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A UNIT IN THE ORIGINAL FILE.

HOUSE JUDICIARY COMMITTEE

APRIL 11-16 AGENDA

SB 322 - WORKERS' COMPENSATION

WEDNESDAY, APRIL 6 5:30 - 6:30

OVERVIEW OF SB 322

Bob Anders; Labor-Management Task Force - Labor
representative
Workers' Comp Board

DISCUSSION: Remaining areas of controversy
Labor priorities

Note: Committee will be on listen-only teleconference.

MONDAY, APRIL 11 1:30 - 3:00

INSURANCE SPECIFIC TOPICS

Rate History:

Paul Roller; Director, Division of Insurance
Don Koch; Special Deputy, Division of Insurance

Assigned Risk Pool:

Stan Sparks; Director, Government, Consumer and Industry
Affairs - National Council on Compensation
Insurance (NCCI) (on teleconference from
Portland)

Alaska Timber Trust experience:

Donna Lewis; Alaska Timber Trust (on teleconference from
Ketchikan)

Industry aspects:

Gary Purdom; Industrial Indemnity and Alaska
Classification and Rating (C&R)
Committee

DISCUSSION:

- 1) Mandated Rate Reduction or Rate Freeze
- 2) Revamping the Assigned Risk Pool
- 3) Rate Reductions for Safety Programs
Note: Richard Arab; Deputy Director, Occupational
Safety and Health, will be
available for questions.

Note: Committee will be on listen-only teleconference

House Judiciary Committee Workers' Comp agenda (cont.)

TUESDAY, APRIL 12 1:30 - 3:00

CONTINUATION OF APRIL 11 AGENDA IF NEEDED

OVERVIEW OF SB 322

Labor-Management Task Force - Management representatives
(Note: Task Force members will be in Juneau personally and
on line from Anchorage.)

BENEFIT STRUCTURE - PRESENT AND PROPOSED

Jaquelyn McClintock; Director, Division of Workers' Comp

Note: Committee will be on listen-only teleconference

WEDNESDAY, APRIL 13 1:30 - 3:00

INDEPENDENT MEDICAL EXAM (IME)

Note: Open to public testimony specific to this topic only.

VOCATIONAL REHABILITATION

Note: Open to public testimony specific to this topic only.

LEGAL ASPECTS

Janice Hansen; Chief of Adjudications, Division of Workers'
Compensation

DISCUSSION:

Section 18 - Board IME - unanimous vote requirement

Section 10 - Vocational Rehabilitation changes

Note: Committee will be on listen-only teleconference except
as noted above.

House Judiciary Committee Workers' Comp agenda (cont.)

THURSDAY, APRIL 14 1:30 - 3:00

RATE REDUCTION

John Lewis; consultant to Labor-Management Task Force
(Note: on teleconference from Chicago)

DISCUSSION:

Pros and cons of mandated rate reductions and freezes;
The Maine experience - comparable to Alaska?

EMPLOYER TESTIMONY

Kevin James; Klukwan, Inc.

Ray Bond; R&R Scaffolding (note: on teleconference from
Anchorage)

PUBLIC TESTIMONY

Testimony will be taken on all topics related to bill.

FRIDAY, APRIL 15 1:30 - 3:00

EFFECT TO WORKERS - Temporary Total Disability (TTD) and
Permanent Partial Disability (PPD)
Chancy Croft, attorney

PUBLIC TESTIMONY

Testimony will be taken on all topics related to bill.

SATURDAY, APRIL 16

9:00 - 12:00

PUBLIC TESTIMONY

Testimony will be taken on all topics related to bill.

1:00 - 5:00

COMMITTEE AMENDMENTS

Note: Committee will remain on listen-only teleconference.

Workers' Compensation Monthly

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MENTAL DISABILITY CLAIMS: A NEW EPIDEMIC?

*California, always a pacesetter - for better or worse -
has had an explosion of mental disability Workers' Compensation claims in recent years.*

By Eric Marcus, M.D.

Approximately 50% of all these claims are for mental injury. Psychiatric disability claims have also been sharply increasing in most states. This article shall attempt to describe the anatomy of a typical Southern California disability claim arising out of a mental injury/disability.

Causation: Applications for psychiatric disability stem from two sources: physical injuries and purely mental factors. Regarding physical injuries, it has all but become common practice for applicants' attorneys to automatically file a claim for "injury to the psyche".

The theory being that physical injury causes mental distress which is then considered as a separate disease - subject to additional disability compensation. Also, in the event that orthopedists, neurologists, and other health care professionals fail to find any objective evidence for continuing disability, then the "mental component" can be pursued with appropriate diagnoses, termed as "psychogenic pain disorder", etc.

The second source of mental disability claims involve no physical injury and are related to "job stress". This may include any and all types of dissatisfactions. Difficulties with supervisors, reprimands, transfers, demotions, terminations, lack of promotions, and a myriad of job-related grievances, legitimate or otherwise typically result in the filing of a mental disability claim.

Pattern in Physical Disability Claims: Following an industrial (physical) injury or alleged injury, the customary orthopedic examinations and treatment ensues. Most of the cases eventually referred to psychiatrists involve claims of back injury followed by complaints of continued pain and disability.

Typically, after a number of months (or years) the worker is referred to a psychiatrist because orthopedists and internists have not found an objective basis for the continuing complaints.

These specialists may then state that the patient has a "functional overlay". Doctors are loathe to say there is absolutely nothing wrong, so instead, "functional overlay" shunts the person to a psychiatrist. This particular process is called diagnosis by exclusion and has been found unacceptable by the Veterans Administration.

"A psychiatric diagnosis must be supported by positive findings, meet the criteria established by the Diagnostic and Statistical Manual, and *must never be made solely by exclusion*. In other words, absence of physical findings is not in itself sufficient to justify a psychiatric diagnosis, nor does the mere suspicion on the part of the physician that the symptoms are functional warrant a positive psychiatric diagnosis." Physicians' Guide for Disability Evaluation Examinations, Veterans Administration, March, 1985.

Pattern in Mental Disability Claims: Approximately half of California's Workers' Compensation Claims do not involve physical injuries, rather alleging mental disability and impairment. Typically, following any type of job dissatisfaction the employee consults with a union representative, fellow employee, and immediately proceeds to retain an attorney. Also, following a termination, the employee may feel some distress, seek an attorney who refers them to a psychiatrist.

The Psychiatrist and His Bias: Injured workers referred to psychiatrists by treating physicians, or self-referred, tend to be the more legitimate situations. In metropolitan areas, especially in California with its vast number of Workers' Compensation cases, physicians are readily identified in the Workers' Compensation Community as to their

disability. These physicians will in turn be selective in their choice of psychiatric consultants along the same lines.

Psychiatrists rendering treatment who are *not* in the Workers' Compensation community may be subject to several possible sources of bias.

The effect of the doctor's personal opinions and biases upon his professional opinions is a very important factor, and this aspect is frequently not given sufficient consideration in court.

People generally find what they look for. A not so obvious bias of doctors is that they are trained to look for, and therefore, *expect to find disease*. For example, a life insurance salesman will generally find that a potential client is deficient in their life insurance coverage.

Likewise, a doctor typically finds *something* to "doctor". This bias to "finding something wrong" should not be entirely attributed to a financial vested interest of the doctor, but most often stems from a humanitarian point of view. Doctors often find that it is better to overtreat a patient and not miss something than to take a risk and, perhaps, miss treating the disease. This viewpoint results in billions of dollars spent for unnecessary diagnostic studies and treatment, but a more comfortable medicine practitioner.

Doctors, being basically humanitarian, also tend to believe whatever the patient says. If a patient says they hurt, when the doctor believes they must be hurting, otherwise, why would they be going to a doctor? Malingering is not something the medical practitioner looks for or expects from his "patient".

Economic bias may also operate. Psychiatrists realize that a Workers' Compensation case can yield rather lucrative long-term rewards. Frequently, sessions are billed at very high rate (recently I saw a psychiatrist's bill for \$200 per hour). Typically, the worker is seen by low-salaried psychiatrists aides or employees, while the psychiatrist bills his or her full professional fee. Also, the psychiatrist may bill for one full hour of psychotherapy while in actuality spending only 10 or 15 minutes with the worker.

On occasion individuals are psychiatrically hospitalized due to allegedly being "severely depressed", "suicidal", or "extremely agitated". When I have been called upon to examine these patients in a psychiatric hospital, I found them not at all in need of hospitalization. These "patients" are content with the typical psychiatric hospital program which consists of handicrafts, prolonged periods of idleness spent smoking and chatting with other patients, sporting and other recreational activities.

Psychiatrists who have a hospital practice generally "make rounds" which amounts to coming to the hospital multiple times per week, chatting a few minutes with each patient and then billing the insurance carrier for a "hospital consultation". Obviously this is extremely lucrative, since the doctor can see 1/2 dozen or so patients in a couple of hours' hospital visit.

Psychiatric hospitalization, at least in California, costs approximately \$400-\$600 per day. This is, of course, extremely profitable for the hospital. A common joke regarding the necessary length of psychiatric hospitalization goes like this: Question: How long does Mr. X need to be

hospitalized? Answer: How long will his insurance coverage pay for it? Since insurance coverage limitations do not apply to Workers' Compensation, these patients are a real bonanza for the psychiatric hospital and psychiatrist.

Psychiatrists, psychologists and other mental health professions who are not generally involved in the Workers' Compensation community treat injured workers as they would any other patient. No attempt is made to obtain information from sources such as the employer in order to verify or refute the complaints of the patient.

The doctor may not even be aware of pending litigation. If the doctor is aware, then the doctor's natural tendency is to side with the patient and write reports accordingly. The doctor is simply paid to be sympathetic with the patient.

The results are threefold:

1. All symptoms are accepted at face value; 2. findings and diseases are typically related to the litigated trauma as a "favor" for the patient; 3. if no disease is found, the doctor then lists the patient's symptoms as if they were an objective diagnosis, for example, "headaches, low back ache, etc." Unfortunately, this practice dignifies a symptom (or alleged symptom) by making it appear as if it were an established diagnosis when it in fact is merely a symptom.

Not infrequently the psychiatric treatment/counseling goes far beyond the consequences of the industrial injury. Marital problems, difficulties with children, financial problems, perhaps alcoholism, all are dealt with by the treating therapist. However, since the therapist knows that Workers' Compensation is the source of funding, the therapist only relates those issues related to the purported injury. On occasion, the therapist's handwritten notes may reveal non-industrial sources of stress. Not infrequently, however, psychotherapists don't make progress notes and it becomes impossible to determine what was actually the context of the treatment.

Psychiatrists personally render very little psychotherapy, rather they prescribe medications for whatever the patient complains of. For example, if the patient says they are sad, then the doctor gives them antidepressants. If they say they are upset, then the doctor prescribes tranquilizers. Patients may be seen once or twice a month for short visits. The doctors' bills generally do not reflect these short visits and sessions are billed at the customary one hour fee. The doctor can, of course, see multiple patients during the same hour.

Psychiatrists or psychologists receiving referrals primarily from applicants' attorneys, who are not involved in one of the "compensation factories", will typically see an individual indefinitely. Progress reports, primarily generated by a word processor and essentially identical from month to month have indicated that the person is still very sick but "slowly improving". After a year or two, or longer, the person may ultimately be declared "permanent and stationary" with, typically, at least a moderate level of permanent psychiatric disability. As already mentioned, the "treatment" consisted of once or twice a month brief sessions to prescribe and renew medications.

Typically the doctor offers the opinion that the individual's job was very stressful and the person should be rehabilitated to a job of less stress. The "stressful jobs" range from police work to secretary, sanitation worker,

school teacher, - actually the entire gamut of existing occupations. A "less stressful job" becomes a meaningless recommendation since there are no jobs which have no requirements, no supervision, no ground rules, and no stress.

In cases of physical injury such as a back injury, the psychiatrist states that the person is permanently crippled (in spite of the lack of objective orthopedic findings) the crippling being the result of both orthopedic and severe psychiatric disease. These individuals are also given permanent and stationary ratings or at least a moderate degree of permanent psychiatric disability.

Bonafide Psychiatric Injuries: Having examined over 1,000 injured workers, I have seen a number of legitimately mentally injured workers and have rendered treatment.

Objectively verified physical injuries, such as amputations, lacerations, and eye injuries, may benefit from early psychiatric or psychological counseling. These workers may be truly distressed, and even though they may not technically have sustained a psychiatric injury, they would benefit from supportive counseling to help them cope with their physical trauma.

Occasionally I find a verified instance of job-related stress - verified by sources other than the employee. In these cases, a short period of counseling may restore the individual to a better state of mind and resumption of employment. Based upon the American Medical Association's "Guide to The Evaluation of Permanent Impairment" the most important single factor in assessing psychiatric disability is the issue of motivation.

Additional considerations having a direct bearing on whether an injured worker may benefit from psychiatric intervention include the following:

1. Whether the individual has obtained an attorney.
2. The time elapsed since the original injury.
3. Whether there is objective evidence of a trauma (in physical injuries).
4. Whether the individual continues to work after the trauma.
5. How long the individual has been off work.

Conclusion: Whether a mentally injured worker can be returned to employability status depends not only upon the worker's personal motivation but equally upon the motivation of their attorney. If the attorney's income is dependent upon the size of the disability award, then the interests of the attorney are obvious. Since the worker's attorney selects the treating and examining physicians, those physicians' sentiments will also be to find, establish and treat pathology to its maximum. There is no distinction made whatsoever between finding the individual unwilling versus unable to work.

The most comprehensive and objective criteria in existence for occupational disability is the Social Security Administration guidelines for evaluating psychiatric impairment. (SSA booklet No. 05-10089).

Unfortunately, California has only adopted a partial version of these guidelines. The various categories to be assessed include:

- Ability to comprehend and follow instructions.
 - Ability to perform simple and repetitive tasks.
 - Ability to maintain a work pace appropriate to a given workload.
 - Ability to perform complex or varied tasks.
 - Ability to relate to other people beyond giving and receiving instructions.
 - Ability to influence people.
 - Ability to make generalizations, evaluations or decisions without immediate supervision.
 - Ability to accept and carry out responsibility for direction, control and planning.
- Only by the use of meaningful and objective criteria for psychiatric impairment will there be a fairer settlement of psychiatric disability claims.

Steven Babitsky (Esq.) Editor, Falmouth, Mass.

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P.O. Box 829, East Falmouth, Massachusetts 02536

Section 1. LEGISLATIVE INTENT

Page 1, Line 9

This intent language is meant to give a clear message to the courts that they are not to construe workers' compensation laws in favor of any party but to be fair and to decide cases upon their merit and always within the confines of the written statute. It is also intended that the Board possess the weight of fact-finding authority and that its decision is conclusive unless the court finds that a reasonable person could not have reached the conclusion made by the board.

Further, it is the legislature's intent to address the Alaska Pacific Assurance Co. v. Brown, 687 P.2d 264 (Alaska 1984), decision and constitutionality of the cost of living between claimants receiving benefits in Alaska and living elsewhere.

It is also the Legislature's intent to encourage employers to improve safety practices in the workplace and to use improved safety practices to reduce work related injuries.

Section 2. SAFETY PROGRAM REFUNDS

Page 2, Line 7

This section encourages workplace safety by mandating a 10% premium rebate for employers in an assigned risk pool and a 5% premium rebate for employers not in an assigned risk pool if they have a safety program that meets the standards established under the occupational safety code and have had no OSHA

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION : HCS SCS SB322(L&C)
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: "An Act relating to Worker's Compensation" BRU: Worker's Compensation
 Sponsor: Senate Labor & Commerce Components: _____
 Requestor: House Labor & Commerce Worker's Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		124.0	49.7	49.7	49.7	49.7
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	124.0	49.7	49.7	49.7	49.7

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND			(74.3)	(74.3)	(74.3)	(74.3)
FEDERAL FUNDS						
OTHER *		124.0	124.0	124.0	124.0	124.0
TOTAL	0.0	124.0	49.7	49.7	49.7	49.7

* Second Injury Fund

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

(See Attached)

Prepared by: Jacque McClintock Phone: 465-2790
 Division: Worker's Compensation Date: 3/16/88
 Approved by Commissioner: Jim Sampson Date: 3/16/88
 Agency: Department of Labor

Distribution (by preparer) :

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Analysis of Fiscal Note

For HCS SCS SB 322(L&C)

This bill would require the Department of Labor to keep track of certain Workers' Compensation information it is not currently tracking, and would also require an annual cost of living survey of the 50 states and 10 foreign countries. Details of these two additional costs are as follows:

1. Additional Information Requirements

As a result of this bill, additional detail on information items for each workers' compensation claim would have to be reported by employers/ insurers on a by claim and annual basis. This additional information would be input into our computer database which would require a change in the computer programs associated with that system. Estimated costs are \$57,500 to modify the programs, and an additional \$13,000 in CPU time to test and verify the modifications. The total one-time data processing cost would therefore be \$70,500.

2. Annual Cost of Living Survey

An annual cost of living survey would be required to adjust the compensation to those workers compensation recipients who move from Alaska. We estimate that 250 locations (an average of 5 per state) would have to be surveyed each year. In addition, we estimate that 10 foreign locations would have to be surveyed each year at an approximate cost of \$350 per site. At \$200 per site, the total cost the first year would be \$53,500. The cost of the survey in future years would decrease slightly to an estimated \$49,700 a year.

Assumptions:

1. An effective date of July 1, 1988.
2. Per the bill, Second Injury Funds will now be utilized to pay the administrative costs associated with the Second Injury program. The savings to the existing general funds in the Worker's Compensation BRU will then be available to fund the costs of this bill.

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/26/88

FURTHER REFERRALS: Judiciary

DATE: 3/15/88

The Labor & Commerce Committee has considered CSSB 322 (L&C)

"An Act relating to workers' compensation; and providing for an effective date."

RECOMMENDS:

- replace with HCS CS SB322(L+C) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

David Douley (NO REC)
W. L. Keenan (no rec)
Samuel Hammond - WTRAR
Bob P. Smith (no rec)
W. Ellis (no rec)

David Douley
 Chairman's signature

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

Chairman - Representative Dave Donley

(907) 465-3892

March 15, 1988

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Proposed HCS for CS SB 322 (L&C)

Following is a brief synopsis of the changes proposed in the House Labor and Commerce Committee Substitute for SB 322 - relating to workers' compensation. The changes include:

1. A mandated rate decrease for workers' compensation premiums of no less than 6%, effective July 1, 1988 through January 1, 1990. (Page 33, line 7, Section 44)
2. Additional intent language under section 1 (Page 2, line 4, paragraph (d)) regarding workplace safety with two new sections (Page 2, beginning on line 7) mandating a 10% rebate for employers in an assigned risk pool and a 5% rebate for employers not in an assigned risk pool if they have a safety program that meets the standards established under the occupational safety code and have had no OSHA violations subject to fines during the period covered by the annual premium.
3. Raising the mandatory fine for failure to carry workers' compensation insurance from \$1,000 to \$10,000. (Page 13, line 22)
4. Amend language governing contents of insurers annual report to the Division of Workers' Compensation to include the number of claims filed and the percent of claims controverted during the year for which the annual report was submitted. (Page 22, line 16)

Include language to require the Board to notify the Division of Insurance when they determine that a carrier's controversions are frivolous or unfairly deny employees benefits that are due them. Upon receipt of a notice from the Board, the Division of Insurance will initiate an investigation of the carrier for violation of the unfair claims settlement act. (Page 23, line 15, paragraph (o))

5. Amend language governing the contents of the annual report to break out the costs of legal fees to reflect the fees paid to both the plaintiff and defense attorney, including all other costs associated with litigation. (Page 22, line 17)
6. Amend Section 11 (AS 23.30.095(a) to provide that an employers choice of physician for an IME is limited to no more than one

change in choice, as is an employees right of choice under the proposed legislation. (Page 16, line 6)

7. Amend Section 41 (effective date) so that this act applies to any "stress" injury that occurred on or after the date of adoption of this bill by the Legislature. (Page 33, line 21, Section 47)
8. Include language requiring that an IME must be in the same ^{unanimously,} speciality as the treating physician unless the Board agrees ^{on a} case by case basis, to authorize an IME by a physician who is not within the same speciality of the employees physician. (Page 18, line 2)
9. Amend Section 21 (AS 23.30.155(c) (Page 19, line 3) to provide that penalties assessed under this subsection (penalties for failing to file notification of changes in payment of benefits on time) shall be increased to (20) 25 percent.
10. PROPOSED AMENDMENT - The attached amendment would increase the penalty for late payment of compensation under AS 23.30.155(e) from (20) to 25%, to make this subsection consistent with other proposed changes in AS 23.30.155.
11. Include new language amending AS 23.30.155 (f) (governing penalties for unfair denial of claims) to increase penalties from (20 percent), under current law, to 25 percent. (Page 22, line 7).
12. Amend Section 29 (AS 23.30.190(b) to change "may" to "shall" on page 27, line 29.
13. Include a new section requiring that benefits paid to recipients residing in Alaska be paid by checks drawn on Alaska banks or other method of payment that is accepted as immediately redeemable by a bank in this state. (Page 23, paragraph (p))
14. Amend AS 23.30.041(k) (Page 9, line 14) to read: (k) "Benefits related to the reemployment plan may not extend past two years from date of plan approval or acceptance at which time the benefits.....". (Page 10, line 3)
15. Amend Section 13 (AS 23.30.095(e) to reinstate the deleted language and to add new language so that it reads: "AUTHORIZED TO PRACTICE MEDICINE UNDER THE LAWS OF THE jurisdiction in which the physician resides (STATE IN WHICH THE EMPLOYEE MAY BE FOUND)". (Page 16, line 4)
16. Add a new section to repeal and reenact AS 23.30.110(C) in response to public testimony that there has been a significant increase in the amount of time between filing a case and obtaining a formal hearing before the Board. (Page 19, line 2, paragraph (c))
17. Include a "grandfather" clause (Page 33, Section 45) to authorize current rehab specialists who do not have the credentials required under the bill to be able to practice for one year after adoption

of this act at which time they have to have gained the required credentials or are barred from practicing independently as a rehab specialist.

ALASKA STATE SENATE



SENATOR TIM KELLY
ANCHORAGE/EAGLE RIVER
CHAIRMAN

SENATOR DICK ELIASON
SITKA
VICE CHAIRMAN

LABOR AND COMMERCE COMMITTEE

MEMBERS
SENATOR BETTYE FAHRENKAMP
FAIRBANKS

SENATOR RICK UELAND
ANCHORAGE

SENATOR MIKE SZYMANSKI
ANCHORAGE

LETTER OF INTENT FOR CSSB 322 (L&C)

With an actuarial analysis concluding that this bill will provide a two percent savings in hard costs and an unquantifiable amount of soft dollar savings, it is the intent of the Alaska State Senate that, upon passage of this bill, the Division of Insurance request a new rate filing reflecting a reduction in workers' compensation premiums.

Senate adopted 2/25/88

29

14) The weekly maximum rate is decreased from \$1,094 to \$700, and the minimum is increased from \$110 to \$154.

15) Employees residing outside AK during recuperation will receive reduced benefits in most cases based on cost-of-living comparisons.

32, 34,
41

16) EEs cannot collect TTD or TPD benefits past medical stability or longer than two years, whichever comes first.

33

17) Permanent impairment will be rated in a comprehensive system for all parts of the body in relation to the whole man. Benefits paid for impairment are weighted toward the more seriously impaired.

36

18) Most EEs will receive compensation based on a formula instead of being computed on a case-by-case basis.

37,39

19) ER contributions into vested pension plans will be included in determining the comp rate and will be deducted in the same amount if the EE draws pension benefits in the disability period.

38

20) ERs who discriminate in bringing harassment cause an EE filed a WC claim may be held civilly liable

14) Less than 3% of EEs (the still generously compensated ones) will receive less compensation, but about 13% of EEs (the ones barely making it) will receive a little more compensation. An overall slight cost increase is expected.

15) Since 30% of EEs move outside AK after injury, a cost reduction is expected.

16) Reduced compensation costs.

17) Significantly reduced litigation, more successful rehab, more benefits going to those who need it more and fewer benefits go to those who need it less; Proper RTW expected with resultant reduction in TTD and TPD costs but increase in PPD costs.

18) Significant reduction in litigation; probably fairer benefits rates in most cases because past performance is usually a better predictor of future performance than speculation.

19) Increased costs.

20) ERs will be less likely to discriminate

ALASKA STATE SENATE



SENATOR TIM KELLY
ANCHORAGE/EAGLE RIVER
CHAIRMAN

SENATOR DICK ELIASON
SITKA
VICE CHAIRMAN

LABOR AND COMMERCE COMMITTEE

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SENATOR BETTYE FAHRENKAMP
FAIRBANKS

SENATOR RICK UEHLING
ANCHORAGE

SENATOR MIKE SZYMANSKI
ANCHORAGE

DIFFERENCES IN CSSB 322 FROM ORIGINAL

Page 1 Line 11; after "efficient," insert "fair,".

Page 1 Line 20; after "conclusive", insert "unless the court finds that a reasonable person could not have reached the conclusion made by the board."

Page 2 Line 5; change "may" to "shall"; delete "identical".

Page 2 Line 8; change "may" to "shall".

Page 2 Line 22; delete "shall immediately", insert "may".

Page 3 Line 3; a new section 5 is inserted requiring insurers notify the department of all policies naming Alaska in their all states coverage section.

Page 3 Line 8; a new section 6 is inserted to require that premiums may be paid twice a year and that notice of this clause will be given to the insured.

Page 4 Line 15; a new section 8 is inserted allowing the second injury fund to be used for administrative expenses of this section."

Page 4 - 12; Sec. 9 Rehabilitation - has been rewritten in a new format with only a few substantive changes;

Page 5 L9 -11; a phrase is inserted to further clarify the administrator's report.

P6 L1 - 5; sentence from P8 L5-9 inserted; 60 increased to 90.

P6 L6; after "rotating" insert "and geographic".

P7 L1; after "held" insert "or received training for".

P7 L9 - 10; a phrase is inserted to provide a floor is this section of the minimum wage.

P7 L15 & 16; after "demands" insert "required of the employee at the time of the previous injury; or".

P7 L17 & 18; insert "(3) at the time of medical stability no permanent impairment is identified or expected."

P8 L4; after "(1)", insert "a determination of".

P8 L6 - 8; a new paragraph 2 is inserted to require an inventory of the employee's abilities.

P8 L16; after "the", insert "estimated".

P8 L18; a new paragraph 8 is inserted to require a detailed description and schedule of the plan.

P8 L19 - 22; a new paragraph 9 is inserted to require findings in the plan.

P10 L11; after "means" insert "unreasonable".

P10 L13; delete "average", insert "passing".

P10 L23 - P11 L4; new paragraph inserted to provide for an appeal process in the determination of noncooperation.

P11 L6 & 7; definition of administrator is inserted.

P11 L10; "or disease" is deleted from the end of the phrase.

P11 L28 & 29; after "specialist," insert "a certified rehabilitation counselor".

Page 14 Line 13; after "commencement", insert "of the course".

Page 14 Line 29; delete "30", insert "60".

Page 15 Line 3 & 4; after "board.", insert "Unless medically necessary, the physician shall use existing diagnostic data to complete the examination."

Page 16 Lines 2 - 4; a sentence is inserted to clarify that the employee will not have to pay for services.

Page 16 Line 13; after "stability," insert "the ability to enter a re-employment plan,".

Page 16 Lines 27 - 28; after "fraud" insert "or gross incompetence".

Page 17 Lines 23 - 24; delete language after "conclusive", insert "unless the court specifically finds that a reasonable person could not have reached the conclusion made by the board".

Page 18 Line 10; delete "employer" insert "insurer or adjuster".

Page 18 Line 23; delete "employer fails to notify the".

Page 18 Line 23; after "employee" insert "are not notified".

Page 18 Line 25; delete "employer" insert "insurer or adjuster".

Page 18 Line 27; delete "employer failed to give".

Page 18 Line 27; before "." insert "was not given".

Page 19 Line 1 - 4; a new sentence is included regarding penalties.

Page 19 Line 24; delete "employer", insert "insurer or adjuster".

Page 20 Lines 2,4,7,9,12 & 15; delete "employer" insert "insurer or adjuster".

Page 20 Lines 3,4,6,9 & 11; insert "during the preceding year".

Page 20 Lines 17-20; insert " If the annual report is not filed by March 1 of each year, the insurer or adjuster shall pay a civil penalty of \$100 for the first day the annual report is late, and \$10 for each additional day the report is late."

Page 20 Line 22 & 23; insert a new section stating that for self-insureds the notification and penalty sections don't apply.

Page 20 Line 26; delete "for a recipient residing in the state".

Page 21 Line 3 - 7; insert "If the employer can verify that the employee's spendable weekly wages are less than \$154, the employer may adjust the weekly rate of compensation to the employee's weekly spendable wages without an order of the board."

Page 21 Line 19; after "living" insert "index" delete "locality" insert "area".

Page 21 Line 20; delete language after "living", insert "index in this state".

Page 21 Line 24; delete "average" insert "gross"; delete "wage" insert "earnings".

Page 22 Line 4; delete "the", insert "this"; delete "other localities" insert "the other areas".

Page 22 Lines 10 - 14; a new sentence is inserted to prevent a person from improperly receiving both PPD and PTD.

Page 22 Line 22; after "state" insert "of residence; and"

Page 22 Line 23; insert a new line, "(4) the state of Alaska."

Page 23 Line 21; a new schedule of adjustment factors is used to smooth out the curve.

Page 24 Line 27; delete "and use a supplemental", insert "a supplementary recognized".

Page 25 Line 18; delete "unless otherwise provided under AS 23.30.041"

Page 28 Line 10; insert "Except for sections 7, 21, 23 and 24 of this Act,".

WORKERS' COMPENSATION LABOR-MANAGEMENT TASK FORCE

Synopsis of proposed legislative changes To Chapter 30 of Title 23, Alaska Statutes (Workers' Compensation)

BACKGROUND: In October 1986, the Department of Workers' Compensation Insurance announced their approval to allow an average increase in workers' compensation premium rates of 14.1%. In November of this year, the Department of Workers' Compensation again announced their intent to approve an average increase in premium rates of 25%. The actual increases requested by insurers was in excess of 33% in 1986 and 50% in 1987. Within a two year period, the average cost of workers' compensation insurance within the State of Alaska increased over 42.6%. At the same time, claims increased from \$75 million to in excess of \$150 million. The increases in claims and premium costs are even greater if consideration is given to the declining wage base within the State of Alaska. The resulting increases in workers' compensation premiums paid by the employer are a significant factor in the cost of labor in the state and make Alaska's labor force less competitive. Both labor and management have recognized that high workers' compensation costs are detrimental to Alaska business and Alaska labor and needed to be significantly reduced.

TASK FORCE ORGANIZATION: The Workers' Compensation Labor-Management Task Force (Task Force) was first organized in 1981 to address perceived inequities in the Alaska Workers' Compensation Statutes and to propose legislation aimed at correcting those inequities without increasing the cost to the employer. Following passage of their proposed legislative changes to the Statute, the Task Force became inactive. Following the Department of Workers' Compensation Insurance rate increase announcement in October 1986, the Task Force was reactivated with the purpose of reducing rates paid by employers through legislative changes to the Statute. The current Task Force is comprised of five management and five labor negotiators. The five members of the management team are:

Mary Pierce	Co-Chair and management member of the Workers' Compensation Board Executive Director, Medical Indemnity Corporation of Alaska
Richard Cattanach*	Vice President Finance Unit Company
David Gottstein	Vice President Carr-Gottstein, Inc.
Ralph Lewis	Vice President Ketchikan Pulp & Paper
Stephen Rehnberg, CMA	Vice President Finance Tanadgusix Corporation

* Member of 1981 Task Force

Benefits (cont.)

2. Increase the permanent partial disability benefit for the more severely injured worker.
3. Broaden the market for employee's services to reduce claims for Permanent Total Disability (PTD) due to lack of employment opportunities.
4. Limit Temporary Total Disability (TTD) payments to two years.
5. Limit Temporary Partial Disability (TPD) payments to such time as the injured worker is deemed to have reached medical stability.

Other. Other legislative changes to the current Workers' Compensation Statute proposed by the Task Force include:

1. Provide intent language within the Statute to the effect:

It is the specific intent of the legislature that workers' compensation cases be decided on their merits and that the common law of liberal construction ...will not apply in such cases. ...the legislature hereby declares that the workers' compensation laws are not remedial in any sense and are not to be given broad liberal construction in favor of the claimant or employee on the one hand, nor are the rights and interests of the employer to be favored over those of the employee on the other hand.

2. Bar an employee from making a workers' compensation claim if the employee knowingly and willfully made false representations as to his physical condition, such representations were material to the hiring, and there is a causal connection between the false representations and the injury.
3. Prevent the employee from seeking redress under a tort claim against the employer if the employee's claim is barred under AS 23.30.020 (b).
4. Require claimants to prove mental injury resulted from work related stress and that such stress was extraordinary and unusual.
5. Require the last employer to pay benefits if a claim is controverted solely on the grounds that another employer may be liable until such time as final liability is determined.
6. Prohibit employer discrimination in the hiring, promotion or retention of an employee who has in good faith filed a claim or received workers' compensation benefits.

Medical. Task Force proposed changes to the Statute are:

1. Subject medical payments to the usual, customary and reasonable criteria of major medical plans.
2. Allow injured worker to change treating physician only once without the written consent of the employer. (Eliminate doctor shopping).
3. Limit treatment plans of a continuing or similar in nature to no more than 20 visits within 60 days.
4. Allow for a Board appointed Independent Medical Examiner (IME) whose opinion shall, in the absence of clear and convincing objective evidence to the contrary, be presumed to be correct.
5. Bar claims for civil damages against an IME resulting from their opinion except in the event of fraud.

Compensation. The Task Force proposed the following legislative changes with regards to compensation:

1. Change the maximum weekly benefit from 200% of the State average weekly wage, currently \$1,100, to a set maximum of \$700.
2. Change the minimum weekly benefit from \$110 to \$154 if the injured worker submits wage documents. If no wage documents are submitted, the minimum benefit is \$110.
3. Allow an employees vested pension contributions to be considered determining weekly wage benefit.
4. Allow employers to offset compensation benefits for pension benefits paid to injured workers'.
5. Limit Board determination of an injured worker's gross weekly earnings to only those cases where the employee (1) had no earnings during the two calendar years preceding the injury, (2) was voluntarily absent from the labor market for 18 months preceding the injury or (3) was a minor, an apprentice or a trainee in a formal training program.
6. Adjust weekly compensation benefits for differences in the cost of living for claimants residing outside the State of Alaska.

Benefits. The Task Forces recommendations for changes in benefits paid or available under workers' compensation are:

1. Schedule all injuries and determine the degree of disability based upon the "whole man" concept as provided in the American Medical Association guidelines.

The five labor members of the Task Force are:

Robert Anders	Co-Chair and labor member of the Workers' Compensation Board Business Agent, Operating Engineers
Kevin Dougherty*	AFL-CIO
Ralph Mingo	Safety Engineer Teamsters Local 959
Joseph Thomas	Business Agent Laborers Union
Kenneth Weist	Business Agent Roofers

PROPOSED LEGISLATIVE CHANGES: The proposed legislative changes submitted by the Task Force can be divided into five categories:

- * Vocational Rehabilitation Services
- * Medical
- * Compensation
- * Benefits
- * Other

Vocational Rehabilitation Services. Task Force proposed changes to vocational rehabilitation services are as follows:

1. Change from a mandatory to a voluntary program
2. Limit the program to those injured workers whose injury prevents them from performing the duties of their profession.
3. Limit vocational rehabilitation programs to two years.
4. Cap rehabilitation plan costs to a maximum of \$10,000.
5. Pay TPD/PPD payments at the TTD rate until plan completion or termination. Remainder, if any, paid in lump sum.
6. Change purpose of rehabilitation services to make an injured worker employable versus employed.

* Member of 1981 Task Force

HOUSE CS FOR CS FOR SENATE BILL NO. 322 (L&C)

SECTIONAL ANALYSIS

APRIL 6, 1988

House Judiciary Committee

Section 1. This intent language is meant to give a clear message to the courts that they are not to construe workers' compensation laws in favor of any party but to be fair and to decide cases upon their merit and always within the confines of the written statute. It is also intended that the Board possess the weight of fact-finding authority and that its decision is conclusive unless the court finds that a reasonable person could not have reached the conclusion made by the board.

Further, it is the legislature's intent to address the Alaska Pacific Assurance Co. v. Brown, 687 P.2d 264 (Alaska 1984), decision and constitutionality of the cost of living between claimants receiving benefits in Alaska and living elsewhere.

It is also the Legislature's intent to encourage employers to improve safety practices in the workplace and to use improved safety practices to reduce work related injuries.

Section 2. This section encourages workplace safety by mandating a 10% premium rebate for employers in an assigned risk pool and a 5% premium rebate for employers not in an assigned risk pool if they have a safety program that meets the standards established under the occupational safety code and have had no OSHA violations subject to fines during the period covered by the annual premium.

Section 3. This section creates departmental authority to establish and maintain a board roster of rehabilitation specialists and physicians consistent with the

violations subject to fines during the period covered by the annual premium.

Section 3. **BOARD ROSTERS**
Page 2, Line 23

This section creates departmental authority to establish and maintain a board roster of rehabilitation specialists and physicians consistent with the repeal and reenactment of AS 23.30.041 in section 10 and enactment of AS 23.30.095(k) in section 18.

Section 4. **DEPARTMENT REGULATIONS/COURT DECISIONS**
Page 3, Line 9

This section mandates the department to adopt new regulations if an existing regulation is held invalid by the supreme court. The intent of this section is to assure that any new regulation adopted under this section have retroactive as well as prospective application so that everyone is treated equally.

Section 5. **DENIAL OF BENEFITS/EMPLOYEE FALSE REPRESENTATION**
Page 3, Line 14

This section enacts a new provision that denies benefits to an employee who knowingly makes a false statement about his/her physical condition on an employment application or preemployment questionnaire if reliance on the false representation was a substantial factor in the hiring and there was a causal connection between the false representation and the employee's injury. Its purpose is to codify the result in the following board decision and

order: Robinett v. Ensearch Alaska Construction,
AWCB No. 870210 (September 4, 1987).

Section 6. **ALL STATES RIDER NOTIFICATION**
Page 3, Line 22

This section requires that an insurer who extends workers' compensation insurance coverage to an out-of-state employer under another state's coverage policy must provide notice to the Department of Labor. This section addresses the problem of out-of-state employers using out-of-state insurance rates to obtain contracts at lower bid prices than Alaska employers. This will allow the department to investigate employers using other state's coverage policies to assure that all employers doing business in Alaska are paying Alaska premium rates.

Section 7. **SEMI-ANNUAL PAYMENTS**
Page 3, Line 27

This section allows an employer to pay an insurance premium on a semi-annual basis if the annual policy is \$2,000 or more.

Section 8. **SECOND INJURY FUND PAYMENTS**
Page 4, Line 3

This section changes the method and time period the employer must contribute to the second injury fund. Currently, the employer/insurer pays into the fund on the anniversary date of each employee's injury or on termination of each claim, whichever is sooner. This change will allow the employer/insurer to issue one check on all claims annually at the time the

annual report is filed under AS 23.30.155(m), instead of issuing hundreds of checks throughout the year. This will not only save time and expense for employers/insurers but save administrative costs as well.

Section 9. SECOND INJURY FUND EXPENSES

Page 5, Line 5

This section provides that expenses incurred in the administration of the second injury fund be paid from the fund itself instead of from the general fund of the state. This approach returns to the pre-1981 method of paying the fund's administrative expenses. The financial condition of the fund has improved considerably because of the funding formula enacted in 1981, and the second injury fund can now bear the costs of its administration without jeopardizing the integrity of the fund.

Section 10. VOCATIONAL REHABILITATION

Page 5, Line 9

This section repeals prior law and reenacts a fundamentally changed workers' compensation rehabilitation system. The most significant changes are these:

- 1) Under this section the system is no longer mandatory. Thus, an employee who is eligible for rehabilitation benefits may elect whether or not to receive them. If he/she opts for rehabilitation, the employer is obliged to provide rehabilitation benefits. The intent of this change is to reduce the use of rehabilitation as a tool for litigation

and encouraging the use of rehabilitation services for people most likely to benefit and who truly desire and need them.

2) Under this section an employee who opts for rehabilitation may, in the first instance, select the rehabilitation specialist who will help the employee develop and implement a reemployment plan. The purpose of this change is to encourage employees to cooperate fully in their own rehabilitation and to minimize disputes that result under the present system because employees often distrust specialists chosen by the employer. On the other hand, to prevent selection of unqualified or biased specialists, the rehabilitation administrator, who is an employee of the Division of Workers' Compensation, may select the specialist from a list of qualified specialists if the employer objects to the employee's selection.

3) This section shortens the time lines for each step in the rehabilitation process. An eligibility evaluation for rehabilitation must be made within 90 days after the employee's notice of injury. The purpose of this change is to encourage early rehabilitation intervention.

4) This section redefines an employee's eligibility for rehabilitation benefits as the inability to return to the job held at time of injury or other jobs held or trained for within 10 years prior to injury or following injury.

The employee is not eligible for rehabilitation benefits if the employer offers a job with

minimum wages or 60 percent of prior injury wages, whichever is greater. Eligibility is also denied if the employee was rehabilitated following a prior injury and returned to work in a job that required the same physical demands as the pre-injury job.

5) This section provides for the following benefits during the evaluation and rehabilitation process: temporary benefits (TTD) during the healing period, permanent partial disability (PPD) benefits after medical stability, and if PPD benefits end before rehabilitation is completed, a wage at 60 percent of spendable weekly wages with a \$525 cap. The current system provides for the payment of temporary benefits during the entire process.

6) This section establishes a two-year maximum for rehabilitation services and a \$10,000 maximum for the costs of the plan. Under current law the maximum time for most plans is 37 weeks with provisions for 74 weeks of services in exceptional cases and no dollar maximum for plan costs.

The rehabilitation costs will be paid for by the employer on an expense incurred basis.

7) The employer may terminate the rehabilitation plan if the employee is not cooperating with it.

8) This section also redefines "rehabilitation specialist" as someone who is certified in the field.

Section 11. **EXCLUSIVENESS OF LIABILITY**

Page 13, Line 1

This section adds a provision that preserves the exclusiveness of employer liability under workers' compensation law even if an employee's claim is barred under AS 23.30.020(b). See comments to section 5.

Section 12. **PENALTY FOR EMPLOYER NONCOMPLIANCE**

Page 13, Line 19

This section increases the penalty for an employer's failure to insure and keep insured its liability for workers' compensation from \$1,000 to \$10,000 and makes the fine mandatory.

Section 13. **DOCTOR SHOPPING**

Page 14, Line 6

This section adds language that clarifies where the employee can seek medical treatment and limits the employee to no more than one change in choice of attending physician without the written consent of the employer. It also requires the employee to give prior notice of the change. Its purpose is to prevent the abuse of frequent physician changes, with its resultant costly overtreatment, by those seeking opinions to support their claims.

Section 14. **TREATMENT PLAN**

Page 15, Line 6

This section adds language invalidating a course of medical care that requires continuing and multiple

treatment unless a written treatment plan is prescribed and submitted to the employer by the attending physician.

Treatment is limited to 20 visits in the first 60 days and four visits per month after the first 60 days unless the attending physician documents the need for excess services in the written treatment

Section 15. EMPLOYER INDEPENDENT MEDICAL EXAM (IME)

Page 15, Line 28

This section clarifies that, at reasonable times throughout disability, the employee must submit to an examination by a physician or surgeon of the employer's choice and establishes a presumption of reasonableness. It also limits the employer to no more than one change in choice of physicians without the written consent of the employee. It is the intent of sections 13 and 15 to afford equal rights to the employee and employer in the selection and change of their respective physicians.

Section 16. MEDICAL FEES

Page 17, Line 7

This section adds language establishing a medical fee standard, as determined by the board, but not to exceed usual, customary and reasonable fees for the treatment or services in the community in which it is rendered. It also provides that an employee may not be held responsible for the payment of a fee or charge for medical treatment or service.

Section 17. MEDICAL FEE REVIEW

Page 17, Line 16

This section is repealed and reenacted authorizing the board to appoint or contract with a medical services review committee to assist and advise on the appropriateness, necessity and cost of medical and related services.

Section 18. BOARD IME

Page 17, Line 22

This section adds a new provision which grants the board authority to establish a list of physicians and select a physician from the list to conduct an independent medical examination in the event of medical disagreement between the employee's and the employer's physicians. The employer will pay for the examination. It also establishes a presumption that the board's independent medical examiner's opinion is correct and provides the examiner with protection from damages for rendering an opinion or giving testimony.

This section requires that the board's physician be the same specialty as the employee's treating physician unless the board agrees unanimously on a case by case basis to approve a different selection.

Section 19. STATUTE OF LIMITATIONS

Page 18, Line 15

This section codifies the board's interpretation of the meaning of compensation for statute of limitation purposes under AS 23.30.105 and partially complies with the Supreme Court's directive 14 years ago in Williams v. Safeway Stores, 525 P.2d 1087, 1089 n.6 (Alaska 1974), that the legislature clarify

when compensation includes medical and other benefits and when it means time loss benefits only. For the purposes of filing a claim for additional disability compensation, the board has consistently concluded that when compensation payments have been made without an award, the claim must be filed within two years after the last payment of disability or death benefits and cannot be extended by the payment of medical benefits only.

Section 20. HEARINGS AND CONTINUANCES

Page 19, Line 2

This section addresses the delays being experienced by the parties to the workers' compensation system in getting disputed cases before the board and the board's problems in timely docketing cases for hearing. While budget and staff constraints set an outside limit on the number of cases that can be heard, the board's analysis of the current backlog problem is that it is caused in large part because of excessive continuances and the unpreparedness of the parties in presenting their case to the board, which results in the hearing record remaining open.

This amended section will require an affidavit be filed stating that the party has completed all necessary discovery obtained, all necessary evidence, and is fully prepared for the hearing. Once a hearing has been scheduled, a continuance will not be granted, and after the hearing the board will close the hearing record.

Section 21. STRESS CLAIMS

Page 19, Line 27

4

This section shifts the burden of proof to the employee for establishing a compensable claim for mental injury resulting from work-related stress, consistent with the amendment to AS 23.30.265(17) found in section 40.

Section 22. **BOARD FINDINGS**

Page 20, Line 2

This section codifies legislative intent in section 1 that findings of fact made by the board in its orders are conclusive unless the court specifically finds that a reasonable person could not have reached the board's conclusion.

Section 23. **STATUTE OF LIMITATIONS**

Page 20, Line 7

This section codifies the board's interpretation of the meaning of compensation for statute of limitations purposes under AS 23.30.130, which provides that a request for modification of a compensation award must be made within one year after the last payment of disability or death benefits. This is consistent with the amendment to AS 23.30.105 found in section 19.

Section 24. **REPORTING REQUIREMENTS**

Page 20, Line 20

This section reflects changes consistent with the repeal and reenactment of AS 23.30.155(m) found in section 27, concerning the reduction of reporting penalties.

Section 25. BENEFIT PAYMENTS DURING CONTROVERSION

Page 21, Line 16

This section provides protection for the injured worker whose benefits are denied solely on the grounds that another employer or insurer may be liable for all or some of the benefits. This section requires that the most recent employer or insurer who is party to the claim and may be liable must pay the injured worker temporary disability benefits during the pendency of disputes over liability between various employers and insurers. This section also requires that when liability has been determined, any reimbursement, including interest and all attorney's costs and fees, must be paid within 14 days.

This amendment addresses the problems in Alaska's "last injurious exposure rule" by discouraging needless or frivolous litigation through assessment of costs and interest of successful employers against the ultimately liable employers. It also puts an end to the delays in paying benefits to injured workers who under the current system must often wait months or years with no benefits while two or more employers/insurers fight over liability.

Section 26. LATE PAYMENT PENALTY

Page 22, Line 5

This section increases the employer's penalty from 20% to 25% for late payment of compensation to an employee.

Section 27. REPORTING REQUIREMENTS

Page 22, Line 13

This section repeals and reenacts employer/insurer reporting provisions requiring that an annual, instead of an anniversary, report be filed with the board by March 1 of each year showing the total amount of all compensation by type, medical and related benefits, vocational rehabilitation expenses, legal fees, and penalties paid on all claims during the preceding calendar year. Currently, data is collected on a per claim basis through interim and claim anniversary reports. However, there is no data collected showing what employers/insurers have paid for claims on an annual basis, making it impossible to meaningfully analyze insurance rates or to make effective changes in the workers' compensation system.

