested in these pilot studies, reports that Renton COHE "has reduced worker compensation claim costs by almost 25 percent through aggressive medical case management. The savings included both lower medical and reduced time loss costs. Injured workers in the pilot were also 65 percent more likely to be working six months after filing a claim." (WFI 2005) The following results have been paraphrased from the report on Renton COHE's pilot study (Wickizer 2005):

- COHE patients' carpal tunnel disability was greatly reduced – 87 days versus 127 days;
- COHE patients had fewer days of time-loss disability – 77 days versus 92 days;
- COHE patients were equally satisfied to non-COHE patients with perceived quality and coordination of care;
- COHE patients were 55 percent more likely to return to work for the same employer they worked for at the time of injury;
- COHE patients were 65 percent more likely to be back to work within six months of claims receipt.

More recent results from the Eastern Washington COHE were not so dramatic, but both pilots demonstrate benefits to workers and employers of a disciplined system.

“Medical case management benefits everyone,” says one self-insured employer representative. Providers who use best practices and have greater expertise in occupational health achieve better outcomes at lower costs. Developing a preferred provider network helps injured workers identify more easily those physicians best able to treat their injury, so they can have a speedy recovery and return to work. Employees, on the other hand, do not have as much experience with which physicians can do the best job for them. This can result not only in poor treatment that takes longer than it needs to, but some treatments can end up producing adverse results requiring additional treatment. All this postpones what should be everyone's goal for the system—reclaiming a worker's ability to return to work at full pay.

**Occupational disease.** Finally, occupational disease definitions need clarification. As one self-insured employer representative said, “we need clearer definitions or we'll be funding universal health care through our workers' comp system.” Repetitive trauma-related ailments like carpal tunnel and hearing loss – chronic conditions related to a worker's job have expanded historic definitions of workplace injury and contributed to broad, new injury categories for which employers and workers' compensation systems nationwide are being held responsible. Occupational disease definitions over the last 25 years have become more progressive with huge effects on the construction industry and those industries employing physical manufacturing occupations, says one business's representative.

Now, with successful joint replacement and back surgeries becoming more common, claims administrators have begun to see claims expanded to include additional body parts and medical conditions that were not diagnosed at the time of injury. In addition, claims are being filed for medical conditions, such as sore knees, shoulders, backs and the like, where the employee is claiming that the deterioration was caused not by a specific injury or event, but by 20 years on the job.

Doctors will ask patients, ‘could this be work-related?’ and increasingly, in Washington, DL&I is approving the claims, according to one employer. And, these types of claims are those that end up being pensions.

We need legislation that defines clearly what is meant by “occupational disease.” Under Washington law “occupational disease” is defined broadly:

"Occupational disease" means such disease or infection as arises naturally and proximately out of employment under the mandatory or elective adoption provisions of this title. (RCW 51.08.140)

In Oregon this language is tighter, requiring that a worker's job be a major contributing cause. "If [Washington's overly broad definition] isn't

#### OREGON'S OCCUPATIONAL DISEASE STANDARD

Under O. R. S. §656.802 (2005) "occupational disease" means any disease or infection arising out of and in the course of employment caused by substances or activities to which an employee is not ordinarily subjected or exposed other than during a period of regular actual employment therein, and which requires medical services or results in disability or death, including:

- (A) Any disease or infection caused by ingestion of, absorption of, inhalation of or contact with dust, fumes, vapors, gases, radiation or other substances.
- (B) Any mental disorder, whether sudden or gradual in onset, which requires medical services or results in physical or mental disability or death.
- (C) Any series of traumatic events or occurrences, which requires medical services or results in physical disability or death.

fixed, we will turn the workers' compensation system into 24-hour health care," employers say. One representative of a self-insured employer offered the example of a worker who retired in his late 50's due to unrelated issues, after working for 20 years in construction. He filed a claim for back problems four months after retirement and DL&I allowed the claim. The decision is under appeal, but it will become a pension if the employer loses.

Warning that the workers' compensation system won't survive the baby boom aging process at this rate, employers believe there needs

to be a bright line drawn between specific workplace injuries, the aging process and chronic ailments that are the reasonable expectation of a long career involving repetitive or physically arduous manual tasks.

#### RECOMMENDATIONS

Washington's high payout of workers compensation benefits compared to other states and their rapid recent growth present a competitiveness challenge for the state's economy. Comprehensive reform of the system is needed but, unfortunately, is not likely. The legislature should focus on the incremental improvements discussed above:

- Simplify wage loss calculations;
- Encourage structured settlements;
- Give self insured employers greater autonomy, particularly in directing medical care for their injured workers;
- Adopt aggressive case management for injured workers covered by the state fund; and
- Clarify and tighten the definition of "occupational disease."

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