Also, it is the purpose of this section to encourage compliance with the reporting system by assessing full penalties against employers/insurers who repeatedly fail to comply with reporting requirements, but forgiving the occasional reporting oversight for insurers showing substantial compliance. Additional civil penalties are included for those insurers who fail to comply with the annual report requirement.

Section 28. **SELF-INSUREDS, UNFAIR CLAIM SETTLEMENTS,
BANK REQUIREMENTS FOR BENEFIT PAYMENTS**
Page 23, Line 13

This section clarifies that if the employer is self-insured, the requirements of AS 23.30.155(c) and (m) in sections 24 and 27 apply to the employer.

This section also requires the board to notify the division of insurance if it is determined that an insurer has frivolously or unfairly controverted an employee's compensation. The division of insurance is then required to make a determination if the insurer has committed an unfair claim settlement practice under AS 21.36.125.

The section further requires that benefits paid to recipients residing in Alaska be paid by checks or other negotiable instruments drawn on Alaska banks or by certified check.

Section 29. RATES OF WEEKLY COMPENSATION

Page 23, Line 26

This section repeals and reenacts the minimum and maximum rates of compensation to be paid an Alaska injured worker. It decreases the maximum weekly compensation rate from 200% of the state's average weekly wage, which for 1988 is \$547 equalling a weekly compensation rate of \$1094, to an absolute maximum of \$700 per week. It increases the minimum weekly compensation rate from \$110 to \$154 per week, except in those cases where the employee does not provide documentary proof of past wages or the employee's spendable weekly wages are less than \$154 per week. The minimum of \$154 approximates the Alaska minimum wage. The purpose of this section is to redistribute workers' compensation dollars to provide a more livable compensation rate for low wage earners without unduly increasing employer costs. It is further the purpose of this section to override the Alaska Supreme Court's holding in Peck v. Alaska Aeronautical Inc., Op. No. 3240 (October

30, 1987), by providing for a fixed maximum compensation rate which can be predicted.

This section also reenacts the provision that Alaska rates of compensation shall be adjusted for those employees who leave the state, except for medical or rehabilitation services not available in Alaska, by the ratio of the cost of living in the locality the employee resides to that of Alaska. It also provides that the board, by regulation, shall determine and annually update living costs for the state and other localities. A similar law providing for the adjustment of the Alaska compensation rate by ratios of states' average weekly wages to those of Alaska was struck down as unconstitutional in Alaska Pacific Assurance Co. v. Brown, 687 P.2d 264, 271 (Alaska 1984). However, the court suggested that an adjustment based on actual cost of living may pass constitutional muster.

Section 30. PERMANENT TOTAL DISABILITY

Page 25, Line 9

This section provides that if an employee is paid a permanent partial disability award and it is subsequently determined that the employee is permanently totally disabled, the permanent total disability benefits must be reduced by the permanent partial disability award, adjusted for inflation, as determined by the board.

This section also establishes a labor market for an injured worker's services that must be considered when determining whether the worker is permanently totally disabled. This section clarifies that not

only the worker's area of residence, which may have little or no employment opportunities, but the area of last employment or the state will be considered as a labor market for his/her services. The purpose of this section is to make it clear that an employee not be classified as permanently totally disabled because he chooses to live in a small or isolated community with fewer employment opportunities.

Section 31. PERMANENT TOTAL DISABILITY

Page 25, Line 27

This section clarifies that failure to satisfy the remunerative employability definition as defined in AS 23.30.041(p)(2) does not mean that an employee is automatically permanently totally disabled.

Note: This section needs a technical amendment as the present cite is incorrect. It now reads "AS 23.30.041(m)(7)" and should read "AS 23.31.041(p)(2)."

Section 32. TEMPORARY TOTAL DISABILITY (TTD)

Page 26, Line 2

This section imposes a cap on temporary total disability by payment of benefits only up to the time of medical stability, as defined in AS 23.30.265(34) found in section 41, but in no case longer than two years from the date of disability. This is consistent with the concept that temporary total disability be paid during the healing period. Following medical stability, the worker is paid permanent partial impairment benefits as reflected in section 33.

Section 33. PERMANENT PARTIAL DISABILITY (PPD)

Page 26, Line 11

This section repeals prior law and reenacts a totally new concept in permanent partial disabilities. All payments for permanent partial impairment will be based on a whole person concept in accordance with the American Medical Guides to Evaluation of Permanent Impairment Compensation. Under the Guides the impairment of any body part is computed as to how it affects total body functioning. Compensation is computed by multiplying the employee's actual degree of impairment by the appropriate adjustment factor by the maximum compensation rate of \$240,000, but no permanent partial impairment payment may be less than \$250. The section also provides that an impairment rating be reduced by a pre-existing permanent impairment; however, the prior rating will not negate a finding of permanent total disability.

Current law provides maximum schedules for fourteen various body parts, ranging from \$2,800 to \$59,000, plus a maximum unscheduled benefit of \$60,000 based on loss of earning capacity for back and neck injuries. This section represents a redistribution of benefits to those workers who have more significant injuries and disabilities from those with lesser impairments.

Note: This section does not work in practice as the Labor-Management Task Force intended. PPD payments at the lower impairments are considerably lower than under present law. See the payment chart in the backup file under "Task Force."

Section 34. **TEMPORARY PARTIAL DISABILITY (TPD)**

Page 28, Line 12

This section provides for payment of temporary partial disability benefits only up to the time of medical stability, consistent with the amendment to AS 23.30.185 found in section 32. It also reduces the maximum period for paying temporary partial disability benefits from five to two years.

Section 35. **TEMPORARY PARTIAL DISABILITY**

Page 28, Line 22

This section reenacts language necessary to determine an employee's wage-earning capacity for purposes of temporary partial disability. This language, which was previously found in AS 23.30.210 and is now repealed in section 42, pertains only to the payment of temporary partial benefits. It is consistent with the changes made in AS 23.30.190 found in section 33.

Section 36. **WEEKLY WAGE DETERMINATION**

Page 29, Line 4

This section amends AS 23.30.220(a) to narrow the instances where an employee's gross weekly earnings cannot be computed under AS 23.30.220(a)(1) based upon past earnings. Only in those cases in which the employee had no earnings or was voluntarily absent from the labor market for 18 months or more during the two calendar years before injury will the gross weekly earnings be calculated under AS 23.30.220(a)(2). The board is then mandated to consider the nature of the employee's work and work

history in determining the gross weekly earnings for calculating compensation, but in no event can the compensation exceed the employee's earnings at the time of injury.

This amendment overrides a long line of supreme court rulings in which the board was ordered to establish the gross weekly earning and therefore the compensation rate by speculating on an employee's future earnings. (See Johnson v. RCA-OMS, Inc., 681 P.2d 905 (Alaska 1984), and its progeny.) The board has consistently found that an employee's past earnings record is the best predictor of an employee's loss of earnings during the period of disability. Thus, except for the exceptions stated, the purpose of this section is to require that gross weekly earnings be computed by dividing by 100 into the employee's gross earnings in the two calendar years immediately preceding the injury.

Section 37. **PENSION PLAN OFFSET**

Page 30, Line 9

This section provides that if contributions to a qualified pension or profit sharing plan have been included in an employee's gross earnings, as reflected in AS 23.30.265(15) found in section 39, the employer may offset compensation benefits by a like amount when the employee receives pension or profit sharing payments.

Section 38. **DISCRIMINATION PROHIBITED**

Page 30, Line 20

This section enacts a new provision that prohibits an employer from discriminating in the hiring, promotion or retention of an employee who has in good faith filed a claim for or received compensation benefits. An employer who violates this section is liable for damages assessed by the court in a private civil action.

This section does not prohibit consideration of an employee's safety practices or physical and mental abilities nor does it prohibit inquiry into the employee's prior health or disability history for second injury fund reimbursement or determination of physical or mental capacities to meet the demands of employment.

Section 39. PENSION OR PROFIT SHARING PLAN CONTRIBUTIONS

Page 31, Line 10

This section amends the definition of an employee's gross earnings to include total contributions by an employer to a qualified pension or profit sharing plan for the two prior years multiplied by the percentage of vested interest at the time of injury. This change is consistent with the board's interpretation of the Supreme Court's ruling in Ragland v. Morrison-Knudsen Co., Inc., 724 P.2d 579 (Alaska 1986).

Section 40. STRESS CLAIMS LIMITATION

Page 31, Line 27

This section amends the definition of injury by providing specific language that the term does not include mental injury caused by mental stress unless

the work stress was extraordinary and unusual in the profession and the work stress was the predominant cause of the mental injury. Specifically excluded are those mental injuries that result from disciplinary actions or changes in job status taken in good faith by the employer. Unlike all other types of injuries, it further places the burden on the employee to provide work-connection. See the proposed amendment to AS 23.30 .120 found in Section 21.

This change is consistent with prior board rulings in which the employee's stress had to be greater than all employees in the profession must experience to be compensable. This section is intended to override the Alaska Supreme Court rulings in Wade v. Anchorage School District, 741 P.2d 634 (Alaska 1987), and Fox v. Alascom, 718 P.2d 977 (Alaska 1986).

Section 41. MEDICAL STABILITY CONCEPT

Page 32, Line 17

This section adds a new definition which provides that medical stability means the date after which no further measurable improvement is expected to result from additional medical treatment or care. This codifies the meaning of the healing period during which time temporary total or temporary partial disability benefits are paid, and is consistent with the changes made in sections 10, 32 and 34. Currently, temporary disability benefits are paid until economic or employment stability regardless of time factors or the status of the employee's medical condition.

Section 42. **TPD REPEALER**
Page 32, Line 27

This section repeals provisions that are unnecessary or inconsistent with the repeal and reenactment of AS 23.30.200(b) found in section 35.

Section 43. **TRANSITION FOR REPORTING REQUIREMENTS**
Page 32, Line 28

This section contains transitional language necessary to change reporting from an anniversary to an annual system. It specifically provides that each employer is subject to this change for all claims existing as of December 31, 1988.

Section 44. **MANDATED RATE REDUCTION**
Page 33, Line 7

This section mandates a rate decrease for workers' compensation premiums of no less than 6%, effective July 1, 1988 through January 1, 1990.

Section 45. **VOC REHAB SPECIALIST CERTIFICATION TRANSITION**
Page 33, Line 12

This section contains transitional language to include a grandparent clause to allow current rehabilitation specialists who do not have the credentials required under AS 23.30.041(p)(6) to continue to practice for one year after adoption of this bill, at which time they must have gained the required credentials or be barred from further practice as a rehabilitation specialist in the workers' compensation system.

Section 46. **APPLICABILITY**
Page 33, Line 18

This section delineates the amendments to the Act that apply only to injuries sustained on or after July 1, 1988.

Section 47. **EFFECTIVE DATE**
Page 33, Line 21

This section provides that the amendment to the Act under section 40 applies to injuries sustained on or after the effective date of section 40.

Section 48. **EFFECTIVE DATE**
Page 33, Line 23

This section provides that sections 40 and 47 of this Act takes effect immediately under AS 01.10 070(c).

Section 49. **EFFECTIVE DATE**
Page 33, Line 25

This section provides that sections 1-39, and 41-46 of this Act take effect July 1, 1988.

March 17, 1988

Representative John Sund
State Legislature
Juneau, Alaska 99811

Dear Representative Sund:

As you know the House Labor & Commerce Committee recently passed their version of the workers' compensation reform package. Although the labor management task force that made most of the recommendations endorses the bulk of the legislation, we strongly feel there now exists some significant limitations and deficiencies in the legislation in the form it now takes. We would like to address those with you and ask that you strongly consider curing the problems.

Our first concern is with Sec. 2 21.89.015. This section attempts to give benefit to those who have safety programs in place. We feel this is an admirable idea, but that the legislation as currently drafted, will have little or no real effect. For this program to work, it will require that every employer with a safety program be audited for a conforming safety program, and a thorough enforcement program be in place. Not only is this likely to be an expensive item for the state and insurance companies, it is unrealistic to think that the state can add a safety audit program for every single insured employer in the state each year. This would be required in order to insure all employers have an opportunity for the refund. You are talking about tens of thousands of audits. Fortunately there already exists incentives for employers to provide safe work places as safety practices ultimately reduce costs and are reflected in experience modes. Perhaps other things are possible, but we feel this section should be deleted and more thought given to it before it is included in some subsequent legislation.

We are most concerned about changes to Section 18 23.30.095 (k) as it corrupts our attempts to install an **effective IME process** that results in an informed board making informed decisions. We feel it is critical that the board have wide latitude in obtaining outside expertise in critical medical information. This section, as passed by Labor & Commerce in an attempt to satisfy the chiropractic community, requires that the boards chosen IME be of the same specialty as the attending physician unless the board unanimously determines otherwise. There are several significant problems that are inherent with this approach. First of all the board, generally all being non-medical professionals, often asks that a panel of experts of varied professions, including medical doctors, orthopedic surgeons, psychiatrists, chiropractors, etc., counsel them on the physical and mental status of individuals. Limiting them to only specialties of the attending physician greatly limits their ability to gain the widest possible perspective in making decisions in complicated

areas outside of their own expertise. The Labor & Commerce approach would suggest that less information is better than more. We don't see how this could possibly be to the benefit of the injured worker. Why, for example would you want to limit counsel in a case where surgery is recommended, to advice from only another surgeon. Most surgeons only know how to treat through surgery, when in fact other treatments may be appropriate.

Secondly, for anyone familiar with professional people, there is a reluctance to challenge brother professionals. By limiting only to an attending physicians specialty negates a large portion of the effective review process the task force had in mind. We all felt strongly that a medical provider would take greater care in evaluating a patients needs if they knew there was the potential for scrutiny down the road by a non "club" member. It was felt the board needed the flexibility to select, on a case by case basis, the profession, or professions, it felt it needed help from in order to make informed decisions. Our approach does not limit the board from using the same profession as the attending physician for its IME, it just expands it. The critical thing to remember about the IME process as envisioned by the task force was that IME would only advise on the physical and mental condition of a patient, and the appropriate medical treatment to be pursued, so that the board would be informed about matters at hand. It is not the boards responsibility to admonish a medical provider for a prior course of treatment.

Finally it seems odd to us that if the Labor & Commerce Committee felt that the attending physician should be protected from outside scrutiny, which we think is off the mark from the issue at hand, that it do so by requiring a unanimous vote on behalf of the board to change professions. First it points to a weakness certain professions must feel about their own positions if they need a unanimous vote to allow for objective review. Secondly, and perhaps a bit philosophically, if you think of it, where else in our democracy do we require a unanimous vote, with no opportunity for challenge. Not in making changes to our constitution, not in setting death as that penalty for certain crimes, not in deciding that in certain circumstances children should be taken from their mothers, not even in going to war. Not in anything but whether a workers compensation board has the authority to expand the scope of information it has available to it in trying to make its determinations, if the House Labor & Commerce committee has its way. We would strongly recommend that consideration be given to changing the language so that it is consistent with the Senate version of the bill.

We can't express any stronger reservations about any section of the proposed bill but with this section. We have no confidence that the goal of providing the board with sufficient information to make good decisions regarding medical disputes will happen as the bill is currently written.

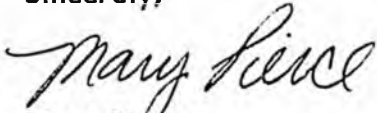
Page Three

One of the stated goals of the reform movement was to lower costs. This new language will make it even more difficult to achieve those goals.

Just one minor technical change is recommended. In section 10 23.30.041 (f) the words "of injury" are used twice in the sentence and is confusing and unnecessary. The second usage should be deleted.

We would greatly appreciate any consideration you can give to the issues described herein, and would hope that you would allow us to work with you on any other changes members of the Judiciary Committee have in mind. We look forward to working with you on this important matter and make ourselves available to answer any questions and to explain our reasoning behind our recommendations.

Sincerely,



Mary Pierce
Co-Chairman
Labor Management
Task Force



Robert Anders
Co-Chairman
Labor Management
Task Force

cc: Mano Frey

COLUMN 2
IS THE AMOUNT
AD HOC
COMMITTEE
INTENDED;

COLUMN 1
IS THE AMOUNT
KCD THOUGHT
WAS INTENDED.

HCS C553 322 (L+C)

Rating	ARM	W HOLD MORE %	FACTOR		Difference (1) - (2)	(1)	(2)
10%	6%	X	.060	X	240,000 - 3,450 =	869.00	4,320
20	12	X	.120	X	" 8,899 =	18,541.00	19,440
30	18	X	.180	X	" 11,016 =	25,272.00	36,288
40	24	X	.240	X	" 17,050 =	40,550.00	57,600
50	30	X	.300	X	" 11,520 =	60,480.00	72,000
60	36	X	1.000	X	SAME =	86,400.00	86,400
70	42	X	1.000	X	" =	100,800.00	100,800
80	48	X	1.000	X	" =	115,200.00	115,200
90	54	X	1.000	X	" =	129,600.00	129,600
100	60	X	1.000	X	" =	144,000.00	144,000

LEG

10%	4%	X	0		2,430 =	2,500.00	2,880
20	8	X	.120	X	240,000 - 9,504 =	3,496.00	12,960
30	12	X	.360	X	" 13,651 =	10,541.00	24,192
40	16	X	.495	X	" 19,392 =	19,008.00	33,400
50	20	X	.675	X	" 15,600 =	32,400.00	48,000
60	24	X	.704	X	" 17,050 =	40,550.00	57,600
70	28	X	.780	X	" 14,112 =	53,088.00	67,200
80	32	X	.910	X	" 6,912 =	69,888.00	76,800
90	36	X	1.000	X	SAME =	86,400.00	86,400
100	40	X	1.000	X	" SAME =	96,000.00	96,000

Whelan

10%	X	.200	X	240,000	=	7,200.00	SAME
20	X	.675	X	"	=	32,400.00	"
30	X	.840	X	"	=	60,480.00	"
40	X	1.000	X	"	=	96,000.00	"
50	X	1.000	X	"	=	120,000.00	"
60	X	1.000	X	"	=	144,000.00	"
70	X	1.000	X	"	=	168,000.00	"
80	X	1.000	X	"	=	192,000.00	"
90	X	1.000	X	"	=	216,000.00	"
100	X	1.000	X	"	=	240,000.00	"

MARK M		280 WEEKS \$59,000 MAXIMUM								Lrg 248 weeks \$54,400 MAXIMUM							
Wkly Comp Rate	\$ 200	\$ 300	\$ 400	\$ 500	\$ 600	\$ 700	% OF W/HEALTH		\$ 200	\$ 300	\$ 400	\$ 500	\$ 600	\$ 700	% OF W/HEALTH		
10%	CESAR	5,900	5,900	5,900	5,900	5,900			CESAR	5,440	5,440	5,440	5,440	5,440	5,440		
	GRANT	5,600	8,400	11,200	14,000	16,800			GRANT	4,960	7,440	9,920	12,400	14,880	17,360		
	HCS	4,320	4,320	4,320	4,320	4,320			HCS	3,880	2,880	2,880	2,880	2,880	2,880		
	CSSB 322 (LTC)	1,864	1,864	1,864	1,864	1,864	6%		CSSB 322 (LTC)	250	250	250	250	250	250	4%	
20%	CESAR	11,800	11,800	11,800	11,800	11,800			CESAR	10,880	10,880	10,880	10,880	10,880	10,880		
	GRANT	11,200	16,800	22,400	28,000	33,600			GRANT	9,920	14,880	19,840	24,800	29,760	34,720		
	HCS	19,440	19,440	19,440	19,440	19,440			HCS	12,960	12,960	12,960	12,960	12,960	12,960		
	CSSB 322 (LTC)	10,541	10,541	10,541	10,541	10,541	12%		CSSB 322 (LTC)	3,456	3,456	3,456	3,456	3,456	3,456	8%	
30%	CESAR	17,700	17,700	17,700	17,700	17,700			CESAR	16,320	16,320	16,320	16,320	16,320	16,320		
	GRANT	16,800	25,200	33,600	42,000	50,400			GRANT	14,880	22,320	29,760	37,200	44,640	52,080		
	HCS	36,288	36,288	36,288	36,288	36,288			HCS	28,192	24,192	24,192	24,192	24,192	24,192		
	CSSB 322 (LTC)	25,272	25,272	25,272	25,272	25,272	18%		CSSB 322 (LTC)	10,541	10,541	10,541	10,541	10,541	10,541	12%	
40%	CESAR	23,600	23,600	23,600	23,600	23,600			CESAR	21,760	21,760	21,760	21,760	21,760	21,760		
	GRANT	22,400	33,600	44,800	56,000	59,000			GRANT	19,840	29,760	39,680	49,600	54,400	54,400		
	HCS	57,600	57,600	57,600	57,600	57,600			HCS	38,400	38,400	38,400	38,400	38,400	38,400		
	CSSB 322 (LTC)	40,550	40,550	40,550	40,550	40,550	24%		CSSB 322 (LTC)	19,008	19,008	19,008	19,008	19,008	19,008	16%	
50%	CESAR	29,500	29,500	29,500	29,500	29,500			CESAR	27,200	27,200	27,200	27,200	27,200	27,200		
	GRANT	28,000	42,000	56,000	59,000	59,000			GRANT	27,180	32,200	49,600	54,400	54,400	54,400		
	HCS	72,000	72,000	72,000	72,000	72,000			HCS	48,000	48,000	48,000	48,000	48,000	48,000		
	CSSB 322 (LTC)	60,480	60,480	60,480	60,480	60,480	30%		CSSB 322 (LTC)	32,400	32,400	32,400	32,400	32,400	32,400	20%	
60%	CESAR	35,400	35,400	35,400	35,400	35,400			CESAR	32,640	32,640	32,640	32,640	32,640	32,640		
	GRANT	33,600	50,400	59,000	59,000	59,000			GRANT	29,760	44,640	54,400	54,400	54,400	54,400		
	HCS	86,400	86,400	86,400	86,400	86,400			HCS	57,600	57,600	57,600	57,600	57,600	57,600		
	CSSB 322 (LTC)	86,400	86,400	86,400	86,400	86,400	36%		CSSB 322 (LTC)	40,550	40,550	40,550	40,550	40,550	40,550	24%	

TOP NO. IN HCS CSSB 322 (LTC) LINE IS THE AMOUNT ADHOC COMMITTEE INTENDED; BOTTOM NO. IS THE AMOUNT WCO THOUGHT YOU INTENDED.

11:01 LUCHL 302 HNUHURHSE 907-5634571

P.3/4

P A R T	Wkly Comp Paid	70%						% of	80%						% of	
		200	300	400	500	600	700		200	300	400	500	600	700		
70%	CESAR	41,300	41,300	41,300	41,300	41,300	41,300		CESAR	38,080	38,080	38,080	38,080	38,080	38,080	
	GRANT	58,200	58,800	59,000	59,000	59,000	59,000		GRANT	54,120	54,080	54,400	54,400	54,400	54,400	
	HCS CSSB 322 (L-2)	SAME 100,800	SAME 100,800	SAME 100,800	SAME 100,800	SAME 100,800	SAME 100,800	42%	HCS CSSB 322 (L-2)	67,200 53,088	67,200 53,088	67,200 53,088	67,200 53,088	67,200 53,088	67,200 53,088	28%
80%	CESAR	47,200	47,200	47,200	47,200	47,200	47,200		CESAR	43,520	43,520	43,520	43,520	43,520	43,520	
	GRANT	59,800	59,000	59,000	59,000	59,000	59,000		GRANT	54,680	54,400	54,400	54,400	54,400	54,400	
	HCS CSSB 322 (L-2)	SAME 115,200	SAME 115,200	SAME 115,200	SAME 115,200	SAME 115,200	SAME 115,200	48%	HCS CSSB 322 (L-2)	76,800 69,888	76,800 69,888	76,800 69,888	76,800 69,888	76,800 69,888	76,800 69,888	32%
90%	CESAR	53,100	53,100	53,100	53,100	53,100	53,100		CESAR	48,960	48,960	48,960	48,960	48,960	48,960	
	GRANT	59,400	59,000	59,000	59,000	59,000	59,000		GRANT	54,640	54,400	54,400	54,400	54,400	54,400	
	HCS CSSB 322 (L-2)	SAME 129,600	SAME 129,600	SAME 129,600	SAME 129,600	SAME 129,600	SAME 129,600	54%	HCS CSSB 322 (L-2)	86,400 86,400	86,400 86,400	86,400 86,400	86,400 86,400	86,400 86,400	86,400 86,400	36%
100%	CESAR	59,000	59,000	59,000	59,000	59,000	59,000		CESAR	54,400	54,400	54,400	54,400	54,400	54,400	
	GRANT	56,000	59,000	59,000	59,000	59,000	59,000		GRANT	49,600	54,400	54,400	54,400	54,400	54,400	
	HCS CSSB 322 (L-2)	SAME 144,000	SAME 144,000	SAME 144,000	SAME 144,000	SAME 144,000	SAME 144,000	60%	HCS CSSB 322 (L-2)	76,000 76,000	76,000 76,000	76,000 76,000	76,000 76,000	76,000 76,000	76,000 76,000	40%

P-37'88 11:01 LOCAL 302 ANCHORAGE 907-5634571

ALASKA SERVICING CARRIER ASSIGNMENT SURVEY 1/1/87 thru 12/31/87

SERVICING CARRIER	# OF RISKS	%	PREMIUM ASSIGNED	%	AV. SZ. OF RISK	QUOTA BUDGET
ALASKA NATIONAL	290	17.23%	\$1,174,286	17.91%	\$4,049	16.66%
ALASKA PACIFIC	291	17.29%	\$1,420,027	21.66%	\$4,880	16.66%
EMPLOYERS OF WAUSAU	264	15.69%	\$730,653	11.14%	\$2,768	16.66%
FIREMAN'S FUND	284	16.87%	\$993,354	15.15%	\$3,498	16.66%
INDUSTRIAL INDEMNIFY	260	15.45%	\$1,141,176	17.41%	\$4,389	16.66%
PROVIDENCE WASHINGTON	294	17.47%	\$1,097,039	16.73%	\$3,731	16.66%
TOTAL	1,683	100.00%	\$6,556,535	100.00%	\$3,896	99.96%



RESIDUAL MARKET OPERATIONS
SAFETY NET

POLICY YEAR BY STATE
3RD QUARTER 1987

STATE	POLICY YEAR	POLICY YEAR WRITTEN PREMIUM (000)	POLICY YEAR RENEWAL PREMIUM (000)	POLICY YEAR INCREASES LOSSES (000)	LOSS (000)	POLICY YEAR NET OPERATING GAIN (LOSS) (000)
ALASKA	'82 1982	7,005 7,000	7,000	5,293 5,293	.756 (1,756)	1,097 (1,007)
	'83 1983	4,765 4,765	4,765	5,621 5,621	1.180 1,180	3,126 (3,126)
	'84 1984	5,009 5,000	5,000	3,835 3,875	.774 (1,774)	644 (644)
	'85 1985	16,733 16,733	16,733	12,679 12,679	.758 (1,758)	1,656 (1,656)
	'86 1986	19,973 19,973	19,973	17,515 17,515	.907 (1,907)	4,527 (4,527)
	'87 1987	10,227 10,227	10,227	4,244 4,244	5,208 5,208	1.227 (1,227)
QTR-TQ-DATE	'86 1986	10,818 10,818	4,394 4,394	5,417 5,417	1.235 (1,235)	4,413 (4,413)
QTR-TQ-DATE	'87 1987	10,217 10,217	4,244 4,244	5,208 5,208	1.227 (1,227)	4,166 (4,166)

Gary -

The first set of figures represents new admissions into the Pool, while the second table includes new and renewals. Thus, the total written premium for the Alaska Pool as of the 3rd quarter 1987 was \$10,227,000. the \$6,556,535 figure represents new admissions to the Pool during the period 1/1/87 through 12/31/87.

THE SECOND INJURY FUND

John H. Lewis
P.O. Box 330550
Coconut Grove, Florida
33233
305-443-8111

INTRODUCTION

Despite its benevolent intentions, a workers' compensation program can be a double-edged sword. Soon after the passage of the first state workers' compensation programs, employers realized it could become very expensive to employ workers with permanent impairments, due to the impact their conditions might have on the cost of subsequent on the job injuries. For example, under Alaska law a worker who loses an arm in a compensable accident becomes entitled to 220 weeks of permanent partial disability benefits. However, if that person had already suffered a relatively serious injury, such as the total loss of use of the other arm, the resulting benefit status would most likely be permanent total disability, with weekly benefits payable for life. The potential impact of this type of situation was indicated in testimony presented to Congress in 1923, in which it was reported that immediately after an Oklahoma state court decision which affirmed a similar rule of law, seven to eight thousand workers with serious permanent disabilities were fired.

There are a number of ways to minimize or eliminate this adverse influence of the workers' compensation system. The three most prominent are:

1. Pay permanent disability benefits for previously

impaired workers solely on the basis of the subsequent injury , without consideration of the added effects of the prior condition.

2. Pay full disability benefits to such workers, but relieve the individual employer/carrier from the cost of those benefits not attributable to the second injury considered alone.

3. Apply the rule set forth in (2), but only in those instances in which the employee was hired or maintained in employment with the employer's actual knowledge of the pre-existing condition.

Alaska has chosen the third alternative, and in doing so has indicated that the primary goal of this aspect of the law is not the furnishing of financial assistance to employers, which could more easily be accomplished through the use of option (2), but instead is to help in the removal of barriers to the hiring of the permanently impaired. The decision is of great significance, as will be shown later in this report.

THE SECOND INJURY FUND

To implement this choice, the Legislature established the Second Injury Fund, based on a model drafted by the Council of State Governments. Stripped of some of its detail, the Fund operate as follows. An injured employee receives the full amount of benefits

to which the combined effects of the injury and pre-existing condition entitle him under the workers' compensation law. However, the employer\carrier responsible for providing these benefits has the right to receive partial reimbursement from the Fund, if certain conditions have been met. Once the right to reimbursement is established, the employer/carrier continues to provide statutory benefits to the injured employee, but is reimbursed for all weekly compensation paid after the first 104 weeks.

The first condition which must be met is that the employee have, prior to the second injury, a permanent physical impairment, from virtually any cause, which is serious enough to constitute a hindrance or obstacle to obtaining or retaining employment. Next, the disability resulting from the combined effects of the pre-existing and subsequent permanencies must be substantially greater than that which would have resulted from the second injury alone. For example, in the case of an individual already suffering from the loss of an arm, the loss of the remaining arm causes significantly greater disability, from the standpoint of ability to work, than would have resulted from the loss of a single arm. However, if the same individual suffered a spinal cord injury resulting in quadraplegia, the resulting disability would not be increased as the result of the prior loss of an arm. The individual would have been totally disabled from the

subsequent injury, no matter what the pre-existing condition had been. Therefore, the employer has paid no "excess" compensation as a result of hiring a permanently impaired individual, and receives no reimbursement from the Fund. Finally, the employer must establish from written records that it had knowledge of the pre-existing condition prior to the subsequent injury, and that the employee was hired or retained in employment after such knowledge was acquired.

The Fund is financed primarily through an assessment equal to up to 6% of the weekly compensation benefits paid by each insurance carrier and self insurer, although there are also several other relatively minor sources of income. This level of funding has not been sufficient to meet the Fund's obligations, and in 1981 \$600,000.00 was appropriated from general revenues to help make up the shortfall. Even this substantial amount of assistance has not been enough, and the Fund is currently running approximately one year behind in making reimbursements. Although it is anticipated that the shortfall will be eliminated in a few years, this prediction may be of questionable validity, as the result of recent developments.

Since most of its financing comes from the assessment just described, there exists in some quarters the belief that the Fund merely redistributes the pool of benefit dollars, and is of no

real concern to the system as a whole, or to the general public. This is not the case. As has already been seen, general revenues have been used, in effect subsidizing the compensation system, and as will be shown later, it is entirely possible that the existence of the Fund, as presently structured, results in increased costs for the compensation system and those who pay for it.

Even without consideration of the assistance received through the use of public funds, the effect of the Fund on the system are not as neutral as might be imagined. An explanation of its potential impact on an individual carrier or employer will show why. For a self insured employer, an accident in 1984 which is subject to Fund reimbursement will result in an actual financial obligation of 104 weeks of compensation benefits, and then, beginning in 1986, or later if the Fund is having difficulty meeting its obligations, reimbursement will be made for all additional payments. If the employer is insured, the accident will result in a reserve (estimate of future liability) based upon 104 weeks of benefits, rather than the full amount of weekly benefits which the employee will receive. If the employer is experience rated, its rating will be more favorable than in the absence of the Fund, resulting in lower premiums in future years. In addition, the losses attributable to the injury which are reported for rate-making purposes will be less, possibly lowering the premium

rate in future years. For the carrier, the decreased benefit payments will mean lower loss costs, although some of the savings may be shared with employers through dividend plans. At least two additional factors must be added to this equation. The first is that as a result of delays in reimbursement, without interest being paid on late payments, self insured employers and carriers are losing investment income. Second, if the assessment, which is included in the insurance rate base as well as in self insurers' compensation costs remains at the maximum rate of 6%, an individual carrier or employer will not experience an increase in annual assessment costs as the result of dumping a large number of cases into the Fund.

Taking these factors into consideration, it is clear that the Fund's existence can result in a substantial redistribution of workers' compensation costs. First, if it is possible (and it is) for the Fund to be legally manipulated, in the sense that cases which really should not be the subject of Fund reimbursement are given its benefits, an employer or carrier that is in this respect more aggressive than others will have shifted some of its obligations to the rest of the system.

Secondly, another possibility seems to have become a reality in Alaska. Since the cost of an injury will not impact on the Fund until several years after the date of accident, the assessment to

pay these costs will be based on benefit payment levels at this later date. If an employer or carrier has greatly reduced its volume of business in the intervening years, or perhaps is no longer doing any business within the State, its total dollar assessment will not truly reflect the activity and obligations of the year of injury. This appears to have happened in Alaska when a major self insurer, desiring to close its pipeline books, compromised and released a great number of claims which were the subject of Fund reimbursement, saddling the Fund with substantial obligations. When the assessments were made to pay these obligations, the self insurer was operating at lower employment levels, its annual benefit payments were lower, and its assessment dollars reduced, thereby placing a greater share of the burden for its Fund cases on others in the system. While this analysis ignores many complicating factors, such as changes in assessment rates and methods, the fact remains that the operation of the Fund can have a significant effect on individual employers and carriers, as well as on the general revenues of the state.

DOES THE FUND WORK?

Assuming that the purpose of the Fund is to eliminate or reduce barriers to the employment of those with permanent impairments, there is little evidence that this is actually occurring in the Alaska labor market. While it would take a detailed study of

employer attitudes and actions to reach a documented conclusion, discussions with employer representatives and other individuals active in the Alaska workers' compensation system indicate a consensus of opinion, to the effect that the Fund is not currently fulfilling that role. In fact, its only contribution may be in preventing knowledgeable insurance carriers from advising their insureds not to hire permanently impaired individuals. The reasons for this pessimism are a belief that most employers are simply not knowledgeable enough about the workers' compensation law to understand and appreciate the operation of the Fund, and may, in many cases, not trust the system even when they do understand it.

A review of the cases presently being paid by the Fund may provide some clues as to whether it is accomplishing anything in the area of employment. Based upon the available records, the prior permanencies involved were for the most part quite severe, and likely, under normal circumstances, to make it difficult for the individual involved to obtain employment. 65% involved serious back problems, 13% had amputations of major members, 13% had significant cardiac conditions, 4% serious vision defects and only 4% had what might be considered minor disabilities. This gives the initial impression that the Fund is at least assisting in providing employment opportunities for some people. However, in the majority of the cases reviewed, the available information

concerning the subsequent injuries, the ways in which the employers obtained written knowledge of the pre-existing conditions, the job market at the time of hiring, the jobs obtained, and the numbers of employers involved give the distinct impression that in many cases hiring would have taken place even in the absence of the Fund, and that its use was limited to well-planned efforts on the part of a few sophisticated employers and carriers to limit their compensation exposure. There is nothing particularly devious or reprehensible about this, but it does seem to support the thesis that the Fund is not a major factor in assisting the permanently impaired in obtaining employment.

CURRENT PROBLEMS

In addition to the obvious financial difficulties of the Fund, there are operational problems which require resolution. The major problem which must be confronted is that of the Fund's inability to defend itself to the extent necessary to properly conserve its assets. This may not be apparent, since the Fund does present an active defense against some reimbursement claims, and in fact is at times successful in its efforts. However, there remains the need for the Fund to provide defenses on other issues, although presently there is no such activity, and probably no real ability to provide it. The impact on the Fund, and on compensation costs in general may be significant. The

following examples show why.

In the overwhelming majority of cases, once it has been determined that the Fund is responsible for payments, one of two things happens. The claimant and the employer/carrier may stipulate to the degree of permanent disability, resulting in either a compromise and release settlement, or the entry of an agreed order without the termination of the claimant's right to future compensation benefits. Or, the case may go on to litigation, with the Board determining the extent of permanent disability, and the resulting benefits. In either case, the employer/carrier will be responsible only for the first 104 weeks of compensation. Given this fact, what real incentive exists to present a tough, and perhaps expensive defense, or to refuse to pay whatever additional sums may be demanded by a claimant to compromise and release a claim, thereby relieving the employer/carrier of future liabilities? This is not to say that all employers and carriers ignore what may be at least an implied obligation to treat these cases as if the Fund did not exist. However, it is probably asking too much of a system in which major incentives are based upon financial considerations. A review of open Fund cases, as well as interviews with people familiar with the Alaska compensation system, gives the strong impression that many cases were treated differently than if they had been the total financial responsibility of the

employer/carrier. If this is true, then the system as a whole experiences increased costs, beyond those actually warranted by the facts of a given case, because it is the Fund that is at risk, and not an individual employer or carrier. Although this may not always be the intended result, it seems quite clear that if does occur.

Of course it can be argued that the Fund should simply take a more active role in cases in which it has a financial interest. However, despite language in the law which might indicate that the Fund does have the authority to litigate all issues which might affect it, there is also language to the contrary, and under the best of interpretations the supportive provisions are confusing, unclear and of dubious value. Most importantly, if the Fund was to undertake a major change in policy and attempted to play a more active role as a litigant, serious questions would be raised over issues such as budget, procedure, and the propriety and constitutionality of an employee of the Commissioner of Labor becoming a real litigant in proceedings before the Board, which the Commissioner chairs, in matters which could affect the amount of dollars payable to individual claimants.

THE FUND AND THE COURTS

Once again assuming that the Fund's primary, if not only purpose

is to reduce barriers to employment, there now exists a major threat to the Fund and its objectives, resulting from a number of court decisions. While it is not the purpose of this document to critique the decisions of the Alaska courts, they do have a powerful impact on the operation and well-being of the Fund, and cannot be ignored.

The benchmark case is Employers Commercial Insurance Group v. Christ, 513 P.2d 1090 (Alaska 1973), which attempted to set forth the philosophy of the Fund, as well as make critical decisions as to how it should operate. Unfortunately, it appears that the Supreme Court was not and has not been made aware of the source of the Fund's structure and philosophy, the Council of State Governments model. Both the model and the Alaska law state that for purposes of Fund reimbursement, no pre-existing condition can be considered a "permanent physical impairment" unless it is one of 27 conditions listed in the law, or would otherwise support a rating of at least 200 weeks of compensation. The Supreme Court has taken this negative restriction and turned it into a positive, by stating that if a condition is on the list, it qualifies automatically as a "permanent physical impairment" without consideration of another test contained in the same law, which requires that the condition also be serious enough to constitute an obstacle to employment. This interpretation is contrary to the intent of the drafters. As stated by one of them,

Dr. Arthur Larson, at page 10-442 of his treatise The Law Of Workmen's Compensation, it was the intent of the Council to provide a specific list of conditions which could possibly qualify for reimbursement, but only after proof of seriousness. The significance of this distinction is about to become quite apparent in Alaska.

Several of the items on the list, such as arthritis and varicose veins, are conditions not necessarily of great significance, and may have virtually no impact on employment possibilities. In Gadberry v. Fluor Alaska, Case No. 100178 (A.W.C.B. 1983), the Board dealt with a case in which the pre-existing condition consisted of spinal lipping, a minor form of arthritis found in most individuals over the age of 40. Faced with the Christ decision, the Board had no choice but to reluctantly order reimbursement, since arthritis is one of the conditions on the list. If upheld, this type of decision could lead to literally every worker over the age of 40 becoming a potential fund case. Admittedly the effects of this decision can be mitigated by a heavy reliance on the requirement that the pre-existing disability interact with the subsequent disability to produce substantially greater disability than would have resulted from the second injury alone, but will mean increased litigation, and further disruption of the plan established by the the Council and adopted by the Alaska legislature.

This erosion of a coherent program, where each word in the statute serves a purpose, is further demonstrated in the Superior Court decision of Kaupp v. Alaska Sausage Company, Sup. Ct., Case No. 3 AN 81-2430 Civil, September 9, 1982. As previously noted, the statute requires that the employer establish knowledge of the employees's pre-existing condition through written records. The reason for this requirement is that in states which only require proof of "actual" knowledge, there is a tendency for the fund to become a vehicle not to encourage hiring, but instead to limit liability after the fact, by inviting the development of "proof" of knowledge such as "of course we knew he had arthritis, he always complained about his back". However, the Kaupp court, possibly with the help of an admission on behalf of the the Fund, held that the written notice requirement is a mere technicality which can be ignored, opening the way for a further weakening of the Fund's ability to do its job if the decision is applied in other cases.

In addition to these possible inroads on the Funds's return to solvency, another recent court decision may have a potentially harmful impact on the Fund's operation. In Land & Marine Rental Company v. Rawls, No. 2777, January 27, 1984, ___P.2d___ (Alaska 1984), the Supreme Court held that even in the absence of specific statutory authority, basic rules of law and equity

require the payment of interest on "past due" installments of compensation benefits. While there are obvious differences between weekly compensation benefits payable to a claimant and reimbursement due an employer/carrier from the Second Injury Fund, the possibility exists that an insurance carrier or self insurer will tire of waiting for reimbursement, seek help from the courts, and obtain a ruling requiring the payment of interest on reimbursement payments, adding to the Fund's financial problems.

ALTERNATIVES

Since every state workers' compensation system contains a second injury fund, and each utilizes its own unique combination of requirements and operations, there should be an extensive body of experience and example which can be used to improve the Alaska system. However, most second injury funds are not as broad and as inherently expensive as Alaska's, and among those that are, there are far more similarities than differences, and little in the way of successes.

With regard to the financing of the Fund's obligations, it should be obvious that there are no magical solutions. The Fund cannot meet its obligations on a current basis because the heavy drain on its resources, particularly from cases which came into the

Fund several years ago, has simply outstripped the funds made available through an assessment capped at 6%. Assuming that some of the potential problems just discussed are avoided, and the predictions of future Fund solvency hold true, financial concerns should focus on preventing fund obligations from once again exceeding resources. The only way to guarantee this is to remove the assessment cap entirely, as has been done in a number of states. While this could conceivably result in substantial increases in Fund utilization, other reforms should help prevent such an occurrence, and assessment increases should, to the extent they are caused by new cases, be at least partially offset by decreased direct loss costs. Also, it must be remembered that any cap, no matter how high, can result in a shortfall under a given set of circumstances, once again causing the delays which are currently a source of concern.

In addition to this possibly drastic alternative, there are a number of additional examples which may be of interest to the Alaska workers' compensation community. In order to avoid even temporary shortfalls, Michigan, Georgia and New Jersey utilize assessment formulas which assume that there will be annual increases in the dollar volume of fund activity, and set each year's assessment at levels greater than the prior year's expenditures, with a safety valve provision in the event the fund balance becomes greater than necessary. This provision, and most

other assessment formulas, are often coupled with once a year payment provisions, so that each carrier and self insurer pays its assessment in the early portion of the current calendar year, based upon the experience of the prior calendar year.

A more serious and difficult question is how to obtain greater utilization of the Fund, not in the sense of encouraging efforts to obtain reimbursement, but rather as it relates to employers' hiring considerations. Increased educational efforts, higher levels of reimbursement from the second injury fund, and even direct subsidization of second injury costs by general revenue funding have been attempted and are currently being utilized in some states. As is the case in Alaska, there is no direct evidence that they have been successful, and discussions with workers' compensation professionals from all aspects of the system and from many states reveal a general belief that second injury funds, no matter how constituted, are usually of little significance in the rehabilitation and hiring processes. However, there are at least two exceptions to this pessimism, involving Michigan and Minnesota.

In each state, many of those closely involved with the workers' compensation program strongly believe that the second injury fund works well, due primarily to the utilization of a certification process. In both, employers hiring permanently disabled workers

who might qualify for protection under the second injury fund register this fact with the fund, prior to the occurrence of any second injury. As a result, employers are directly informed as to the reimbursement they will receive, most of the major entitlement questions can be resolved prior to the occurrence of an injury, and more certainty is brought into all aspects of the process.

The remaining major issue is how to prevent actions and decisions which affect the Fund's financial condition from being made without its participation in the legal process. This is accomplished in other states in one of two ways. The first involves the utilization of a double claim process, which requires the injured worker to pursue one claim against the employer/carrier, for benefits due to the second injury considered by itself, and another claim against the fund, for the remaining benefits due under the second injury law. This process may be both burdensome and cumbersome, and requires that the fund play the role of an insurance carrier, actively investigating the claim, defending when necessary, and paying periodic benefits.

Another alternative is to maintain the reimbursement process, as utilized in Alaska, but also provide through statute and rule that no action which affects the fund can be taken without prior notice, or without providing it with the right to be heard. This

does not require that the fund participate to the same extent as it would if it had to act as a carrier. It does offer the opportunity for the fund to protect its position before the adjudicator takes some action which might adversely affect it. There is language in the Alaska workers' compensation statute which indicates such an intent, but it is neither clear enough nor comprehensive enough to accomplish this result.

Even with the necessary statutory authority, this procedure may not presently be acceptable in Alaska, due to the possible conflict of interest inherent in the relationship among the Fund, the Board, and the Commissioner of Labor. However, examples such as those found in New York and Michigan may provide a desirable solution. Those states have taken steps to separate the second injury fund from the adjudication function, so as to minimize conflicts of interest. This separation can run the gamut from a mere change in location within the overall agency structure to the establishment of the fund as a trust, run by appointed representatives of the employer and carrier communities. To the extent permitted by state constitutional and statutory law, the fund can have minimal contacts with state government, establish operations and policies to meet changing circumstances, hire and direct the necessary employees, and even provide first level adjudication in matters not affecting the rights of injured workers.

CONCLUSION

Although there are certainly other, more extreme options which might be discussed, such as paying employers to hire permanently impaired individuals, or totally protecting cooperating employers from all liability for second injuries, they are for the most part beyond the bounds of the compensation system and more properly the subject of broader societal concerns about rehabilitation and reemployment. From the standpoint of the workers' compensation system, as well as practicality, the potentially useful alternatives are few in number. In summary, they are the following:

1. Modify existing statutory law, to strengthen those provisions adversely affected by court decisions, and to clarify those provisions which may be the subject of future court action.
2. Modify the existing financing mechanism, to provide adequate financing with a minimum of administrative burdens on both the state and the employer/carrier community.
3. Provide a certification process which will enable employers to place greater reliance on the Second Injury Fund in making hiring decisions, utilizing certification as either an absolute requirement for Fund reimbursement, or to create strong presumptions in its favor.

4. To the extent permitted by the constraints of constitutional law and the political process, separate the Fund from the Department of Labor, and provide it with the authority to defend itself from unwarranted demands on its assets.



National
Council
on Compensation
Insurance

Stanley V. Sparks
Director
Government, Consumer
and Industry Affairs

April 5, 1988

APR 5 1988

Honorable Paul Roller
Director of Insurance
State of Alaska
Department of Commerce and Economic Development
Division of Insurance
State Office Building - 9th Floor
Pouch D
Juneau, Alaska 99811

Re: Senate Bill 322

Dear Director Roller:

The Alaska Classification and Rating Committee met via telephone conference call on April 4, 1988 to discuss the progress of the workers compensation insurance reform legislation which is pending in Juneau. By unanimous decision the Committee in effect acknowledged that the potential overall cost savings contained in the existing version of SB 322 amounted to 5.7 percent. Accordingly, if the bill is enacted in its present form, the Committee will direct NCCI to file a law amendment rate filing in Alaska which provides for an overall rate decrease of 5.7 percent on new, renewal and outstanding policies effective as of July 1, 1988.

The Committee wishes to make it clear that such a mid-term rate adjustment would not in any way interfere or preclude the normal review of Alaska experience and the making of an appropriate 1/1/89 rate filing based upon that experience.

Sincerely,

Stanley V. Sparks
Director
Government, Consumer
and Industry Affairs

SVS/gls

cc: Alaska Classification and Rating Committee
Don Koch
R. Fein
M. Mulvaney

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MICHAELA MCMURRAY, F.C.A.S.

January 29, 1988

The Honorable John George
Director of Insurance,
STATE OF ALASKA
Department of Commerce
and Economic Development
Division of Insurance
State Office Building,
9th Floor, Pouch "D"
Juneau, Alaska 99811

Dear Director George:

This letter discusses our progress so far on our assignment. Please understand these conclusions represent very preliminary findings, and that we are continuing our analysis. We have not yet received the National Council on Compensation Insurance (NCCI) evaluation of the proposed law change and so have no comments on this evaluation.

We have the following observations regarding the factors underlying the recent rate increases and our initial assessment of the cost saving potential of the proposed amendments to the Alaska workers' compensation law.

Recent Rate Level Increases

Using the NCCI rate filing dated October 16, 1987 as our data source, we have identified two primary reasons for the most recent rate increase:

- i. Medical cost trends.
- ii. Increasing loss development factors for indemnity.

The assumed annual increase in the medical cost component of the workers' compensation rates was about 8% in the last rate filing. This appears to be supported by actual experience. We also note that the medical component of the CPI for Anchorage increased by about 12% per annum between mid-1985 and mid-1987. Thus, while the medical trend is causing workers' compensation costs to increase substantially, the magnitude is not surprising.

Of greater significance are the loss development factors for the indemnity cost component. By loss development factors, we mean the amount the cumulative paid indemnity benefits (including plaintiffs attorney's fees and vocational rehabilitation expenses) increase as each policy year ages.

Relative to the factors used to generate the rates effective January 1, 1987, the paid indemnity development factors for the January 1, 1988 rates are 20% higher. Since indemnity accounts for about 64% (see below) of the total Alaska benefit costs, this change added approximately 13% to the indicated rate level.

A cursory review of the underlying loss development data specific to Alaska does indicate that this increase in the indemnity development factors was warranted.

In order to identify reasons for the deterioration in indemnity loss development, we have analyzed claim count and severity data by injury type. This analysis indicated a significant increase in the relative frequency of major permanent partial cases beginning in policy year 1982. This increase appears to affect all industry groups. There are also indications of large increases in average payments to major permanent partial claimants and to claimants between the time of injury and time of award.

Potential to Reduce Costs

In its rate filing, the NCCI provided the following breakdown of benefit costs:

Fatal	4%
Permanent Total	8
Major Permanent Partial	41
Minor Permanent Partial	4
Temporary Total	7
Medical	<u>36</u>
Total	100%

As discussed earlier, only the major permanent partial injury category is experiencing unusual developments of a significant magnitude. Therefore, this category of workers' compensation costs appears to be the one area that must be addressed if overall costs are to be reduced or contained while leaving the benefit structure substantially intact. If, for example, major permanent partial costs could be reduced 25%, a rate level decrease of 10% would be indicated.

In our opinion, the proposed changes in the law that were sent to us by the Division of Workers' Compensation do offer some possibility of reducing costs in this area.

Specifically, the time limitations of temporary benefits may encourage the earlier awarding of permanent partial awards and consequent reduction in temporary benefits. The rehabilitation process may also have contributed to the indicated increase in

temporary benefits preceding an award. If this is so, the new rules regarding rehabilitation may be beneficial. Both of the above will impact claim severity and we believe may be subject to quantification.

The proposed law does not appear to directly address the problem of the frequency of major permanent partial cases. It would seem likely that at least some of the recent increase in frequency may be due to increased liberalization of benefit entitlement standards. It is possible that the tone of the new law may encourage a change of attitude in the system and reduce the number of future awards. At this time, we do not believe it is possible to quantify this possible effect.

Despite the cost saving potential previously discussed, we are very concerned that the new law may actually increase major permanent partial costs. Specifically, the new higher maximum on permanent partial benefits and the proposal for benefits to be payable in a lump sum appear to make these benefits more attractive to claimants, and thus have the potential to further increase frequency and severity.

We are also concerned that the incremental adjustment factors used to compute benefits may lead to "impairment rating inflation" and increases in minor permanent partial costs. For example, a claimant judged 10% impaired will receive \$4,800 ($= \$240,000 \times 0.1 \times 0.2$), while a claimant judged 11% impaired will receive \$10,560 ($= \$240,000 \times 0.11 \times 0.4$).

The new law may result in some savings of medical costs. However, due to external economic pressures, short of radical revision to benefit entitlements, we believe savings in this area will be difficult to sustain in the long run.

The proposed maximum of \$700 per week on benefits can, of course, be expected to reduce costs of fatal, permanent total, and temporary total benefits. However, since these benefits account for only about 20% of total benefit costs, the potential for really significant savings is limited. There are other aspects of the law, for example, the rules relating to out-of-state claimants, which may have a beneficial effect. However, again we would not expect these changes to have a major impact on overall costs of the program.

In summary, the proposed law amendments may have a beneficial impact on the some aspects of the Alaska workers' compensation system. However, we are not yet convinced that the proposed law will result in significant overall cost reductions and are concerned that it may even increase costs. We are attempting to at least partially quantify the impact on costs.

* We are not yet sure that the current NCCI promulgated rate levels fully reflect the increased frequency of major permanent partial awards under the existing law. If this is true, there will be further upward rate level indications necessary in the future just to bring the rating structure in line with the current Alaska workers' compensation law.

We hope that these preliminary observations are useful to you.

Honorable John George

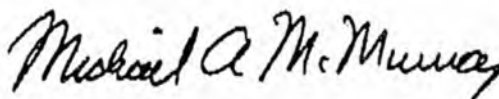
-4-

January 29, 1988

We are, of course, continuing with the study and hope to be able to provide more quantitative findings soon.

Please contact us if you have any questions.

Best regards,



Michael A. McMurray

MAM:cap

cc: Paul Roller
Don Koch
Mark Crawshaw

DISCUSSION DRHF 1

COST ANALYSIS OF THE ALASKA WORKERS' COMPENSATION PROGRAM

Milliman & Robertson, Inc. (M&R) was retained by the Alaska Division of Insurance to perform the following tasks:

1. To provide a breakdown of current costs of the Alaska workers' compensation program.
2. To identify those elements driving the recent large rate increase indications.
3. To review and comment on SB322/HB352 as it pertains to the costs of the Alaska workers' compensation program.
4. To analyze local Alaskan data relevant to estimating the likely cost impact of SB322/HB352, the major source of this data being the Alaskan Workers' Compensation Information Handling System (WCIHS).
5. To review the National Council on Compensation Insurance (NCCI) preliminary evaluation of SB322/HB352 and where appropriate, modify the NCCI estimate using relevant local data.
6. To provide a likely cost estimate of the impact of SB322/HB352.

This report summarizes our findings.

1: BREAKDOWN OF CURRENT COSTS

In its most recent rate filing, the NCCI provides the following breakdown of the "average" premium dollar in Alaska:

Table 1: Breakdown of Current Costs

Benefit Cost:	69.1%
Claim Adjustment:	8.6
Production Expense:	9.6
General Expense:	5.8
Taxes:	4.4
Profit:	<u>2.5</u>
Total	100.0%

It must be appreciated that the above table is an average breakdown and that the breakdown for any particular insured may differ depending on the type of rating plan, premium size, etc.

It should also be noted that claim adjustment and production expenses as well as taxes and profit are essentially variable costs. Thus, if it is possible to reduce the total amount of benefit dollars, there will be corresponding savings of these costs. In contrast, general expense is largely a fixed cost, and total dollars consumed by this item are unlikely to be significantly altered by changes in benefit levels.

In their recent evaluation of the proposed law change, the NCCI provides a breakdown of total benefit costs by type of injury as follows:

Table 2: Breakdown of Benefit Costs

Fatal	3.0%
Permanent Total	13.4
Permanent Partial	50.2
Temporary Total	<u>5.1</u>
Indemnity	71.7
Medical	<u>28.3</u>
Total	100.0%

We understand that this breakdown of benefit costs is based on unit statistical plan data for Alaska. We have reviewed the unit statistical plan data and believe the NCCI breakdown of costs is reasonable.

The benefit cost breakdown is relative to the final injury type of the claimant. Thus, for example, permanent partial includes all temporary total benefits, rehabilitation and legal expense, paid to, or on behalf of, permanent partial awardees.

It should also be noted that the component "temporary total" includes only those temporary total claimants who receive benefits for less than 52 weeks. Temporary total claimants who receive benefits for more than 52 weeks are classified as permanent partial.

2: RECENT RATE LEVEL INCREASES

Using the NCCI rate filing dated October 16, 1987 as our data source, we identified two primary reasons for the most recent rate increase:

1. Medical cost trends.
2. Increasing loss development factors for indemnity.

The assumed annual increase in the medical cost component of the workers' compensation rates was about 8% in the last rate filing. This appears to be supported by actual experience. We also note that the medical component of the CPI for Anchorage increased by about 12% per annum between mid-1985 and mid-1987. Thus, while the medical trend is causing workers' compensation

costs to increase substantially, the magnitude is not surprising. Of greater significance are the loss development factors for the indemnity cost component. By loss development factors, we mean the amount the cumulative paid indemnity benefits (including plaintiffs attorney's fees and vocational rehabilitation expenses) increase as each policy year ages.

Relative to the factors used to generate the rates effective January 1, 1987, the paid indemnity development factors for the January 1, 1988 rates are 20% higher. Since indemnity accounts for about 70% of total Alaska benefit costs, this change adds approximately 14% to the indicated rate level.

A cursory review of the underlying loss development data specific to Alaska does indicate that this increase in the indemnity development factors was warranted.

In order to identify reasons for the deterioration in indemnity loss development, we analyzed claim count and severity data by injury type. This analysis indicated a significant increase in the relative frequency of major permanent partial cases beginning in policy year 1982. This increase appears to affect all industry groups. There are also indications of large increases in average payments to major permanent partial claimants and to claimants between the time of injury and time of award.

Since permanent partial cases account for about half the total benefit dollars and are experiencing unfavorable development, this appears to be one area that must be addressed if overall costs are to be reduced or contained while leaving the benefit structure substantially intact.

We also note that we suspect the current NCCI promulgated rate levels for Alaska do not fully reflect the increased cost of permanent partial cases under existing law. If this is true, there will be further upward rate level indications in the future just to bring the rating structure in line with current Alaska workers' compensation law.

3: REVIEW AND COMMENTS ON SB322/HB352

The following outlines our understanding of the major provisions of SB322/HB352, which relate to the costs of the Alaskan Workers' Compensation System.

Compensation for Permanent Partial Benefits

Under current law, permanent partial benefits are either scheduled or unscheduled. The unscheduled benefit is subject to a maximum of \$60,000. Benefits may be paid in weekly installments. However, we understand that many cases are settled with a lump sum payment as part of a compromise and release agreement.

Under the proposed law, "all determination of the existence and degree of impairment shall be made strictly and solely under the whole person determination as set out in the American Medical Association (AMA) Guides". Benefits are to be calculated by multiplying the new maximum benefit amount of \$240,000 by the AMA impairment rating and an adjustment factor. The benefit is to be paid in a lump sum, without the need for a compromise and release agreement.

We understand that the drafters of the proposed law intended that the change in permanent partial benefit determination produce no overall change in the total amount of benefits, although there may be changes in benefits received for any particular injury type.

We further understand that the proposed change in benefit determination is an attempt to increase the objectivity of benefit determinations and to reduce the potential for litigation. The change in the method of benefit determination essentially shifts the emphasis to medical rather than vocational considerations (e.g., loss of earning capacity).

Maximum Limitation on Weekly Benefits

Under current law, weekly benefits for fatal, permanent total, and temporary total are subject to a maximum of 200% of the state average weekly wage. This amount is currently about \$1,000.

Under the proposed law, the maximum weekly benefit will be \$700.

Claimants Living Out of State

The new law provides for reintroduction of a reduction in benefits for those claimants living out of state. The reduction recognizes higher living costs and correspondingly higher benefit levels in Alaska as compared to other states.

Rehabilitation Program Reform

Under present law, vocational rehabilitation services may generally be provided for a period of up to 37 weeks. Temporary

disability benefits are paid throughout the rehabilitation process.

Under the proposed law, vocational rehabilitation services may be provided for a period of up to two years. Temporary disability benefits are not paid automatically throughout the rehabilitation process. Rather, temporary total benefits are to cease once a claimant's medical condition stabilizes. From this time, permanent impairment benefits shall be available to support the claimant throughout the rehabilitation process. If permanent impairment benefits become exhausted before the rehabilitation process is complete, additional benefits are available to the claimant.

The proposed law also provides for closer supervision and oversight of all aspects of the rehabilitation process.

It is our understanding that the intent of the new law is to provide for the possibility of longer periods of vocational rehabilitation where warranted, and to attempt to curb perceived abuses in the current system.

Limitation on the Duration of Temporary Benefits

Under current law, there is no limit on the duration of temporary total disability benefits and a five-year limit on the duration of temporary partial benefits.

Under the proposed law, both temporary total and temporary partial disability benefits become subject to a duration limit of two years.

Miscellaneous

There are many other aspects of the proposed law with the potential to impact costs. For example, there is an attempt to exclude certain mental injuries, to define medical stability, to restrict the number of physicians used by the claimant, etc.

In addition, the tone of the new law may affect the attitudes of administrators of the workers' compensation program and consequently impact costs of the program.

Comments

In general, we believe that the proposed revisions to the Alaska workers' compensation law will improve the benefit delivery system. Changes such as the proposed reduction in the average weekly benefit maximum, reduction of benefits for out of state claimants, and limits on durations of temporary benefits will almost certainly reduce costs, and we have attempted to quantify their impact.

In addition, strict adherence to the letter and spirit of the administrative provisions of the proposed law, successful implementation of the "independent medical evaluation" concept, and effective implementation of the more stringent controls on the vocational rehabilitation program should result in additional efficiencies. However, it is not possible for us to quantify the impact of such changes.

We do believe that there are other aspects of the bill that could have negative implications for containing and controlling workers' compensation costs. These are summarized below:

1. The proposed change to permanent partial benefits represents a radical change in the benefit structure. If the change is implemented, economic incentives in the system will change dramatically, and consequently, any cost estimates are subject to substantial inherent variability. Thus, from a cost standpoint, the impact of the proposed revision to the permanent partial benefit structure is extremely difficult to anticipate.
2. The proposed law dramatically changes permanent partial benefits by injury type, with some injury types receiving large benefit cuts while others receive large benefit increases. From a cost standpoint, it is notable that the benefits for more serious back cases are substantially increased. For example, a claimant judged to be 40% impaired would receive an award of \$96,000 under the proposed law, which is 60% above the maximum award of \$60,000 possible under current law.
3. It is proposed that permanent partial benefits for less serious injuries be computed using an adjustment factor. This factor leads to discontinuities in benefit amounts. For example, a claimant judged to be 10% impaired would receive \$4,800, while a claimant judged 11% impaired would receive \$10,560. This situation potentially encourages the exaggeration of injuries, creates difficulties in administering the program, and increases variability of cost projections.
4. Under present law, it is our understanding that many permanent partial claimants settle with a lump sum and a

compromise and release agreement. Under the proposed law, permanent partial cases are to be automatically settled with a lump sum without a need for a compromise and release agreement. It appears that under the new law there is the potential for greater numbers of reopenings.

5. Under the proposed law; economic incentives will change. For example, permanently disabled claimants may be induced to seek permanent partial rather than permanent total awards, for in this way, possibly greater benefits could be obtained. Similarly, a claimant whose disability results from a combination of vocational and medical conditions may be inclined to seek a permanent total rather than a permanent partial award since, under the proposed law, vocational evidence is not considered for permanent partial disability. The impact of the change in economic incentives will depend, to a large extent, on the administration of the program.

4: M&R ANALYSIS OF LOCAL ALASKA DATA

This section discusses our analysis of data specific to Alaska. Due to its crucial importance, most of our analysis concentrated on permanent partial cases.

Data Sources

Two primary sources of data were utilized:

1. Unit statistical plan data for Alaska.
2. Information from the Alaska Workers' Compensation

Information Handling System (WCIHS).

All the data was accepted for analysis without audit.

Average Permanent Partial Claim Payments

Exhibit 1 shows the total average incurred cost on permanent partial claims as reported in the unit statistical reports for Alaska for policy years 1979 through 1984. As can be seen on the exhibit, during the period 1987 to 1984 the average cost of a permanent partial case more than doubled.

After consideration of the above and other factors affecting costs, we estimate the average cost for a permanent partial case in Alaska under current law to be over \$50,000, in policy year 1988. We note this is significantly greater than the amount of \$38,000 utilized by the NCCI in their evaluation of the proposed law.

Breakdown of Average Permanent Partial Benefit Costs

As a first approximation, payments to permanent partial claimants under current law can be broken down into two components:

1. Temporary disability (including healing, rehabilitation)
2. Permanent partial award

Exhibit 2 shows average temporary disability benefit durations for identified permanent partial claims in the WCIHS data base. As can be seen on this exhibit, the average temporary disability duration for injury years 1983 and 1984 is currently about 400 days. Since the average duration is likely to increase until

all open claims are settled, we believe 400 days represents a lower bound on the likely duration of temporary benefits under current law, and we judgmentally estimate an average duration of 425 days for policy year 1988. This duration is considerably greater than the 340 day duration implied in the NCCI evaluation of the proposed law change.

In their evaluation of the law change, the NCCI estimates the average temporary disability payment to be about \$328 per week. We estimate the average temporary disability payment on a permanent partial claim to be about \$20,000 ($\approx \$328 \times 425/7$).

We thus estimate the following breakdown of average permanent partial costs under current law:

Temporary Disability Benefits:	\$20,000
Permanent Partial Award:	<u>30,000</u>
Total	\$50,000

Because of data limitations, we were not able to estimate the dollar amounts of payments to claimant's attorneys or to rehabilitation providers. In our discussion we implicitly assume that these costs are in addition to the average claim cost of \$50,000 above.

Attorney Involvement in Permanent Partial Cases

As can be seen on Exhibit 2, approximately 30% of all permanent partial cases have some attorney involvement, either on behalf of the employee or the employer/insurer. This percentage appears to be relatively consistent from year to year.

Permanent partial cases with attorney involvement involve on

average 50% - 60% more days of temporary disability than does the average permanent partial claim.

Rehabilitation Benefits and Permanent Partial Cases

As can be seen on Exhibit 2, based on WCIHS data, vocational rehabilitation benefits are provided to about 25% - 30% of all permanent partial cases.

Permanent partial cases involving rehabilitation involve on average 75% - 100% more days of temporary disability than does the average permanent partial claim.

Permanent Partial Distribution by Injury

Exhibit 3 shows the distribution of injuries by body part as indicated by WCIHS data for permanent partial cases. We note that although back injuries account for 27% of all cases, they account for 57% of all cases involving attorneys and 47% of all cases involving rehabilitation.

Exhibit 4 provides a comparison of the injury distribution indicated by the WCIHS data and that implicit in the NCCI law evaluation for permanent partial cases. It is notable that the WCIHS data indicates significantly greater numbers of back injuries in Alaska than does the NCCI analysis. Similarly, there are indications of greater numbers of knee and shoulder injuries than anticipated in the NCCI analysis. We note that these types of injuries are generally those with the potential for greatly increased benefit awards under the proposed law.

We acknowledge that discrepancies in the injury distribution

may partially be due to the problems in identifying permanent partial cases in the WCIHS data base.

Exhibit 5 shows the relative average duration of temporary benefits by type of injury. We note that back injuries have an average duration of temporary benefits that is 60% - 80% greater than average.

Distribution of the Duration of Temporary Benefits to Permanent Partial Claimants

Exhibit 6 shows the distribution of the length of durations of closed permanent partial claims with injury dates from 1982 through 1984. As can be seen on this exhibit, if all durations were limited to two years, as would be the case under a strict interpretation of the proposed law, the average duration would be reduced by 78%.

Distribution of Claimants by ZIP Code

Exhibit 7 shows the distribution of claimants by ZIP code as recorded in the WCIHS data base.

It is notable that of claimants currently receiving fatal, permanent total, or temporary total benefits, approximately 30% are residing outside of Alaska.

Notes on the Workers' Compensation Information Handling System (WCIHS) Data Base

We were provided with a tape of the WCIHS. We understand that it contains records of all workers' compensation claims in Alaska beginning from January 1, 1982.

In our analysis we built a data base consisting of permanent partial claims. Due to limitations in the data base and difficulties associated with the identification of the type of award for those claims settled with a compromise and release, we identified a permanent partial claim as follows:

1. A claim with a payment code PPD (i.e., scheduled permanent partial).
2. A claim with a payment code UPD (i.e., unscheduled permanent partial)
3. A claim with a payment code MLT (i.e., multiple payment) and a body part code 420 (i.e., Back).

We are advised by personnel at the Workers' Compensation Division that these criteria would fairly accurately identify permanent partial cases.

We note that the data base described above contained about 800 claims for each year, while unit statistical data indicates about 1,200 permanent claims per year. Possible reasons for the discrepancy in counts include the broad definition of permanent partial used in the unit statistical plan, and the difficulty of identifying lump sum settlements as permanent partial cases in the WCIHS data base.

5: REVIEW OF NCCI PRELIMINARY EVALUATION OF SB322/HB352

In their preliminary evaluation of SB322/HB352, the NCCI estimated the following impact on costs:

Table 3: NCCI Preliminary Evaluation of SB322/HB352

<u>Type of Injury</u>	<u>% of Loss</u>	<u>Effect</u>
Fatal	3.0	-0.4%
Permanent Total	13.4	-0.1
Permanent Partial	50.2	-3.7
Temporary Total	5.1	-0.5
Medical	28.3	0.0
		1.8
Definitional and System Changes		-4.0
Total Combined Impact		-2.3%

NCCI Fatal, Permanent Total, and Temporary Total Estimates

The NCCI estimated cost reductions for fatal, permanent total, and temporary total reflect the impact of the reduction in the maximum weekly benefit limitation. The essential steps in the calculation of the estimated impact on costs were:

- (1) Development of an assumed distribution of wage levels using countrywide data and adjusting to the actual wage level in Alaska.
- (2) Use of countrywide data to obtain assumed distributions of the number of survivors in fatal cases.
- (3) Calculation of total benefit costs under current law and under SB322/HB352 using (1) and (2).

We believe this approach provides a reasonable estimate of the impact of the change in the maximum benefit limit. In any case, overall cost savings from this change are so small that any variations from the assumptions of the calculation are likely to have very little impact on overall cost estimates.

NCCI Permanent Partial Estimates

The NCCI estimated cost reductions for permanent partial reflect the impact of changing the basis for calculating benefits from the current scheduled/unscheduled method to the medical impairment method. The estimate does not reflect possible changes in temporary and rehabilitation benefits paid to permanent partial claimants. These latter changes are presumably included as part of the -4% "Definitional and System Change" adjustment.

The NCCI analysis indicates the following changes in permanent partial award costs for different types of injury:

Table 4: NCCI Estimated Permanent Partial Award Cost Change by Injury Type

<u>Injury Type Under Current Law</u>	<u>NCCI Estimated Cost Change</u>
Minor - Scheduled	-69%
Minor - Unscheduled	-65
Major - Scheduled	+4
Major - Unscheduled	+52

Thus, although the NCCI analysis indicates very little overall change in costs, there are large changes by type of injury.

The essential steps in the NCCI calculation of the estimated impact on costs were:

1. Developing an assumed distribution of "major" injuries and their healing periods using countrywide data.
2. Developing an assumed distribution of "minor" injuries and their healing periods using countrywide data.
3. Assuming that all "major" injuries receive 37 weeks of

- rehabilitation while "minor" injuries receive more.
- 4. Assuming that healing periods in Alaska are double the countrywide periods.
- 5. Estimating total benefit costs under current and proposed laws on the basis of 1 through 4 for "major" and "minor" injuries separately.
- 6. Combining the estimates for "major" and "minor" injuries so that the resulting average permanent partial claim cost under current law balances to the estimated actual average permanent partial claim cost in Alaska. This step has the effect of modifying the countrywide distributions to more closely reflect actual conditions in Alaska.

Aside from problems in actually estimating benefits for a particular injury under the current and proposed laws, the indicated cost change calculated by the NCCI methodology is very sensitive to both the assumed length of healing period and the assumed current average permanent partial claim cost. The following table illustrates this sensitivity:

Table 5: Increase in Permanent Partial Costs Indicated by NCCI Methodology Under Various Assumptions

Assumed Current Average Claim Cost	Assumed Average Healing Periods as % of Countrywide Averages		
	150%	200%*	250%
38,000*	+6.5%	+3.7%*	+1.4%
45,000	+10.9	+8.3	6.1
55,000	+15.5	+13.0	+10.8

NOTE:
1. (*) Utilized by NCCI in their preliminary evaluation of SB322/HB352.

The average claim cost and healing period assumptions are closely related to the distribution of claims by injury type. Thus, the sensitivity in the NCCI methodology largely results from the fact that the new law produces radically different cost changes depending on the type of injury.

Our analysis of data from the Alaska Workers' Compensation Information Handling System (WCIS) and from the unit statistical reports for Alaska enabled us to examine if and how the key assumptions in the NCCI analysis concerning permanent partial cases differ from the actual situation in Alaska. In particular, we believe the actual average amount of a permanent partial case, the average healing period, and the distribution of injuries are all more unfavorable than assumed in the NCCI analysis, and point to the conclusion that the NCCI analysis understates the likely impact of the proposed law on permanent partial cases.

We estimate a likely increase of 11% instead of 3.7%, by using the NCCI method and a \$50,000 average claim assumption. We utilized \$50,000 rather than a higher value indicated by the data in order to judgmentally recognize the perception that many claims with low impairment ratings currently receive large awards. Had we used a higher value, a higher cost indication would have resulted. Thus, without considering any changes except the proposed revision to the calculation of permanent partial awards, we estimate the following impact on average costs:

	<u>Law:</u>		
	<u>Current</u>	<u>Proposed</u>	
Temporary Disability:	\$20,000	\$20,000	
Permanent Partial Award:	<u>30,000</u>	<u>35,500</u>	+18%
Total	\$50,000	\$55,500	+11%

Hence, we estimate the new law will increase permanent partial award costs by 18% (excluding temporary benefits). If it were desired to produce no overall increase in award costs, the proposed maximum for permanent partial awards should be reduced from \$240,000 to \$200,000.

In their preliminary analysis, the NCCI did not explicitly consider the impact of the proposed limit of two years on temporary disability payments. As discussed earlier, we estimate that this limit, strictly applied, would reduce temporary total disability payments to permanent partial claimants in the WCIS data base by 22%.

Additional factors that may affect the costs of permanent partial cases include:

1. Attorney Involvement Under the current law, about 30% of cases involve attorneys. The proposed law, which bases determinations of disability strictly on medical evidence, may result in less litigation. However, the new law may also lead to less compromise and release agreements and litigation may increase due to increased potential for reopenings.
2. Rehabilitation The reform of the rehabilitation process may lead to cost savings. However, these savings may be

offset by increasing the limit on vocational programs from 37 weeks to two years.

3. Administration The cost implications of the new law depend significantly on its administration and the extent to which strict adherence to its time limits, definitions etc. are possible.
4. Unit Statistical Plan Definition As noted earlier, not all cases classified in unit statistical reports as permanent partial involve permanent partial awards, and also, loss amounts include certain attorney fees and payments to rehabilitation providers, etc. This fact is implicitly recognized in our selection of an average claim cost of \$50,000 rather than higher values indicated by the data.

Considering these and other factors, we estimate the proposed law will decrease temporary benefit costs for permanent partial claims by 20%. To summarize, we estimate the following overall impact on average permanent partial costs:

	<u>Law:</u>		
	<u>Current</u>	<u>Proposed</u>	
Temporary Disability:	\$20,000	\$16,000	-20%
Permanent Partial Award:	<u>30,000</u>	<u>35,500</u>	+18%
Total	\$50,000	\$51,500	+3%

We note that if the maximum permanent partial award amount were reduced to \$200,000 so that there was no net indicated increase in the cost of permanent partial awards, there would be a net indicated decrease in permanent partial costs of about 8%.

NCCI Definitional and System Change Estimates

In their preliminary evaluation, the NCCI included an adjustment of -4% to account for aspects of the proposed law not explicitly evaluated. We understand the -4% was selected by judgment.

Using data from the WCIRS, we were able to provide some quantitative measure of the impact on the provisions of the new law relating to claimants living out of state.

Claimants Living Out of State

As discussed earlier, based on the distribution of claimant's ZIP codes in the WCIRS data base, approximately 30% of claimants now receiving temporary total, fatal, or permanent partial benefits reside out of state.

We judgmentally estimate that benefits for out of state claimants are reduced by 25% under the proposed law and that 20% of all claimants are affected. This implied a 5% ($= 20\% \times .25$) reduction in temporary total, fatal, and permanent total benefit costs.

The assumption that 20% of claimants will receive reduced benefits rather than 30% as indicated by the WCIRS data is to recognize that if the new law is implemented, the percentage of out of state claimants is likely to drop as claimants lose an incentive to leave Alaska.

6: M&R ESTIMATED COST IMPACT OF SB322/HB352

We estimate the following impact on costs:

	<u>Fatal</u>	<u>Perma- nent Total</u>	<u>Temp- orary Award</u>	<u>Permanent Partial Award</u>	<u>Temp- orary Total</u>	<u>Medical</u>	<u>Total</u>
A: Cost Under Current Law	3.0%	13.4%	20.1%	30.1%	5.1%	28.3%	100.0%
<u>Proposed Law Change</u>							
B: Revision To PP Award	1.000	1.000	1.000	1.180	1.000	1.000	
C: Weekly Benefit Maximum	0.996	0.999	0.950	1.000	0.995	1.000	
D: Out of State Claimants	0.950	0.950	1.000	1.000	0.950	1.000	
E: Duration of Temporary Benefits	<u>1.000</u>	<u>1.000</u>	<u>0.800</u>	<u>1.000</u>	<u>1.000</u>	<u>1.000</u>	
F: Overall Impact (AxBxCxD)	0.946	0.949	0.760	1.18	0.945	1.000	
G: Cost Under Proposed Law (AxF)	2.8%	12.7%	15.3%	35.5%	4.8%	28.3%	99.4%

We thus believe the proposed law is likely to have little overall impact on total costs. We note the following:

1. If the proposed permanent partial award maximum were reduced to \$200,000, we estimate there would likely be little overall change in permanent partial award costs from present levels, and overall costs of the program would be reduced by about 6%.
2. We believe we have implicitly factored into our estimates all aspects of SB322/HB352 identified earlier as impacting costs.
3. The estimates above anticipate strict adherence to the provisions of SB322/HB352.
4. We again stress that the proposed reform of permanent

partial benefits is difficult to estimate accurately and we believe there is considerable risk that significant variances from our projections exist.

5. It must be recognized that there is significant variability in any actuarial estimate of future workers' compensation costs, and that variations from estimates presented in this report are likely.

Acknowledgements

We would like to take this opportunity to express our thanks to Meses. Hansen and McClintock of the Alaska Workers' Compensation Division, and the NCCI for their cooperation provided throughout this analysis.

We welcome the opportunity to discuss this analysis in greater detail as the need arises.

Milliman & Robertson, Inc.
February 10, 1988

Michael A. McMurray
Fellow, Casualty Actuarial Society
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Workers' Comp Reform: An Employee's Perspective

Workers' compensation should be exactly what those two words describe. It is not lawyer, doctor, chiropractor or vocational rehabilitation compensation. The system was designed to compensate an injured worker for lost time and wages and to help return an employee back to productive work. In Alaska, that system is failing.

Realizing that Alaskan employers pay an extremely high rate for workers' comp coverage, labor representatives worked cooperatively with management to search for ways to lower the cost of insurance for employers while improving the system for injured workers. The proposed bill before the legislature accomplishes that goal.

The process followed in preparing the current proposal was one of give and take. Both sides brought their specific goals and issues to the table and negotiations over very sensitive issues became strained at points.

The end result has proven what the real meaning of labor-management cooperation is all about. Working together to solve problems and improve the system for both in the process has truly resulted in a win-win situation for labor and management.

From labor's perspective the bill provides many benefits. The minimum weekly benefit will be raised from \$110 to \$154 while the maximum will be dropped from \$1100 to \$700. Labor feels this is necessary to better provide for individuals at the low end of the scale.

Out of 365 permanent partial disability cases in 1985, only 11 were able to claim over \$700 per week. The vast majority of cases come at the low end. By raising minimums we will be able to provide assistance for those who most need it. The bill will also authorize vested pension and profit sharing benefits to be included when determining an average weekly wage.

The changes proposed in the permanent partial disability rating structure will significantly increase payments to the more severely injured workers while putting reasonable time limits on the length of time some benefits may be paid.

Employer disputes over who is responsible to pay claims can cost an employee their life savings, home and possessions. The proposed legislation would reduce the effects of those disputes on the worker by requiring the last employer of a worker to pay claims until a dispute is resolved. This will ensure worker's that they are quickly and adequately compensated.

The bill would prohibit discrimination against workers who have filed workers' compensation claims.

Vocational rehabilitation was an area labor and management both felt was necessary to change. The bill would make acceptance of rehabilitation services voluntary rather than mandatory.

First, under the present system it's estimated that many of those who enter a rehabilitation plan return to their prior occupation or an occupation of their choosing as is evidenced by the fact that 90 percent of all compromise and release agreements waive vocational rehabilitation.

Second, when carriers control a mandatory rehabilitation system that's tied to the claims process, as is done now, there are abuses on both sides and a lack of trust which results in program failure.

Labor supports a voluntary program which takes service provider selection away from the carriers and removes it from the claims process. The end result should be more cooperation from the injured worker and those providing rehabilitation services, less litigation and lower costs.

The injured worker will have control over the rehabilitation plan along with a quick method to resolve disputes over how the plan is carried out.

Labor agreed with management that language to prevent an avalanche of stress claims is necessary. This bill would provide adequate guidelines necessary to make these determinations. Without this preventative measure, we're going to see the floodgates to stress claims open causing further rate hikes and lost jobs.

Labor also supports denial of benefits to an employee who knowingly misrepresents his physical condition prior to employment. If an employee withholds information, he could be endangering himself or others since it's not known what duties that employee may be required to perform.

Labor's belief in supporting these and other changes is that a greater portion of worker compensation dollars will be directly allocated to injured workers while providing for a cost effective, equitable program which provides incentive for injured workers to return to work.

As expected, some attorneys and members of the medical profession have criticized our efforts because we focused our concerns on the litigation and disputes that are presently built into the system. I would hope that reasonable minds would put concerns for injured workers ahead of vested financial interests such as those which are held by the critics of our efforts.

In proposing the changes now before legislators, both labor and management realized some major issues are yet to be addressed. Both parties agree the process to reform the current system must continue. The complexity of the issue will require our cooperative, ongoing effort in the years ahead but we are off to a positive beginning.

#

RESIDUAL MARKET RATE DIFFERENTIAL

The loss experience of the reinsurance pools has been higher than voluntary market for many years in almost every state. This is as would be expected since, on average, company underwriters are able to identify the better insureds.

The assigned risk plan operated by NCCI provides a mechanism for all employers to obtain workers compensation insurance. The reinsurance pools have been developed for carriers to spread the average loss experience to each carrier equally. Carriers writing 99.9% of the workers compensation insurance in Pool states are in the National Reinsurance Pool. A comparison of the loss ratio (incurred losses ÷ standard premium) of the reinsurance pools to the voluntary market loss ratio consistently shows the assigned risks have higher loss ratios.

An assigned risk in Alaska is currently surcharged 10% above the rate for workers compensation as a voluntary risk (15% for aircraft classifications). This surcharge does not fully compensate for the increased losses; therefore the voluntary risks are subsidizing the assigned risks' losses. The residual market rate differential is intended to more accurately distribute the workers compensation losses among the voluntary and residual markets. This is accomplished through the use of a selected differential of 20%. The increase in premium due to the change from a 10% surcharge to a 20% differential is 9.1%, ($1.091 = 1.200 \div 1.100$). The actual indication in Alaska is 37%. The country-wide indication is a 50% differential. In addition to reducing the subsidy of the residual market by the voluntary market, the residual market rate differential will allow substandard risks to be written voluntarily at a rate between the voluntary rate and the residual market rate. This will reduce the number of assigned risks.

The volume and loss ratio of the residual market tend to fluctuate over time. However, the residual market rate differential is intended to remain constant over time. The selected value of 20%, lower than the indication in almost every state, will be proposed to be in effect until further notice. The voluntary rates will be lowered to reflect the effect of the differential. The reduction in voluntary rates depends on the approved residual market rate differential and the projected residual market premium share. The projected residual market premium share is 6.6%. This is the largest residual market premium share of the latest four policy years. The selection of the largest market share is intended to reflect the recent growth in the number of assigned risks. However, this program is expected to reduce the number of assigned risks. Therefore, as experience under this program accumulates, the average market share will replace the above estimate in the determination of the voluntary rate reduction.

For the current Alaska filing, the voluntary rate offset is .994 (-0.6%). Therefore, the voluntary market premium level change needed is +13.8% ($1.138 = 1.145 \times .994$). The residual market premium level change need is +24.2% ($1.242 = 1.138 \times 1.091$).

Attached are the following exhibits:

1. Alaska Indicated Differential
2. Countrywide Indicated Differential
3. Calculation of the Voluntary Rate Offset

ALASKA

Assigned Risk Experience Compared with Voluntary Experience

Policy Years 1981 through 1984 as of December 31, 1985

(Undeveloped)

	Earned Premiums	
	Amount	% of Voluntary
All Risks	523,164,193	-
Assigned Risks	23,121,787	4.62%
Voluntary Risks	500,042,406	100.00%

	Losses Incurred	
	Amount	% of Voluntary
All Risks	280,814,743	-
Assigned Risks	16,714,082	6.33%
Voluntary Risks	264,100,661	100.00%

Indicated Differential for Assigned Risks

1. Assigned Risk Losses as a Percent of Voluntary	6.33%
2. Assigned Risk Premiums as a Percent of Voluntary	4.62%
3. Indicated Differential (1)/(2)	1.37
4. National Council State # Indicated Differential (From Exhibit 2)	1.50
5. Formula Indication (See Note)	1.44
6. Selected Differential	1.20

Note:

$$\text{Formula} = \text{State Indicated Differential} * Z + (1-Z) * \text{National Council States \# Indicated Differential}$$

$$\text{where } Z = \frac{\text{State Assigned Risk Premium (millions)}}{\text{State Assigned Risk Premium (millions)} + 25.0}$$

Excludes states with State Funds and Open Competition states.

Countrywide*

Residual Market Experience Compared with Voluntary Experience

Policy Years 1981 through 1983 valued as of December 31, 1984

(Undeveloped)

	<u>Standard Earned Premiums</u>	
	<u>Amount</u> (000)	<u>Percent of Voluntary</u>
Countrywide	12,143,967	
Residual Market	845,638	7.48%
Voluntary	11,298,329	100.00%

	<u>Incurred Losses</u>	
	<u>Amount</u> (000)	<u>Percent of Voluntary</u>
Countrywide	7,536,907	
Residual Market	761,812	11.24%
Voluntary	6,775,095	100.00%

Indicated Differential for Residual Market Experience

1.	Residual Market Losses as Percent of Voluntary	11.24%
2.	Residual Market Premiums as Percent of Voluntary	7.48%
3.	Indicated Differential (1)÷(2)	1.50

* Excludes: States with State Funds
States with Competitive Rating Laws
States not in the National Reinsurance Pool

ALASKA

Calculation of Voluntary Rate Offset

Formula: $R \times V \times 1.091 + (1 - R) \times V = 1.00$

where: R = Residual Market Premium Share = 6.6%
V = Voluntary Rate Offset

$$\begin{aligned} (.066)(V)(1.091) + (1 - .066) (V) &= 1.000 \\ .072V + .934V &= 1.000 \\ 1.006V &= 1.000 \\ V &= .994 \\ \text{Voluntary Rate Offset} &= -0.6\% \end{aligned}$$

Files: M/W/P
 Date: 02/09/88 20:04:22
 Title: Alaska Workers Compensation
 Average Permanent Partial Indemnity Incurred Loss Development
 Source: MCCI Statistical Plan

Average Loss Incurred Per Claim at Report Number:

Policy Year	1	2	3	4	5
1979				\$20,697	\$21,891
1980			\$23,435	24,804	27,089
1981		\$23,723	26,132	29,886	
1982	\$20,299	28,831	33,769		
1983	23,477	32,648			
1984	24,690				

Report - Report Loss Development Factor:

Policy Year	1-2	2-3	3-4	4-5
1979				1.058
1980			1.058	1.092
1981		1.102	1.144	
1982	1.420	1.171		
1983	1.391			
Averages:	1.405	1.136	1.101	1.075
Cumulative:	1.890	1.345	1.184	1.075

Policy Year	(1) Average Loss Incurred At Most Recent Report	(2) Estimated Factor to Develop Loss to Report 5	(3) Estimated Average Loss at Report 5 (1) x (2)	(4) Estimated Factor to Develop Loss From Report 5 to Ultimate	(5) Estimated Ultimate Average Loss (3) x (4)
1979	21,891	1.000	21,891	1.100	24,080
1980	27,089	1.000	27,089	1.100	29,798
1981	29,886	1.075	32,127	1.100	35,340
1982	33,769	1.184	39,982	1.100	43,980
1983	32,648	1.345	43,912	1.100	48,303
1984	24,690	1.890	46,664	1.100	51,330

				All Claims						Claims Where Disability Was Denied							
				Claims With Attorney		Claims With Rehabilitation		Claims With Rehab & Attorney		Claims With Attorney		Claims With Rehabilitation		Claims With Rehab & Attorney			
Injury Year	Level (0-1-yr)	Rehab? (0-1-yr)	Disability Ended? (0-1-yr)	Claim Count	STD Duration	Claim Count	STD Duration	Claim Count	STD Duration	Claim Count	STD Duration	Claim Count	STD Duration	Claim Count	STD Duration		
82	0	0	0	1	3,776	0	0	0	0	0	0	0	0	0	0		
82	0	0	0	3	1,724	0	0	0	0	0	0	0	0	0	0		
82	0	0	0	47	29,450	0	0	0	0	07	29,450	0	0	0	0		
82	0	0	0	405	81,821	0	0	0	0	405	81,821	0	0	0	0		
82	0	1	0	2	2,458	0	0	2	2,454	0	0	0	0	0	0		
82	0	1	0	6	8,837	0	0	6	8,837	0	0	0	0	0	0		
82	0	1	0	22	10,726	0	0	22	10,726	0	0	22	10,726	0	0		
82	0	1	0	26	26,623	0	0	26	26,623	0	0	26	26,623	0	0		
82	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0		
82	0	1	0	1	0	1	0	0	0	0	0	0	0	0	0		
82	0	1	0	14	29,192	43	29,192	0	0	43	29,192	43	29,192	0	0		
82	0	1	0	30	26,400	50	26,400	0	0	50	26,400	50	26,400	0	0		
82	0	1	0	7	11,101	7	11,101	7	11,101	7	11,101	7	11,101	0	0		
82	0	1	0	4	3,293	4	3,293	4	3,293	4	3,293	4	3,293	0	0		
82	0	1	0	73	99,093	73	99,093	73	99,093	73	99,093	73	99,093	73	99,093		
82	0	1	0	43	31,939	43	31,939	43	31,939	43	31,939	43	31,939	43	31,939		
Totals:				692	279,061	233	148,046	217	143,492	131	97,048	772	231,276	243	134,646	152	110,423
Average Duration:					349		301		461		746		322		390		
Relative:						322	1401	272	1092	181	1121		31,643	6671	23,812	1093	
83	0	0	0	10	4,437	0	0	0	0	0	0	0	0	0	0		
83	0	0	0	16	29,133	0	0	0	0	0	0	0	0	0	0		
83	0	0	0	26	21,316	0	0	0	0	46	21,316	0	0	0	0		
83	0	0	0	379	84,133	0	0	0	0	379	84,133	0	0	0	0		
83	0	1	0	6	10,132	0	0	6	10,132	0	0	0	0	0	0		
83	0	1	0	7	7,250	0	0	7	7,250	0	0	0	0	0	0		
83	0	1	0	20	18,470	0	0	20	18,470	0	0	20	18,470	0	0		
83	0	1	0	31	26,833	0	0	31	26,833	0	0	31	26,833	0	0		
83	0	1	0	4	3,722	4	3,722	4	3,722	0	0	0	0	0	0		
83	0	1	0	3	1,470	3	1,470	3	1,470	0	0	0	0	0	0		
83	0	1	0	43	21,037	43	21,037	0	0	43	21,037	43	21,037	0	0		
83	0	1	0	31	23,222	31	23,222	0	0	31	23,222	31	23,222	0	0		
83	0	1	0	4	7,872	4	7,872	4	7,872	0	0	0	0	0	0		
83	0	1	0	3	8,920	3	8,920	3	8,920	0	0	0	0	0	0		
83	0	1	0	40	93,239	40	93,239	40	93,239	40	93,239	40	93,239	40	93,239		
83	0	1	0	44	27,948	44	27,948	44	27,948	44	27,948	44	27,948	44	27,948		
Totals:				703	311,764	736	146,906	707	147,030	113	87,329	720	240,042	220	119,668	103	73,207
Average Duration:					379		307		710		773		329		429		
Relative:						306	1302	271	1292	141	1141		30,393	1391	1212	1043	

111 121 131 141 151 161 171 181 191 201 211 221 231 241 251 261 271 281 291 301

All Claims

Claims Where Disability Has Ended

Year	All Injury (over 1000)	Subst? (1000-10000)	Disability Ended? (1000-10000)	All Claims		Claims With Attorney		Claims With Rehabilitation		Claims With Subst & Attorney		Claims With Attorney		Claims With Rehabilitation		Claims With Subst & Attorney			
				Count	TTD Duration	Count	TTD Duration	Count	TTD Duration	Count	TTD Duration	Count	TTD Duration	Count	TTD Duration	Count	TTD Duration		
84	0	0	0	11	31,674	0	0	0	0	0	0	0	0	0	0	0	0		
84	0	0	0	21	9,543	0	0	0	0	0	0	0	0	0	0	0	0		
84	0	0	0	42	21,647	0	0	0	0	0	0	92	21,647	0	0	0	0		
84	0	0	0	393	63,776	0	0	0	0	0	0	393	63,776	0	0	0	0		
84	0	0	0	6	9,321	0	0	6	9,321	0	0	0	0	0	0	0	0		
84	0	0	0	12	13,399	0	0	12	13,399	0	0	0	0	0	0	0	0		
84	0	0	0	29	24,199	0	0	29	24,199	0	0	29	24,199	0	0	29	24,199		
84	0	0	0	41	19,834	0	0	41	19,834	0	0	41	19,834	0	0	41	19,834		
84	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0		
84	0	0	0	0	973	0	0	0	0	0	0	0	0	0	0	0	0		
84	0	0	0	33	23,244	33	23,244	0	0	0	0	33	23,244	33	23,244	0	0		
84	0	0	0	37	21,180	37	21,180	0	0	0	0	37	21,180	37	21,180	0	0		
84	0	0	0	6	7,317	6	7,317	6	7,317	6	7,317	0	0	0	0	0	0		
84	0	0	0	12	18,319	12	18,319	12	18,319	12	18,319	0	0	0	0	0	0		
84	0	0	0	65	34,261	65	34,261	65	34,261	65	34,261	65	34,261	65	34,261	65	34,261		
84	0	0	0	42	27,854	42	27,854	42	27,854	42	27,854	42	27,854	42	27,854	42	27,854		
Totals				712	316,524	227	142,540	113	162,216	123	97,194	722	233,629	217	121,741	177	121,660	167	78,313
Average Duration					449		641		742		777		324		344		732		
Relativities						308	1308	278	1918	162	1472		30.642	1412	24.328	1923	14.878	2082	
85	0	0	0	21	7,979	0	0	0	0	0	0	0	0	0	0	0	0		
85	0	0	0	44	16,610	0	0	0	0	0	0	44	16,610	0	0	0	0		
85	0	0	0	348	27,879	0	0	0	0	0	0	348	27,879	0	0	0	0		
85	0	0	0	14	11,354	0	0	14	11,354	0	0	0	0	0	0	0	0		
85	0	0	0	18	13,743	0	0	18	13,743	0	0	0	0	0	0	0	0		
85	0	0	0	26	13,773	0	0	26	13,773	0	0	26	13,773	0	0	26	13,773		
85	0	0	0	33	24,772	0	0	33	24,772	0	0	33	24,772	0	0	33	24,772		
85	0	0	0	3	3,644	3	3,644	0	0	0	0	0	0	0	0	0	0		
85	0	0	0	7	3,244	7	3,244	0	0	0	0	0	0	0	0	0	0		
85	0	0	0	24	13,180	24	13,180	0	0	0	0	24	13,180	24	13,180	0	0		
85	0	0	0	41	11,608	41	11,608	0	0	0	0	41	11,608	41	11,608	0	0		
85	0	0	0	3	2,417	3	2,417	3	2,417	3	2,417	0	0	0	0	0	0		
85	0	0	0	8	9,333	8	9,333	8	9,333	8	9,333	0	0	0	0	0	0		
85	0	0	0	34	30,898	34	30,898	34	30,898	34	30,898	34	30,898	34	30,898	34	30,898		
85	0	0	0	41	18,798	41	18,798	41	18,798	41	18,798	41	18,798	41	18,798	41	18,798		
Totals				649	226,573	215	141,364	219	133,818	104	68,944	639	215,613	181	84,244	171	82,791	93	37,144
Average Duration					356		471		519		674		338		439		497		
Relativities						308	1302	282	1881	141	1241		292	1341	242	1911	192	1611	

CONSULTING ACTUARIES INC.

File No 001 Date 01/01/88 20:36:27
 Dates Durations are in days.

File No 001 Date 01/01/88 20:36:27
 Data From The Alaska Workers Compensation Information Handling System January 1988

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	
All Claims						Claims Where Disability Has Ended														
Injury Involvement?		Disability Ended?		Date	YTD Duration	Claims With Attor.?		Claims With Rehabilitation		Claims With Rehab & Attorney		Claims With Attorney		Claims With Rehabilitation		Claims With Rehab & Attorney				
Year	(6m,1yr)	(6m,1yr)	(6m,1yr)			Count	YTD	Count	YTD	Count	YTD	Count	YTD	Count	YTD	Count	YTD	Count	YTD	Count
86	0	0	0	26	0,920	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	17	5,144	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	42	7,532	0	0	0	0	0	0	42	7,532	0	0	0	0	0	0	
86	0	0	0	222	10,818	0	0	0	0	0	0	222	10,818	0	0	0	0	0	0	
86	0	0	0	7	3,625	0	0	7	5,435	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	7	2,332	0	0	7	2,332	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	12	3,957	0	0	12	3,957	0	0	12	3,957	0	0	12	3,957	0	0	
86	0	0	0	26	6,785	0	0	26	6,785	0	0	26	6,785	0	0	26	6,785	0	0	
86	0	0	0	3	1,216	3	1,216	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	1	238	1	238	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	20	4,398	20	4,398	0	0	0	0	20	4,398	20	4,398	0	0	0	0	
86	0	0	0	5	399	5	399	0	0	0	0	5	399	5	399	0	0	0	0	
86	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	26	10,843	26	10,843	26	10,843	26	10,843	26	10,843	26	10,843	26	10,843	26	10,843	
86	0	0	0	11	3,333	11	3,333	11	3,333	11	3,333	11	3,333	11	3,333	11	3,333	11	3,333	
Totals				657	75,920	26	21,357	28	32,933	48	12,166	372	37,685	26	19,197	28	26,638	37	11,196	
Average Duration					116		776		124		168		151		274		347		304	
Relativity					108		1392		211		242		148		148		1772		26142	
86	0	0	0	0	000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	17	1,043	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	42	1,216	0	0	0	0	0	0	42	1,216	0	0	0	0	0	0	
86	0	0	0	222	2,972	0	0	0	0	0	0	222	2,972	0	0	0	0	0	0	
86	0	0	0	7	373	0	0	7	573	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	1	132	0	0	1	132	0	0	1	132	0	0	1	132	0	0	
86	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	2	241	2	241	0	0	0	0	2	241	2	241	0	0	0	0	
86	0	0	0	2	86	2	86	0	0	0	0	2	86	2	86	0	0	0	0	
86	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
86	0	0	0	1	171	1	171	1	171	1	171	1	171	1	171	1	171	1	171	
Totals				64	7,224	4	485	5	670	2	171	17	5284	4	528	5	542	2	171	
Average Duration					112		120		134		84		148		148		148		171	
Relativity					17		1941		25		12		16		16		16		16	

CONSULTING ACTUARIES

File# 8571 Date: 02/09/88 20:24:22
 Note: Revisions are in days.

1988 Alaska Workers Compensation Personnel Partial
 Data From The Alaska Workers Compensation Information Handling System (January 1988)

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)
MI Claims												Claims Where Disability Has Ended							
Injury Year	Attorney (Level 1-3)		Stability (End of)	Claim		Claim With Attorney		Claim With Rehabilitation		Claim With Rehab & Attorney		Claim With Attorney		Claim With Rehabilitation		Claim With Rehab & Attorney		Count	Duration
	Count	Duration		Count	Duration	Count	Duration	Count	Duration	Count	Duration	Count	Duration	Count	Duration	Count	Duration		
82-87	0	0	0	00	26,900	0	0	0	0	0	0	0	0	0	0	0	0	0	0
82-87	0	0	0	00	47,193	0	0	0	0	0	0	0	0	0	0	0	0	0	0
82-87	0	0	1	1	57,063	0	0	0	0	0	0	232	87,183	0	0	0	0	0	0
82-87	0	0	1	1,000	268,230	0	0	0	0	0	0	1,000	268,230	0	0	0	0	0	0
82-87	0	0	0	37	88,913	0	0	77	38,913	0	0	0	0	0	0	0	0	0	0
82-87	0	1	0	32	47,963	0	0	52	82,963	0	0	0	0	0	0	0	0	0	0
82-87	0	1	1	118	70,271	0	0	118	70,271	0	0	118	70,271	0	0	118	70,271	0	0
82-87	0	1	1	279	163,251	0	0	279	163,251	0	0	279	163,251	0	0	279	163,251	0	0
82-87	1	0	0	11	9,984	13	9,984	0	0	0	0	0	0	0	0	0	0	0	0
82-87	1	0	0	13	4,081	13	4,081	0	0	0	0	0	0	0	0	0	0	0	0
82-87	1	0	1	267	88,254	267	88,254	0	0	0	0	267	88,254	267	88,254	0	0	0	0
82-87	1	0	0	218	84,898	218	84,898	0	0	0	0	218	84,898	218	84,898	0	0	0	0
82-87	1	0	0	20	28,787	20	28,787	20	28,787	20	28,787	0	0	0	0	0	0	0	0
82-87	1	1	0	31	32,323	31	32,323	31	32,323	31	32,323	0	0	0	0	0	0	0	0
82-87	1	1	1	201	193,256	201	193,256	201	193,256	201	193,256	201	193,256	201	193,256	201	193,256	201	193,256
82-87	1	1	1	184	189,275	184	189,275	184	189,275	184	189,275	184	189,275	184	189,275	184	189,275	184	189,275
Totals:				3,476	1,241,985	3,027	354,872	934	621,161	518	345,643	3,327	1,004,828	948	477,779	814	478,253	617	384,631
Average Duration					358		340		651		704		302		388		388		632
Relatibility						282	1648	262	1971	112	2091			282	1672	242	1938	182	2112

WILLIAM & ROBERTSON, INC. CONSULTING ACTUARIES

Files: INJURY
 Dates: 02/04/88 20:54:37
 Title: Alaska Workers Compensation
 Distribution of Permanent Partial Claims By Injured Body Part
 Data From The Alaska Workers Compensation Information Handling System
 (January 1988)

Body Part	Total Number Of Cases	Cases Involving Attorneys	Cases Involving Rehab	Scheduled Awards
----	-----	-----	-----	-----
Other	105	15	14	90
Ears	6	2	0	6
Eyes	55	5	6	52
Head	24	7	8	18
Neck	22	8	11	10
Hand	262	30	50	250
Fingers	565	33	19	560
Arm	190	37	40	178
Back	997	586	453	165
Other Trunk	217	58	61	183
Foot	222	30	37	213
Toes	30	3	2	29
Leg	682	113	141	642
Multiple	297	100	112	231
	-----	-----	-----	-----
Totals	3,676	1,027	954	2,627

File: INJURY
 Date: 02/09/88 20154137
 Title: Comparison of The Distribution of
 Permanent Partial Injuries By Body Part
 In The Alaska Workers Compensation Information
 Handling System And That Implicitly Used By The
 NCCI In Their Preliminary Evaluation Of SB322/HB352.

Body Part	NCIHS	NCCI
Other	3%	4%
Ears	0%	1%
Eyes	1%	1%
Head	1%	2%
Neck	1%	1%
Hand	7%	10%
Fingers	15%	23%
Arm	5%	8%
Back	27%	22%
Other Trunk	6%	1%
Foot	6%	6%
Toes	1%	2%

File: REP14

Date: 02/09/88 20:53:02

Title: Alaska Workers Compensation Permanent Partial

Data From Alaska Workers Compensation Information Handling System
(January 1988)

Relative Durations of Different Injuries For With Disability Ended

Note: Durations are in days.

(1)	(2)	(3)	(4)	(5)	(6)
Injury Year	Body Part	Claim Count	Total TTD Duration	Average TTD Duration (4)/(3)	Relativity (5)/Total (5)
82	Other	14	4,246	303	93%
82	Ears	2	19	10	3%
82	Eyes	12	1,352	129	40%
82	Head	5	3,304	661	203%
82	Neck	6	2,386	398	122%
82	Hand	54	15,661	290	89%
82	Fingers	117	10,271	88	27%
82	Arm	42	9,309	222	68%
82	Back	188	106,736	568	175%
82	Other Trunk	53	15,899	300	92%
82	Foot	47	7,692	164	50%
82	Toes	4	251	63	19%
82	Leg	148	36,076	244	75%
82	Multiple	81	37,874	468	144%
Total:		773	251,276	325	
83	Other	24	2,048	85	26%
83	Ears	0	0	—	—
83	Eyes	14	1,416	101	29%
83	Head	3	2,069	690	201%
83	Neck	6	3,482	580	169%
83	Hand	51	7,916	155	45%
83	Fingers	97	11,045	114	33%
83	Arm	41	10,713	261	76%
83	Back	199	111,574	561	164%
83	Other Trunk	38	15,671	412	120%
83	Foot	49	14,645	299	87%
83	Toes	12	777	65	19%
83	Leg	122	32,323	265	77%
83	Multiple	68	34,343	505	147%
Total:		724	248,042	343	

File: REP14

Date: 02/09/88 20:53:02

Title: Alaska Workers Compensation Permanent Partial
Data From Alaska Workers Compensation Information Handling System
(January 1988)

Relative Durations of Different Injuries For With Disability Awarded

Note: Durations are in days.

(1)	(2)	(3)	(4)	(5)	(6)
Injury Year	Body Part	Claim Count	Total TTD Duration	Average TTD Duration (4)/(3)	Relativity (5)/Total (5)
84	Other	21	3,641	173	49%
84	Ears	1	0	0	0%
84	Eyes	7	2,229	318	91%
84	Head	5	2,272	454	129%
84	Neck	3	266	89	25%
84	Hand	49	9,971	203	58%
84	Fingers	109	10,886	100	28%
84	Arm	27	8,549	317	90%
84	Back	199	119,934	603	172%
84	Other Trunk	54	20,478	379	106%
84	Foot	41	11,348	277	79%
84	Toes	8	759	93	27%
84	Leg	144	38,198	265	75%
84	Multiple	54	23,078	464	132%
Totals		722	253,629	351	
85	Other	21	1,810	86	30%
85	Ears	3	137	46	16%
85	Eyes	8	1,637	205	72%
85	Head	3	512	171	60%
85	Neck	1	716	716	251%
85	Hand	57	10,492	184	65%
85	Fingers	106	11,405	108	38%
85	Arm	39	11,100	285	100%
85	Back	186	84,064	463	162%
85	Other Trunk	33	10,511	319	112%
85	Foot	48	12,074	252	88%
85	Toes	4	474	119	42%
85	Leg	120	28,575	238	84%
85	Multiple	36	14,066	391	137%
Totals		645	189,573	285	

File: REP10

Date: 02/09/88 20:53:02

Title: Alaska Workers Compensation Permanent Partial
Data Free Alaska Workers Compensation Information Handling System
(January 1988)
Relative Durations of Different Injuries For With Disability Ended
Note: Durations are in days.

(1)	(2)	(3)	(4)	(5)	(6)
Injury Year	Body Part	Claim Count	Total TTD Duration	Average TTD Duration (4)/(3)	Relativity (3)/(Total) (5)
86	Other	15	60	4	3%
86	Ears	0	0	--	--
86	Eyes	8	470	59	38%
86	Head	3	84	28	18%
86	Neck	2	605	303	195%
86	Hand	27	3,810	141	91%
86	Fingers	88	5,624	62	40%
86	Arm	19	3,163	166	107%
86	Back	109	30,586	281	181%
86	Other Trunk	13	3,137	241	155%
86	Foot	17	1,944	114	74%
86	Toes	2	163	82	53%
86	Leg	62	6,573	106	68%
86	Multiple	7	1,466	209	133%
Totals:		572	57,485	155	
87	Other	1	0	0	0%
87	Ears	0	0	--	--
87	Eyes	2	134	67	99%
87	Head	1	121	121	178%
87	Neck	0	0	--	--
87	Hand	2	52	26	38%
87	Fingers	33	1,818	55	81%
87	Arm	4	204	51	75%
87	Back	13	1,272	98	144%
87	Other Trunk	2	89	45	64%
87	Foot	2	109	55	81%
87	Toes	0	0	ERR	ERR
87	Leg	10	869	87	128%
87	Multiple	1	157	157	231%
Totals:		71	4,825	68	

File: REP16

Date: 02/19/88 20:53:02

Title: Alaska Workers Compensation Permanent Partial
Data From Alaska Workers Compensation Information Handling System
(January 1988)

Relative Durations of Different Injuries For With Disability Ended

Note: Durations are in days.

(1)	(2)	(3)	(4)	(5)	(6)
Injury Year	Body Part	Claim Count	Total TTD Duration	Average TTD Duration (4)/(3)	Relativity (5)/Total (5)
82-87	Other	96	11,008	123	41%
82-87	Ears	6	156	26	9%
82-87	Eyes	51	7,438	146	48%
82-87	Head	20	8,262	413	138%
82-87	Neck	18	7,455	414	137%
82-87	Hand	240	47,902	200	66%
82-87	Fingers	350	50,869	92	30%
82-87	Arm	172	43,058	250	83%
82-87	Back	894	456,166	510	169%
82-87	Other Trunk	193	65,785	341	113%
82-87	Foot	204	47,812	234	77%
82-87	Toes	30	2,424	81	27%
82-87	Leg	606	142,614	235	78%
82-87	Multiple	247	112,984	457	151%
Totals:		3,327	1,004,830	302	

File: DURATION
 Date: 02/09/88 20:51:04
 Title: Alaska Workers Compensation Permanent Partial
 Duration of Temporary Benefits Received By Claimants
 Injured In 1982-84 Whose Disability Is Now Ended.
 Data From The Alaska Workers Compensation Information Handling System
 (January 1988)

DISTRIBUTION OF NUMBER OF CLAIMANTS BY DURATION OF TEMPORARY BENEFITS

Injury Year	Number of Years Temporary Benefits Paid				Total
	0-1	1-2	2-3	>3	
1982	537	120	52	44	753
1983	522	101	90	51	764
1984	495	112	54	59	720
	1574	333	196	154	2,219

ACTUAL TOTAL DURATION OF TEMPORARY BENEFITS

	Number of Years Temporary Benefits Paid				Total
	0-1	1-2	2-3	>3	
1982	66,712	60,629	45,512	78,427	251,276
1983	62,595	53,273	43,508	88,666	248,042
1984	53,347	59,542	50,087	90,653	253,629
	182,654	173,440	139,107	257,746	752,947

ACTUAL TOTAL DURATION OF TEMPORARY BENEFITS LIMITED TO TWO YEARS PER CLAIMANT

	Number of Years Temporary Benefits Paid				Total
	0-1	1-2	2-3	>3	
1982	66,712	60,629	37,960	32,120	197,417
1983	62,595	53,273	36,530	37,230	189,598
1984	53,347	59,542	40,080	43,070	196,039
	182,654	173,440	115,340	112,420	563,854

IMPACT OF TWO YEAR LIMITATION

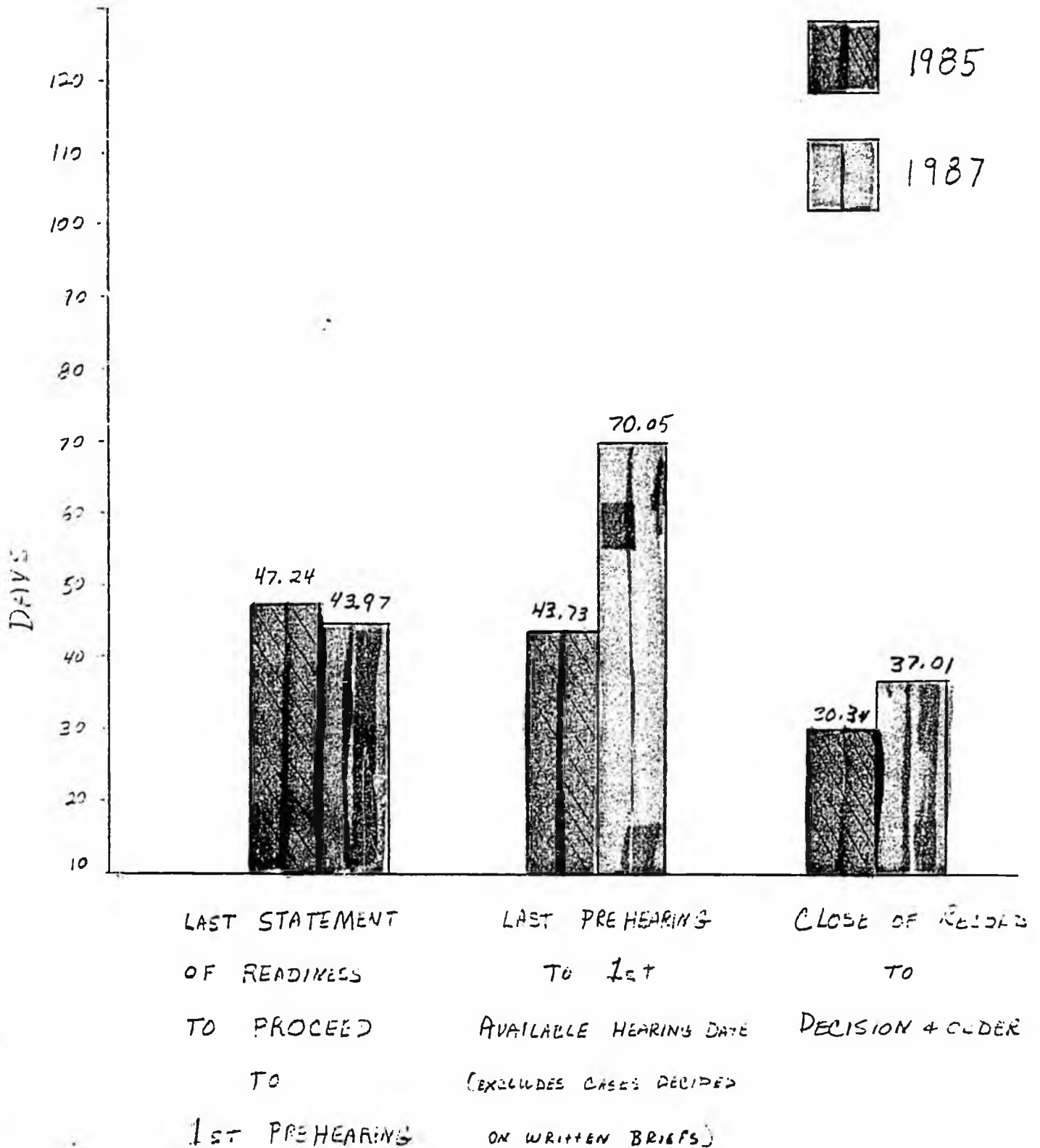
	Number of Years Temporary Benefits Paid				Total
	0-1	1-2	2-3	>3	
1982	100%	100%	83%	41%	79%
1983	100%	100%	84%	42%	76%
1984	100%	100%	82%	48%	78%
	100%	100%	83%	44%	78%

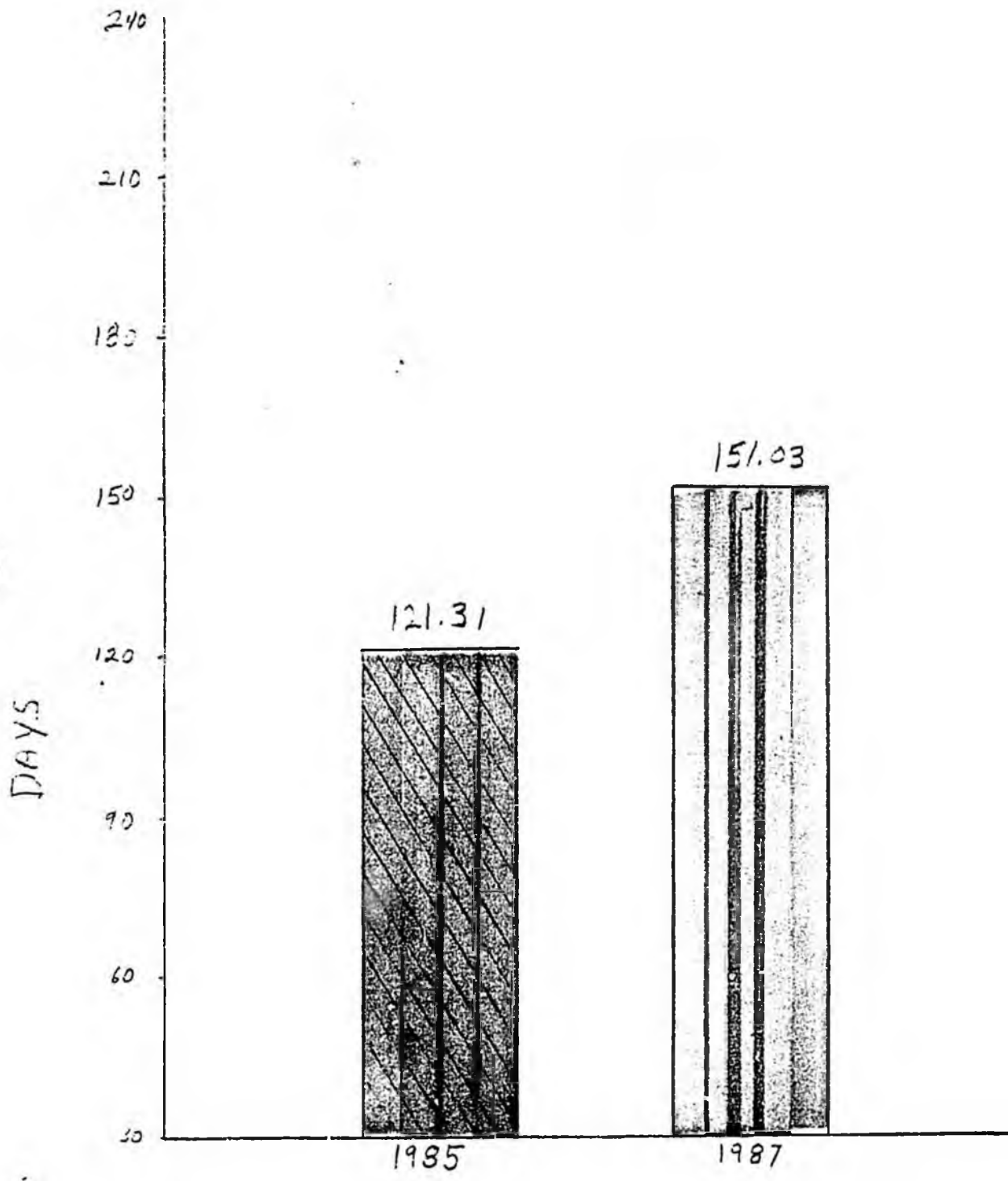
Date: 02/10/88 08:01:42
 Title: Alaska Workers Compensation
 Distribution of Claimants' ZIP Codes
 Data from the Alaska Workers Compensation Information System (January 1988)

	(1)	(2)	(3)	(4)	(5)
ZIP Code	Fatal	Permanent Total	Open Temporary Total	Total (1)+(2)+(3)	Distribution of (4)
Alaska	65	11	884	962	69%
9	21	3	236	260	19%
8	4	1	49	54	4%
7	3	2	36	41	3%
6	0	0	4	4	0%
5	0	1	33	34	2%
4	3	0	7	10	1%
3	1	0	11	12	1%
2	2	1	4	7	1%
1	1	0	4	5	0%
0	0	0	3	3	0%
Total:	100	19	1,273	1,392	

Note: * Open = Disability not ended.

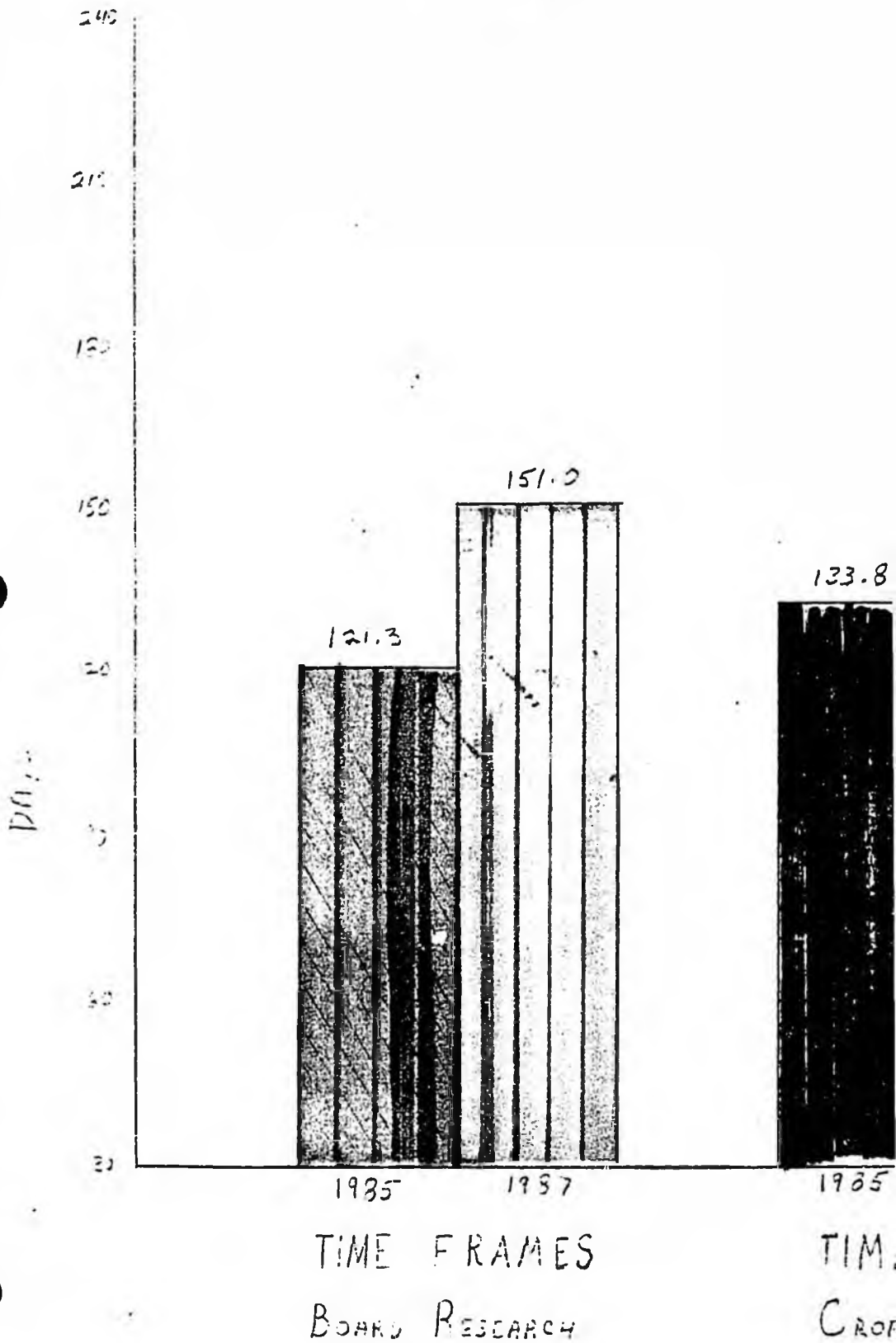
WORKERS' COMPENSATION HEARING TIME PERIODS





THE OVERALL EFFECT

THE REAL STORY



JANUARY

FEBRUARY

MARCH

APRIL

MAY

JUNE

JULY

AUGUST

SEPTEMBER

29 STATEMENT OF READINESS
TO PROCEED

14 VALENTINE'S DAY

25 SEWARD'S DAY

3 EASTER

9 LEGISLATURE
ADJOURNS (120 DAYS)

30 MEMORIAL DAY

28 ~~DECISION + ORDER (151)~~

4 INDEPENDENCE
DAY

4 SPACE SHUTTLE LAUNCH

5 LAZOR DAY

7 ~~DECISION + ORDER (224)~~

DAYS OF WAITING

Reasons for Differences - Board/Croft Graphs

Both Mr. Croft's and the Board's comparative analysis graphs show increases in the number of days to resolve workers' compensation disputes from 1985 to 1987. However, a recap of the steps in the Board's hearing process clearly shows that the more substantial delays are the result of action or inaction by the parties, i.e. claimant, claimant's attorney, defendant, defendant's attorney.

If it was Mr. Croft's intent to show the overall delays in the system, including those caused by the parties, then his graphs are helpful in the Legislature's analysis of delays in the workers' compensation system as a whole. However, if it was his intent, as implied in his January 29, 1988 testimony before the Joint House/Senate Labor and Commerce Committee, to illustrate Board delays his charts are misleading. The Committee will recall that Mr. Croft was specially asked how his data was computed.

1. Mr. Croft states in Chart #3 that he used "the 60 cases decided between October and December 31, 1987. As shown on the Board's chart, the Board issued 103 decisions during this time period. (The Board's total does not include Board actions or oral decisions on procedural matters). In 1985 the Board issued 74 decisions. Therefore, fewer cases are included in Mr. Croft's analysis than in the Board's.
2. Scheduling of prehearing dates are at the request of the parties, subject to a 20-30 day prehearing docket. Column III of the Board's chart, for instance, shows cases in which Statements were filed 153 and 190 days before a prehearing was ever requested. To the extreme, one case shows a statement filed in 1981, but no prehearing was requested until 1987. It is unknown how Mr. Croft included data on this type of case.

The days shown in Column III reflect scheduling records for prehearing dates requested by the parties. Realistically, a prehearing can be held within 20-30 days of request, but for the purpose of this analysis the numbers reflected in the records have been used.

3. Mr. Croft apparently used the time period between the 1st prehearing to hearing to show delays in obtaining a hearing date. The Board's chart, Column V shows that 21 prehearings were held in one case, and as many as 8 to 10 prehearing in other cases. Therefore, the time period between the first prehearing on a case and the regular hearing is not indicative of actual delays in the system by either the Board or parties. In many cases, the prehearing resolved the particular dispute and there was no need for a hearing until another dispute arose.

Mr. Croft's graph also does not taken into consideration cancellations or continuances on scheduled hearings. The following shows the number of hearings scheduled, heard, settled and continued in Anchorage during 1987.

# Cases Scheduled	875
# Heard	173 (20%)
# Settled	311 (35%)
# Continued	393 (45%)

Croft's Hearing Record:

# Cases Scheduled	211
# Heard	25 (13%)
# Settled	88 (43%)
# Continued	92 (44%)

As an example, a hearing on case #325152 was requested on March 27, 1987; prehearing held on April 30, 1987; 1st available hearing date May 19, 1987; hearing scheduled June 30, 1987; case continued to July 14, 1987; continued again to September 8, 1987. How are these hearing dates reflected in Mr. Croft's chart?

4. Mr. Croft's chart shows the delays in issuance of Board Decision and Orders from the Regular Hearing Date to the date the decision and order was issued; however, fails to include data on the number of days the record was held open at the parties' request. The increased number of days shown on his chart are illustrative of the increasing number of days (717) on 27 cases held open in 1987 over the number of days (91) on 5 cases in 1985, which were the result of the parties' requests. The Board's chart shows the number of days from Record Closure to decision and order, and also shows those cases where the Board's decisions were issued past the 30 days statutory time period (35 cases in 1985/38 cases in 1987).

The proposed amendment to AS 23.30.110(c) addresses the delay problems being experienced by the parties, i.e., injured workers and employers, and the docketing problems for the Alaska Workers' Compensation Board.

Board Recap of October, November, December 1985 and 1987 Cases

Column I. Workers' Compensation Case Number

Column II: Claimant's Last Name

Column III: Number of days between claimant's filing of the last Statement of Readiness to Proceed to 1st prehearing.

The Statement of Readiness to Proceed initiates Board action only to the extent that a prehearing is scheduled on a date specified by the parties. Currently, prehearings can be scheduled within time periods of 20-30 days, with shorter time periods available for hardship cases or if the parties agree to short notice.

Time frames in this column reflect the scheduling requests of the parties, not the scheduling efforts of the Board's prehearing officers.

Column IV: Number of Statements of Readiness to Proceed filed on case.

This column shows the total number of Statements filed throughout the history of the claim on various issues, many of which are settled before a Board hearing is scheduled.

Column V: Number of prehearings scheduled on case.

This column shows the total number of prehearings scheduled on a case, many of which resolve disputed issues at this level.

Column VI: Number of Hearing Dates assigned to case.

This column shows the total number of Board hearing dates scheduled that resulted in cancellations, continuances or hearings.

Column VII: Number of days from Last prehearing to 1st available hearing date.

Hearing dates are scheduled at the specific request and convenience of the parties, subject to availability on the Board's hearing dockets.

As noted, hearings can often be set at an earlier date, but are scheduled for a later date when parties request longer time frames. Statewide, the Board is docketed through May and June, however, many of the docketed cases will be cancelled or continued. Hardship cases can be docketed within 30 days or less as can cases in which the parties agree to short notice.

7a: This column shows the number of days Board hearing dates were extended at the specific request of the parties and also shows those cases decided on the record and on written briefs. (Briefed cases are not included in totals shown on comparative analysis graphs).

Column VIII: Number of days from Close of Hearing Record to D&O.

This column reflects the number of days for the Board to issue its Decision and Order after the close of the hearing record.

As noted, the hearing record is often left open at the specific request of the parties to supplement the record with briefs, depositions or further evidence. The Board can only decide the disputed and issue its decision after all hearing materials have been submitted and the official record closes.

8a: This column shows the number of days issuance of the Board's decision and orders were extended at the specific request of the parties in order to supplement the hearing record.

Oct, Nov, Dec. 1987

I	II	III	IV	V	VI	VII	7a	VIII	8a
Claim No.	Name	No. Days SRP to 1st PH	No. SRP's	No. PH's	No. Hearing Dates	No. Days from 1st Available (Date Heard/Comments)	Last PH to Hearing Date	No. Days Close to D&O (Hearing Date to	of Record D&O)
707899	Sawvell	57	1	1	1	12		48	(60)
100135	Griffith	53	4	7	3	14	(Briefs)	41	
624921	Gilbert	21	1	1	1	44		42	(57)
101827	Dukowitz	47	4	8	11	96		32	(43)
326609	Galbraith	43	1	3	1	105		72	(99)
509799	Hawkins	57	2	5	3	14	(Briefs)	30	
625770	Morrison	35	1	1	2	14	(Briefs)	30	
313079	Pugh	51	5	6	5	92	(120)	70	
602445	Strahmann	22	3	1	3	85	(196)	19	(34)
627181	Conner	11	2	1	1	14	(Briefs)	8	
514557	Hintsala	53	4	5	4	81		20	
615133	Robertson	27	1	1	1	96		20	
622089)	Warrick	11	1	4	1	93		8	(16)
622090)									
424570	Gernandt	19	2	5	2	59	(Briefs)	62	
101651	Pohlman	87	2	4	6	87		29	
514783	Wainscott	22	3	4	3	59		78	(106)
617690	Kuharich	73	2	1	2	44		3	(10)
615912	Alderson	47	3	8	3	14	(Briefs)	61	
101462	Stovall	85	4	3	3	2	(71) (Briefs)	56	
512883	Tuthill	134	1	2	3	9	(122) (Briefs)	68	
318098	Ousley	25	4	3	2	30	(57) (Briefs)	99	
427839	Kramer	62	3	6	3	17		84	
531783	Gossett	23	2	3	2	46		118	
431363	Osborne	(27 days to Hrg)	1	0	1	27	(Briefs)	7	
705108	Lawson	93	1	1	1	56		31	
325152	Aumiller	28	3	2	3	20	(131) (Briefs)	7	
328279	Barry	33	2	2	1	29	(Briefs)	28/28	
517845	Hunt	36	1	2	2	65	(84)	22	
215571	Davis	65	1	1	1	14	(Briefs)	29	
526071	Millwood	(14 days to Hrg)				14	(Briefs)	29	
100427	Phillips	(File in court)				14	(Briefs)	29	
401807	Ostby	43	2	2	5	117	(145)	31	
101266	Hill	(1981)	1	1	1	31	(1987)	33	
702689	Brookins	33	1	1	2	109	(173)	13	

Oct, Nov, Dec. 1987

I	II	III	IV	V	VI	VII	7a	VIII	8a
Claim No.	Name	No. Days SRP to 1st PH	No. SRP's	No. PH's	No. Hearing Dates	No. Days from 1st Available (Date Heard/Comments)	Last PH to Hearing Date	No. Days Close to D&O (Hearing Date to	of Record D&O)
517702)	Svejkovsky	28	2	2	1	94		50	(79)
620761)									
101396	Bailey	28	3	4	2	49		2	(29)
319502	Hardy	47	3	3	4	68	(264)	79	(105)
421557	Eckman	45	3	2	5	92	(220)	14	
513922	Galindo	65	2	2	2	95		6	(17)
715452	Wilkerson	4	1	1	1	45		10	
620467	Bruns	42	2	2	3	14	(Briefs)	83	
224248	Tilghman	20	1	1	2	87	(116)	12	
323506	Lane	37	4	4	1	13	(Briefs)	29	
402405	Epperson	20	5	6	5	107		17	
101862	Rapp	153	1	1	1	87		76	
219459	King	54	5	10	5	85		7	
218424	Lucas	28	2	2	1	108		22	
414378	Starr	29	3	6	1	102		51	(80)
621295	Woods	37	1	1	1	101		26	(109)
506910	Cook	39	6	4	4	14	(Briefs)	27	
507721	Thornton	42	2	3	1	14	(Briefs)	28	
421658	Miller	21	2	3	2	107	(135)	31	
505753)	Bell	32	2	9	5	49	(180)	7	
522069)									
410173	Gillen	121	2	3	2	90		78	
627451	Haskins	23	2	2	1	102	(108)	24	(64)
704925	Scales	30	1	1	2	61	(106)	49	
627534	Douglas	36	2	2	2	29		14	
619904	Fischer	24	1	1	1	29		81	
425369	Moretz	(Superior Court Remand)			1	49	(Briefs)	35	
615385	Ford	28	3	3	3	22		30	(57)
509455	Harris	14	6	2	2	17	(Briefs)	85	
301102	Johnson	51	4	5	2	89	(115)	30	
301087	Castleberry	46	8	6	8	36	(134)	35	
424779	Bassett	65	2	2	1	19		152	(164)
619959	Chmela	32	1	1	1	108	(139)	94	
410421	Schwab	40				24	(Briefs)	23	
620053	Scott	22	1	1	1	65	(351)	12	

Oct, Nov, Dec. 1987

I	II	III	IV	V	VI	VII	VIII	8a
Claim No.	Name	No. Days SRP to 1st PH	No. SRP's	No. PH's	No. Hearing Dates	No. Days from Last PH to 1st Available Hearing Date (Date Heard/Comments)	No. Days Close of Record to D&O (Hearing Date to D&O)	
607585	Smith	73	1	2	1	82 (108)	22	(37)
708627)	Ince	89	1	2	1	65	15	
511015)								
509536	Jones	1	3	4	3	95 (185)	5	(18)
315000	Phelan	56	5	6	5	114 (177)	5	
101171	Munson	(1983)	4	6	8	65 (158)	188	
500125)	Carlson	17	2	3	3	36	28	(43)
707992)								
524424)	McMahon	47	4	2	2	35	15	
501099)								
101784	Sherrod	8	1	6	3	23 (Briefs)	19	
213136	Cessnun	55	2	2	1	14 (Briefs)	151	
709187	Cortay	20	1	1	1	52	53	
704308	Cortay	12	1	1	1	59	56	
101258	Odom	(1983)	3	1	2	56 (Board Reopened)	21	(146)
203244	Moran	26	3	2	3	69	22	
529939)	Earwood	44	1	4	3	39	9	(38)
622925)								
305966	Mendez	44	3	3	3	35	29	
513982	Owens	17	1	3	1	83	21	
100253)	Miller	34	7	9	1	26 (Briefs)	9	
220551)								
431391	Hayes	55	1	1	1	103 (142)	36	(50)
624999	Nichols	46	1	1	1	58	30	
623352	Woodward	46	1	1	1	58	30	
319152	Rock	25	5	3	1	21 (Briefs)	93	
206851	Cuffe	31	3	6	5	62	34	
431462	Turnbull	29	1	3	1	89 (113)	26	
101449	Crouch	29	3	4	3	16 (Briefs)	7	
209520	Alles	53	2	3	1	7 (Briefs)	8	
42655	Fernandez	59	3	1	1	61	8	
511182	Urioste	50	2	2	2	78 (202)	23	
621897	Patterson	27	3	2	1	21	12	(40)
701714	Brooks	27	1	2	3	30 (90)	14	(28)
620457	Hopkins	53	1	2	1	70	15	
421830	MacMartin	77	1	1	1	71	15	

Oct, Nov, Dec. 1987

I	II	III	IV	V	VI	VII	7a	VIII	8a
Claim No.	Name	No. Days SRP to 1st PH	No. SRP's	No. PH's	No. Hearing Dates	No. Days from Last PH to 1st Available Hearing Date (Date Heard/Comments)		No. Days Close of Record to D&O (Hearing Date to D&O)	
623535	Miller	43	2	2	1	91		23	(37)
501855	Grove	145	3	1	1	98	(126)	29	(72)
602403	Nickerson	23	2	4	3	78		22	
601434	Stockley	117	3	2	1	14	(Briefs)	15	

w/Briefed Cases w/o Briefed Cases

TOTALS:	95/4177	102/5668	(73/5114)	103/3812 (4529)
AVERAGES:	43.97	55.57	(70.05)	37.01 (43.97)

Oct, Nov, Dec. 1985

I	II	III	IV	V	VI	VII	7a	VIII	8a
Claim No.	Name	No. Days SRP to 1st PH	No. SRP's	No. PH's	No. Hearing Dates	No. Days from 1st Available (Date Heard/Comments)	Last PH to Hearing Date	No. Days Close to D&O (Hearing Date to	of Record D&O)
429989	Ensley	37	1	2	1	55	(63)	25	
100960	Money	(18 days to Hrg)	2	0	1	18	(Briefs)	33	
420471	Davis	43	1	2	1	67		34	
101063)	Smith	Superior Court Remanded				24	14	(Briefs)	43
101178									
321760	Connolly	34	3	2	2	14	(Briefs)	21	
300501	Parenteau	78	4	4	3	35	(82)	32	
422406	Scholl	19	2	1	2	24	(Briefs)	34	
215673)	Seymour	65	6	5	8	64		34	
21492?;									
100598	Eggleston	51	1	6	7	14	(Briefs)	42	
504217	Osborn	43	1	1	1	57		48	
100568)									
227824	Stephens	(1981)	3	4	6	14	(Briefs)	23	
101473)	Wade	15	3	4	5	10	(95)	42	
227574									
101663	Stites	41	3	2	5	23		40	
315538)	Beebe	32	2	2	2	63		42	
320596)									
302161	Kinter	48	8	6	4	30	(66)	51	
502860	Smith	69	3	2	4	31		60	
100743	Newton	(30 days to Hrg)	2	0	5	14	(Briefs)	19	
428078)	Davis	21	2	5	4	62		22	
100843	VonAlvensleben	35	2	3	4	14	(Briefs)	21	
213235)	Willis	62	3	6	5	66		35	
304273)									
312752)									
426267)									
503729	Hogan	36	1	1	1	51	(80)	37	(50)
401155	Garcia	116	2	2	2	63		11	
100427	Phillips	125	1	2	1	30		63	(69)
101061	Keyes	40	1	1	5	31	(114)	43	(72)
216721	Aragon	(33 days to Hrg)	1	0	1	33	(Briefs)	15	
422429	Standord	22	2	1	2	77		15	
516560	Sullivan	24	1	1	1	34		7	
202965	Baker	36	2	2	3	59	(76)	6	(22)

Oct, Nov, Dec. 1985

I	II	III	IV	V	VI	VII	7a	VIII	8a
Claim No.	Name	No. Days SRP to 1st PH	No. SRP's	No. PH's	No. Hearing Dates	No. Days from Last PH to 1st Available Hearing (Date Heard/Comments)	No. Days from Last PH to Hearing Date	No. Days Close of Record to D&O (Hearing Date to D&O)	No. Days Close of Record to D&O
101787	Hester	(70 days to Hrg)	1	0	2	14	(Briefs)	6	
101702	Kincaid	(100 days to Hrg)	1	0	1	29	(Briefs)	40	
415670	McClure	14	4	3	7	23	(Briefs)	40	
330505	Brossow	13	5	6	6	53		19	
506480	Williams	35	6	7	7	16	(58)	43	
204055	Lewis	62	1	1	1	14	(Briefs)	30	
405876	Standley	22	2	3	2	7	(Briefs)	30	
207923	Thompson	157	1	2	1	51		19	
101705	Eldridge	190	3	1	2	14	(Briefs)	15	
100843	Estabrook	39	4	8	3	11	(Briers)	36	
311130	Ribeiro	48	3	4	3	14		29	
425395	Taylor	22	1	1	1	30		15	
509455	Harris	14	1	1	2	14		20	
429257	Landresse	58	1	1	2	65	(227)	30	
400607	Sutton	39	2	2	2	52		30	
413328	Eby	36	2	3	2	41	(75)	3	
326905)	Fahlsing	52	1	1	1	20		72	
405854)									
101662	Hewitt	(18 days to Hrg)	1	0	1	14	(Briefs)	16	
100528	Fitzgerald	47	1	1	1	25		43	
325002	Morrison	66	2	2	2	14	(Briefs)	30	
402362	Shannon	62	1	2	2	14	(84) (Briefs)	35	
204915	Donovan	36	4	4	3	37		30	
101712	Shippy	23	4	3	4	14	(Briefs)	51	
101794	Zeddies	(45 days to Hrg)	1	0	1	45	(Briefs)	43	
328505	Day	62	4	5	4	44	(87)	30	(57)
203498	Giles	20	1	4	3	14	(Briefs)	16	
514403	Marll	7	6	4	4	64	(105)	40	
101458	Engfer	(1979)	4	3	10	14	(Briefs)	30	
220243	Gray	236	3	3	2	56		34	
405269	Harding	16	1	1	2	43	(50)	27	
101530)	Losky	36	3	3	6	53		14	
318827)									
219459	King	53	6	11	5	30	(Briefs)	26	
507089	Goodwin	43	4	3	4	23		22	
101026)	Spurlin	36	5	6	4	14	(Briefs)	40	
300928)									

Oct, Nov, Dec. 1985

I Claim No.	II Name	III No. Days SRP to 1st PH	IV No. SRP's	V No. PH's	VI No. Hearing Dates	VII No. Days from Last PH to 1st Available Hearing Date (Date Heard/Comments)	7a (Briefs)	VIII No. Days Close of Record to D&O (Hearing Date to D&O)	8a (Briefs)
100212	Rowe	(1981)	5	4	10	36		29	
100366	James	(1979)	7	2	7	30	(Briefs)	31	
100716	Marick	29	4	2	5	62		31	
100241	Stites	40	1	2	1	1	(Briefs)	17	
100253	Miller	34	7	9	1	14	(Briefs)	20	
101726)	Gertsch	7	3	5	5	49		53	
330639)									
402424	Green	20	2	2	2	14	(Briefs)	28	
101639	Beauchamp	42	5	8	6	38	(Briefs)	8	
205812	McClain	41	4	4	5	37		49	
101524	Stoeffen	30	2	3	3	65	(Briefs)	2	
101268	Diamond	29	3	6	2	30	(Briefs)	36	
502828)	Rudolph	24	2	3	2	7	(Briefs)	39	
510285)									
516755)									

w/Briefed Cases w/o Briefed Cases

TOTALS:	62/2929	74/2436	(41/1793)	74/2245 (2336)
AVERAGES:	47.24	32.92	(43.73)	30.34 (31.57)

WORKLOAD REPORT

<u>Activity</u>	<u>FY87</u>		<u>FY86</u>		<u>FY85</u>
1. Injuries:					
Time Loss	9,251	-13.4%	10,686	-8%	11,636
No Time Loss & Other	16,550	-10.3%	18,459	-5%	19,374
Fatality	40	-9.0%	44	-10%	49
TOTAL INJURIES:	25,841	-11.5%	29,189	-5%	31,059
2. Controversions	5,663	-5.0%	5,934	+28%	4,641
3. Decision and Orders	316	-10.0%	355	-2%	363
4. Board Actions (includes 16 oral D&O's)	46	-10.0%	51	-16%	61
5. Compromise & Releases:					
Approved	1,006	+44.0%	701	+49%	472
Denied	174	+12.0%	156	-9%	172
6. Hearings:					
Scheduled	1,370	+20.0%	1,146	+6%	1,083
Heard	425	+25.0%	340	-9%	372
Partially Resolved/ Settled	383	+41.0%	271	+13%	239
Continued	565	+5.0%	537	+11%	484
7. Applications Processed	1,794	+15.0%	1,562	+23%	1,274
8. Statements Processed	1,275	+23.0%	1,037	+36%	762
9. Petitions Processed	266	+158.0%	103	+23%	84
10. Compensation Reports Received	25,223	+4.0%	24,151	-4%	25,281
11. Prehearings Held	2,890	+18.0%	2,445	+24%	1,971

WORKERS' COMPENSATION
QUARTERLY REPORT

1st Quarter, FY88

1. Claims scheduled for Board Hearing.

<u>MONTH</u>	<u>ANCHORAGE</u>	<u>FAIRBANKS</u>	<u>JUNEAU</u>	
<u>July</u>	<u>66</u>	<u>13</u>	<u>4</u>	
<u>August</u>	<u>75</u>	<u>15</u>	<u>15</u>	
<u>September</u>	<u>77</u>	<u>20</u>	<u>3</u>	
<u>TOTALS</u>	<u>218</u>	<u>48</u>	<u>22</u>	<u>288</u>

2. AVERAGE number of DAYS between statement rcvd/Pre-hearing notice and date case is schedule for hearing process.

<u>MONTH</u>	<u>ANCHORAGE</u>	<u>FAIRBANKS</u>	<u>JUNEAU</u>	<u>AVG # DAYS</u>
<u>July</u>	<u>79.36</u>	<u>20.75</u>	<u>-</u>	<u>69.38</u>
<u>August</u>	<u>82.80</u>	<u>21.20</u>	<u>20.75</u>	<u>66.19</u>
<u>September</u>	<u>77.18</u>	<u>25.00</u>	<u>36.00</u>	<u>68.54</u>
<u>TOTALS</u>	<u>80.05</u>	<u>22.43</u>	<u>22.40</u>	<u>67.87</u>

3. AVERAGE number of DAYS after close of hearing record until Board decision is issued.

<u>MONTH</u>	<u>ANCHORAGE</u>	<u>FAIRBANKS</u>	<u>JUNEAU</u>	<u>AVG. # DAYS</u>
<u>July</u>	<u>32.24</u>	<u>52.89</u>	<u>53.50</u>	<u>38.43</u>
<u>August</u>	<u>37.33</u>	<u>59.13</u>	<u>51.25</u>	<u>45.51</u>
<u>September</u>	<u>41.58</u>	<u>24.88</u>	<u>63.75</u>	<u>38.90</u>
<u>TOTAL</u>	<u>37.22</u>	<u>45.92</u>	<u>56.70</u>	<u>42.01</u>

4. Percentage of worker compensation claims in which employers timely file injury reports within 10 days.

of time loss claims files 2,764 ; # filed within 10 days 1,576 = 57 %

Total # of claims filed 7,692 - 86 (jurisdiction) = 7606

5. Percentage of workers compensation claims in which timely first payments is made to injured worker within 21 days (excl. CNTR). for current fiscal year injuries.

	<u># of Payments.</u>	<u># Pymts. 21 days</u>	<u>%</u>
CARRIERS.....	<u>959</u>	<u>805</u>	<u>84</u>
SELF-INSURED.....	<u>213</u>	<u>172</u>	<u>81</u>
TOTALS CLAIMS.....	<u>1,172</u>	<u>977</u>	<u>83</u>

6. Percentages of ~~fixx~~ payments reported within 28 days (injuries during this qtr. only)

CARRIERS.....	<u>99.786%</u>
SELF-INSURED.....	<u>100.0%</u>

cc: Jacque
~~Bozza~~ Jan
 Elaine
 File

WORKERS' COMPENSATION
QUARTERLY REPORT

2nd Quarter FY 88

1. Claims scheduled for Board Hearing.

<u>MONTH</u>	<u>ANCHORAGE</u>	<u>FAIRBANKS</u>	<u>JUNEAU</u>	
<u>October</u>	<u>86</u>	<u>16</u>	<u>5</u>	
<u>November</u>	<u>63</u>	<u>13</u>	<u>4</u>	
<u>December</u>	<u>89</u>	<u>12</u>	<u>5</u>	
<u>TOTALS</u>	<u>238</u>	<u>41</u>	<u>14</u>	<u>293</u>

2. AVERAGE number of DAYS between statement rcvd/Pre-hearing notice and date case is schedule for hearing process.

<u>MONTH</u>	<u>ANCHORAGE</u>	<u>FAIRBANKS</u>	<u>JUNEAU</u>	<u>AVG # DAYS</u>
<u>October</u>	<u>89.52</u>	<u>24.60</u>	<u>-0-</u>	<u>77.42</u>
<u>November</u>	<u>84.10</u>	<u>24.00</u>	<u>18.00</u>	<u>73.96</u>
<u>December</u>	<u>86.14</u>	<u>23.67</u>	<u>33.50</u>	<u>77.86</u>
<u>TOTALS</u>	<u>86.72</u>	<u>24.21</u>	<u>28.33</u>	<u>76.57</u>

3. AVERAGE number of DAYS after close of hearing record until Board decision is issued.

<u>MONTH</u>	<u>ANCHORAGE</u>	<u>FAIRBANKS</u>	<u>JUNEAU</u>	<u>AVG. # DAYS</u>
<u>October</u>	<u>37.00</u>	<u>30.63</u>	<u>80.50</u>	<u>40.15</u>
<u>November</u>	<u>35.20</u>	<u>19.91</u>	<u>53.50</u>	<u>31.74</u>
<u>December</u>	<u>32.05</u>	<u>16.86</u>	<u>57.40</u>	<u>32.65</u>
<u>TOTAL</u>	<u>34.92</u>	<u>22.38</u>	<u>65.09</u>	<u>34.97</u>

4. Percentage of worker compensation claims in which employers timely file injury reports within 10 days.

of time loss claims files 2074 ; # filed within 10 days 1120 = 54 %
 Total # of claims filed 5532 - 40 (jurisdiction) = 5492

5. Percentage of workers compensation claims in which timely first payments is made to injured worker within 21 days (excl. CNTR). for current fiscal year injuries.

	<u># of Payments.</u>	<u># Pymts. 21 days</u>	<u>%</u>
CARRIERS.....	<u>676</u>	<u>508</u>	<u>84</u>
SELF-INSURED.....	<u>198</u>	<u>158</u>	<u>80</u>
TOTALS CLAIMS.....	<u>874</u>	<u>726</u>	<u>83</u>

6. Percentages of ~~xxxx~~ payments reported within 28 days for injuries occurring in this qtr.

CARRIERS.....	<u>99.922</u>
SELF-INSURED.....	<u>99.365</u>

cc: Jacque
~~Bxxxx~~ Jan
 Elaine
 File

WORKERS' COMPENSATION

QUARTERLY REPORT

2nd Quarter - FY '86

1. Claims scheduled for Board Hearing.

<u>MONTH</u>	<u>ANCHORAGE</u>	<u>FAIRBANKS</u>	<u>JUNEAU</u>	
<u>October</u>	<u>69</u>	<u>19</u>	<u>7</u>	
<u>November</u>	<u>59</u>	<u>10</u>	<u>13</u>	
<u>December</u>	<u>75</u>	<u>10</u>	<u>3</u>	
<u>TOTALS</u>	<u>203</u>	<u>39</u>	<u>23</u>	= 265

2. AVERAGE number of DAYS between statement rcvd/Pre-hearing notice and date case is scheduled for hearing process.

<u>MONTH</u>	<u>ANCHORAGE</u>	<u>FAIRBANKS</u>	<u>JUNEAU</u>	<u>TOTAL AVG.</u>
<u>October</u>	<u>48.2</u>	<u>32.0</u>	<u>21.5</u>	<u>44.0</u>
<u>November</u>	<u>37.6</u>	<u>29.9</u>	<u>29.8</u>	<u>35.5</u>
<u>December</u>	<u>32.9</u>	<u>27.3</u>	<u>35.0</u>	<u>32.2</u>
<u>TOTALS</u>	<u>40.2</u>	<u>30.3</u>	<u>28.4</u>	<u>37.9</u>

3. AVERAGE number of days AFTER close of hearing record until Board decision is issued.

<u>MONTH</u>	<u>ANCHORAGE</u>	<u>FAIRBANKS</u>	<u>JUNEAU</u>	<u>TOTAL AVG.</u>
<u>October</u>	<u>30.1</u>	<u>27.0</u>	<u>30.0</u>	<u>29.5</u>
<u>November</u>	<u>34.1</u>	<u>16.4</u>	<u>42.3</u>	<u>29.0</u>
<u>December</u>	<u>31.3</u>	<u>27.3</u>	<u>22.3</u>	<u>26.2</u>
<u>TOTALS</u>	<u>31.8</u>	<u>21.8</u>	<u>25.9</u>	<u>28.0</u>

4. Percentage of worker compensation claims in which employers timely file injury reports within 10 days.

54%

5. Percentage of worker compensation claims in which timely first payment to injured worker is made within 21 days (excl. cntr).

CARRIERS -- 82%
 SELF-INSUREDS -- 83%

Promptness for reporting first payments within 28 days (excl cntr).

CARRIERS -- 100%
 SELF-INSUREDS -- 100%

cc: Jacque
 Becca
 Elaine

MEDICAL TREATMENT DATA
FROM
DECISIONS BY THE ALASKA WORKERS' COMPENSATION BOARD

<u>Case No.</u>	<u>Approx. No. Treatment Time Frame</u>	<u>Approx. Total Treatments</u>	<u>Approx. Frequency Treatments</u>	<u>Notes to Decisions</u>
1) 225522 417689	1/29/79 - 5/8/86	279	1 per 1.75 days to 1 per 2 weeks	Board finds employee is dependent on chiropractic care per testimony of expert witness Dr. Scott Haldeman
2) 301087	1/31/83 - 8/3/87	420	1.7 per week	Addictive quality of chiropractic treatment cited by Dr. Haldeman
3) 223942	10/82 - 2/87	261	4-5 per week to 4-6 per month	
4) 101141	9/81 - 9/86	239	1 per 2 days to 1 per 10.5 days	
5) 309291	4/82 - 10/86	168	4 per week to 1 per month	Treatments exceed standard cited by Dr. Haldeman
6) 620042	9/16/86 - 8/25/87	127	1 per 2-14 days	
7) 430147	10/17/85 - 4/86	59	1 per 3.08 days	Treatments exceed standard cited by Dr. Haldeman
8) 78-09-0255	11/8/78 - 4/81	Unknown	1 per day to 3 per week (at 2 x day)	
9) 76-03-0664	3/19/80 - 3/4/81	100	1 per 3 days	

<u>Case No.</u>	<u>Treatment Time Frame</u>	<u>Approx. No. Total Treatments</u>	<u>Approx. Frequency Treatments</u>	<u>Notes to Decisions</u>
10) 100335	7/25/80 - 1/23/81	53	1 per 3.45 days	Board find disability caused by metastasized cancer and not by chiropractic treatment for injury
11) 226696	1/5/83 - 4/13/83	45	4 per week to 1 per week	Board member in concurrent opinion admonishes chiropractor for "excessive and costly care."
12) 325011	1/84 - 1/86	35	1 per week to 1 per month	Board denies myotherapy treatment referral by chiropractor
13) 76-10-0061	1/25/78 - 8/3/88	18	1 per 10.5 days	Back treatment by chiropractor not related to on-the-job knee injury.

HIAA SURGICAL PREVAILING HEALTHCARE CHARGES SYSTEM
RULES AND REQUIREMENTS FOR PURCHASING 1987 OUTPUTS

I. Categories of Eligible Subscribers

Eligible subscribers are classified into four categories.

- A. Claims Subscribers - organizations which directly administer medical claims. Examples of claims subscribers are: Commercial insurance companies, Blue Cross and/or Blue Shield Plans, third-party administrators and self-administering organizations.
- B. HMOs and PPOs - Health Maintenance Organizations and Preferred Provider Organizations.
- C. Research Subscribers - non-profit organizations who use the output data for research purposes only. Examples of research organizations are: academic institutions and governmental agencies.
- D. Consulting Organizations and Utilization Review Organizations - Examples of consulting organizations are: actuarial and/or employee benefit consulting organizations and claims and/or medical auditing organizations.

NOTE: If an organization does consulting and/or utilization review but also directly administers any medical claims, then the organization MUST subscribe as a claims subscriber.

IMPORTANT: Requests for subscription MUST be accompanied by documentation sufficient to classify the subscriber into one of the above four categories. At minimum, this documentation will include some current annual published report which describes the organization's business.

IN ADDITION: for a claims subscriber, the documentation MUST indicate the size of the subscribing organization, i.e., the number of employees for whom medical expense benefits are directly administered; for an HMO or PPO, the documentation MUST indicate the size of the subscribing organization, i.e., the number of enrollees in the HMO or PPO; and for a research subscriber, the documentation MUST include a copy of the (proposed) research project for which PHCS output would be used [For a more detailed characterization of "size", see the Footnote on page 9.].

The ONLY exceptions to this documentation requirement are member HIAA companies, who have already provided this documentation to HIAA.

Please note that previous subscription to the PHCS does not constitute membership in HIAA. Also, please note that, even if you subscribed in 1986 and submitted documentation with your 1986 order, documentation MUST also accompany your 1987 order.

II. Classes of Subscribers

Subscribers to the Surgical PHCS are classified as either Data Contributors (DCs) or Non-Contributors. DCs are classified as either Required DCs or Optional DCs.

- A. Data Contributors - data contributors are limited to claims subscribers. [In 1987, we will consider the issues and possibilities of capturing HMO and PPO data]. A data contributor is a claims subscriber who inputs data and whose input meets the minimum semi-annual input requirement. The minimum semi-annual input requirement is a volume of acceptable records equal to at least 5% of the number of employees for whom medical expense benefits are directly administered by the claims subscriber, or 5,000 acceptable records, whichever is larger.

An acceptable input record is an input record which successfully passes all HIAA edits. The number of employees for whom medical expense benefits are directly administered includes the following: (1) employees under employer-employee group plans; (2) members of associations, unions, etc., and (3) primary insureds under individual policies that reimburse surgical expenses. "The number of employees for whom medical expense benefits are directly administered" does NOT include the dependents of the employees.

1. Required DCs - a required DC is a claims subscriber who administers medical expense benefits on behalf of at least 100,000 employees. As the name implies, a required DC is required to input data.

If a required DC does not meet the minimum semi-annual input requirement, the required DC will not receive output for the "cycle" in which the input requirement was not met. (See XI. B. 4.)

2. Optional DCs - an optional DC is a claims subscriber who administers medical expense benefits on behalf of less than 100,000 employees. An optional DC has the option of inputting data. If the option is exercised and the minimum semi-annual input requirement is met, the optional DC may be eligible for reimbursement and credits. (See XII.)

An optional DC will receive output for any "cycle" in which the input requirement was not met. (See II. B.)

- B. Non-Contributors - a non-contributor is either (1) an optional DC who chooses to input data but who does not meet the minimum semi-annual input requirement, or (2) a subscribing organization (other than a required DC) who does not input data.

III. Special Notes for DCs

While outputs are presented on a CPT-4 coding basis only, 1986 DCs had the option of inputting CPT-4 codes, 1964 CRVS codes or 1969 CRVS codes. However, EFFECTIVE with the FIRST CYCLE of 1987, ONLY CPT-4 codes may be inputted.

IV. Subscription Period for ALL BUT Research Subscribers

Subscription for all but research subscribers is on an annual basis only. The subscription period is for the two consecutive semi-annual cycle outputs for the

calendar year. The initial subscription begins with the 87-1 output. A subscriber who subscribes after either the 87-1 or the 87-2 output is available will be charged the full-year subscription rate. However, such a subscriber will be entitled to both 87-1 and 87-2 output.

The first cycle (87-1) ends on February 28, 1987. Cycle 87-1 contains data on claims dated March 1, 1986 through February 28, 1987. DCs have until March 31, 1987, to submit their data. The output, which will be dated March, 1987, will be available for distribution to subscribers on or about May 15, 1987.

The second cycle (87-2) ends on August 31, 1987. Cycle 87-2 contains data on claims dated September 1, 1986 through August 31, 1987. DCs have until September 30, 1987, to submit their data. The output, which will be dated September, 1987, will be available for distribution to subscribers on or about November 15, 1987.

V. Subscription Period for Research Subscribers

Subscription for research subscribers is for any one cycle only, on an annual basis. Research subscribers MUST specify, in writing, whether they are ordering output for 87-1 OR 87-2.

VI. Outputs

Several outputs are available for 1987 Subscribers.

A. The Procedure Summary Report is available in three formats.

1. The Procedure Summary Report is available in bound volume. Two sample pages of this report are attached.
2. The Procedure Summary Report is available on magnetic tape (the print tape). This tape's file format, information content and data element definitions are IDENTICAL to the bound volume. The file is in fixed format with ASA print characteristics.
3. The Procedure Summary Report is available in microfiche format.

NOTE: For any format of the Procedure Summary Report, if the number of claims for a given procedure within a given geographical area is less than five (5), the procedure for that area will not appear in the Procedure Summary Report.

B. The Statistical Data File is available only on magnetic tape (the stat tape). This tape's data element definitions are identical to those of the print tape; however, it does not contain the "over-head" of the print tape, e.g., page headings. This tape MAY be more appropriate for strictly data base applications.

NOTE: For the Statistical Data File, if the number of claims for a given procedure within a given geographical area is at least one (1), the procedure for that area will appear in the Statistical Data File.

- C. The Sort Claims Tape is a file of all partially edited claims, prior to accumulations by either procedure or geographical area.

NOTE: All claims entering the PHCS System are subjected to edits. All claim-record fields are edited in each of several edit stages. In the first edit stage, the claim-record is edited for , e.g., a valid zip code and a valid claim date. At this stage, the amount of claim is edited to insure that the amount of claim is neither blank nor zero.

If and only if a claim-record successfully passes this edit stage does it eventually move to the final edit stage. The final stage edits for "reasonableness" of the amount of claim. For example, assume, for CPT-4 code 12345 in geographical area 987, that there are the following ten claim-records whose amounts of claims are \$1.00, \$950.00, \$950.00, \$975.00, \$1,000.00, \$1,100.00, \$1,250.00, \$1,500.00, \$1,750.00 and \$10,250.00. The final edit would edit out the \$1.00 claim and the \$10,250.00 claim as "unreasonable" relative to the other eight "reasonable" claims.

However, the final edit stage of "reasonableness" is applicable only to claim-records which have been accumulated by both procedure and geographical area. Consequently, since the Sort Claims Tape is a file of claims prior to such accumulations, the Sort Claims Tape (and only the Sort Claims Tape) is partially edited.

- D. The CRVS-CPT Conversion Tape contains tables for the following conversions:

Source Code System		Destination Code System
1964 CRVS	to	CPT - 4
1969 CRVS	to	CPT - 4
1974 CRVS	to	CPT - 4
CPT - 4	to	1964 CRVS

The tables show a translation, or "fate", for every code in the source code system. Translations are of the following:

1. 1-to-1 Conversions

Procedures in the source code have identical or equivalent wording to procedures in the destination code.

2. 1-to-N Conversions

One procedure in the source code has been split into multiple procedures in the destination code.

3. N-to-1 Conversions

Multiple procedures in the source code have been grouped into one procedure in the destination code.

4. No Conversion

The procedure in the source code is either obsolete, new, or for some other reason cannot be matched to any procedure in the destination code.

NOTE: For the CRVS-CPT Conversion Tape, the conversions are to (or from) the codes of CPI, Fourth Edition, Ninth Revision. This edition/revision was published in 1983. Thus, the CRVS-CPT Conversion tape will NOT convert to (or from) CPI codes added since 1983.

VII. Standard PHCS File Characteristics of Magnetic Tapes

The following are the standard PHCS file characteristics of magnetic tapes:

A. Procedure Summary Report (the print tape):

- o File Organization: Physical Sequential
- o Logical Record Length: 133 Bytes Fixed Length
Position 1 is Print Control
- o Block Size: 1330 (Blocked 10)
- o Tape Density: 6250 BPI
- o Tape Format: 9 Track
- o Labelling: IBM OS Internal Labels Are Used.
No User Labels Are Present.

B. Statistical Data File (the STAT tape):

- o File Organization: Physical Sequential
- o Logical Record Length: 133 Bytes Fixed Length
- o Block Size: 13300 (Blocked 100)
- o Tape Density: 6250 BPI
- o Tape Format: 9 Track
- o Labelling: IBM OS Internal Labels Are Used.
No User Labels Are Present.

C. Sort Claims Tape:

- o File Organization: Physical Sequential
- o Logical Record Length: 64 Bytes Fixed Length
- o Block Size: 32704 (Blocked 511)
- o Tape Density: 6250 BPI
- o Tape Format: 9 Track
- o Labelling: IBM OS Internal Labels Are Used.
No User Labels Are Present.

D. CRVS-CPT Conversion Tape:

- o File Organization: Physical Sequential
- o Logical Record Length: 50 Bytes Fixed Length
- o Block Size: 6100 (Blocked 122)
- o Tape Density: 6250 BPI
- o Tape Format: 9 Track
- o Labelling: IBM OS Internal Labels Are Used.
No User Labels Are Present.

IMPORTANT: The Sort Claims Tape is available only in 6250 BPI. However, for all other tapes, although the standard is 6250 BPI, the tapes are available in 1600 BPI at an additional charge of \$100.00 per type ordered.

Any other departure from standard PHCS file characteristics must be requested, in writing, AT THE TIME THAT THE ORDER IS PLACED. All such requested departures will be considered on a case by case basis, and all honored requests will involve additional charges.

VIII. Basic Subscription Price and Output

The schedule of prices is contained on page 9. For Claims Subscribers and for HMOs and PPOs, the price is fixed within each size bracket as shown. For Claims Subscribers, size is determined by the number of employees for whom medical expense benefits are directly administered by the subscribing organization. For HMOs and PPOs, size is determined by the number of enrollees in the HMO and PPO. For Research Subscribers and for Consulting Organizations and Utilization Review Organizations, the respective price is a flat rate.

The basic subscription price includes (1) one copy of the Procedure Summary Report output in bound volume format and/or EITHER one copy of the Procedure Summary Report in magnetic tape format OR one copy of the Statistical Data File on magnetic tape.

IX. Additional Output Prices

Additional copies of any format are available at the additional charges indicated on the PHCS Output Order Form. For all but research organizations, additional copies of any format are available only on an annual basis, i.e., additional copies of any format are available only for BOTH the 87-1 AND 87-2 cycles.

For Research Subscribers, additional copies are available at the additional charges indicated on the PHCS Output Order Form, but the additional copies are available only for the one cycle of the research organization's current (1987) subscription period.

Once the PHCS Output Order Form has been received by HIAA, any subsequent order for additional output must be submitted in writing and must be accompanied by a check for the full amount of the additional output.

IMPORTANT: Once any PHCS Output Order Form has been received by HIAA, any request to CHANGE the order will be treated as if it were a request for an ADDITIONAL copy at the additional charge indicated on the order form. For example, if a subscriber orders a print tape and then requests to change the order to a stat tape, HIAA will treat the request as if it were a request for an additional copy of the stat tape at the additional charge for a stat tape. All such requests to change the order must be submitted in writing and must be accompanied by a check in the proper amount.

X. Purchase of Previous Data

HIAA maintains a history file, on magnetic tape, of the PHCS data for the previous two full years, i.e., 1985 and 1986. This previous data may be purchased in magnetic tape format and/or microfiche format. Magnetic tapes are available in any format, i.e., print tape, stat tape or sort claims tape. Microfiche format is available only for the procedure summary report.

Bound volumes are not available for 1985. Bound volumes for 1986 are available while limited supplies last.

The sort claims tape is available only in 6250 BPI. However, for all other tapes, although the standard is 6250 BPI, the tapes are available in 1600 BPI at an additional charge of \$100.00 per type ordered.

All current (1987) subscribers may order previous data, on a calendar year basis only, i.e., for both cycle of 1985 and/or 1986, at the current additional output prices. Thus, any current subscriber may order, for example, the 86-1 and 86-2 STAT tapes in standard 6250 BPI for an additional \$100.00 or in 1600 BPI for a total additional cost of \$200.00.

For Research Subscribers only, who are not current (1987) subscribers, but who wish to purchase previous data, the previous data may be purchased, for one cycle only per year, at the Research Organization purchase price for that year. For example, if a Research Organization did not wish to purchase the current (1987) data, but did wish to purchase the 86-1 STAT tape in standard 6250 BPI, then the purchase price would be \$5,000.00 -- the purchase price for a research subscriber in 1986. If the tape were ordered in 1600 BPI, the price would be an additional \$100.00.

If the research subscriber in the above example also wished to order the 85-1 OR 85-2 STAT tape in standard 6250 BPI, then the additional tape would be available for an additional \$100.00 or available in 1600 BPI for an additional \$200.00.

For the schedule of prices for additional copies of 1985 and/or 1986 outputs, see p. 10.

Inasmuch as the purchase of such previous data is a special order, all such orders must be submitted in writing and accompanied by a check in the proper amount.

XI. Payment Policy

A. Non-Contributors - for any non-contributor, full payment of the subscription rate is required BEFORE any output will be released.

B. Data Contributor

1. For any DC who has not shown through the previous full year that it can meet both minimum semi-annual input requirements, full payment of the subscription rate is required BEFORE any output will be released.
2. For any DC who has shown through the previous full year that it can meet both minimum semi-annual input requirements, no pre-payment is required.
3. If an optional DC has not prepaid (having met the previous year's minimum annual input requirement), then:

- (a) if the optional DC meets their minimum semi-annual input requirement for one cycle only without thereby meeting their minimum annual input requirement, the optional DC will be billed for one-half their basic subscription rate;
 - (b) if the optional DC meets neither semi-annual input requirement, the optional DC will be billed for their full basic subscription rate.
4. For a required DC who has met all minimum semi-annual input requirements for the previous two full years, it will be excused, without penalty, for missing one cycle during 1987. In other words, one "Excused Cycle Credit" will be given for the previous two years of acceptable performance. However, only one "Excused Cycle Credit" will be allowed per year.

If both cycles are missed, then (i) no output will be provided for the second cycle, (ii) the required DC will be billed for one-half their current subscription rate and (iii) the required DC will be required to prepay for the following year.

Also, for any required DC who does not have an "Excused Cycle Credit" available, if any cycle is missed, then (i) no output will be provided for that cycle and (ii) the required DC will be required to prepay for the following year.

Repeated failure by a required DC to meet input requirements could result, at the discretion of HIAA, in ineligibility for future subscriptions.

XII. Reimbursement and Credits for DCs

For any Data Contributor who meets both minimum semi-annual input requirements, the basic subscription rate (excluding charges for additional copies) is waived.

Also, the basic subscription rate is waived for any data contributor who does not meet one of the two minimum semi-annual input requirements, but who, during the other semi-annual cycle, inputs a volume of acceptable records equal to 10% of the number of employees for whom medical expense benefits are directly administered, or 10,000 acceptable records, whichever is larger.

If the basic subscription rate is waived, then those DCs who were required to prepay will be reimbursed their full basic subscription rate. If an optional DC who was required to prepay met the minimum semi-annual input requirement for one cycle only without thereby meeting their annual input requirement, then that optional DC will be reimbursed one-half of their basic subscription rate.

In addition, for acceptable records inputted which exceed the minimum annual number required (. . . 10% . . . or 10,000 acceptable records, whichever is larger) the DC will receive a cash credit for each such additional record up to, but not to exceed, 40% of the number of employees for whom medical expense benefits are directly administered.

HIAA Surgical PHCS Base Schedule of Prices
for Claims Subscribers and HMOs and PPOs

<u>Size *</u>	<u>HIAA Member</u>	<u>HIAA Non-Member</u>
0 - 99,999	\$ 6,900	\$ 8,625
100,000 - 249,999	\$ 12,075	\$ 13,800
250,000 - 499,999	\$ 18,975	\$ 21,275
500,000 - 749,999	\$ 25,875	\$ 29,325
750,000 - 999,999	\$ 34,500	\$ 39,100
1,000,000 & over	\$ 46,000	\$ 51,750

HIAA Surgical PHCS Base Price for Research Organizations

(One cycle only, on an annual basis)

\$ 8,625

HIAA Surgical PHCS Base Price for
Consulting and Utilization Review
Organizations

\$ 13,800

* For Claims Subscribers, size refers to the number of employees for whom medical expense benefits are directly administered. The number includes the following: (1) employees under employer-employee group plans; (2) members of associations, unions, etc., and (3) primary insureds under individual policies that reimburse surgical expenses. "The number of employees for whom medical expense benefits are directly administered" does NOT include the dependents of the employees.

For HMOs and PPOs, size refers to the number of enrollees in the HMO or PPO. "The number of enrollees in the HMO or PPO" does NOT include the dependents of the enrollees.

IMPORTANT: Even if a Claims Subscriber or HMO or PPO intends to use the PHCS data for a limited number of their covered employees or enrollees, the subscription nevertheless must be in terms of the total number of covered employees or enrollees.

HIAA SURGICAL PHCS SCHEDULE OF ADDITIONAL COPY PRICES
FOR 1985 and 1986 OUTPUTS

<u>Output</u>		<u>Price/Yr</u>
(1) Procedure Summary Report in Bound Volume (1986 <u>ONLY</u> , while limited supplies last)		\$200.00
(2) Procedure Summary Report on Magnetic Tape	6250 BPI	\$100.00
	1600 BPI	\$200.00
(3) Statistical Data File on Magnetic Tape	6250 BPI	\$100.00
	1600 BPI	\$200.00
(4) Sort Claims Tape (available <u>ONLY</u> in 6250 BPI)		\$750.00
(5) Microfiche		\$200.00

Any one or combination of these 1985 and 1986 outputs may be ordered as ADDITIONAL copies. All such orders MUST be submitted in writing and accompanied by a check in the proper amount. DO NOT USE THE OUTPUT ORDER FORM FOR 1987 FOR THESE SPECIAL ORDERS OF 1985 AND/OR 1986 OUTPUTS.

Any questions on the foregoing should be referred to Bruce L. Harris, (202) 223-7867, Health Insurance Association of America, 1025 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036.

H.I.A.A. - SURGICAL PREVAILING HEALTHCARE CHARGES SYSTEM 09/01/83 - 08/31/84

AREA - 917

PROCEDURE	NAME	NUMBER OF CHARGES	MEAN CHARGE	MODE CHARGE	PERCENTILES								
					50	60	70	75	80	85	90	95	
UN 28735	ARTHRRODESIS TARSAL MULT W OSTEOTOMY	8	1365	1680	420	420	1680	1680	1680	1680	1680	1680	1680
28750	ARTHRRODESIS M-P JOINT GREAT TOE	10	280	17	192	383	475	480	480	528	528	570	
28755	ARTHRRODESIS I-P JOINT GREAT TOE	15	265	184	184	192	383	475	475	480	528	570	
29065	CAST LONG ARM	91	64	60	60	65	67	68	74	79	90	98	
29075	CAST SHORT ARM	189	58	50	53	55	61	65	73	76	87	90	
29085	CAST HAND AND LOWER FOREARM	11	49	55	50	55	55	55	55	55	55	55	
29105	SPLINT LONG ARM	16	46	56	45	53	56	56	56	56	56	60	
29125	SPLINT SHORT ARM STATIC TYPE	37	56	50	51	60	70	72	75	76	83	100	
UN 29325	CAST HIP SPICA BILATERAL OR I 1/2	7	221	226	78	85	226	226	268	292	375		
29345	CAST LONG LEG	51	104	98	98	105	113	123	125	145	147	159	
29355	CAST LONG LEG AMBULATORY TYPE	94	108	130	105	120	122	130	130	130	144	150	
29365	CAST LEC CYLINDER	9	86	60	80	90	112	112	124	124	140	140	
29405	CAST SHORT LEG	156	81	70	75	78	90	100	108	112	120	150	
29425	CAST SHORT LEG AMBULATORY TYPE	183	109	130	110	120	130	130	130	138	150	160	
29450	CAST CLUBFOOT UNILATERAL	23	50	51	50	51	51	51	51	51	53	53	
29455	CAST CLUBFOOT BILATERAL	29	73	70	70	75	75	75	80	87	87	87	
29505	SPLINT LONG LEG	21	44	50	39	50	50	50	52	60	70	70	
29515	SPLINT SHORT LEG	79	47	30	50	55	56	57	60	60	70	100	
UN 29540	STRAPPING ANKLE	7	21	32	10	15	15	20	25	32	32		
29580	STRAPPING UNNA BOOT	61	43	60	40	45	45	57	60	60	60	60	
29700	REMOVAL CAST GAUNTLET BOOT BODY	29	28	25	25	30	35	35	35	35	50	50	
29705	REMOVAL CAST FULL ARM/FULL LEG	27	30	25	23	30	35	35	35	45	50	50	
UN 29799	UNLISTED PROCEDURE CAST/STRAPPING	7	93	90	30	37	67	70	90	90	270		
UN 30110	EXC POLYPS NASAL SIMPLE UNILAT	8	195	190	100	125	150	170	190	190	190	450	
30111	EXC POLYPS NASAL SIMPLE BILAT	9	157	190	150	170	190	190	190	190	190	190	
30115	EXC POLYPS NASAL EXTENSIVE UNIL	19	262	250	230	243	250	250	250	446	450	460	
30116	EXC POLYPS NASAL EXTENSIVE BIL	19	262	250	230	243	250	250	250	446	450	460	
30140	RESECTION SUBMUCOUS TURBINATE	35	364	321	355	388	400	400	400	435	450	480	
UN 30200	INJECT TURBINATES THERAPEUTIC	7	65	60	10	45	45	60	60	80	160		
30420	RHINOPLASTY PRIMARY MAJ SEPTAL REP	36	2082	2062	2062	2062	2175	2200	2295	2295	2533	2650	
UN 30500	RESECTION SUBMUCOUS NASAL SEPTUM	7	896	850	450	700	700	850	850	875	1850		
30520	SEPTOPLASTY W/WO CARTILAGE IMPLANT	116	1280	1270	1270	1300	1440	1450	1545	1870	1900	2012	
30620	RECONSTRUCTION NOSE INT FUNCTIONAL	13	1776	1800	1860	1900	1930	1930	2050	2062	2062	3000	
30800	CAUTERIZE TURBINATES SUPERFICIAL	14	76	150	65	80	85	100	100	100	150	150	
30805	CAUTERIZE TURBINATES INTRAMURAL	14	82	150	80	85	100	100	140	140	150	150	
30901	CONTROL HEMORR NASAL ANT SIMPL UNIL	40	56	50	50	55	60	65	68	85	85	85	
30902	CONTRDL HEMORR NASAL ANT SIMPL BIL	39	56	50	50	55	60	68	68	85	85	90	
30903	CONTROL HEMORR NASAL ANT COMPLX UNI	39	56	50	50	55	60	68	68	85	85	90	
30904	CONTROL HEMORR NASAL ANT COMPLX BIL	39	56	50	50	55	60	68	68	85	85	90	
30905	CONTROL HEMORR NASAL POST INITIAL	14	198	221	210	215	221	221	221	221	221	221	
31000	LAVAGE MAXILLARY SINUS UNILATERAL	12	71	81	75	81	81	81	82	100	100	145	
31001	LAVAGE MAXILLARY SINUS BILATERAL	17	68	65	65	70	75	75	90	90	108	108	
31020	SINUSOTOMY MAXILLARY INTRANASL UNIL	9	369	570	412	412	469	469	570	570	570	570	
31021	SINUSOTOMY MAXILLARY INTRANASL BIL	26	554	627	627	627	646	646	677	712	712	757	
31030	SINUSOTOMY MAXILL RAD UNIL WO POLYP	19	1104	1232	1250	1270	1270	1300	1332	1332	1460	1578	
31031	SINUSOTOMY MAXILL RAD BIL WO POLYP	9	2175	2118	1945	2118	2118	2118	2300	2300	3559	3559	

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PROCEDURE	NAME	NUMBER OF CHARGES	MEAN CHARGE	MODE CHARGE	PERCENTILES								
					50	60	70	75	80	85	90	95	
	31032 SINUSOTOMY MAXILL RAD UNIL W POLYPS	16	1125	1270*	1250	1270	1270	1270	1300	1332	1460	1578	
UN	31033 SINUSOTOMY MAXILL RAD BIL W POLYPS	8	2003	2118*	1850	1897	1898	1898	1945	2118	2118	2300	
	31200 ETHMOIDECTOMY INTRANASAL ANTERIOR	9	510	250	388	416	710	710	892	892	982	982	
	31201 ETHMOIDECTOMY INTRANASAL TOTAL	9	510	250	388	416	710	710	892	892	982	982	
	31205 ETHMOIDECTOMY EXTRANASAL TOTAL	9	510	250	388	416	710	710	892	892	982	982	
	31500 INTUBATION ENDOTRACHEAL EMERGENT	49	116	188*	110	115	132	150	150	170	188	188	
	31510 LARYNGOSCOPY INDIRECT W BIOPSY	10	65	40	61	68	82	98	98	111	111	122	
	31520 LARYNGOSCOPY DIRECT DX NB	46	310	300	300	315	380	380	380	380	404	450	
	31525 LARYNGOSCOPY DIRECT DIAGNOSTIC	63	321	300	315	350	380	380	380	380	420	450	
	31535 LARYNGOSCOPY DIRECT W BIOPSY	11	447	550*	459	460	479	479	550	550	550	550	
	31540 LARYNGOSCOPY DIR EXCISION/STRIPPING	14	622	600	600	650	750	765	820	820	820	888	
	31600 TRACHEOSTOMY PLANNED	21	467	527	527	527	545	550	558	560	560	600	
	31603 TRACHEOSTOMY EMERGENT TRANSTRACH	17	475	560*	527	545	550	558	560	560	600	732	
UN	31605 TRACHEOSTOMY EMERGENT CRICOTH/ROID	6	440	527	296	325	420	527	527	545			
	31620 BRONCHOSCOPY DIAGNOSTIC-RIGID SCOPE	35	384	400	400	400	404	413	432	435	450	490	
	31621 BRONCHOSCOPY DIAGNOSTIC-FLEX SCOPE	34	392	400	400	400	404	432	435	435	460	490	
	31625 BRONCHOSCOPY BIOPSY-RIGID SCOPE	43	472	500	500	500	539	550	560	575	600	662	
	31626 BRONCHOSCOPY BIOPSY-FLEX SCOPE	44	469	500	480	500	530	550	560	560	600	625	
UN	31645 BRONCHOSCOPY ASPIR THERAP INITIAL	7	359	450*	245	245	250	430	445	450	450		
	32000 THORACENTESIS	30	94	100	85	90	100	100	100	100	100	200	
	32020 THORACOSTOMY TUBE W WATER SEAL	30	187	250	195	202	216	230	242	250	250	250	
	32100 THORACOTOMY MAJOR EXPLORE/BIOPSY	14	790	1280*	568	1175	1280	1280	1280	1280	1280	1662	
UN	32420 PNEUMOCENTESIS	7	179	225*	130	135	150	195	195	225	225		
	32480 LOBECTOMY TOTAL/SEGMENTAL	13	2805	2945	2669	2945	2945	2945	3225	3432	3432	3500	
UN	32500 RESECT LUNG WEDGE SINGL/MULTIPLE	7	1445	400	400	400	450	2000	2153	2250	2465		
UN	33200 INSERT PACEMAKER EPICARDIAL THORAX	5	976	1200	30	450	1200	1200	2000				
	33210 INSERT PACEMAKER TRANSVENOUS TEMP	11	614	550*	550	620	650	785	785	800	800	925	
	33512 BYPASS CORONARY AUTOGRAFT 3 ARTERY	9	4251	6500	6000	6500	6500	6500	6500	6500	6500	6500	
	33513 BYPASS CORONARY AUTOGRAFT 4 ARTERY	9	4251	6500	6000	6500	6500	6500	6500	6500	6500	6500	
UN	33570 ANGIOPLASTY CORONARY W BYPASS	7	1537	2475*	495	495	500	1600	2475	2475	2725		
UN	34001 EMBOLECTOMY CAROTID ETC VIA NECK	8	1096	563	214	563	563	563	753	1072	2520	2520	
UN	34101 EMBOLECTOMY AXILLARY ETC VIA ARM	6	1176	NONE	141	563	668	1206	1500	2980			
	35001 REP ANEURYSM ABDOMINAL AORTA	30	2583	4340*	3200	3300	3440	3444	3444	4340	4340	4340	
	35141 REP ANEURYSM COMMON FEMORAL ARTERY	21	1890	3440*	1600	2268	2755	2813	3000	3420	3440	3440	
	35301 THROMBOENDARTERECT CAROTID ETC	46	2514	2583	2583	2644	2755	3076	3255	3255	3375	3375	
	35381 THROMBOENDARTERECT FEMORAL ETC	11	1576	2688*	1932	2015	2015	2688	2688	2688	2688	2700	
UN	36000 INTRO NEEDLE/CATH VEIN UNILAT	8	40	35	30	35	35	35	35	35	45	73	
	36010 INTRO CATH VENA CAVA/RT HEART	21	43	35	35	35	45	45	52	73	75	75	
UN	36140 INTRO NEEDLE/CATH EXTREMITY ARTERY	6	159	225	92	92	100	225	225	225			
	36200 INTRO CATHETER AORTA	23	305	350	315	350	350	350	350	350	350	375	
	36220 INTRO CATH CEREBRAL ART MULTIPLE	15	525	650*	575	575	620	650	650	650	650	750	
	36400 VENIPUNCTURE <3 YRS FEMORAL/JUGULAR	54	33	35	30	35	40	40	45	50	50	75	
	36405 VENIPUNCTURE <3 YRS SCALP	22	50	100*	30	48	50	80	100	100	100	100	
	36420 CUTDOWN VENIPUNCTURE AGE >1 YEAR	9	109	NONE	90	103	120	120	190	190	290	290	
	36425 CUTDOWN VENIPUNCTURE AGE <1 YEAR	12	78	40	66	75	75	75	100	100	100	250	
UN	36470 INJECT SCLEROSING AGENT 1 VEIN	6	38	44	15	25	44	44	45	55			

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HEALTH INSURANCE ASSOCIATION OF AMERICA
 Surgical Prevailing Healthcare Charges System

1987

IMPORTANT: Before completing this form, please read carefully the accompanying Rules and Requirements for Purchasing 1987 Outputs. Your signature on this Form A and your submittal of the PHCS Order Form indicate acceptance of the rules and requirements for purchasing 1987 outputs.

1. Type of Subscribing Organization (Check one)

- A. Commercial Insurance Company _____
- B. Blue Cross and/or Blue Shield Plan _____
- C. Third Party Administrator _____
- D. Self-administered employer/employee benefit plan _____
- E. HMO _____
- F. PPO _____
- G. Research Organization _____
- H. Consulting Organization _____
- I. Utilization Review Organization _____

2. Type of accompanying documentation (Check at least one)

- A. HIAA member who has already provided documentation to HIAA _____
- B. Annual Report _____
- C. Annual Statement _____
- D. Marketing Publication _____
- E. Research Proposal _____
- F. Other (please specify) _____

3. Participation Status for 1987 (Check one)

- A. Required Data Contributor _____
- B. Optional Data Contributor _____
- C. Non-Contributor _____

4. Our current size, i.e., the number of covered employees or enrollees, as defined in the footnote on p. 9 of the Rules and Requirements for Purchasing 1987 Outputs, is: _____

5. The Prevailing Healthcare Charges System is copyrighted and any reproduction and/or distribution of the data without the express written consent of HIAA is strictly prohibited.

6. All Prevailing Healthcare Charges System output, in any format, is to be used exclusively within the subscribing organization.

If the subscribing organization has a wholly owned subsidiary, then and only then may the data be provided to that wholly owned subsidiary. However, the number of covered employees or enrollees of the wholly owned subsidiary MUST be included in the count of the size of the subscribing organization.

In the event that the subscribing organization uses another organization to pay claims for the subscribing organization, the output is NOT to be made available to the other claims paying organization. However, the other claims paying organization may subscribe to the PHCS. The subscription may be made directly by the claims paying organization or on its behalf by the subscribing organization. The ONLY alternative to this independent purchase requirement is the following: the subscribing organization may develop its own guidelines from the PHCS for use by its independent claims paying organization, without providing the actual data.

7. The Prevailing Healthcare Charges System data provides a range of charges -- by procedure, by geographical area. This range of charges is expressed in terms of (i) mean charge, (ii) mode charge and (iii) charge at various percentiles.

The data are provided to subscribers for informational purposes only and the HIAA disclaims any endorsement, approval or recommendation of the data. There is neither a stated nor an implied "reasonable and customary" charge. Any interpretation and/or use of the data by the subscribing organization is solely and exclusively at the discretion of the subscribing organization. The subscribing organization MUST NOT represent the HIAA's PHCS data in any way other than as expressed in this paragraph #7.

8. Observance of these rules is mandatory. Non-compliance will be construed as a breach of the terms for purchasing outputs.

Having completed the above information and having understood the rules and requirements for purchasing outputs from the PHCS, the undersigned, and the subscribing organization, agree to comply with the rules and requirements and certify that the number of employees or enrollees reported in Item 4 above is correct.

Date: _____

Signature (Company Officer) _____

Name (Please Print or Type) _____

Company Name and Street _____

Address _____

Return to: Bruce L. Harris
Associate Director - Statistics
Health Insurance Association of America
1025 Connecticut Avenue, N.W., Suite 1200
Washington, D.C.

20036

SURGICAL PHCS OUTPUT ORDER FORM FOR 1987

PLEASE READ CAREFULLY THE ACCOMPANYING RULES AND REQUIREMENTS FOR PURCHASING 1987 OUTPUTS AND THE TERMS AND CONDITIONS OF PURCHASE ON THE REVERSE SIDE OF THIS DOCUMENT. YOUR ORDER INDICATES ACCEPTANCE OF THE RULES AND REQUIREMENTS AND THE TERMS AND CONDITIONS.

No order will be accepted without an accompanying completed Form A and required documentation. Orders accepted for the Surgical Prevailing Healthcare Charges System are for an annual, calendar year period to include two cycles of output produced semi-annually with availability about mid-May and mid-November.

Please Allow Four (4) To Six (6) Weeks To Process Your Order

Basic Purchase Price (see attached Rules and Requirements, p.9) \$ _____

If tapes are being ordered, please specify BPI [] 6250 [] 1600.

	Price/Yr	Quantity	Total
Initial Output (ONE bound volume and/or CHOICE of ONE tape included at no additional cost)**			
Procedure Summary Report in Bound Volume	\$ 0	_____	\$ 0
Procedure Summary Report on Magnetic Tape	0	_____	0
Statistical Data File on Magnetic Tape	0	_____	0
 If 1600 BPI, add \$100.00			_____
Subtotal			_____

Additional Output			
Procedure Summary Report in Bound Volume	200	_____	_____
Procedure Summary Report on Magnetic Tape	100	_____	_____
Statistical Data File on Magnetic Tape	100	_____	_____
 If 1600 BPI: add \$100 if you are ordering only one type of tape; add \$200.00 if you are ordering BOTH types of tape.			_____
Subtotal			_____

Special Orders			
Sort Claims Tape [Available only in 6250 BPI]	750	_____	_____
Microfiche	200	_____	_____
CRVS-CPT Conversion Tape	175	_____	_____
 If 1600 BPI conversion tape, add \$100.00			_____
Subtotal			_____

Total Amount Enclosed _____

Output should be directed to

Name _____
 Title _____
 Company _____
 Address (DO NOT SHOW A P.O. BOX #) _____

 Phone _____

Please make checks payable to HIAA-PHCS

Mail check, this output order form, Form A and accompanying documentation to:
 Bruce L. Harris
 Associate Director-Statistics
 Health Insurance Association of America
 1025 Connecticut Avenue, N.W.
 Washington, DC 20036

** The above Initial Output Order should indicate no more than one Bound Volume and no more than one tape.

DESCRIPTION OF TERMS

SEE ACCOMPANYING RULES AND REQUIREMENTS FOR A MORE COMPLETE DESCRIPTION

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All Prevailing Healthcare Charges System output, in any format, is to be used exclusively within the subscribing organization.

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CHART VII

INCOME BENEFITS FOR SCHEDULED INJURIES

January 1, 1987

JURISDICTION	ARM AT SHOULDER	HAND	THUMB	FIRST FINGER	SECOND FINGER	THIRD FINGER	FOURTH FINGER	LEG AT HIP	FOOT	GREAT TOE	OTHER TOES	ONE EYE	HEARING ONE EAR	HEARING BOTH EARS
IN THIS GROUP OF STATES, COMPENSATION FOR TEMPORARY DISABILITY IS ALLOWED IN ADDITION TO ALLOWANCE FOR SCHEDULED INJURY														
ALABAMA*	\$48,840	\$37,400	\$13,640	\$ 9,460	\$ 8,820	\$ 4,840	\$ 3,520	\$44,000	\$30,580	\$ 7,040	\$ 2,420	\$27,280	\$11,660	\$35,800
ALASKA*	59,000	45,400	14,000	8,700	7,700	4,700	2,800	54,400	37,700	7,200	3,000	30,200	9,800	37,800
AMERICAN SAMOA PPD benefits paid at 68-2/3% of wages for specified number of weeks, no maximum*														
ARIZONA*	43,775	38,437	10,931	6,559	5,101	3,844	2,915	38,437	29,150	5,101	1,822	21,862	14,575	43,725
ARKANSAS*	32,300	24,332	9,702	5,898	4,928	3,234	2,464	28,336	20,174	4,928	1,694	18,170	6,468	24,332
CALIFORNIA*	58,975**	43,540	7,595	3,360	3,360	2,520	2,520	64,575**	33,740	4,235	840	21,105**	6,335	43,540
COLORADO*	17,472	8,736	4,200	2,184	1,512	924	1,092	17,472	8,736	2,184	924	11,878	2,940	11,878
CONNECTICUT*	127,298	102,813	38,780	22,032	17,932	12,648	10,608	97,104	76,704	17,136	5,304	95,880	21,216	63,648
DELAWARE*	61,055	53,728	18,317	12,211	9,769	7,327	4,884	61,055	39,075	9,769	3,683	48,844	18,317	42,739
DISTRICT OF COLUMBIA	141,829	110,761	34,046	20,781	13,618	11,349	6,809	130,735	93,058	13,618	7,263	72,630	23,605	90,788
FLORIDA No schedule. Benefits paid according to degree of impairment and loss of earnings.*														
GEORGIA	39,375	28,000	10,500	7,000	6,125	5,250	4,375	39,375	23,625	5,250	3,500	28,250	13,125	28,250
GUAM	39,200	29,680	7,140	3,920	2,520	2,380	980	34,720	24,220	3,640	1,120	19,600	7,280	28,000
HAWAII*	99,216	77,592	23,580	14,628	9,540	7,850	4,770	91,584	65,190	12,084	5,088	50,880	16,538	33,600
IDAHO*	50,985	45,887	18,695	11,897	9,347	4,249	2,549	33,980	23,793	7,138	1,100	29,741	—	29,741
ILLINOIS*	127,840	103,360	38,080	21,760	19,040	13,600	10,880	108,800	84,320	19,040	6,528	81,600	27,200	108,800
IOWA*	141,000	107,160	33,840	19,740	16,920	14,100	11,280	124,080	84,600	22,560	8,460	78,960	28,200	98,700
MAINE*	39,110	32,266	9,778	6,258	5,475	3,911	3,324	39,110	32,266	4,889	1,956	19,525	9,778	39,110
MARYLAND*	97,600	81,252	12,200	4,880	4,770	3,660	3,050	97,600	81,252	4,880	1,220	81,252	15,250	81,252
MASSACHUSETTS*	18,494	13,041	—	—	—	—	—	14,959	11,124	—	—	14,959	11,124	29,535
MICHIGAN*	105,179	84,065	25,415	14,858	12,903	8,602	6,256	84,065	63,342	12,903	4,301	63,342	(..)	(..)
MINNESOTA No schedule. Benefits paid according to degree of impairment and loss of earnings.*														
MISSISSIPPI	28,000	21,000	8,400	4,900	4,200	2,800	2,100	24,500	17,500	4,200	1,400	14,000	5,600	21,000
MISSOURI*	36,357	27,424	9,403	7,052	5,485	5,485	3,448	32,439	24,290	6,268	2,194	21,934	6,895**	28,327**
MONTANA*	41,860	29,900	11,213	5,980	5,532	3,738	2,243	44,850	28,910	5,532	2,392	24,668	5,980	29,900
NEBRASKA*	50,625	39,375	13,500	7,875	6,750	4,500	3,375	48,375	33,750	6,750	2,250	28,125	11,250	(..)
NEVADA No schedule. Degree of disability determined in relation to whole man.*														
NEW HAMPSHIRE	103,320	92,588	37,392	23,124	18,696	9,348	4,428	68,880	48,216	8,856	1,476	41,328	14,760	60,516
NEW JERSEY*	72,983	44,321	6,030	4,020	3,216	2,412	1,608	69,647	38,984	3,216	1,206	35,378	4,824	28,140
NEW MEXICO	59,726	37,329	16,425	8,362	6,570	5,077	4,181	59,728	34,342	10,452	4,181	38,822	11,845	44,795
NORTH CAROLINA	73,920	61,600	23,160	13,860	12,320	7,700	6,160	61,600	44,352	10,780	3,080	36,960	21,560	46,200
NORTH DAKOTA*	18,750	15,000	4,875	3,000	2,250	1,500	1,200	14,040	9,000	1,800	720	9,000	3,000	12,000
OHIO*	84,600	65,800	22,560	13,160	11,280	7,520	5,640	75,200	56,400	11,280	3,760	47,000	9,400	47,000
OREGON*	24,000	18,750	6,000	3,000	2,750	1,250	750	18,750	18,875	2,250	500	12,500	7,500	24,000
PUERTO RICO*	10,000	9,000	3,375	1,800	1,350	1,125	675	10,000	7,875	1,350	675	(..)	2,250	9,000
RHODE ISLAND*	28,080	21,960	6,750	4,140	2,700	2,250	1,800	28,080	18,450	3,420	900	14,400	5,400	18,000
SOUTH CAROLINA	67,813	57,024	20,036	12,230	10,788	7,708	6,185	60,107	43,154	10,788	3,082	33,906	24,659	50,860
SOUTH DAKOTA*	52,400	39,300	13,100	9,170	7,860	5,240	3,930	41,920	32,750	7,860	2,620	39,300	13,100	39,300
TENNESSEE	37,800	28,350	11,340	6,615	5,870	3,780	2,835	37,800	23,625	5,870	1,890	18,900	14,175	28,350
UTAH*	40,953	36,792	14,873	9,198	7,446	3,723	1,752	27,375	18,272	5,694	876	26,280	3,650**	21,900
VERMONT*	99,975	81,375	23,250	14,880	11,625	9,300	5,560	99,975	81,375	11,625	4,650	58,125	24,180**	99,975
VIRGINIA*	65,200	48,900	19,560	11,410	9,780	6,520	4,890	57,050	40,750	9,780	3,280	32,600	18,300	32,600
VIRGIN ISLANDS*	40,260	32,940	14,640	14,640	14,640	14,640	13,725	32,940	21,960	14,640	13,725**	35,685	21,960	32,940
WASHINGTON*	54,000	48,600	19,440	12,150	9,720	4,660	2,430	54,000	37,800	11,340	4,140	21,600	7,200	43,200
WEST VIRGINIA*	54,890	45,742	18,298	9,148	6,403	4,574	4,574	54,890	32,019	9,148	3,659	30,189	20,583	50,316
WISCONSIN*	58,500	46,800	18,720	7,020	5,265	4,12	3,276	58,500	29,250	9,750	2,925**	32,175	4,212	25,272**
WYOMING*	36,842	29,964	10,807	7,123	3,684	3,684	3,684	36,842	24,561	4,912	1,719	23,087	9,824	—
F.E.C.A.*	314,892	246,262	75,695	46,426	30,278	25,232	15,139	290,870	208,900	38,352	16,148	161,483	52,482	201,854
LONGSHORE ACT	188,860	147,698	45,399	27,845	18,160	15,133	9,080	174,332	124,091	160	9,685	96,851	31,477	121,064
IN THIS GROUP OF STATES, COMPENSATION FOR TEMPORARY DISABILITY IS ALLOWED IN ADDITION TO SCHEDULED INJURY WITH CERTAIN LIMITATIONS AS TO PERIOD														
INDIANA*	18,750	15,000	4,500	3,000	2,625	2,250	1,500	18,875	13,125	4,500	2,250**	13,125	5,625	15,000
KANSAS*	51,870	37,050	14,820	9,139	7,410	4,940	3,705	49,400	30,875	7,410	2,470	29,640	7,410	27,170
NEW YORK*	46,800	36,600	11,250	6,900	4,500	3,750	2,250	43,200	30,750	5,700	2,400	24,000	9,000	22,500
PENNSYLVANIA*	148,010	120,935	36,100	18,050	14,440	10,830	10,108	148,010	90,250	14,440	5,776	99,275	21,660	93,860
IN THIS GROUP OF STATES, COMPENSATION FOR TEMPORARY DISABILITY IS DEDUCTED FROM THE ALLOWANCE FOR SCHEDULED INJURY														
KENTUCKY No schedule. PP benefits paid at 66-2/3% of wages up to 425 weeks according to degree of disability.**														
LOUISIANA*	52,200	39,150	13,050	7,830	5,220	5,220	5,220	45,675	32,825	5,220	2,610	28,100	—	28,100**
OKLAHOMA*	40,750	32,600	9,780	5,705	4,890	3,260	2,445	40,750	32,600	4,890	1,630	32,600	16,300	48,900
TEXAS	44,800	33,600	13,440	10,080	6,720	4,704	3,360	44,800	28,000	6,720	2,240	22,400	—	33,600

NOTE—Amounts in chart reflect maximum potential entitlement. In Canada, permanent physical impairments generally are compensated by degree of disability using medical rating schedules as guidelines. Numbers in italics are computations for loss of major member, loss of leg precluding use of artificial limb, or loss of eye by enucleation.

CHART VII □ INCOME BENEFITS FOR SCHEDULED INJURIES □ January 1, 1987 (continued)

Ala. *Effective 2/1/85, maximum weekly PP benefit is lesser of \$220 or 100% SAWW.

Alaska *Maximum dollar amount fixed by statute.

Ariz. *Arm—312, hand—244, thumb—75, first finger—48, second finger—30, third finger—25, fourth finger—15, leg—288, foot—205, great toe—30, other toes—18, one eye—160, one ear—62, both ears—200.

Ariz. **PP benefit is 55% of monthly compensation up to \$1,325 (= \$168.01 weekly).

Ark. *Maximum amount for PP is \$69,300.

Calif. *Maximum PP benefit is \$140.00, effective 1/1/84. Duration varies according to percentage of permanent disability, adjusted for age and occupation. Chart reflects standard rating for individual age 39 and loss of major arm.

**Chart reflects benefits for loss of eye if unable to wear artificial eye. Life pension up to \$64.21 weekly also payable for loss of arm or leg.

Colo. *Maximum weekly benefit is \$84.

Conn. *Commission may award additional benefits based on loss of earnings.

Fla. *Permanent impairment caused by amputation, loss of 80% of vision in either eye after correction, or serious facial disfigurement—\$250 per 1% of disability up to 10%, and \$500 per 1% of disability over 10%. Wage-loss benefits also payable in all permanent impairment cases—95% of difference between 85% of pre-injury wages and earnings after maximum medical improvement, up to 100% of SAWW weekly. Social Security retirement benefits are deducted from wage loss benefits.

Hawaii *In cases in which the disability is determined as a percentage of total loss or impairment of physical or mental function of the whole man, the maximum compensation is the corresponding percentage of 312 times SAWW (= \$99,216 effective 1/1/87).

Idaho *Maximum weekly PP benefit is 55% of SAWW for year in which injury occurred (= \$169.95 for 1987).

Ill. *Effective January 15, figures reflect benefits for amputation of member—maximum 133-1/3% of SAWW (= \$544.00 as of 1/15/87). For other PP benefits, wage replacement rate is 60% and maximum is \$293.61 from 7/1/84-6/30/87, and thereafter increased by percentage increase in SAWW.

Ind. *Payable for 52 weeks; maximum weekly PP benefit is \$75.

**Second toe—\$2,250, third toe—\$1,500, fourth toe—\$1,125, fifth toe—\$750.

Iowa *Maximum weekly PP benefit is 184% of SAWW (= \$564.00).

Kan. *Additional healing period up to 15 weeks may be allowed. Maximum weekly PP benefit is 75% of SAWW.

Ky. *Maximum weekly PP benefit is 75% of SAWW (= \$247.00). Degree of disability is determined by American Medical Association Guide or decrease in earning capacity, whichever is greater.

**Since 1980, an employee sustaining work-related hearing loss is entitled to either functional loss to the body as a whole or occupational disability, whichever is greater. Hearing loss claims receive same treatment as occupational diseases and injuries, with a final determination by the Board as to degree of disability.

La. *Schedule applies to amputation or disability greater than 25%. Supplemental earnings benefits are 66-2/3% of the difference between 90% of pre-injury wages and post-injury earnings, maximum 520 weeks; cease 2 years after termination of temporary total disability (unless paid for 13 consecutive weeks during that time) or upon retirement or receipt of Social Security retirement benefits.

**Permanent hearing loss due to single traumatic accident.

Md. *Maximum weekly PP benefit is 33-1/3% of SAWW (= \$122.00); where benefits are payable for 250 weeks or more, the number of weeks are increased by 1/3, and maximum is 66-2/3% of SAWW (= \$244.00).

Mass. *Maximum PP benefit is 100% of SAWW (= \$383.57). Proportional benefits for partial loss of limbs (fingers, toes).

Mich. *Wage-loss benefits payable for life.

**Hearing loss compensable based on lost earnings.

Minn. *For permanent partial disability, impairment compensation (IC) is paid in lump sum if take job. If no job offer made, economic recovery compensation (ER) is paid weekly. IC equals scheduled dollar amount (\$75,000 to \$400,000) times percent whole body disability. ER equals percent disability times scheduled number of weeks (600 to 1200 weeks) times weekly IT rate. Concurrent payment of PPD and TPD benefits allowed if employee has returned to work for at least 6 months, and, if applicable, completed rehabilitation program.

Mo. *Maximum weekly PP benefit is 45% of SAWW (\$156.71 effective 7/1/86); minimum is \$40. If amputation or 100% loss of use, additional 10% compensation.

**Occupational hearing loss law provides benefits up to 40 weeks (1 ear) or 148 weeks (both ears).

Mont. *Maximum weekly PP benefit is 50% of SAWW (= \$149.50, effective 7/1/86). Claimant may elect schedule or wage-loss indemnity.

Nebr. *Terms run consecutively for loss of, or loss of use of, more than 1 member but less than total disability.

**Permanent total loss of hearing is compensated as permanent total disability.

Nev. *Each 1% of impairment is compensated by .6% of worker's monthly wage up to maximum, payable for 5 years or until age 66 (rising 1 year annually until age 70 begins); 7/1/86), whichever is later. Maximum monthly wages are \$2,200.45 as of 7/1/86.

N.J. *Computations include allowance for amputation of member (30% additional compensation). Compensation is payable weekly at 70% of pre-injury weekly wages, up to a maximum of 55% of SAWW for arm or leg, 45% of SAWW for hand, 40% of SAWW for foot or one eye, 35% of SAWW for hearing—both ears, 20% of SAWW for other scheduled injuries in chart.

N.Y. *Additional weeks for TT in excess of statutory healing period, maximum \$150 as of 7/1/85. Compensation for wage-loss in addition to schedule if impairment due to loss of 50% or more of member.

ND. *PP benefit is \$60 weekly for scheduled number of weeks; amount includes 25% additional for master hand.

Ohio *Maximum weekly PP benefit is 100% of SAWW (= \$378.00 for 1987). Compensation payable for 200 weeks if percentage of disability is 90% or greater.

Okla. *Maximum PP benefit is 50% of SAWW (= \$163.00 effective 11/1/85).

Ore. *Calculated at \$125 per degree for scheduled injury; \$100 per degree for unscheduled injury.

Pa. *Healing period is 25 weeks for leg or foot; 20 weeks for an arm or hand; 12 weeks for great toe; 10 weeks for thumb, eye, or hearing; 6 weeks for finger or toe.

PR. *Maximum PP benefit is \$45 weekly; increased to \$60 as of 7/1/77.

**Permanent visual disability is compensated according to percentage of total disability; in addition, loss of eye by enucleation is compensated at 10% of permanent total disability.

RI. *Maximum scheduled PP benefit is \$90.00 weekly. Maximum is 100% of SAWW for unscheduled injury.

Utah *Maximum per week, including allowance for dependents, is 66-2/3% of SAWW (= \$219 effective 7/1/86).

**Entry presumes total loss of hearing in one ear and no loss of hearing in the other (15-2/3 weeks). Benefits are based on the percentage of bilateral hearing loss, adjusted for claimant's age.

Vt. *In addition to TT except for loss of hearing in 1 ear.

Va. *Benefits for scheduled injuries are payable in addition to compensation for temporary disability. *County of Spotsylvania v. Hart*, 218 Va. 565, 238 S.E.2d 613 (1977). After expiration of scheduled award, claimant may file for further benefits within 1 year if still incapacitated.

Vt. *PP benefit is 66-2/3% of SAWW weekly (= \$183.00 effective 1/1/85).

**For loss of two or more digits or one or more phalanges of two or more digits on a hand or foot, benefits may be proportioned to the loss of use of the hand or foot.

Wash. *Benefits fixed at amount reflected in chart.

W.Va. *Maximum is 66-2/3% of SAWW (= \$228.71 effective 7/1/86).

Wis. *Maximum weekly PP benefit is \$117 effective 1/1/86.

**Second toe—\$2,925, other toes—\$2,340.

***Under occupational hearing loss law, maximum is \$4,212/36 weeks for one ear and \$25,272/216 weeks for both ears, as of 1/1/87.

Wyo. *PP benefit is 66-2/3% of SAWW. (= \$245.61 as of 1/1/87).

F.C.A. *Includes allowance for dependents.

JURISDICTION	PERCENT OF WAGES	MAXIMUM WEEKLY PAYMENT		MINIMUM WEEKLY PAYMENT		TIME LIMIT	AMOUNT LIMIT ²	AUTOMATIC COST OF LIVING INCREASE	OFFSETS ³	NOTATIONS
		AMOUNT	RATE	AMOUNT	RATE					
ALABAMA	66-2/3	\$ 319.00	100% SAWW	\$88.00 ¹	27.5% SAWW ¹	Disability				Annual increase in maximum effective July 1 [*]
ALASKA	80% of spendable earnings	1,108.00	200% SAWW	110.00		Disability			Social Security, unemployment compensation	Annual increase in maximum effective January 1 [*]
AMERICAN SAMOA	66-2/3	205.00		40.00		Disability				Compensation increased 10% if installment without award unpaid after 14 days, 20% if installment following award unpaid after 10 days.
ARIZONA	66-2/3	205.59				TT—Disability PT—Life				Benefits payable monthly. Additional \$10 monthly if 1 or more total dependents, not subject to maximum.
ARKANSAS	66-2/3	175.00 ¹		20.00		TT—450 weeks PT—Disability	TT—78,750 ^{**}		Unemployment compensation, Social Security	25% penalty for employer's violation of safety laws ^{***}
CALIFORNIA	66-2/3	224.00		112.00		TT—Disability PT—Life		TT—after 2 years	Unemployment compensation, Social Security	50% increased compensation if injury due to employer's serious, willful misconduct.
COLORADO	66-2/3	351.68	80% SAWW			TT—Disability PT—Life			Social Security	Annual increase in maximum effective July 1. Compensation increased 50% if employer failed to comply with insurance provisions. Compensation decreased 50% if injury results from worker's failure to obey safety regulations or from intoxication.
CONNECTICUT	66-2/3	408.00 to 612.00	100% SAWW	81.60 [*]	20% SAWW	Disability		October 1		Annual increase in maximum effective October 1. Additional \$10 weekly per dependent child under 18, maximum 50% of basic benefit or 75% of wage (whichever is less). Compensation increased to 75% of wages if employer violated OSHA regulation. ^{**}
DELAWARE	66-2/3	244.22	66-2/3% SAWW	81.41 ¹	22-25% SAWW ¹	Disability				Annual increase in maximum effective June 15
DISTRICT OF COLUMBIA	66-2/3 up to 80% of spendable earnings ¹	453.94 [*]	100% SAWW [*]	113.48 [*]	25% SAWW [*]	Disability		PT—October 1, maximum 5% [*]	Social Security, employer-funded pension	Annual increase in maximum effective January 1 [*]
FLORIDA	66-2/3	230.00	100% SAWW	20.00		TT—350 weeks PT—Disability	TT—115,500		Unemployment compensation, Social Security	Annual increase in maximum effective January 1. Compensation increased 10% if installment unpaid after 14 days. [*]
GEORGIA	66-2/3	175.00		25.00 ¹		Disability				Board may assess \$500 penalty for refusal, unreasonable delay, or willful neglect to make payment. [*]
GUAM	66-2/3	140.00	66-2/3% SAWW	50.00 ¹		Disability	40,000			Compensation increased 10% for late payment without award, 20% if award.
HAWAII	66-2/3	318.00	100% SAWW	TT—79.50 ¹ PT—79.50	TT—25% SAWW [*] PT—25% SAWW	Disability		PT—injuries prior to June 18, 1980		Annual increase in maximum effective January 1. Compensation may be increased 10% for failure to pay within 31 days after decision or award, or within 10 business days for uncontested temporary total disability case.
IDAHO	60	278.10 to 386.25	90% SAWW	139.05	45% SAWW	Disability		After 52 weeks		Annual increase in maximum effective January 1. For first 52 weeks benefit is 60% of worker's wages if there are no dependent children under 18, after 52 weeks benefit is 60% of SAWW. Benefit is increased 7% of SAWW per dependent child (up to 5), but may not exceed 90% of wages. 8% interest on late payments.
ILLINOIS	66-2/3	544.00	133-1/3% SAWW	TT—100.90 ¹ PT—204.00	PT—50% SAWW	TT—Disability PT—Life		PT—July 15 of 2nd year		Semiannual increases in maximum effective January 15 and July 15 ^{**}
INDIANA	66-2/3	190.00 ¹		75.00 ¹		500 weeks	95,000			After 500 weeks, additional benefits are payable from second injury fund in 150-week increments ^{**}
IOWA	80% of spendable earnings	613.00	200% SAWW	107.00 [*]	35% SAWW [*]	Disability				Annual increase in maximum effective July 1. Benefits increased 50% if late or stopped without good cause.
KANSAS	66-2/3	247.00	75% SAWW	25.00		Disability	TT— 75,000 PT—100,000 (includes TT)			Annual increase in maximum effective July 1. Compensation may be increased up to \$100 per week past due (plus up to \$25 per week past due for failure to pay medical bill).
KENTUCKY	66-2/3 ¹	322.19	100% SAWW	64.44	20% SAWW	Disability				Annual increase in maximum effective January 1. Compensation increased or decreased 15% if injury caused by safety violation. 12% interest on late payments.

¹Actual weekly wage if less.

²Amounts shown in italics have been calculated.

³Social Security offsets generally apply by formula up to 50% of basic benefit.

Ala. *Compensation may be increased up to 10% for failure to pay within 30 days after award.

Alaska *Spendable weekly earnings if less.

Ark. *Increased to \$189 as of 7/1/87.

**Increased to \$85,050 after 7/1/87.

***18% penalty for failure to pay without an award, 20% penalty for failure to pay with an award.

Conn. *80% of average weekly wages, if less.

**12% interest benefits added if undue delay in payment, 6% interest added if undue delay in adjustment (4 weeks presumed undue delay).

D.C. *Maximum is no less than \$453.94, minimum is 25% SAWW or 80% of actual earnings if less. Benefits for D.C. government employees are similar to F.E.C.A.

Fla. *Compensation increased 20% if unpaid 30 days after award.

Ga. *Income payable without award increased 15% if not paid within 14 days unless claim is controverted or Board excuses. Awarded benefits increased 20% if not paid within 20 days unless Board grants review.

Hawaii *Actual wages if less, but no less than \$38.

Ill. *Minimum TT benefit is \$100.90 if unmarried and ranges up to \$124.30 if 4 or more dependents. In all cases claimant receives actual weekly wage if less.

**TT benefits may be increased \$10 per day, up to \$2,500, for unreasonable delay in payment; 14 days is presumed unreasonable. Compensation may be increased 50% for unreasonable or verabulous delay in payment. Compensation may be increased 25% for employer's willful violation of safety standard.

Ind. *Effective 7/1/80.

**Award is increased 5% if employer loses on court appeal; court may increase to 10%.

Iowa *Employee's spendable earnings if less.

Ky. *80% of AWW during rehabilitation.

CHART VI □ INCOME BENEFITS FOR TOTAL DISABILITY □ January 1, 1987 (continued)

JURISDICTION	PERCENT OF WAGES	MAXIMUM WEEKLY PAYMENT		MINIMUM WEEKLY PAYMENT		TIME LIMIT	AMOUNT LIMIT ²	AUTOMATIC COST OF LIVING INCREASE	OFFSETS ³	NOTATIONS
		AMOUNT	RATE	AMOUNT	RATE					
LOUISIANA	66-23	\$ 261.00	75% SAWW	69.60	20% SAWW ¹	Disability			Social Security, unemployment compensation, employer-funded disability, federal workers compensation	Annual increase in maximum effective September 1. 12% interest on late payments.
MAINE	66-23	447.92 [*]	(¹)	\$25.00 ^{**}		Disability		Anniversary July 1 if maximum benefit or date of injury is prior to 7/1/83	Employer funded benefits, old age Social Security, unemployment benefits.	Annual increase in maximum effective July 1. Compensation may be increased 10% for failure to pay unconverted claim within 10 days. ^{***}
MARYLAND	66-23	365.00	100% SAWW	TT—50.00 ¹		Disability		(-)		Annual increase in maximum effective January 1. If permanent disability exceeds 50% of whole body, worker receives additional compensation from Subsequent Injury Fund after completion of payments by employer.
MASSACHUSETTS	66-23	383.57	100% SAWW	TT—20.00 [*] PT—76.71	PT—20% SAWW	Disability	TT—93,730 ^{**}		Unemployment compensation, pension, old age Social Security	Annual increase in maximum effective October 1. Additional \$6 weekly per dependent if total benefit does not exceed \$150 or 100% of wages. ^{***}
MICHIGAN	80% of spendable earnings	391.00	90% SAWW	PT—108.47	PT—25% SAWW	Disability		PT (injury prior to 1/1/82)	Disability, unemployment compensation, pension, old age Social Security retirement ^{**}	Annual increase in maximum effective January 1. Additional \$50 per day for award unpaid after 30 days, maximum \$1,500
MINNESOTA	66-23	360.00	100% SAWW	180.00	50% SAWW ^{**}	Disability		Anniversary of injury	Social Security after \$25,000 paid [*]	Annual increase in maximum effective October 1. Late payment may be increased 10% if inexcusably delayed, plus interest.
MISSISSIPPI	66-23	140.00 [*]		25.00		450 weeks	63,000 [*]			Additional rehabilitation allowance up to \$10 weekly for 52 weeks.
MISSOURI	66-23	261.19	75% SAWW	40.00		TT—400 weeks PT—Life	TT—104,476			Annual increase in maximum effective July 1. 8% interest for late payments. [*]
MONTANA	66-23	299.00	100% SAWW			Disability [*]			Social Security	Annual increase in maximum effective July 1. TT and PT benefits may be paid out in a lump sum, subject to a discount of 7%. Compensation may be increased 20% if payment unreasonably delayed or refused.
NEBRASKA	66-23	225.00		49.00 ¹		Disability				
NEVADA	66-23	341.95	100% SAWW			TT—Disability PT—Life			Social Security	TT benefits payable bi-weekly. PT benefits payable monthly. Annual increase in maximum effective July 1.
NEW HAMPSHIRE	66-23	492.00	150% SAWW	131.00 ¹	40% SAWW ¹	Disability		July 1—after 3 years		Annual increase in maximum effective July 1. Double compensation if employer violated prior recorded safety standard.
NEW JERSEY	70	302.00	75% SAWW	80.00	20% SAWW	TT—400 weeks PT—Life	TT—120,800		Social Security	Annual increase in maximum effective January 1. After 450 weeks at reduced rate if employed; at full rate if not able to be rehabilitated.
NEW MEXICO	66-23	298.63 [*]	100% SAWW	36.00 ¹		600 weeks	179,178			Annual increase in maximum effective January 1. 10% additional compensation payable by employer for failure to provide safety devices.
NEW YORK	66-23	300.00		TT—20.00 ¹ PT—30.00 ¹		Disability			Social Security	Persons receiving PT benefits may collect full compensation and wages, but not in excess of pre-injury wage base. [*]
NORTH CAROLINA	66-23	308.00	100% SAWW	30.00		TT—Disability PT—Life			Unemployment benefits	Annual increase in maximum effective January 1.
NORTH DAKOTA	66-23	296.00 plus dependents	100% SAWW	178.00 ¹	60% SAWW ¹	Disability			Social Security	Annual increase in maximum effective July 1. Additional \$5 weekly per dependent child under 18, or to age 22 if child is attending a full-time educational institution, total benefits may not exceed claimant's net take-home pay.
OHIO	72—first 12 weeks 66-23—after 12 weeks	376.00 [*]	100% SAWW	TT—125.33 ¹ PT—188.00 ¹	TT—33-13% SAWW ¹ PT—50% SAWW ¹	TT—Disability ^{**} PT—Life			Employer funded benefits	Annual increase in maximum effective January 1. If PT benefit plus Social Security are less than \$161.92 weekly, Disabled Workers' Relief Fund pays the lesser of the difference between the DWRIF rate and PT or the DWRIF rate and social security; amount increased annually by increase in Consumer Price Index.
OKLAHOMA	66-23	217.00	66-23% SAWW	30.00 ¹		TT—150 weeks [*] PT—Disability	TT—32,550			Annual increase in maximum effective November 1. TT may be extended to 500 weeks.

La. ¹PT benefits reduced so that combined Social Security and PT benefits do not exceed 80% of pre-injury wages.
 Maine ^{*}Frozen at \$447.92 until 6/30/88.
^{**}Minimum not applicable to handicapped persons employed by a sheltered workshop.
^{***}Carer may be assessed up to \$25 per day for failure to pay award within 10 days. Added benefits during rehabilitation—\$35 weekly.
 Md. ^{*}Benefits increased October 1 for persons injured any time during July 1, 1965, through June 30, 1978, and receiving PT benefits in July, 1973.
 Mass. ^{*}Actual wages if less, but no less than \$20 if working at least 15 hours a week.
^{**}260 times SAWW; includes permanent partial disability.
^{***}Double compensation if injury due to employer's serious and willful misconduct. If no benefits are paid prior to final decision of claim, award is based on benefits in effect at time of decision instead of date of injury.
 Mich. ^{*}For supplementary benefits after 24 months, calculated on October 1, equal to base benefit times percent increase in SAWW over SAWW at time of injury.
 Minn. ^{*}Conclusive presumption of PT disability does not extend beyond 800 weeks from injury; thereafter determined in accordance with facts.
^{**}Benefits reduced if claimant is eligible for Social Security and such benefits are not being coordinated.
 Miss. ^{*}Actual wages if less, but not less than 20% of SAWW; \$72.00 through 9/30/87. After 208 weeks total disability, supplementary benefits bring compensation to 65% of SAWW; \$234.00 through 9/30/87.
^{**}Other government disability benefits from same injury also offset.

Mo. ^{*}Effective 7/1/86.
 Mo. ^{*}Compensation increased 15% if injury caused by failure to comply with statute or order, decreased 15% if caused by worker's failure to use safety device.
^{**}Compensation terminates upon receipt of Social Security retirement benefits.
 N.M. ^{*}SAWW frozen at 7/1/85 levels, Effective 7/1/86 to 7/1/87.
 Nevada ^{*}Maximum monthly wages on which benefits are computed are \$2,230.45, effective 7/1/86.
 N.Y. ^{*}Wage base at time of earning (150% of maximum payable).
 Ohio ^{*}Maximum PT rate is 66 2/3% SAWW unless claimant receives Social Security, which, combined with PT, brings maximum up to 100% SAWW.
^{**}After 200 weeks claimant examined to determine if disability is permanent.
 Oklahoma ^{*}Court order may extend benefits for up to 300 weeks.

CHART VI □ INCOME BENEFITS FOR TOTAL DISABILITY □ January 1, 1987 (continued)

JURISDICTION	PERCENT OF WAGES	MAXIMUM WEEKLY PAYMENT		MINIMUM WEEKLY PAYMENT		TIME LIMIT	AMOUNT LIMIT ²	AUTOMATIC COST OF LIVING INCREASE	OFFSETS ³	NOTATIONS
		AMOUNT	RATE	AMOUNT	RATE					
GREGON	66-2/3	TT-344.77 PT-369.77	100% SAWW	50.00 ¹		Disability				PT—Social Security Annual increase in maximum effective July 1. Additional \$5 weekly per dependent liv PT (up to 5).
PENNSYLVANIA	66-2/3	361.00	100% SAWW	180.50 ¹	50% SAWW ¹	Disability				Annual increase in maximum effective January 1.
PUERTO RICO	66-2/3	TT—65.00 PT—28.86		TT—20.00 PT—11.54		TT—312 weeks PT—Life	TT—20,280 PT—18,900 ¹			Compensation doubled if due to employer's violation of safety or health law or regulation.
RHODE ISLAND	66-2/3	320.00 plus 9.00 per dependent	100% SAWW			Disability				Annual increase in maximum effective September 1. Additional \$9 per dependent child under 18. Total benefit may not exceed 80% of pre-injury wages. ¹
SOUTH CAROLINA	66-2/3	308.24	100% SAWW	75.00 ¹		500 weeks ¹	154,120 ¹			Annual increase in maximum effective January 1.
SOUTH DAKOTA	66-2/3	262.00	100% SAWW	131.00 ¹	50% SAWW ¹	TT—Disability PT—Life				Annual increase in maximum effective July 1.
TENNESSEE	66-2/3	189.00 ¹		25.00		TT—Disability PT—550 weeks ¹	75,600			After 400 weeks PT benefit is reduced to \$15.
TEXAS	66-2/3	224.00	(¹)	\$38.00	(¹)	401 weeks ¹	89,824			Annual increase in maximum effective September 1. ¹
UTAH	66-2/3	TT—329.00 PT—280.00	TT—100% SAWW PT—85% SAWW	45.00 ¹		Disability ¹			Social Security	Annual increase in maximum effective July 1. Additional \$5 if spouse, plus \$5 per dependent child under 18 (up to 4); total benefit may not exceed maximum. ¹
VERMONT	66-2/3	465.00 plus dependents	150% SAWW	155.00 ¹	50% SAWW ¹	Disability ¹		July 1		Annual increase in maximum effective July 1. Additional \$10 per dependent child under 21; total benefits may not exceed pre-injury wages. ¹
VIRGIN ISLANDS	TT—66-2/3 ¹ PT—75	183.00 ¹	66-2/3% SAWW ¹	60.00 ¹		Disability		After 2 years on January 1		Annual increase in maximum effective January 1. Total disability benefits begin after medical and vocational rehabilitation end. Compensation increased 15% for injury caused by employer's failure to obey safety order. ¹
VIRGINIA	66-2/3	326.00	100% SAWW	81.50 ¹	25% SAWW ¹	TT—500 weeks PT—Disability ¹	TT—163,000	October 1 ¹		Annual increase in maximum effective July 1. Compensation increased 20% for failure to pay within 2 weeks after due.
WASHINGTON	60 to 75, depending on conjugal status	271.78	75% SAWW	43.02 ¹		Disability		July 1	Social Security under age 65	Benefits payable monthly. Annual increase in maximum effective July 1. 60% of wage, additional 5% of wages for spouse, plus 2% of wages per dependent child (up to 5), up to maximum.
WEST VIRGINIA	70	343.06	100% SAWW	114.35	33-1/3% SAWW	TT—208 weeks PT—Life	TT—71,356			All but TT benefits payable monthly. Annual adjustment in maximum effective July 1.
WISCONSIN	66-2/3	338.00	100% SAWW	30.00		TT—Disability PT—Life			Social Security	Annual increase in maximum effective January 1. ¹
WYOMING	TT—66-2/3	TT—368.42 PT—245.61 plus dependents	TT—100% SAWW PT—66-2/3% SAWW	TT—184.21 PT—245.61	PT—66-2/3% SAWW	TT—Disability PT—Life	(¹)			Benefits payable monthly. Quarterly increases in maximum effective January 1, April 1, July 1, and October 1. PT benefit fixed at 66-2/3% of SAWW plus \$100 per child monthly.
F.E.C.A.	66-2/3 or 75	1009.27	66-2/3% or 75% of highest rate for GS-15	156.00 ¹	66-2/3% or 75% of lowest rate for GS-2 ¹	TT—Disability PT—Life		October 1	(¹)	Benefits payable monthly. Increase effective 1 ¹ & 85. Higher percentage payable if 1 or more dependent.
LONGSHORE ACT	66-2/3	605.32 ¹	200% NAWW ¹	151.33 ¹	50% NAWW ¹	Disability		PT—October 1	Jones Act, other workers' compensation benefits	Annual increase in maximum effective October 1.

Or: 90% of actual wages, if less.

Pa: 90% of wages if less, but no less than 33-1/3% of SAWW (\$120.33, effective 1/1/87).

P.R.: May be paid in monthly installments of \$100 to \$125 for life.

RI: No compensation for PT disability if worker is earning pre-injury wages. Lump sum benefits available after benefits have been received for 6 months.

S.C.: Person who is para or quadriplegic or has suffered brain damage shall receive PT benefits for life. Compensation may not order lump sum payment in such cases.

Tenn.: From date injury is determined to be permanent.

Texas: For life in case of amputation or paralysis of two limbs, loss of vision in both eyes, or permanent insanity.

¹Maximum increased \$7 and minimum increased \$1 per \$10 increase in SAWW.

Utah: Disability beyond 312 weeks is payable from Second Injury Fund, minimum \$120 weekly.

Vt: PT benefits payable at least 330 weeks, after temporary disability benefits cease. After 330 weeks, PT benefits continue while there is lost earning capacity.

¹Benefits may be disallowed if injury results from worker's failure to use safety device.

VI: During vocational rehabilitation, income benefits are 75% of AWW, maximum SAWW, minimum \$75 or actual wages if less.

Va: 500 week limit for certain PT cases.

¹Recipient of Social Security ineligible for cost of living increases.

Wash: Plus \$8.53 for first child, \$7.15 for second child, \$5.30 each for third through fifth children, and \$6.92 for spouse.

Wisc: Compensation may be adjusted up or down by 15% (up to \$15,000) for failure to use safety device or obey code of order, 10% interest payable on late payments. Employer, insurer, or both may be assessed penalty up to double the amount of compensation (not to exceed \$15,000) for bad faith failure to make payments.

Wyo: Court must approve PT payments after \$63,122.00 (257 times 66-2/3% SAWW).

F.E.C.A.: Civil Service Retirement and Disability Fund (CSRA) overpayments.

Longshore: Effective 9/29/84, Nonappropriated Fund Instrumentalities Act employees subject to same maximum minimum weekly rates as employees covered under Longshore Act.

CHART VI □ INCOME BENEFITS FOR TOTAL DISABILITY □ January 1, 1987 (continued)

JURISDICTION	PERCENT OF WAGES	MAXIMUM WEEKLY PAYMENT		MINIMUM WEEKLY PAYMENT		TIME LIMIT	AMOUNT LIMIT ²	AUTOMATIC COST OF LIVING INCREASE	OFFSETS ³	NOTATIONS
		AMOUNT	RATE	AMOUNT	RATE					
ALBERTA	90% of weighted net income	509.73		160.00 ¹		TT—Disability PT—Life				PT payable monthly. Maximum annual earnings is \$40,000.
BRITISH COLUMBIA	75	591.17		205.86 ¹		TT—Disability PT—Life		January 1 and July 1		PT payable monthly. Maximum annual earnings \$41,100. Annual increase in maximum effective January 1.
MANITOBA	75	461.54	(*)	TT—159.94 ¹ PT—159.94		TT—Disability PT—Life				PT payable monthly. Maximum annual earnings \$32,000. Annual increase in maximum effective January 1.
NEW BRUNSWICK	90% of weighted net income	392.63 to 424.75*	110% of provincial average wage			TT—Disability** PT—Life			Can Pension Disability Benefits	PT payable monthly. Maximum annual earnings is \$31,900. Annual increase in maximum effective January 1.
NEWFOUNDLAND	90% of weighted net income	587.82		200.00*		to age 65			Canadian Pension Disability Benefits	PT payable monthly. Maximum annual earnings \$45,500, effective 1/1/83. Board may raise compensation as it deems equitable.
NORTHWEST TERRITORIES	90% of net income	438.46		192.92 ¹		TT—Disability PT—Life				Benefits payable monthly. Maximum annual earnings \$36,800.
NOVA SCOTIA	75	403.85 plus dependents		120.00*		TT—Disability PT—Life		January 1		PT payable monthly. Maximum annual earnings \$28,000, effective 1/1/83. Additional \$33.00 weekly per child; total benefit may exceed maximum.
ONTARIO	90% of net average earnings*	404.28 to 429.66		215.62 ¹		TT—Disability PT—Life		In accordance with increases in the C.P.I.		PT payable monthly. Maximum annual earnings \$32,100.
PRINCE EDWARD ISLAND	75	288.47		60.00*		TT—Disability PT—Life				PT payable monthly. Maximum annual earnings \$20,000, effective January 1, 1987.
QUEBEC	90% of weighted net income	400.70 to 443.78	150% of provincial average wages	Minimum salary		TT—Disability PT—Lump Sum			TT—Anniversary of accident PT—January 1	PT lump sum. Maximum annual earnings \$35,500.
SASKATCHEWAN	90% of net income	558.38 to 593.21*	(**)	203.54***		TT—Disability PT—Life		Payments indexed by CPI on anniversary of earnings loss.	Canada Pension after 1 year	PT payable monthly. Maximum annual earnings \$48,000, effective 9/1/85. For assessment purposes, maximum is equal to \$34,000 per annum. After 2 years' disability, an amount equal to 10% of compensation is set aside to purchase annuity for benefits after age 65.**
YUKON TERRITORY	75	474.67	(*)	137.00 ^{1,2}		TT—Disability PT—Life		January 1		Maximum annual earnings \$33,000.
CANADIAN MERCHANT SEAMEN'S ACT	75	443.01		127.00		TT—Disability PT—Life				Benefits payable monthly. Maximum annual earnings \$30,800. Gov.-in-Council may raise benefits to level paid in maritime provinces.

Man: *Maximum earning ceiling increased by \$1,000 if 10% of workers injured in preceding year earn in excess of maximum.

N.B.: *Annual review of maximum. Lower figure for single, higher figure for married claimant with 2 children.

**If 63 or older at time of loss, maximum is 2 years.

Nfld: *100% of weighted net earnings if less.

N.S.: *Minimum for temporary total disability is 75% of minimum wage.

Ont: *For accidents on or after April 1, 1985. Net average earnings are gross wages, minus probable income taxes, Canadian pension plan premiums and Unemployment Insurance. Lower figure for single, higher figure for married claimant with one child.

P.E.I.: *Actual wages if less, but Board may set minimum at \$15.

Sask: *Lower figure for single; higher figure for married claimant with 2 children under 16 years old.

**Maximum earning ceiling increased by \$1,000 if 10% of workers injured in preceding year earn in excess of maximum.

***Actual wages if less for first 2 years' disability.

Yukon: *Benefits increased annually based on Consumer Price Index.

State Workers' Compensation Laws



U.S. Department of Labor
Employment Standards Administration
Office of State Liaison and Legislative Analysis
Division of State Workers' Compensation Programs

January 1988

TABLE 18. ATTORNEY FEES IN WORKERS' COMPENSATION^{1/}

State	Attorney fees established by statute, rule, operating policy, or on individual case basis	Determined by:	Statutory provision whereby attorney fees are added to award in certain cases	Statutory provision making unlawful acceptance of unapproved fees	Laypersons permitted to represent claimants	Attorney fees, upon approval, become liens against awards
Alaska	25% minimum on first \$1,000; 10% on balance, statute	Agency	Yes	Yes	Yes	No
Alabama	15%, statute	Court	None	None	No	No
Arizona	25%, statute	Agency	None	None	No	No
Arkansas	30% first \$1,000; 20% next \$2,000; 10% on balance, statute	Agency	Yes	None	Yes	No
California	Individual case basis	Agency	Yes	None	Yes	Yes
Colorado	Individual case basis	Agency	None	None	No	Yes
Connecticut	Individual case basis	Agency	Yes	None	Yes	No
Delaware	30% or \$2,250, whichever is smaller, statute	Agency	Yes	None	No	No
District of Columbia	Individual case basis	Agency	Yes	Yes	Yes	Yes
Florida	25% first \$5,000; 20% second \$5,000; 15% on balance, statute	Agency	Yes	Yes	No	Yes
Georgia	25% to 33 1/3%, rule	Agency	Yes	Yes	No	No
Hawaii	Individual case basis	Agency	Yes	Yes	Yes	Yes
Idaho	Individual case basis	Agency	Yes	None	Yes	No
Illinois	20%, statute	Agency	Yes	None	No	No
Indiana	20% first \$5,000; 15% next \$5,000; 10% on balance, rule	Agency	Yes	None	No	No
Iowa	Individual case basis	Agency	None	None	No	Yes

TABLE 18. ATTORNEY FEES IN WORKERS' COMPENSATION (cont.)

State	Attorney fees established by statute, rule, operating policy, or on individual case basis	Determined by:	Statutory provision whereby attorney fees are added to award in certain cases	Statutory provision making unlawful acceptance of unapproved fees	Laypersons permitted to represent claimants	Attorney fees, upon approval, become liens against awards
Kansas	25%, statute	Agency	None	None	No	Yes
Kentucky	20% first \$25,000; 15% next \$10,000; 5% balance, \$6,500 maximum; statute	Agency	Yes	No	No	No
Louisiana	20% first \$10,000; 10% on balance, statute	Court	Yes	Yes	No	Yes
Maine	Individual case basis	Agency	Yes	Yes	No	No
Maryland	20% first \$7,000; 15% next \$18,000; 10% balance, policy	Agency	Yes	None	No	Yes
Massachusetts	20% on lump sum settlement, individual case basis, statute	Agency	Yes	None	No	Yes
Michigan	30%, rule; up to time of trial; 15% first \$25,000; 10% balance on redemption settlements	Agency	None	None	No	No
Minnesota	25% first \$4,000; 20% next \$27,500, statute	Agency	Yes	Yes	No	Yes
Mississippi	25% before Commission; 33 1/3% in Court, statute	Agency	None	Yes	No	Yes
Missouri	25%, policy	Agency	None	None	No	Yes
Montana	25% - 40%, policy	Agency	Yes	None	Yes	Yes
Nebraska	20% - 25%, policy	Court	Yes	None	No	Yes
Nevada	No provision		Yes		Yes	
New Hampshire	20% - 25%, policy	Agency	Yes	None	No	No
New Jersey	20%, statute	Agency	Yes	Yes	No	Yes
New Mexico	Maximum of \$12,500, statute	Agency	Yes	Yes	No	No
New York	Individual case basis	Agency	None	Yes	Yes	Yes
North Carolina	Individual case basis	Agency	Yes	Yes	No	No
North Dakota	\$50 per hour, maximum, rule	Agency	Yes	None	No	No

TABLE 18. ATTORNEY FEES IN WORKERS' COMPENSATION (cont.)

State	Attorney fees established by statute, rule, operating policy, or on individual case basis	Determined by:	Statutory provision whereby attorney fees are added to award in certain cases	Statutory provision making unlawful acceptance of unapproved fees	Laypersons permitted to represent claimants	Attorney fees, upon approval, become liens against awards
Ohio	Individual case basis	Agency	None	None	No	No
Oklahoma	10% TTD; 20% other types, statute	Court	None	None	No	Yes
Oregon	25% not to exceed \$3,000, rule	Agency	Yes	None	Yes	Yes
Pennsylvania	20%, statute	Agency	Yes	None	No	Yes
Puerto Rico	Individual case basis	Agency	Yes	None	No	No
Rhode Island	Individual case basis	Agency	Yes	None	No	No
South Carolina	Individual case basis	Agency	Yes	Yes	No	No
South Dakota	Individual case basis	Agency	Yes	None	Yes	No
Tennessee	20%, statute	Court	None	Yes	No	Yes
Texas	25%, statute	Agency	Yes	None	Yes	Yes
Utah	20% first \$15,000; 15% next \$15,000; 10% balance, maximum \$9,051, rule	Agency	None	None	Yes	No
Vermont	20% maximum \$3,000, policy	Agency	Yes	None	No	Yes
Virginia	Individual case basis	Agency	Yes	None	No	No
Washington	30%, statute	Agency	Yes	Yes	Yes	No
West Virginia	20%, 208 week limit, statute	Agency	None	Yes	No	No
Wisconsin	20% in disputed cases, statute	Agency	None	Yes	Yes	No
Wyoming	Individual case basis	Court	Yes	Yes	Yes	No

1/ This table refers only to attorney fees for claimants. Attorney fees for employers and insurance carriers are not regulated by State statutes or regulations.

Guides to the

Evaluation

of

Permanent
Impairment

2nd Edition



11-11

TABLE 19
IMPAIRMENT DUE TO AMPUTATION, ABNORMAL MOTION AND ANKYLOSIS OF THE SHOULDER JOINT—ROTATION

Impairment of Upper Extremity		Impairment of Upper Extremity	
Amputation—At Joint			
		100%	
Abnormal Motion			
Average range of ROTATION is 130 degrees			
Value to total joint motion is 33%			
Internal rotation from neutral position (0°) to:	Degrees of Joint Motion		Impairment of Upper Extremity
	LOST	RETAINED	
0°	40	0	6%
10°	30	10	5
20°	20	20	3
30°	10	30	2
40°	0	40	0
External rotation from neutral position (0°) to:			
0°	90	0	14%
10°	80	10	12
20°	70	20	11
30°	60	30	9
40°	50	40	8
50°	40	50	6
60°	30	60	5
70°	20	70	3
80°	10	80	2
90°	0	90	0
Ankylosis			
Joint ankylosed at:			
0° (neutral position)			60%
10°			70
20°			80
30°			90
40° (full int. rotation)			100
Joint ankylosed at:			
0° (neutral position)			60%
10°			50
20°			40
30°			49
40°			57
50°			66
60°			74
70°			83
80°			91
90° (full ext. rotation)			100

*position of function

TABLE 20
RELATIONSHIP OF IMPAIRMENT OF THE UPPER EXTREMITY TO IMPAIRMENT OF THE WHOLE PERSON

% Impairment of Upper Extremity	% Impairment of Whole Person	% Impairment of Upper Extremity	% Impairment of Whole Person	% Impairment of Upper Extremity	% Impairment of Whole Person
0 = 0		35 = 21		70 = 42	
1 = 1		36 = 22		71 = 43	
2 = 1		37 = 22		72 = 43	
3 = 2		38 = 23		73 = 44	
4 = 2		39 = 23		74 = 44	
5 = 3		40 = 24		75 = 45	
6 = 4		41 = 25		76 = 46	
7 = 4		42 = 25		77 = 46	
8 = 5		43 = 26		78 = 47	
9 = 5		44 = 26		79 = 47	
10 = 6		45 = 27		80 = 48	
11 = 7		46 = 28		81 = 49	
12 = 7		47 = 28		82 = 49	
13 = 8		48 = 29		83 = 50	
14 = 8		49 = 29		84 = 50	
15 = 9		50 = 30		85 = 51	
16 = 10		51 = 31		86 = 52	
17 = 10		52 = 31		87 = 52	
18 = 11		53 = 32		88 = 53	
19 = 11		54 = 32		89 = 53	
20 = 12		55 = 33		90 = 54	
21 = 13		56 = 34		91 = 55	
22 = 13		57 = 34		92 = 55	
23 = 14		58 = 35		93 = 56	
24 = 14		59 = 35		94 = 56	
25 = 15		60 = 36		95 = 57	
26 = 16		61 = 37		96 = 58	
27 = 16		62 = 37		97 = 58	
28 = 17		63 = 38		98 = 59	
29 = 17		64 = 38		99 = 59	
30 = 18		65 = 39		100 = 60	
31 = 19		66 = 40			
32 = 19		67 = 40			
33 = 20		68 = 41			
34 = 20		69 = 41			

NOTE: Impairment of the whole person contributed by the upper extremity may be rounded to the nearest 5 percent only when it is the sole impairment involved.

TABLE 9
RELATIONSHIP OF IMPAIRMENT OF THE HAND TO
IMPAIRMENT OF THE UPPER EXTREMITY

% Impairment of Upper Hand Extremity		% Impairment of Upper Hand Extremity		% Impairment of Upper Hand Extremity		% Impairment of Upper Hand Extremity		% Impairment of Upper Hand Extremity		% Impairment of Upper Hand Extremity	
0 = 0	0	18 = 16	10	35 = 32	19	53 = 48	29	70 = 63	32	88 = 79	47
1 = 1	1	19 = 17	10	36 = 32	19	54 = 49	29	71 = 64	35	89 = 80	48
2 = 2	2	20 = 18	11	37 = 33	20	55 = 50	30	72 = 65	39	90 = 81	49
3 = 3	3	21 = 19	11	38 = 34	20	56 = 50	30	73 = 66	40	91 = 82	49
4 = 4	4	22 = 20	12	39 = 35	21	57 = 51	31	74 = 67	40	92 = 83	50
5 = 5	5	23 = 21	13	40 = 36	22	58 = 52	31	75 = 68	41	93 = 84	50
6 = 5	5	24 = 22	13	41 = 37	22	59 = 53	32	76 = 68	41	94 = 85	51
7 = 6	4			42 = 38	23			77 = 69	41		
8 = 7	4	25 = 23	14	43 = 39	23	60 = 54	32	78 = 70	42	95 = 86	52
9 = 8	5	26 = 23	14	44 = 40	24	61 = 55	33	79 = 71	43	96 = 86	52
10 = 9	5	27 = 24	14	45 = 41	25	62 = 56	34	80 = 72	43	97 = 87	52
11 = 10	6	28 = 25	15	46 = 41	25	63 = 57	34	81 = 73	44	98 = 88	53
12 = 11	7	29 = 26	16	47 = 42	25	64 = 58	35	82 = 74	44	99 = 89	53
13 = 12	7			48 = 43	26			83 = 75	45		
14 = 13	8	30 = 27	16	49 = 44	26	65 = 59	35	84 = 76	46	100 = 90	54
		31 = 28	17			66 = 59	35				
15 = 14	8	32 = 29	17	50 = 45	27	67 = 60	36	85 = 77	46		
16 = 14	8	33 = 30	16	51 = 46	26	68 = 61	37	86 = 77	46		
17 = 15	7	34 = 31	19	52 = 47	26	69 = 62	37	87 = 78	47		

NOTE: Impairment of the upper extremity contributed by the hand may be rounded to the nearest 5 percent only when it is the sole impairment involved. Consult Table 19 for converting upper extremity impairment to whole person impairment.

TABLE 10
IMPAIRMENT OF THE HAND DUE TO AMPUTATION OR ANKYLOSIS OF DIGIT(S) IN THREE POSITIONS

Digit(s) Involved	% Impairment of Hand				Digit(s) Involved	% Impairment of Hand			
	Digit Ankylosed in					Digit Ankylosed in			
	Digit Amputated	Full Extension	Position of Function	Full Flexion		Digit Amputated	Full Extension	Position of Function	Full Flexion
Thumb	40	30	25	38	Index	25	23	20	25
Thumb, Index	65	53	45	63	Index, Middle	45	41	36	45
Thumb, Index, Middle	85	71	61	83	Index, Middle, Ring	55	50	44	55
Thumb, Index, Ring	75	62	53	73	Index, Middle, Little	50	46	40	50
Thumb, Index, Little	70	58	49	68	Index, Middle, Ring, Little	60	55	48	60
Thumb, Index, Middle, Ring	95	80	69	93	Index, Ring	35	32	28	35
Thumb, Index, Middle, Little	90	76	65	88	Index, Ring, Little	40	37	32	40
Thumb, Index, Ring, Little	80	67	57	78	Index, Little	30	28	24	30
Thumb, Index, Middle, Ring, Little	100	35	73	98	Middle	20	18	16	20
Thumb, Middle	60	48	41	58	Middle, Ring	30	27	24	30
Thumb, Middle, Ring	70	57	49	68	Middle, Ring, Little	35	32	28	35
Thumb, Middle, Little	65	53	45	63	Middle, Little	25	23	20	25
Thumb, Middle, Ring, Little	75	62	53	73	Ring	10	9	8	10
Thumb, Ring	50	39	33	48	Ring, Little	15	14	12	15
Thumb, Ring, Little	55	44	37	53	Little	5	5	4	5
Thumb, Little	45	35	29	43					

LEG

TABLE 44
RELATIONSHIP OF IMPAIRMENT OF THE LOWER EXTREMITY TO IMPAIRMENT OF THE WHOLE PERSON

% Impairment of Lower Extremity	% Impairment of Whole Person	% Impairment of Lower Extremity	% Impairment of Whole Person	% Impairment of Lower Extremity	% Impairment of Whole Person	% Impairment of Lower Extremity	% Impairment of Whole Person
0 = 0	25 = 10	50 = 20	75 = 30	85 = 34	95 = 38		
1 = 0	26 = 10	51 = 20	76 = 30	86 = 34	96 = 38		
2 = 1	27 = 11	52 = 21	77 = 31	87 = 35	97 = 39		
3 = 1	28 = 11	53 = 21	78 = 31	88 = 35	98 = 39		
4 = 2	29 = 12	54 = 22	79 = 32	89 = 36	99 = 40		
5 = 2	30 = 12	55 = 22	80 = 32	90 = 36	100 = 40		
6 = 2	31 = 12	56 = 22	81 = 32	91 = 36			
7 = 3	32 = 13	57 = 23	82 = 33	92 = 37			
8 = 3	33 = 13	58 = 23	83 = 33	93 = 37			
9 = 4	34 = 14	59 = 24	84 = 34	94 = 38			
10 = 4	35 = 14	60 = 24					
11 = 4	36 = 14	61 = 24					
12 = 5	37 = 15	62 = 25					
13 = 5	38 = 15	63 = 25					
14 = 6	39 = 16	64 = 26					
15 = 6	40 = 16	65 = 26					
16 = 6	41 = 16	66 = 26					
17 = 7	42 = 17	67 = 27					
18 = 7	43 = 17	68 = 27					
19 = 8	44 = 18	69 = 28					
20 = 8	45 = 18	70 = 28					
21 = 8	46 = 18	71 = 28					
22 = 9	47 = 19	72 = 29					
23 = 9	48 = 19	73 = 29					
24 = 10	49 = 20	74 = 30					

NOTE: In case of shortening due to overriding or malalignment or fracture deformities, but not to include flexion or extension deformities, combine the following values with other functional sequelae, using the Combined Values Chart.

0 - 1/2 inch = 5% of lower extremity

1/2 - 1 inch = 10% of lower extremity

1 - 1 1/2 inch = 15% of lower extremity

1 1/2 - 2 inch = 20% of lower extremity

NOTE: Impairment of whole person contributed by lower extremity may be rounded to the nearest 5 percent only when it is the sole impairment involved.

TABLE 45
IMPAIRMENT OF THE DIGITS, FOOT, LOWER EXTREMITY AND WHOLE PERSON DUE TO AMPUTATIONS

	% Impairment of		
	Digit	Foot	Lower Extremity Whole Person
Hemipelvectomy			50
Disarticulation at hip joint			100 40
Amputation above knee joint with short thigh stump (3" or less below tuberosity of ischium)			100 40
Amputation above knee joint with functional stump			90 36
Disarticulation at knee joint			90 36
Gritti-Stokes amputation			90 36
Amputation below knee joint with short stump (3" or less below intercondylar notch)			90 36
Amputation below knee joint with functional stump			70 28
Amputation at ankle (Syme)		100	70 28
Partial amputation of foot (Chopart's)		75	53 21
Mid-metatarsal amputation		50	35 14
Amputation of all toes at metatarsophalangeal joints		30	21 8
Amputation of Great Toe			
With resection of metatarsal bone		30	21 8
At metatarsophalangeal joint	100	18	13 5
At interphalangeal joint	75	14	10 4
Amputation of Lesser Toe (2nd-5th)			
With resection of metatarsal bone		5	4 2
At metatarsophalangeal joint	100	3	2 1
At proximal interphalangeal joint	80	2	1 0
At distal interphalangeal joint	45	1	1 0

Figure 50

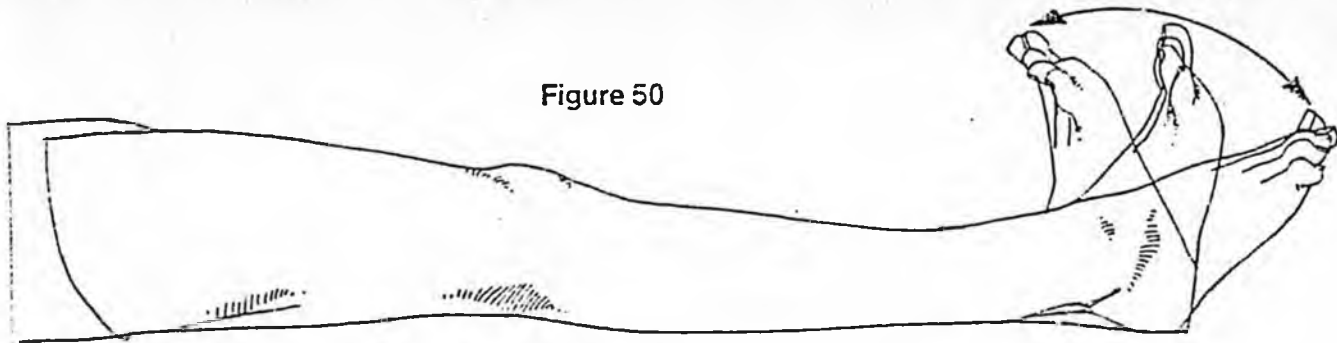


Figure 51

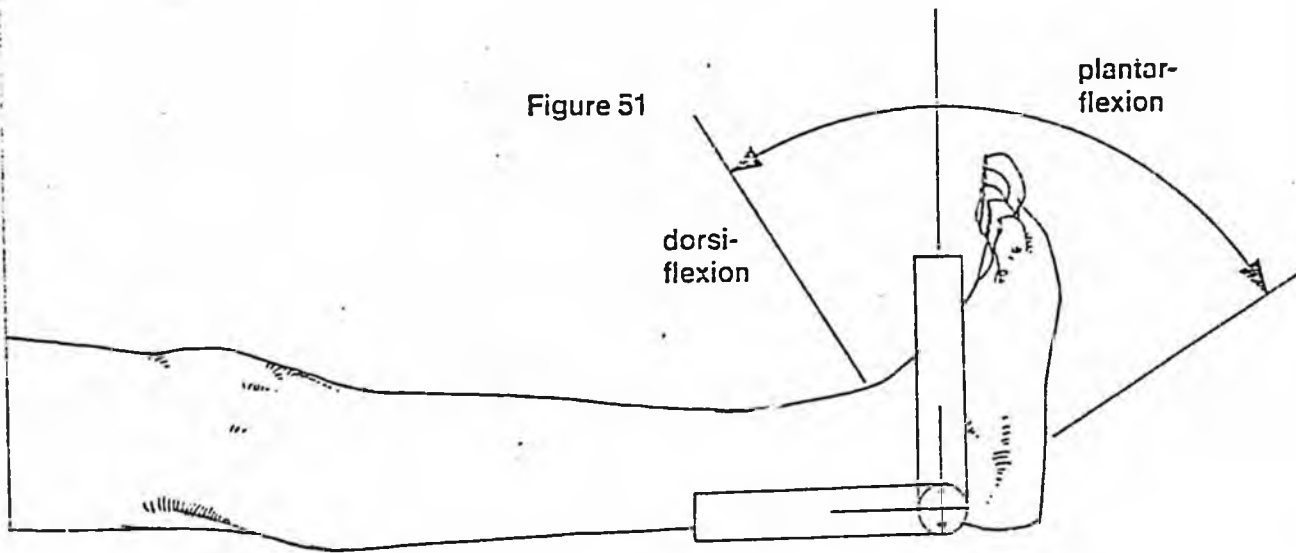


TABLE 34
RELATIONSHIP OF IMPAIRMENT OF THE FOOT TO IMPAIRMENT OF THE LOWER EXTREMITY

% Impairment of Lower Foot Extremity		% Impairment of Lower Foot Extremity		% Impairment of Lower Foot Extremity		% Impairment of Lower Foot Extremity		% Impairment of Lower Foot Extremity		% Impairment of Lower Foot Extremity	
0 = 0	0	20 = 14	5	40 = 28	11	60 = 42	17	75 = 53	21	90 = 63	25
1 = 1	0	21 = 15	5	41 = 29	12	61 = 43	17	76 = 53	21	91 = 64	25
2 = 1	0	22 = 15	5	42 = 29	12	62 = 43	17	77 = 54	22	92 = 64	25
3 = 2	1	23 = 16	5	43 = 30	12	63 = 44	18	78 = 55	22	93 = 65	25
4 = 3	1	24 = 17	7	44 = 31	12	64 = 45	18	79 = 55	22	94 = 66	25
5 = 4	2	25 = 18	7	45 = 32	13	65 = 46	18	80 = 56	22	95 = 67	27
6 = 4	2	26 = 18	7	46 = 32	13	66 = 46	18	81 = 57	23	96 = 67	27
7 = 5	2	27 = 19	7	47 = 33	13	67 = 47	19	82 = 57	23	97 = 68	27
8 = 6	2	28 = 20	7	48 = 34	14	68 = 48	19	83 = 58	23	98 = 69	27
9 = 6	2	29 = 20	7	49 = 34	14	69 = 48	19	84 = 59	24	99 = 69	27
10 = 7	3	30 = 21	7	50 = 35	14	70 = 49	20	85 = 60	24	100 = 70	27
11 = 8	3	31 = 22	7	51 = 36	14	71 = 50	20	86 = 60	24		
12 = 8	3	32 = 22	7	52 = 36	14	72 = 50	20	87 = 61	24		
13 = 9	4	33 = 23	7	53 = 37	15	73 = 51	20	88 = 62	25		
14 = 10	4	34 = 24	10	54 = 38	15	74 = 52	21	89 = 62	25		
15 = 11	4	35 = 25	10	55 = 39	15						
16 = 11	4	36 = 25	10	56 = 39	15						
17 = 12	5	37 = 26	10	57 = 40	15						
18 = 13	5	38 = 27	11	58 = 41	15						
19 = 13	5	39 = 27	11	59 = 41	15						

NOTE: Impairment of the lower extremity as contributed by the foot may be rounded to the nearest 5% only when it is the sole impairment involved.

Consult Table 44 for converting lower extremity impairment to whole person impairment.

Stress

in the Workplace
An Assessment of the Problem

By Donald T. DeCarlo
Vice President and General Counsel
National Council on Compensation
Insurance

Stress! The word itself is one of the most distressing in the English language suggesting, as it does, constraints, pressures, aggravations, frustrations, inhibitions—overt or hidden, subtle or crass—that create physical pain and worse. More and more people recognize that stress is a commonplace part of everyday life. But, for some, that life can be severely affected, or even cut short, by its ravages.

Increasingly, a workers' compensation claim is viewed as a remedy for workplace stress. The increase in such claims is not limited to traditionally hazardous occupations, nor even to occupations in which unusual stress is apparent. Coal miners and airline pilots may be affected by emotional stress, but so may office workers and executives.

In particular, claims for mental disability caused by workplace stress are now quite common. A National Council on Compensation Insurance (NCCI) study of data from a random sampling of claims for 1980-82 in 13 states revealed that gradual mental stress claims accounted for about 11 percent of all occupational disease claims. About 59 percent of the claimants were age 39 or younger.

Nationwide, it has been estimated that there were 11,600 such claims, resulting in an estimated total cost of \$30 million during 1983, up from virtually no cases at all ten years ago.

Clearly, the rise of work-related stress claims must be scrutinized to determine, among other things, the present and possible future effects on the nation's workers' compensation systems. Pursuant to studying this issue, NCCI published a new monograph, "Emotional Stress in the Workplace—New Legal Rights in the Eighties." This study summarizes the past and present status of the laws in each state for work-related mental stress claims, and attempts to identify trends in this increasingly significant field.

Claims in which either the stimulus or the disability is mental in nature gener-

**Some state courts
have concluded that
mental injuries are
to be treated no
differently than
physical injuries.**

ally have been brought within the scope of workers' compensation systems. Examples of these kinds of claims are a heart attack caused by a stressful job, or chronic depression caused by an injury that makes it difficult to do the job in the same manner as before the injury, sometimes called traumatic neurosis.

But mental stress-mental disability ("mental-mental") claims are even more problematic because there usually is no physical corroboration for either the source of stress or the disability. But, to the worker, the effects may be no less disabling than a physical injury.

Consider these examples of mental-

**A worker who has
endured 30 years of
tedium in a repetitive
job suddenly can not
tolerate another
day.**

mental claims. A worker suffers a nervous breakdown after viewing the death of a fellow worker on the assembly line.

A worker is unable to concentrate on job duties following a co-worker's suicide. A worker fears further exposure to chemicals in the workplace after reading that workers in another factory contracted cancer following exposure to the same chemicals. A worker suffers emotional problems when unable to cope with new office procedures.

And there are others. A worker who has endured 30 years of tedium in a repetitive job suddenly cannot tolerate another day. A worker who is transferred

to a new department feels harassed by the supervisor. A worker suffers an emotional collapse upon being fired.

Stress has been suggested as a contributory element of many medical conditions, including high blood pressure, heart disease, cancer and sexual dysfunction, even if many of these causal relationships are debatable.

Mental Stress Claims Will Continue

Not every psychologically impaired or stressed worker files a claim, of course, nor is it clear what percentage of psychological disability can truly be attributed to the workplace. But the recent increase in mental stress claims probably will continue. This will be due in part to such factors as publicity of workers' compensation recoveries for such claims, increases in unemployment in certain industries that sometimes encourages filing of claims as a "substitute income," and growing legal recognition of compensation for mental injuries in contexts other than workers' compensation.

Not surprisingly, the potential compensability of mental-mental claims differs by state. There are nine states in which the case law has thus far disallowed such claims. They are Florida, Georgia, Kansas, Louisiana, Minnesota, Montana, Nebraska, Ohio and Oklahoma; although in at least three of these states, Nebraska, Ohio and Louisiana, recent case law suggests that mental-mentals may be on the verge of recognition.

Most state courts disallowing mental-mentals have relied on specific statutory

language defining "injury" and interpreted it to require a compensable injury to have a physical element.

There are eight states in which the claims may be compensable if the source of the mental stress is a sudden, frightening or shocking event: Illinois, Maryland, Missouri, Mississippi, South Carolina, Tennessee, Texas and Virginia.

In 11 states mental-mental claims may be compensable if the source of the mental stress is unusual in the sense that it is in excess of the stress of everyday life or employment: Arizona, Arkansas, Maine, Massachusetts, New Mexico, New York, Pennsylvania, Rhode Island, Washington, Wisconsin and Wyoming.

State courts adopting this standard generally have held that a workers' compensation injury need not have a physical aspect and need not occur suddenly or traumatically to be compensable.

Claims May Be Compensable

In seven states claims may be compensable even if the source of the mental stress is not unusual (i.e., not in excess of the stress of everyday life or employment): California, Hawaii, Kentucky, Michigan, New Jersey, Oregon and West Virginia.

State courts applying this standard usually have concluded that mental injuries are to be treated no differently than physical injuries, and that mental-mentals are potentially compensable if the stress arises out of the workplace and causes disability.

Stress! The word itself is one of the most distressing in the English language.

In the remainder of the states, the legal status of mental-mentals has not yet been addressed, or is unclear. A few state court decisions have adopted a purely subjective standard not requiring the proof of any source of stress in the workplace. Rather, it is sufficient if the claimant perceives, however incorrectly, a source of stress in the workplace, and suffers disability as a result. But this approach is rare, and has been criticized as extending workers' compensation to injuries having nothing to do with work. The subjective standard was abolished by the legislature in Michigan.

The uncertainty of psychiatry—particu-

**There is a trend
toward increased
recognition of
gradual mental
stress claims.**

larly the reliability of psychiatric testimony—is another factor that has been expressed in many legal contexts. Studies have suggested that psychiatrists have a greater tendency to err by diagnosing sickness in healthy people than to err by diagnosing health in sick people. Other studies have concluded that two psychiatrists examining the same patient rarely concur, and that their diagnostic standards are too subjective, vague and unreliable to be the basis for legal judgments.

The nature of the employer-employee relationship also is coming under increased scrutiny by the courts. Just as compensation for work-related traumatic

injuries is tied to the right of an employ to a safe workplace, compensation base on emotional disability caused by a termination or demotion can imply a ne legal right—the right not to be fired.

A Trend Toward Increased Recognition
Since the compensability of mental-mentals has, in most states, been recognized only in the past 10 years, there can be little doubt that the trend is toward increased recognition. Recognition of gradual stress mental-mentals, where on sudden stress has been recognized, is yet another important trend.

It appears that mental-mentals are a new breed of claim which, if evaluated under realistic standards, can be successfully handled by the workers' compensation system. Mental-mentals do not present the same characteristics as asbestos-related diseases, which created uncertainties about the funding of the liabilities and who should pay them.

For example, a large number of mental-mentals have not arisen simultaneously, with heavy concentration in certain industries, as in the case of asbestos-related diseases. Most mental-mentals have not involved long latency periods, and, moreover, the legal standards applied in mental-mentals are more difficult to meet when the stress cannot be isolated to a single event or a series of ascertainable events. And mental-mentals do not involve a tangible product, such as asbestos, which can implicate several different responsible parties and thereby play havoc with the exclusive

nature of the workers' compensation remedy.

More Exacting Proof

There is, however, a need for some refinements to workers' compensation systems in evaluating mental-mental claims. For example, one refinement might be to require a higher threshold of causation or more exacting proof of casual relationship when adjudicating mental-mental claims in light of the absence of physical corroboration.

Also, the Subcommittee on Current Laws and Proposals of the National Association of Insurance Commissioners' Advisory Committee on Occupational Diseases recently has recommended that all states establish a panel of impartial experts in occupational medicine, industrial science, industrial hygiene and epidemiology to determine the compensability and disability of individual occupational disease claims.

The NAIC subcommittee further suggests that administrative guidelines be developed addressing causation and diagnostic criteria, and that central depositories for the latest medical, scientific and epidemiology data relating to occupational disease be established. The report also supports further development of courses to educate and train the administrators who decide occupational disease cases. These recommendations can and should be applied in mental-mental claims.

NCCI favors establishment of panels of impartial experts which could lend

**A study has
recommended that
all states establish a
panel of impartial
experts.**

greater credence to the reliability of medical determinations in mental-mental cases. More objective criteria to evaluate the effects of stress have recently become available, and should be used whenever practical. New administrative standards and uniform diagnostic standards would also be beneficial, as would increased statistical monitoring and continuous educational updates.

With reasonable limitations, these new legal rights of the eighties can be accommodated by the workers' compensation system which has served society well for the greater part of this century. ■

Stress in the Workplace —What Can Be Done About It?

By Susan Banham

Workers' allegations that transfers, demotions and changes in job duties are overly stressful and bring on a mental breakdown are not new. In the past, however, workers' compensation claims based on such allegations were rarely compensable. Today it's a different story. More and more mental stress claims are being brought to court and deemed compensable, and mental stress claims, overall, are on the rise.

A study conducted by the California Workers' Compensation Institute in 1983 confirmed a claims increase for neurosis (e.g., anxiety reactions) unrelated to a specific traumatic incident. During the years 1980-1982, such stress claims more than doubled while all other disabling work injuries decreased 11 percent during the same period, the study said.

Statistics, observers say, indicate a higher than expected percentage of claims by younger workers, which could indicate that a new generation of workers is more prone to stress—or at least more willing to exhibit emotional problems and more likely to regard them as compensable injuries.

In a recent survey conducted by the Canadian Mental Health Association, approximately 60 percent of the respondents reported experiencing "negative stress" on the job. Frequently cited sources of stress included work load and time pressures; quality of management; relationships with supervisors and co-workers; contact with the public or customers; and among men in blue-collar

and farming occupations, the threat of job loss or change due to economic conditions or technological innovations.

The survey also confirmed that younger workers, particularly those between the ages of 25 and 44, were more likely to feel adversely affected by negative stress in the workplace. Other recent research suggests that women are generally more likely than men to report physical problems caused by work stress. This could be due, observers say, to the dual role that most women play—at home as mother and wife, and at work. Women also may be experiencing more stress because they may believe they are not receiving equal pay for equal work.

Publicity Spurs Claims

Moreover, highly publicized workers' compensation recoveries spur similar claims. This may be important in mental stress claims because of the seeming universality of mental stress. Accordingly, a claim based on such pressures is likely to draw the attention of a large number of workers who feel that they are no less subject to job stress and no less entitled to compensation.

According to Donald T. DeCarlo, vice president and general counsel of the National Council on Compensation Insurance, "Underwriters are not focusing on mental stress-related claims just yet. They are not as big an item, from an insurance standpoint, as the physical injury in a workers' compensation claim, even though mental stress claims are

on the rise.

"Employers, however, seem to be more afraid of this kind of claim and are trying to control it by offering in-house physical fitness facilities to relieve stress and stress management programs that counsel the distressed."

Robert Schuch, legal manager for Wausau Insurance, asserted that the number of stress cases are increasing but they still have a long way to go before they surpass back injury, which makes up 80 percent of workers' compensation claims.

"As a result, our underwriters place more emphasis on that which is more apparent. While the potential for mental stress claims can indeed snowball, it hasn't done so to the extent that I foresaw back in the early 1980s," he said.

It Is Here To Stay

Although the mental stress claim is new to workers' compensation, "it certainly isn't a passing fad," said Catherine McGee, compensation manager for Wausau Insurance in New York. "The more successful the claim is in the courts, the more frequently we will see it," she said, adding that "it is here to stay."

Given the pervasive nature of stress in modern American life, and in the increasing incidence and prominence of so-called mental-mental disability claims, is there anything that managers can do to identify stressors in the workplace; to organize programs to eliminate and reduce them; to create conditions that maximize productivity and reduce the cost

of stress to the organization?

Some answers to these questions are beginning to emerge. According to Dr. John (Jack) Jones, Ph.D., chief industrial psychologist of the St. Paul Fire and Marine Insurance Company, companies should work out a corporate safety program that "gets at" the human element of employee stress reactions.

Through a new program, the St. Paul helps corporate risk managers to control losses resulting from work-related stress affecting the employee. Directed by Dr. Jones, the company's Human Factors Loss Control (HFLC) program is an extensive program that will help risk managers get a grip on the hefty cost of stress claims.

Adverse Reactions Noted

Stress, the adverse emotional and physical reactions employees have to any source of pressure in their environment, has a "negative impact on personal health and organizational effectiveness," Dr. Jones explained.

Before managers can develop programs to prevent stress-induced accidents, however, they must first understand how employees' stress causes mishap—how the stress-accident process works, Dr. Jones said.

"Stressed employees exhibit specific symptoms that pre-dispose them to accidents," he explained, noting that these symptoms include fatigue, poor judgment, impaired physical coordination, inattentiveness, distorted visual perception, indecision and alcohol and drug

problems.

"These stress reactions reduce awareness and avoidance of potential dangers and thus contribute to increased recklessness and risk taking," he added.

The way to deal with corporate stress is to establish a corporate self-help program, said Dr. Jones. The St. Paul offers a two-day program given four times a year for various U.S. companies interested in forming their own stress management system.

Corporate Assistance

Recently, the St. Paul and Control Data Health Care Corp. put into place an Employee Advisory Resource System (EARS) which provides 24-hour phone counseling, ranging from simple problems to suicide crisis issues for the employee and his family.

"We tailor-make an intervention program for any company interested in controlling the rise of mental stress claims within their organization. In addition, we offer risk managers the various skills necessary to control work-related accidents due to stress," he said.

"Managers need to determine whether a stress problem exists, how severe and lasting it is, whether intervention is within the manager's capability and if the employee should be referred to an expert. Monitoring suspected problems can help managers to determine the severity and the kind of intervention required. The alternatives—ignoring lingering problems or disciplining employees—may exacerbate difficulties," Dr. Jones said.

Mental stress is no respecter of persons and it turns up among a variety of occupations including professionals, laborers, clerical and service workers. Claims arise in sedentary occupations as well as physical ones, among managers as well as among the employees they supervise.

Stress Related Problems

According to Terry Monroe, president of Lifelong Ltd., a stress management consulting firm, there are several reasons for the prominence of stress-related problems: "Information overload is certainly a factor. Also our sedentary lifestyle characterized by little exercise and poor nutrition weakens our ability to withstand stress. Few of us take the time to relax, and this contributes to our problems. But the single most important cause of stress stems from our absolute depressed feelings about our inability to change—a sense of lack of control over our lives."

A recent national opinion survey conducted by Lou Harris and Associates reported that 92 percent of the American population agrees that if people stopped smoking, got better rest, exercised regularly, drank less alcohol, ate a more nutritious diet and found more time to relax these would do more to improve their health than anything the health care system could possibly do. There is a widespread public awareness that the individual is responsible for his health and that a positive lifestyle is a major factor in successfully managing life and job stress. ■

Economic Consequences of Job Injury

A Report to the Industry

SUMMARY

Workers' compensation is the oldest form of social insurance in the United States, the first to provide economic security to working men and women. In the event of a job injury, an employee is entitled to all necessary medical care, without deductible, coinsurance or other contribution. If the injury results in disability, the employee receives partial but tax-free replacement of lost wages at the employer's expense. Other employer-paid benefits — vocational rehabilitation and re-employment services, payments to surviving dependents in the event of death — complete the income protection objective.

By any measure California's workers' compensation program is the largest in the United States and exceeds the scope of parallel programs in most foreign countries. As a mechanism for delivering medical benefits, it has few challengers for effectiveness and efficiency. California's leadership in the rehabilitation of injured workers is established and accepted. But the record in income protection, particularly for permanently disabled employees, is less glowing and raises serious questions about the adequacy and equity of the California workers' compensation system. Consider:

- Income benefits replace less than 50 per cent of earnings lost because of a job injury, substantially beneath the two-thirds wage replacement promised by the statute.
- On average, a permanently disabled worker's uncompensated earnings loss will total \$18,000 over the working lifetime.

- Some workers fare better, others fare worse. Income benefits paid to younger workers who are permanently disabled replace 135 per cent of lost earnings, more than double the two-thirds goal established by law and three times the replacement rate of workers in the 25-50 age group.
- Similarly, income benefits for very minor disabilities restore 88 per cent of post-injury earnings loss, compared to only 32 per cent replacement for the severely disabled.

The income protection imbalance in California's workers' compensation program affects all injured employees to a greater or lesser degree, but the heaviest impact falls upon those with residual impairments, particularly the seriously disabled worker. The Institute's research examines this population in detail and provides baseline information about their characteristics, the nature of their disabilities, and their post-injury participation in the labor force.

The study confirms the conclusions of many observers: That income benefits provided by the California law are both inadequate and inequitable.

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672
4775 HJUD SB 322 (FILE 3)

347

FRAMING THE ISSUES

Workers' compensation laws originated as a modern society's response to the accidents that were a natural outgrowth of the industrial Revolution. Occupational injuries in the early 1900's were a fertile source of litigation, resulting in delays, uncertainty and red tape. An employee injured on the job had to prove the employer was at fault to collect medical expenses and lost wages. The employee's reluctance to jeopardize his job by bringing suit against the employer, in combination with the employer's formidable legal defenses, imposed a near-impossible burden upon the injured worker and his family.

The enactment of workers' compensation laws came after reciprocal concessions by employees and employers. In exchange for prompt, certain benefits, paid automatically regardless of fault, workers relinquished their right to sue in tort. Employers agreed to accept the financial responsibility for all workplace injuries, thereby permitting them to limit and budget their liability for workplace accidents. The legislative compromises were aimed at correcting an economic condition, not to curing a legal wrong.

Today workers' compensation is an integral part of a social insurance package that seeks to assure economic security to workers. Social Security and pension programs, both private and public, assume the task of handling old age retirement and survivorship. The state-federal unemployment compensation system addresses economy-related earnings loss. And workers' compensation affords protection against hardships that result from earnings loss caused by job injury.

The original workers' compensation laws explicitly recognized the income protection principle. All of the pioneering European systems — and 10 of the first 11 U.S. acts, including California's — emphasized earnings loss as the sole basis for indemnity. In the event of a job-related disability, the worker would receive a specified percentage of his pre-injury wage.

The shift away from replacement of actual lost earnings began with the enactment of the 1911 New Jersey law which introduced a "schedule" of benefits for permanently (as opposed to temporarily) disabled workers. Under this schedule approach, the loss, or loss of use, of a bodily member became a proxy for future lost earnings; compensation then is paid for a certain period of weeks (or up to a maximum dollar amount), regardless of actual economic consequences.

The introduction of schedules in compensation acts originated largely as an administrative convenience. The economic aftermath of a residual permanent impairment often extends over an employee's working life, but workers' compensation administrators were unwilling to wait a lifetime to determine and compensate actual earnings loss as it occurred. Early resolution and prompt benefit payments, even for long-term disabilities, required a different approach. This perceived administrative need led to the development of schedules that allowed a specific dollar amount for equally specific residual impairments of an injury. To preserve the income protection theory, however, the drafters rationalized that the scheduled amount was not payment for physical loss but, instead, an estimate of future earnings loss that might result from the physical injury. Today, scheduled benefits are the predominant method for compensating permanent disability in the United States.

In concept, scheduled benefits for permanent disability work some rough justice. In practice, however, the conceptual purpose frequently is unmet. Disability schedules presume a direct link between

physical impairment and future earnings in every instance, an assumption that ignores reality. For example, the adverse economic consequences of some injuries may continue long after the scheduled payments have been paid and spent. On the other hand, scheduled amounts may be paid even when there is no earnings loss, in which case the award resembles installment payment of damages, a concept alien to America's premier no-fault insurance program. Between these extremes are varying examples of over- and under-compensation for job-incurred disability.

As a mechanism for compensating the long-term impact of a job injury, a disability schedule inevitably creates equity problems. A schedule emphasizes certainty of result at the expense of individual differences. The historical California response to this conflict was adoption of a less rigid schedule that, at least in theory, attempts to predict the economic consequences of a physical impairment by permitting variations in the individual case. Some of the variables are objective, taking into account the age and occupation of the injured worker. But modifications also are permitted for purely subjective factors, e.g., pain and estimates of the worker's ability to bend, stoop, lift and perform the other physical requirements of working for a living. Most usually, the determination of these subjective factors are based on the worker's own description.

If the variables are objective, results can be predictable. But recognition of and allowance for subjective factors, which cannot be substantiated much less quantified, introduces uncertainty — and where uncertainty exists, litigation follows. Today in California three of every four permanent disability claims are litigated. The predominant issue in the vast majority of these claims is not the existence but, instead, the *extent* of permanent disability, a determination that encourages the involvement of attorneys and forensic medical testimony so that the "right words" will be used.

Dissatisfaction with the use of a schedule for predicting and compensating the long-term economic effects of job injury has increased in recent years. Moreover, both the adequacy and equity of benefits allowed by the schedule have been criticized repeatedly by employees, employers, administrators and legislators.

While the discontent is real, its roots are based on conjecture since hard data did not exist. Three years ago the California Workers' Compensation Institute authorized a research study to fill the vacuum. This report summarizes the findings and conclusions of that research and provides an objective basis for evaluating the performance of the California workers' compensation system in alleviating the economic hardships of industrial injuries.

JOB INJURY AND EARNINGS LOSS

Despite seven decades of experience, relatively little is known about the economic consequences of job injury, much less how well workers' compensation responds to these consequences. State administrative agencies and the insurance industry are repositories of abundant statistics, although most of the figures — nature and type of injuries, incidence rates, claim costs, etc. — are only pertinent to operational aspects of the program. With few exceptions, little is known about what happens to the injured worker after the claim file is closed.

Three years ago, after nearly a year in development and design, the Institute commissioned a research project to determine the scope of post-injury earnings loss and to test the effectiveness of the California Permanent Disability Schedule in providing income protection after a job injury.

(While measurement of earnings loss attributable to job injury was the primary purpose of the study, there were other complementary objectives. These goals included determining the extent to which other public and private programs duplicate or supplement workers' compensation as an economic remedy, the causes and results of litigation, and the effectiveness of vocational rehabilitation in restoring disabled workers to productive employment — issues which are or will be the subject of other CWCI reports. Because of the multiple objectives, the research project was labeled the "global study.")

The study relied upon two related data bases: (1) Responses to structured, personal interviews with a representative sample of California workers whose job injuries produced residual permanent impairments; and (2) Individual earnings records of the disabled worker sample as reported to the State Employment Development Department.

The latter data alone quantifies the extent and duration of gross earnings loss which occurs after injury. However, some portion of the loss may be due to factors unrelated to the injury — retirement, voluntary withdrawal from the labor market, subsequent non-industrial injury or illness, economic unemployment — as related by the workers themselves during interviews. Only by melding the two data bases is it possible to respond to the study's two central questions:

- How much of the subsequent earnings loss is attributable to the injury?
- How well does the California system compensate injury-related earnings loss?

The research answers these questions in detail. Additionally, the data provide baseline information about the economic consequences to those who suffer job injury, while defining policy issues that must be addressed if the California workers' compensation law is to achieve the adequacy and equity promised by its enactment 70 years ago.

POST-INJURY EARNINGS

In the four years following injury, a period during which earnings patterns stabilized for those who returned to the workforce, permanently disabled workers sustain an average \$17,800 earnings loss. Assuming the same degree of earnings loss continues to age 65, as it will for the severely disabled, then the average earnings loss over a working lifetime increases to \$115,000.

Aside from the limitations of averages, these estimates of gross post-injury earnings loss suffer other inadequacies:

- In the first instance, the figures are overstated to an unknown degree because they are derived from wages reported to the State Employment Development Department. Not included are earnings from the so-called "underground economy," i.e., cash payments made to some workers — most frequently in the construction, transportation and service industries — and which may not be reported for payroll and tax purposes.
- On the other hand, the figures are understated because they do not reflect wage increases that might have occurred but for the injury. While it is possible to estimate the potential effect of wage escalation, income benefits of the California law are based on earnings and benefit levels in effect at the time of the injury and, accordingly, no adjustment was made.
- More pertinently, the figures do not take into account the reasons for changes in earnings. The estimates are only measurements of gross post-injury earnings loss, *not* earnings loss attributable to the injury.

'Peeling the Onion': Nearly 60 per cent of the gross post-injury earnings loss is experienced by workers whose permanent disabilities generally are not considered handicaps to employment or wage-earning ability. In some instances the earnings loss is attributable to the job injury, but much of it can be traced to other causes, according to the workers themselves. Thus, the gross post-injury earnings losses were offset by the amount of wage reductions due to non-injury factors, a process the analysts labeled "peeling the onion" — stripping away the outer layers to arrive at estimates of net injury-related earnings loss.

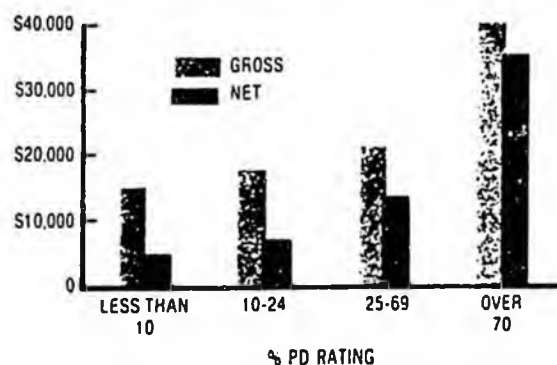
Some of the reductions are based on the employee's own statements during structured interviews (e.g., "reached retirement age," "only wanted part-time work," "quit to be with family" and other examples of voluntary withdrawal from the labor market). Excluded also were earnings losses incurred after normal retirement at age 65; during periods of self-reported major illnesses that were unrelated to the job injury; and while receiving unemployment insurance benefits, when the employee was available and able to work — earnings losses that would have occurred even if the worker had not been injured.

Other reductions, most usually made when the post-injury earnings pattern was inconsistent with the nature of the injury, were arrived at more subjectively. For example, the analysts concluded that an 18-year-old service station attendant's total absence of earnings except during the summer months probably was due to enrollment in college, not the minor injury he suffered four years earlier. Similarly, the earnings loss experienced by a 24-year-old female office worker after returning to work for two years at wages above her preinjury wages was ascribed to marriage or pregnancy.

Two other adjustments were made. Earnings loss that occurred after the employee's treating physician provided an unrestricted medical release to return to regular employment was eliminated as unrelated to the injury. Finally, if the employee returned to work and the earnings equalled or exceeded preinjury wages for three consecutive months, recovery was presumed to be complete and any subsequent earnings loss due to factors other than the injury.

The adjusting criteria assume that, after controlling for non-injury factors, earnings loss is a function of injury severity. In other words, the more severe the resulting disability, the greater the potential for earnings loss. If the criteria were valid, seriously disabled workers would be least affected by the application of the adjustments. For example, the most severely disabled workers would not have retired voluntarily, would not be eligible for unemployment compensation and would not be able medically to return to their former jobs; therefore, the difference between gross and net earnings loss would be least for these workers and greatest for those with minor disabilities. A series of comparisons validated this hypothesis and established the appropriateness of the criteria.

GROSS VS. NET EARNINGS LOSS, BY PDR



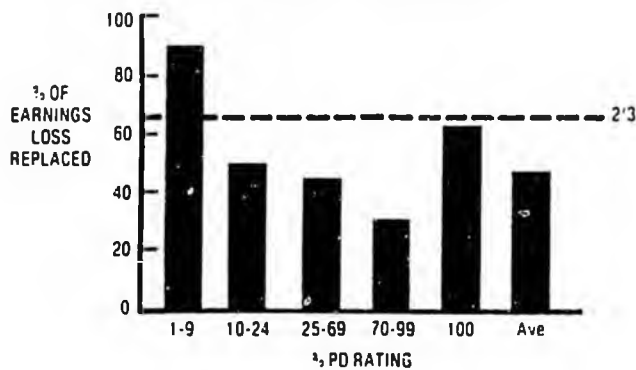
After adjustment for reasons unrelated to the injury, the net earnings loss in the four years after injury is reduced by 55 per cent, to an average of \$8080 per worker. The projected earnings loss over the working life of these employees drops even more, 85 per cent, to \$17,700. With few exceptions, the gross vs. net differences are because of non-injury related earnings losses of younger workers with minor disabilities.

ADEQUACY & EQUITY

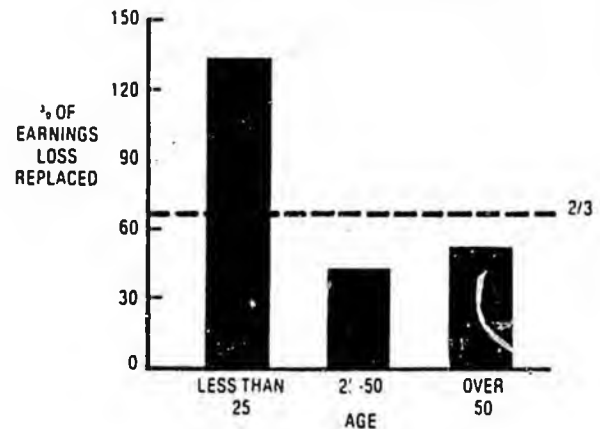
A comparison of net earning loss to disability payments shows the California program is neither adequate nor equitable. On average, workers' compensation income benefits (for both temporary and permanent disability) replace only 49 per cent of the net earnings lost by permanently disabled workers over their working life.

Compensation for younger workers exceeds their actual earnings loss due to work injury and, on the average, more than double the intended two-thirds replacement rate. Workers between 25 and 50 years, the majority of disabled workers, fare worse than their younger and older counterparts. With fewer years to retirement, workers in the oldest category suffer less earnings loss than the mid-group, but they recover proportionately more because the California schedule contains an upward adjustment for age.

REPLACEMENT RATE, BY PDR



REPLACEMENT RATE, BY AGE



Moreover, replacement rates vary widely according to injury severity and the age of the worker. Workers with very minor disabilities, those rated under 10 per cent on the California schedule, fare best, exceeding the two-thirds wage replacement intended by the workers' compensation law by a wide margin. Other disabled employees are less fortunate, however, and the degree of their economic misfortune progresses with the severity of their injuries. The exception is the permanently and totally disabled worker whose compensation approaches the program's wage replacement goal — but then such workers are compensated, not according to the schedule, but by two-thirds of their average pre-injury wages for life.

The limitations of the California permanent disability schedule, and the dimensions of the resulting inadequacy and inequity, are demonstrated in a matrix that combines severity and age in calculating the percentage of earnings loss replaced by income benefits.

REPLACEMENT RATE, BY PDR & AGE

PDR	AGE			Average
	< 25	25-50	50 >	
1-9	176	80	77	88
10-24	208	53	36	51
25-69	111	42	49	46
70-99	53	26	61	32
100	—	47	94	64
Average	135	44	51	49

If two-thirds wage-replacement is the goal, younger workers are over-compensated. Older permanently injured employees, most notably those 25 to 50 years who dominate the workforce, are severely under-compensated. Regardless of age, workers with the least disability are compensated best and, with the exception of permanently and totally disabled workers whose compensation is not predicated on the schedule, the percentage of earnings loss replaced declines with severity — the wrong movement in the wrong direction affecting the wrong population.

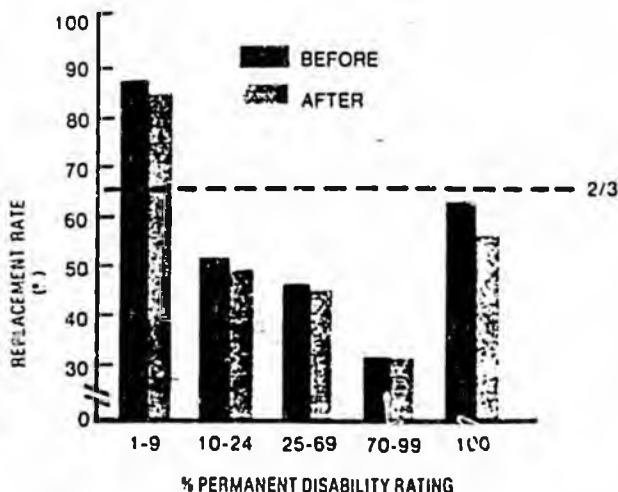
The deficiencies of the California schedule as a mechanism for compensating permanent disability are manifest. The system may have been adequate and equitable when adopted 70 years ago; clearly, it is no longer. Today workers' compensation indemnity benefits in California bear no relationship to economic loss, and replacement of earnings loss due to the injury is not accomplished in any rational manner.

RIGHTING THE BALANCE

Over the past 70 years the California workers' compensation program has earned deservedly high marks for its progressive features: scope and extent of coverage, expeditious delivery of virtually unlimited medical services, and the provision of vocational rehabilitation services. On the other hand, California's position in income protection for injured workers lags badly. For many years benefit levels have ranked well below the national median — and usually at the bottom of a listing of comparable industrial states. Additionally, the Institute's research shows the distribution of income benefits lacks consistency and certainty in alleviating the financial consequences of industrial injury.

Correcting the deficiencies of income benefits could take a number of paths. The first and most obvious choice would be an increase in indemnity benefits. This approach has the virtue of simplicity, but its effectiveness is questionable if past performance is instructive. For example, during 1983-84 the state legislature doubled partial disability indemnity and increased benefit levels for total disability by 28 per cent. Yet, even after the infusion of nearly \$1 billion in additional benefits, the overall replacement rate — the proportion of earnings loss replaced by income benefits — dropped to 47 per cent from the previous 49 per cent.

REPLACEMENT RATES
Effect of 1983-84 Benefit Increase



Greater equity could be achieved through reallocation of benefit dollars and balancing over- and under-compensation among the various categories of permanently disabled workers. However, this approach would require reducing benefits for some, primarily the younger, less seriously injured employee, an alternative legislators have found unattractive in the past. Additionally, unless the reallocation were accompanied by another substantial benefit increase, the overall replacement rate would still remain at 47 per cent, well below the two-thirds objective.

Another option, a variation on the reallocation theme, involves changing the California Permanent Disability Schedule. Adjusting the factors used to modify the percentage of disability according to the individual worker's age and occupation could moderate the peaks and valleys present in the current distribution of income benefits, although the effect would be muted by the schedule's continued dependence upon subjective factors.

The answer, then, might be to eliminate all subjective elements from the schedule and rely solely upon objective, measurable impairments as the basis for compensating permanently disabled workers. This approach offers certainty and uniformity — but at the loss of the ability to recognize individual circumstances. Disability is not a constant. Different workers, even those with the same impairment, will suffer differing degrees of disability, a fact the workers' compensation program acknowledges by individualizing income benefits. More to the point, tinkering with the California schedule leaves unanswered the question of whether any schedule, flexible or static, can ever be an accurate and reliable predictor of the economic consequences of job injury.

Selection of the precise remedy to cure the California program's inadequacies and inequities requires addressing a more fundamental policy issue: the purpose of income benefits in workers' compensation. Is it indemnity for impairment of the worker's natural capacities? A substitute for common law damages? An approximation, however inexact, of potential loss of earning capacity? Or is it, as the original architects intended, compensation for actual loss of earnings because of job injury?

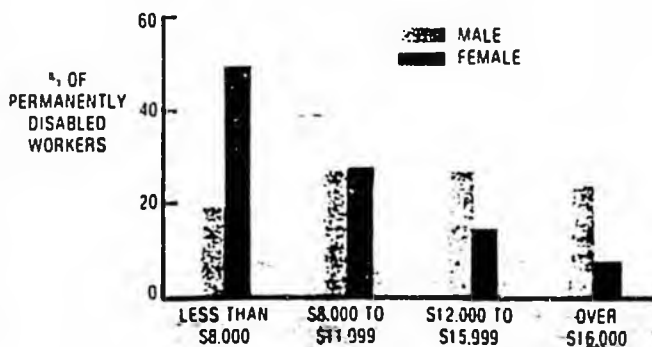
The resolution of this issue is the first step to righting the balance and reconciling the objective, a modern workers' compensation program with the realities of contemporary California.

THE PERMANENTLY DISABLED WORKER

The prototypical worker whose injury results in permanent disability is a 39-year-old, white male, blue collar union member. At the time he strained his back, he had more than five years experience in his occupation, more than five years tenure with the same employer, and earned \$12,300 annually, about 8 per cent more than others in the general workforce because of experience and seniority. He was unable to work for 24 weeks because of his injury but returned full-time at the same or higher wages for the same employer. Compared to non-injured members of the labor force, the permanently disabled worker is older by nearly 10 years and, in part because of the age difference, is more experienced, less educated, and more likely to be married.

Averages, however, obscure the numerous variables within the permanently disabled population. Sex is a significant factor in differentiating earnings. For example, more than one-quarter of the workers are females, a group whose median annual earnings are substantially below males (\$8062 vs. \$12,333). Only 2 per cent of the male employees were working part-time when the injury occurred, compared to 14 per cent of the women, findings which together with somewhat less job experience for women accounts for some — though not all — of the disparity in earnings.

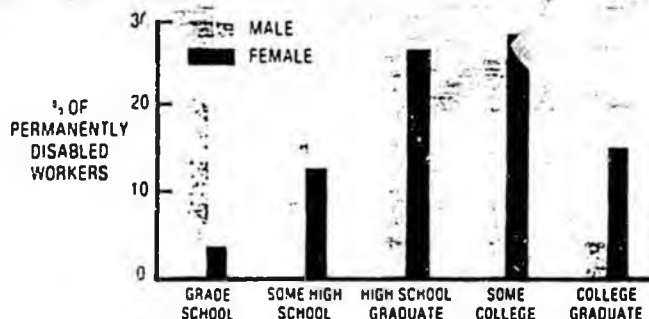
ANNUAL INCOME AT INJURY



Occupation also is a factor in earnings. About half of the women are in white-collar jobs, particularly business services and retail trade. In contrast, nine of 10 males are blue collar workers, for the most part in the manufacturing, construction and transportation industries.

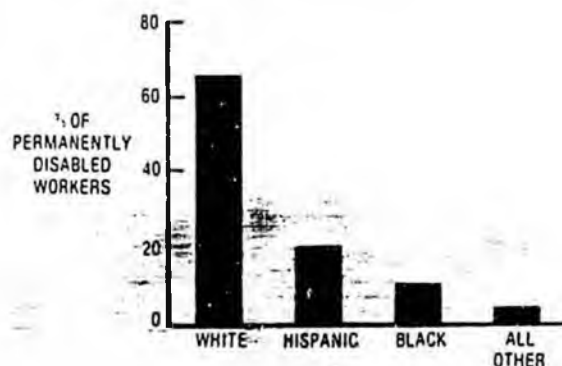
Age patterns are similar for workers of both sexes (although females on average are two years older), but women have higher education levels.

EDUCATION COMPLETED



More than one third of the male workers did not complete high school, a finding that appears to conflict with California's mandatory education requirement. However, the fact that one in eight of the male workers do not speak English and the likelihood that they are twice as likely as females to be of Hispanic or Asian origin suggests that immigration may be a contributing factor to the comparatively low educational attainment of permanently disabled men.

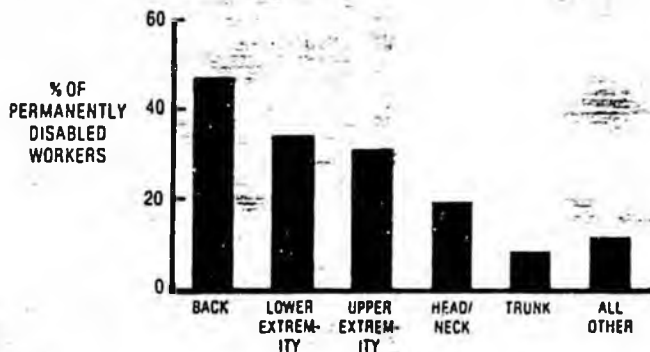
ETHNICITY



Nature of Injury: Back injuries, either alone or in combination with other injuries, account for nearly half of all permanent disabilities. Impairments to upper and lower extremities each affect about a third of the disabled population. One in five disabled workers suffered an injury to the head or neck.

Post-Injury Employment: A substantial majority of permanently disabled workers return to work after their injuries, and most are currently employed. However, 16 per cent of those who are permanently injured — every sixth worker — never returns to employment after the job injury.

NATURE OF INJURY
(multiple responses)



Soft tissue injuries — strains, sprains, and muscle, ligament or tendon tears — are the principal cause of disability in more than half of the cases. Fractures and crushing injuries are next in importance, accounting every third permanent impairment, followed by cuts and lacerations (8 per cent) and amputations (6 per cent). No other injury type accounted for as much as 1 per cent of the total.

Only 1 per cent of the injuries are catastrophic. The vast majority, seven of every 10, are so-called "minor" disabilities, i.e., those rated less than 25 per cent under the California schedule.

DISABILITY SEVERITY



SEVERITY OF INJURY AND POST-INJURY WORK STATUS



The severity of the injury — measured either as the percentage of permanent disability or the length of convalescence (i.e., the duration of temporary disability) — is the primary reason for leaving the workforce. However, half of those who never return to work have "minor" disabilities, an indication that factors other than the injury — or, more correctly perhaps, factors in addition to the injury — may have contributed to their withdrawal from the labor market.

Workers who never return to work force after the job injury are, on the average, 12 years older than their working counterparts and are more likely to be female, working part-time, and in white-collar occupations.

Of those workers who return to work after the injury, 85 per cent go back to full-time employment. Another 7 per cent start on a part-time basis but subsequently return to full-time employment. The remaining 8 per cent continue in part-time work, either because of limitations imposed by the injury, or by choice.

Most permanently disabled workers who return to work go back to the same job with the same employer, but a significant minority experience some displacement. Nearly three in ten return to work for a different employer, and 19 per cent return to both a different employer and a different type of work. The injury and resulting disability are major factors in many of the job changes, but almost as important are dissatisfaction with the prior job or employer, lack of job openings because of the general economy, and "changing employers is common in my line of work."

Upon returning to full-time work, 86 per cent of the disabled workers earn the same or more than before their injury. For the most part, the adverse impact falls upon workers who change employers, type of work, or both. However, for every worker in these circumstances who earns less, another earns more than before the injury.

Six years after the injury another 18 per cent of the permanently disabled population leave the work force (compared to a 12 per cent withdrawal rate among a matched sample of non-injured workers). Thus, 34 per cent of workers permanently injured in a job accident — 16 per cent who never returned to work after the injury, plus 18 per cent who went back to work for a time but now describe themselves as "unemployed and not looking for work" — are out of the labor market six years after the job injury.

EMPLOYMENT STATUS
(Six Years Post-Injury)



Severity of the disability is not a major factor among those who return to work for a time but later retire or withdraw from the job market. Various measures of severity — permanent disability rating, duration of temporary disability, incidence of hospitalization, and mean amount of indemnity — show no appreciable differences. Instead, the critical variables are age and sex. Workers in this group are significantly older than permanently injured employees who are working (a median age of 54 years versus 40 years). One in three are 60 years or older. In addition, women, regardless of age, are more than half again as likely to stop working at some time in the six years following their injury.

TECHNICAL NOTES

This report summarizes the results of Institute research into the experience of workers who suffered serious on-the-job injuries, which resulted either in permanent disability or, in fewer than 5 per cent of the cases, a period of temporary disability lasting more than 12 weeks.

Sample Design: The study employed a two-stage sampling procedure. In the first stage, the Workers' Compensation Insurance Rating Bureau selected a stratified sample of 8364 cases from a universe of 55,926 serious claims incurred under workers' compensation insurance policies issued in the 12-month period ending June 30, 1976. At the request of the legislature, the State Employment Development Department furnished earnings records for each of the selected workers under confidentiality requirements that protected their identity. Depending upon the date of injury, the individual earnings records ranged from one to nine calendar quarters preceding the disabling injury and 16 to 21 calendar quarters after the quarter of injury.

The original sample also included cases involving employees of self-insured employers, selected from the records of the Office of Self-Insurance Plans within the California Department of Industrial Relations. Approximately 800 claims were identified based on disabling work injuries that occurred in May and June of 1976 and which were still in "open" status at December 31, 1976. Although the proportion of self-insurer claims were under-represented — about 10 per cent, compared to a targeted 14 per cent — the analysts believe the resulting data are representative of the disabled workers population during the study period.

In each case a survey form was sent to the insurer or self-insured employer with a request to provide the employee's last known address and other information from the claim file necessary to the study. A total of 7081 survey forms (77 per cent) were returned with sufficient qualifying information.

Questionnaire Design: The Institute contracted with Field Research Corporation (FRC), a San Francisco-based consulting firm with broad experience in opinion research, to conduct structured personal interviews with workers disabled during the study period. The questionnaire was developed by FRC under guidance of a research task force appointed by the Institute. The development phase spanned several months, during which research objectives were identified and refined, interview protocols established, interviewers trained and a pretest conducted. After approval of the final version of the questionnaire, a translation was produced for use with workers who preferred to be interviewed in Spanish.

A random sample was drawn from the 7081 completed claims data forms and FRC then was provided the names and addresses of 3374 disabled workers. To maximize the efficiency of the field effort, interviewing was restricted to workers living in the 10 Standard Metropolitan Statistical Areas of California, which collectively account for 85 per cent of the state's population. After completion of prescribed tracing procedures to secure current addresses, 1076 interviews were completed, or 32 per cent of the a priori sample and well above the 15-20 per cent completion ratio considered acceptable for opinion research.

Total Sample	(3374)	100%
Not Interviewed	432	13
Out of state/country	291	9
Out of statistical area	60	2
Deceased	73	2
Language barrier, deal	8	.
Not Located	1257	37

Respondent Not Available	257	8
Health reasons	50	1
Other reasons	235	7
Refused	324	10
Interviewed	1076	32

Interviews were conducted in the homes of the workers between December 8, 1981 and March 24, 1982, and averaged approximately one hour in duration. To assure candor, all interviews were "blind", i.e., respondents were unaware the research was being conducted on behalf of the workers' compensation community. Instead, with the cooperation of the State Department of Rehabilitation, workers were informed the interviews were under theegis of that agency.

Certain characteristics — age, sex, extent of disability, attorney representation, etc. — of the interviewed and non-interviewed workers were compared to test the representative quality of the interviewed sample. Women and workers who received vocational rehabilitation services were slightly more prevalent in the interviewed sample than were represented in the original universe. For all other variables, the distributions are consistently close and, accordingly, the differences do not require any qualification of the sample.

Estimating Earning Loss: An average pre-injury quarterly wage for interviewed workers was calculated from data supplied by the State Employment Development Department (EDD). In each instance the amount was an arithmetic average unless earnings in the calendar quarter immediately preceding the injury quarter was greater, in which case the higher figure was used.

The average was multiplied by 16 to estimate the worker's expected earnings in the four years after injury, a period selected to reflect maximum rehabilitation of earnings potential. Gross post-injury earnings loss was arrived at by reducing the product by the amount of actual earnings reported to EDD. The calculation of gross earnings loss did not take into account wage increases that might have occurred in the four post-injury years, nor take credit for quarterly earnings in excess of the individual worker's pre-injury average — adjustments that are estimated to approach parity.

The gross amount was reduced further by earnings losses caused by reasons other than the injury, according to the worker's own account related during interview or by other factors described in the body of the report (see page 5). Finally, the four-year net amount was projected to age 65 to produce an estimate of injury-related earnings loss occurring over the working lifetime of the permanently disabled employee.

Acknowledgments: The Institute gratefully acknowledges the cooperation of the Department of Industrial Relations, the Department of Rehabilitation and the Employment Development Department of the State of California, and the Workers' Compensation Insurance Rating Bureau of California.

Assistance in the preliminary analysis of the data was provided by Peter Barth, Department of Economics, University of Connecticut, and John F. Burton Jr., New York State School of Industrial & Labor Relations, Cornell University.

Special mention also is due members of the Institute's Research Task Force whose ungrudging cooperation, attention to detail and unwavering patience made the study's completion a reality. They are: Laurence C. Peabody, Liberty Mutual Insurance Co., chairman; Robert J. Benjamin, State Compensation Insurance Fund; George P. Janich, Fremont Indemnity Co.; Will J. Murphey, Industrial Indemnity Co.; James Smith, Fireman's Fund Insurance Cos.; Bert Zahner, Hartford Insurance Group; and James J. Holland, Travelers Insurance Co.

Why

DO

WORKERS'

COMPENSATION

FATES

KEEP

GOING

UP?



California Workers' Compensation Institute
120 Montgomery Street, San Francisco, California 94104
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To the average employer, few subjects are more obscure (and probably less interesting) than insurance rate-making. Yet as workers' compensation premiums have increased, employers, state officials and legislators are asking, "Why do workers' compensation rates keep going up...and what's being done about it?"

This pamphlet explores the reasons for the recent escalation in workers' compensation premiums, explains how the insurance industry distributes costs among employers, and offers practical suggestions for reducing the cost of job injuries and illnesses.

WCRI RESEARCH BRIEF

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NOVEMBER 1987 — VOLUME 3, NUMBER 11

NOV 27 1987

MORE ON CONTAINING MEDICAL COSTS

OFFICE OF THE COMMISSIONER

Fee Schedules and Choice of Treating Physician

Strong reader response to the announcement of our new book *Medical Cost Containment in Workers' Compensation: Innovative Approaches* shows the high level of interest in the stubborn problem of controlling escalating health care costs. Our readers often call the Institute to ask what specific states are doing to contain costs or which states are using a specific approach. Wherever possible, we provide this information.

A recent study undertaken by the Medical Committee of the International Association of Industrial Accident Boards and Commissions (IA-ABC) is a source of much useful information. The committee kindly agreed to share excerpts of its report with our readers, with the following caveat: The information was gathered by a survey of U.S. jurisdictions and Canadian provinces. The response to the survey was high, but less than 100 percent, thus the information may not be complete. Also the information was verified where possible but not in every case. If you should have additional information, please write the Institute and we will pass it on to the committee.

Here we offer information on the following issues:

- Which states currently use medical fee

schedules? What is the basis for the schedules? Are they mandatory?

- Which states have plans to use schedules?
- Who has the first choice of treating physician in the various states?

Current Use of Fee Schedules

There are twenty states that now use fee schedules (Table A). The Canadian Provinces all use some kind of schedule, most negotiated by provincial medical associations.

Considering Adopting a Fee Schedule

There are ten states now considering the use of a fee schedule:

- | | |
|-------------|---------------|
| Arkansas | North Dakota |
| Georgia | Ohio |
| Kentucky | Oklahoma |
| Michigan | Texas |
| Mississippi | West Virginia |

WCRI RESEARCH BRIEF is a periodic publication of the Workers Compensation Research Institute. It reports on significant ideas, issues, research studies, and data of interest to those working to better understand and to improve workers' compensation systems.

WCRI RESEARCH BRIEFS augment WCRI's primary publications for reporting the results of its work: RESEARCH REPORTS, SOURCEBOOKS, and WORKING PAPERS. All WCRI research publications are widely distributed to policymakers and others interested in workers' compensation issues.

WCRI is a nonpartisan, not-for-profit public policy research organization funded by employers and insurers. For further information about the Institute, its work, membership, or the material in this WCRI RESEARCH BRIEF, contact Dr. Richard B. Victor, Executive Director.

Table A. Current Use of Fee Schedules

Basis	State	Mandatory
Relative value scale	Arizona	Yes
	California	Yes
	Colorado	Yes
	Maryland	No
	Montana	Yes
	Nebraska	Yes
	Nevada	Yes
	New York	Yes
	North Carolina*	Yes
	Oregon	Yes
	Utah	No
	Washington	Yes
	Wyoming	Yes
Usual and customary/prevaling and reasonable	Florida	Yes
	Hawaii	Yes
	Puerto Rico	No
	North Carolina†	Yes
	South Carolina	Yes
Medicaid schedule	Massachusetts‡	Yes
Medicare schedule	Rhode Island	Yes
Blue Cross/State Department of Human Services	Minnesota	Yes

*Also uses usual and customary.
 †Also uses relative value scale.
 ‡150 percent of Medicaid rates

First Choice of Treating Physician

In twenty-nine U.S. jurisdictions, workers make the first choice of treating physician; employers make the first choice in twenty-two jurisdictions (Table B). In sixteen jurisdictions, these choices are subject to various restrictions or review.

Table B. First Choice of Treating Physician

State	First Choice	Restrictions
Alabama	Employer	None
Alaska	Worker	None
Arizona	Worker	None
Arkansas	Employer	Agency may change
California	Worker	If prior notification to employer
Colorado	Employer	Agency may change

Table B continued

State	First Choice	Restrictions
Connecticut	Worker	From state listing
Delaware	Worker	None
D.C.	Worker	From district listing
Florida	Employer	None
Georgia	Worker	From employer list
Hawaii	Worker	None
Idaho	Employer	None
Illinois	Worker	None
Indiana	Employer	None
Iowa	Employer	None
Kansas	Employer	None
Kentucky	Worker	None
Louisiana	Employer	None
Maine	Worker	None
Maryland	Employer	None
Massachusetts	Worker	None
Michigan	Employer	Initial choice only
Minnesota	Employer	Agency may change
Mississippi	Worker	None
Missouri	Employer	Agency may change
Montana	Employer	None
Nebraska	Worker	None
Nevada	Worker	From state list
New Hampshire	Worker	None
New Jersey	Employer	None
New Mexico	Employer	None
New York	Worker	From state list
North Carolina	Employer	None
North Dakota	Worker	None
Ohio	Worker	None
Oklahoma	Worker	Agency may change
Oregon	Worker	None
Pennsylvania	Employer	None
Rhode Island	Worker	None
South Carolina	Employer	None
South Dakota	Employer	None
Tennessee	Worker	From employer list
Texas	Worker	None
Utah	Employer	Agency may change
Vermont	Employer	Agency may change
Virginia	Worker	From employer list
Washington	Worker	None
West Virginia	Worker	None
Wisconsin	Worker	None
Wyoming	Worker	None

SOURCE: U.S. Chamber of Commerce, *Analysis of Workers' Compensation Laws, 1987.*

BULLETIN

California Workers Compensation Institute

120 Montgomery Street San Francisco, CA 94104 (415) 981-2107

March 3, 1988

No. 88-2

Impact of insurers' medical cost containment strategies, including the use of preferred provider organizations and automated auditing of physicians' bills, are reflected in the results of the Institute's latest medical fee study.

Payments to treating physicians during 1987 averaged nearly 3 percent under levels authorized by the Official Medical Fee Schedule, the greatest differential in the history of the CWCI series. Moreover, although doctors continued billing above permitted fees, about 9 percent on average, paid amounts were below schedule in four of the five sections. Average conversion factors per unit of service:

<u>Section</u>	<u>Allowed</u>	<u>Billed</u>	<u>Paid</u>
Medicine	\$ 6.15	\$ 6.64	\$ 5.96
Surgery	153.00	179.49	156.67
Radiology	12.50	14.34	12.40
Pathology	1.50	1.93	1.48
Anesthesia	34.50	39.85	34.39

Avg. % from Allowed	+ 9.3	- 2.7
---------------------	-------	-------

Change was most apparent for procedures in the schedule's Medicine section -- office and hospital visits, physical therapy, etc. -- which accounts for 83 percent of all procedures and 63 percent of payments in the most recent sample. Every third procedure was billed below the schedule level and nearly half were paid less than allowed.

However, physicians may be compensating for the discounting common to most PPOs by billing for a higher level of service, e.g., charging for an "intermediate" rather than a "limited" visit. As a result, the relative frequency of office visits of all types declined 12 percent compared with last year, but their share of the medical fee dollar increased by 10 points.

General practitioners continued to be the most frequent provider, accounting for nearly every third procedure and payment dollar. Alternative modalities may explain the shift away from surgery: 40 percent decrease in the frequency of and payments for procedures performed by orthopedic, neuro- and general surgeons. Any savings, however, were offset to a large degree by a 63 percent increase in the proportion of the medical fee dollar paid to physical therapists.

-more-



MAR 15 1988

MAR 27 1988

According to the study, insurers pay physicians' bills 21 days after receipt on average, and 81 percent are paid within 30 days.

Results of the study are based on an analysis of billings for nearly 49,000 medical procedures paid during the two-week period ending October 30, 1987. Twenty-six insurer groups representing 63 percent of statewide premium participated in the study. For further information, please contact Tom Parry, CWCI research director.

* * *

Enclosed is a copy of the most recent Institute publication that explores the reasons for the recent escalation in workers' compensation insurance costs. Additional copies are available upon request; single copies free, quantity orders are \$16 per 100 plus tax and shipping charges.

AT/grp
Enclosure

**WHY
DO
WORKERS'
COMPENSATION
RATES
KEEP
GOING
UP?**

The question undoubtedly is the one fielded most often by insurance representatives. The frequency with which it's asked probably matches the frequency of rate increases — six raises aggregating 44 percent in the 1985-87 period alone.

Premium rates essentially are a function of two factors: The cost of claims and the overhead expense of running the insurance company. If the cost of either factor increases, rates go up.

But that's too simplistic an explanation for most employers, one that masks the forces driving claims costs and overhead expense in workers' compensation insurance. These elements include:

BENEFITS

Payment levels set by the state legislature are a significant cost component in workers' compensation insurance. Since 1983 benefits have increased 33 percent, 56 percent in the past ten years. Higher benefits produce higher claims costs and that in turn dictate higher rates to employers.

INFLATION

Most goods and services cost more today — up an average of 14 percent in the past five years, 81 percent in the 1977-86 period for all items included in the Consumer Price Index.

Admittedly, many of the CPI components have little impact on claims and overhead expense. But others directly affect workers' compensation premiums. For example, the cost of medical treatment increased twice as fast as the general rate of inflation in the past five years. Because medical treatment accounts for 42 cents of every claims dollar, the increase results in higher premium rates.

LITIGATION

Workers compensation was intended to eliminate the costs, delays and uncertainties of the common law system it replaced. The founding architects thought that by getting rid of the idea of fault and prescribing benefits by statute, there would be little controversy, much less a need for litigation. Their hopes proved to be both overly optimistic and short-lived.

W/O

Today, in California every ninth workers compensation claim is litigated. If the injury results in lost time, the litigation rate climbs to 45 percent. And if the injury produces residual permanent disability, three of every four claims are litigated.

Litigation is expensive, even in a no-fault system. In 1986 the direct out-of-pocket costs alone – attorneys' fees, forensic medical testimony and related expenses – reached \$985 million in California, according to a recent research study. The total – more than was paid to physicians to treat injured workers – is three times higher than ten years ago. More distressingly, these frictional costs are growing four times faster than benefit levels. The bottom line: higher costs for employers.

LOSS DEVELOPMENT

California law requires insurance companies to operate on a "drop dead" basis, i.e., to set aside sufficient funds to pay all outstanding claims in full at any point in time. The process, known as loss reserving, forces the insurer to estimate the cost of a claim and make adjustments, up or down, as conditions change during the life of the claim. "Loss development" measures the change from initial estimate to the final actual cost.

Historically, the insurance industry's estimates came close to reality, ± 3 percent. Beginning in the mid-1970's, however, original predictions consistently began to fall short by 13-14 percent – and sometimes more. Late reporting of claims, the increasing impact of vocational rehabilitation benefits, medical uncertainties, new court decisions all contributed to the deficit and the need for higher rates.

Finally, workers' compensation premium rates are a percentage of payroll. If wage levels increase faster than claims costs, rates go down. (A \$1 rate on \$2000 of payroll produces the same premium as a \$2 rate on \$1000 payroll.) But workers' compensation costs have grown more rapidly than wages, particularly in recent years. When wage inflation began to slow down in 1984 to about half the pace in the previous ten years, higher insurance rates were needed just to stay even. So long as claims costs grow faster than wages, compensation rates will go up.

HOW CAN
EMPLOYERS
BE
SURE THEY'RE
NOT
PAYING
MORE THAN
THEIR
FAIR SHARE?

In an absolute sense, they can't – since insurance is a mechanism in which the premiums of the many go to pay the losses of the few. The rate-making process, however, allocates claims costs and overhead expense as evenly and equitably as possible.

CLASSIFICATIONS

The first step in pricing is to determine the employer's occupational classification. All businesses and industries in California are grouped into approximately 425 classifications – from Acid Manufacturing to Yarn Dyeing – based on the relative hazards.

The classification structure provides the data for pricing workers' compensation insurance. All elements of the data base – number and amount of losses, premiums, and payroll – are reported by classification. Regulations of the state insurance commissioner require all insurers to adhere to the same reporting ground rules. Moreover, the commissioner's statistical agency, the Workers' Compensation Insurance Rating Bureau, audits insurance companies to be sure the data base is accurate and complete.

MANUAL RATES

The losses and premiums of all employers in each classification are compared and a manual rate calculated. ("Manual" refers to the rating manual, not manual labor.) The manual rate for a given classification represents the average loss cost, plus a uniform percentage to cover insurer expenses (now 35 percent of the manual rate). The rate usually is expressed as dollars and cents for each \$100 of payroll.

Manual rates are average rates. Since few employers are statistically average, using manual rates would be unfair to the typically non-average employer. Other features of the pricing system recognize and adjust for the differences between employers.

EXPERIENCE RATING

If the "claims experience" of an individual employer is better (or worse) than the average for all employers in the same classification, the difference will be expressed as a percentage credit (or debit) and applied to the manual rate. For example, an employer with a better than average safety record may earn a 92 percent "experience modification" and gets an 8 percent discount off the manual rate. On the other hand, employers with poor claims experience will pay more than their safer competitors, in some instances substantially more.

The experience rating plan assumes past experience is the best indicator of future performance. So although the percentage modification is based on the employer's past record, it is applied prospectively, at the time the policy goes into effect. All policies above a certain premium (currently \$4833) are experience-rated, and they cover an estimated 80 percent of the insured workforce.

DIVIDENDS

To most employers, policyholder dividends are a familiar cost-equalizer. Policies accounting for nearly 90 percent of statewide workers' compensation premiums are written on a "participating" basis that allows an employer to participate in the profits of the insurer.

The average manual rate for any particular class will be more than adequate for some employers - because losses can and do differ among employers within that class. Similarly, the uniform 35 percent loading for overhead expense may be more than adequate for some underwriters and, because fixed costs are a smaller percentage of large premium policies, more than necessary for larger employers. Investment income also varies among insurers. Thus, an insurer may accumulate surplus funds over and above the dollars needed to pay losses and expenses.

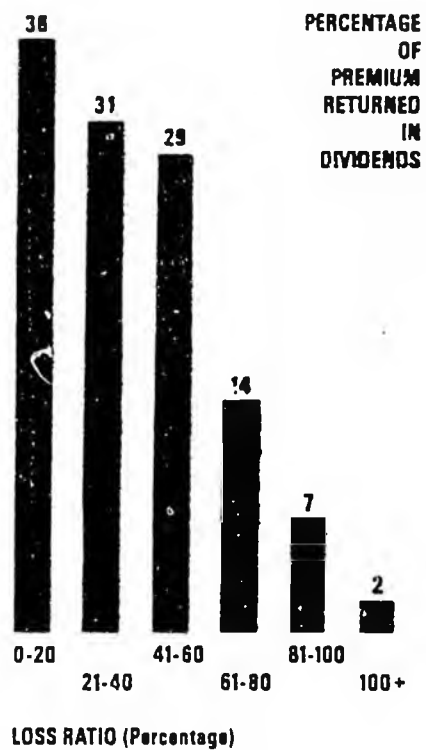
Insurance is different from other products or services in the marketplace. Unlike a suit of clothes or a pound of butter, the production cost isn't known at the time of purchase - and the ultimate cost won't be known (or knowable) until well after the policy expires. The uncertainty over final cost makes precise up-front pricing difficult, particularly for coverage of the long-term liabilities characteristic of workers' compensation. Prices that are too high are unacceptable to the employer. At the other extreme, inadequate rates may threaten solvency and endanger payments to injured workers.

In enacting the laws governing the price of workers' compensation insurance, the California legislature opted for solvency and the certainty that injured workers receive the benefits to which they were entitled. The lawmakers saw that the use of average rates would result in premiums too high for some employers, bargains for others. To avoid these inequities, the legislature authorized the return of any excess premium - after costs are known - by payment of dividends to policyholders.

Dividends serve a twofold purpose: an economic incentive to employers for safe operation and, as the final step in pricing, assurance that the employer pays the "right" cost.

Dividend payments are cost-sensitive, both in the aggregate and for the individual policyholder. When claims costs decrease, dividends increase.

LOSS RATIO AND DIVIDENDS

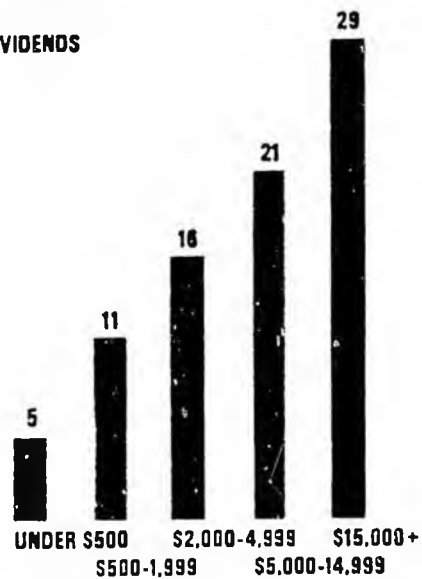


Some of the costs involved in issuing and servicing an insurance policy are fixed and remain constant regardless of premium size. Consequently, as premium size increases, overhead expense as a percentage of total premium declines. In calculating average manual rates, however, the expense factor is uniform for all employers, regardless of premium size. By taking into account both claims costs and overhead, dividend payments compensate for any expense savings due larger employers. Generally, as the premium increases, so does the dividend percentage.

Over the past 15 years, policyholder dividends have reduced insured employers' net costs by an average of 15 percent, ranging from about 5 percent in 1977 to more than 24 percent in 1982. Aggregate dividend payments exceeded \$5.6 billion - a return to employers of 65 percent of the insurance industry's net pre-tax income during the 1972-86 period.

PREMIUM SIZE AND DIVIDENDS

PERCENTAGE
OF
PREMIUM
RETURNED
IN
DIVIDENDS



PREMIUM SIZE

An employer's insurance premium mirrors the underlying loss costs and overhead expense. Some of the reasons for increased claims costs – court decisions and uncertainties of the governing statute, for example – are beyond the control of most individual employers. But an employer can take steps to reduce costs – and premiums.

There's no magic to the first: reduce employee injuries. Workers' compensation insurers have safety professionals on staff to help policyholders provide a safe work environment. The range of services is virtually unlimited – surveys, visual aids, educational programs, inspections, counseling, industrial hygiene analysis, advice on compliance with safety standards.

There's no additional costs since these services are included in the premium. It's the employer's responsibility, however, to get value received by asking for the services, to set up or expand a safety program, and to enforce safety rules rigorously. The combination of professional services and employer commitment means lower losses – both in human and financial terms.

Injury prevention is still the best way, maybe the only real way, to cut workers' compensation costs. Moreover, safe operation makes good economic sense. Eliminating accidents not only reduces premiums but also cuts the indirect costs of job accidents such as damage to equipment, production delays, and lost time of co-workers.

Unfortunately accidents, like death and taxes, are sure things too. Even the safest workplace will be the scene of an accident at some time or another. When it happens, the employer must know how to respond and what to do.

Claims management is the job of the insurance company, but the process begins with the employer. Here are actions an employer can take to help the injured employee, comply with the law, and minimize the cost of injuries.

KEEP THE EMPLOYEE INFORMED

A job injury can be a frightening experience for many employees. Few have any knowledge of workers' compensation. Any misunderstanding about where they stand can slow recovery and lead to numerous complications, most of them expensive.

Employees who are uncertain about their rights and protections frequently turn for reassurance to an "expert," i.e., an attorney. If so, that usually means litigating the claim and additional direct expense – an average of \$5100, according to a 1986 study – over and above the cost of medical treatment and indemnity payments.

So, reduce the anxiety by letting the injured employee know, early on, that medical and hospital bills will be paid, the wage replacement payments will be made automatically, that the job is waiting when the employee can return to work. (Most insurers have a variety of materials to help employees understand workers' compensation.) Focus the employee's attention on recovery and reemployment, not disability.

ASSURE PROMPT, QUALITY MEDICAL CARE

Expert medical treatment, including referral to specialists when necessary, is a wise investment. Skilled treatment can minimize time off the job, reduce the chance of permanent handicap, and get the employee thinking in terms of recovery from (rather than recovery for) the injury.

Consider the role of the physician in workers' compensation. Every claim starts with a doctor. Every step – treatment, evaluation, rehabilitation, release for work – directly involves a physician. The quality of medical care and the confidence the employee places in the treating doctor can influence the length and extent of disability and, directly, employer costs.

FILE REPORTS PROMPTLY

The employer's report of injury starts the claims process; without it the insurance company can't act. Delays in reporting can delay the employee's payments – which in turn increases the hardship on the employee, impedes recovery, and can lead to dissatisfaction and disputes. Timely reports permit timely payments. As a general rule, the faster the payment, the sooner the employee returns to work.

BE SYMPATHETIC AND UNDERSTANDING

No injury is "minor" if it happens to you. Research shows many injured workers turn to an attorney because the employer (or foreman or supervisor) was indifferent and not helpful. Understanding the employee's concerns, coupled with continued contact during recovery, can reduce litigation and claims costs.

MINIMIZE RECURRENCE

Investigate and analyze all accidents, no matter how minor. Take steps to correct identified hazards. Maintain complete written records, including statements of witnesses. But emphasize prevention, not fault.

FOR MORE INFORMATION

Your insurance representative can answer questions about rates, coverage, reporting requirements, claims handling, injury prevention programs and other aspects of workers' compensation.

COURT CASES

WORKERS' COMPENSATION

The following court decisions involving workers' compensation are available in the House Judiciary Committee files. They are separated by general topic. If you want to see any of them or get copies, please ask Shari.

EVIDENCE

Burgess Construction Co. v. William S. Smallwood

AVERAGE WEEKLY WAGE

Orval L. Ragland v. Morrison-Knudson Co.
Jack Peck v. Alaska Aeronautical
Gerald R. Brunke v. Rogers & Babler
William Bailey, Jr. v. Litwin Corporation
State of Alaska v. Harold H. Gronroos
Richard F. Deuser v. State Of Alaska
Robert E. Johnson v. RCA-OMS
State of Alaska v. Lee Dupree

COMPENSATION RATE

Alaska Pacific Assurance Co. v. Robert Brown

PERMANENT PARTIAL DISABILITY

Sang Suh v. Pingo Corporation
Harold Standley v. State of Alaska
Providence Washington Insurance Co. v. Virgil F. Grant
Kermit Cesar v. Alaska Workmen's Compensation Board
Virgil Hewing v. Alaska Workmen's Compensation Board
John Absher v. State of Alaska
Jack J. Sherman v. Holiday Construction Co.

STRESS

Cruz D. Bilbao v. Alascom
Guy E. Hayes v. Chevron USA
Rosde K. Reeder v. Wendy's Old Fashioned Hamburgers
Susan Kent v. State of Alaska
Regina Wade v. Anchorage School District
Corazon Fox v. Alascom

WCCA

April 4, 1988

Rep. John Sund
House Judiciary Committee
P.O. Box V
Juneau, Alaska 99801

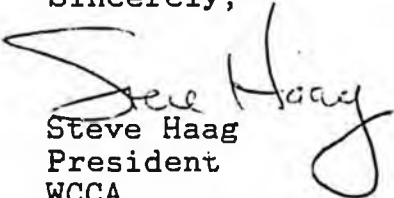
Dear Rep. Sund,

Enclosed are miscellaneous articles, press releases and general information regarding the workers' compensation issue you will be reviewing in your committee this week. The articles enclosed represent a very small percentage of the coverage this issue has generated statewide. Much of this has been provided to prior committees as well and is available from there files. Additionally, WCCA sent all legislators an information packet prior to the 1988 session.

I hope you will make the enclosed information available to committee members. Please feel free to call upon myself or other WCCA members who will be in Juneau to testify before your committee if we can provide further information.

I sincerely hope that your committee will deal with this legislation quickly and positively. Passage of a beneficial workers' comp reform bill is vital to the concerns of both labor and management.

Sincerely,


Steve Haag
President
WCCA

WCCA

THE WORKERS' COMPENSATION COMMITTEE OF ALASKA, INC.

The Workers' Compensation Committee of Alaska, Inc. is an organization of business persons who are determined to reduce the budget-breaking costs of workers' compensation insurance.

Compensation rates will increase as much as 65 percent in 1988.

Even while business volumes and numbers of employees drop, many businesses are experiencing insurance rate increases. In a shrinking economy, these increased costs can no longer be passed on as part of overhead and are threatening the viability of Alaskan jobs and businesses.

WCCA includes representatives from:

Arco
Standard Alaska
Associated General Contractors, Anchorage Chapter
The Municipality of Anchorage
Klukwan Inc,
Northern Air Cargo
Hickel Investments
Enserch
GCI
Alaska Airlines
Totem Ocean Trailer Express
Anchorage Refuse
North Slope Contractors
Building Industry of Alaska - Anchorage
Alaska Timber Insurance Exchange
Alaska Support Industry Alliance
Carr-Gottstein Enterprises
VECO
Anglo Alaska Petroleum Services
Dimond Alaska Coal
Robinhood, Inc.and many others!

WCCA committees are researching the following areas of concern:

- * The proportion of funds paid to injured workers, to medical care, vocational rehabilitation and other service providers.
- * Rate setting and classification.
- * Formulas for compensating loss of wages.
- * Pitfalls of state funds.

- * Effectiveness of vocational rehabilitation.
- * Making all injuries "scheduled" instead of some being allowed to run open-ended.
- * Usefulness of the Second Injury Fund.
- * Payments to injured workers who have left Alaska for other states with lower costs of living.
- * Prosecution of fraudulent claims.

TIMETABLE

WCCA is formulating legislative proposals in coordination with labor representatives. Efforts are being made to reach agreements on which areas will be addressed. Specific proposals will be presented to legislators prior to the 1988 legislative session.

WCCA's major goal is to see workers' compensation statutes overhauled during the 1988 legislative session. WCCA will continue to work until the cost of workers' compensation insurance is reduced by at least 33 percent.

BUDGET

WCCA has set a budget of \$100,000 to cover activity necessary through the 1988 session. The 1988 budget includes the cost of professional lobbying services.

WCCA

OFFICERS AND EXECUTIVE COMMITTEE

President	Steve Haag Controller Udelhoven Oilfield Services
Vice President	Edward Cutter Risk Manager Alyeska Pipeline Co. Anchorage
Secretary	Elaine Taylor Taylored Construction Building Industry of Alaska Anchorage
Treasurer	Eric Tollefson Personnel Director Carr-Gottstein Enterprises Anchorage
Member-at-large	Rense Murray Vice President Scott Wetzel Services Inc. Anchorage

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VECO
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Neil Bennett,
District Manager
Comprehensive Rehabilitation Services
Anchorage

Richard Stone
Certified Rehabilitation Counselor
Vocational Evaluation and
Rehabilitation Consultants
Anchorage

Randall Weddle
Attorney
Faulkner, Banfield, Doogan and Holmes
Anchorage and Juneau

Barbara Reiersen
Co-owner
RG&B Construction Company
Anchorage

WCCA

WHAT DRIVES THE COST OF WORKERS' COMPENSATION

Alaska has the most costly workers' compensation system in the United States! Alaskan laws have been written and interpreted to allow the most generous application possible.

Here are some examples:

- * Alaska is one of two states which provide that the benefits paid to an injured worker will be based on 200 percent of the statewide average weekly wage. That means a North Slope worker whose job ends and who then finds a job in another location at lower pay and who then becomes injured may draw as much as \$4,500 per month in workers' compensation.
- * Benefits are calculated on the basis of the past two years' earnings. A drop in the economy or in the wages of a worker may result in an injured person actually making more from compensation than from wages.
- * Vocational rehabilitation is mandatory for workers whose injuries keep them from returning to employment within 90 days. Even when an injury is known to require 6 months to heal, expenditures must be made to meet the letter of the law.
- * Alaska's relatively small range of occupations limits the potential for placement of workers who have permanent partial disabilities.
- * Unlike many other states, Alaska has no provision for periodic review nor standards for treatment of injured workers by medical or rehabilitation providers, nor any guidelines for fees.
- * Unlike many states, injured workers do not pay any portion of their medical costs.
- * Unlike many states, few types of injuries are scheduled -- that is, lump sum payments are mandated for very few injuries.
- * Unlike many states, pensions are not calculated to offset workers' compensation payments. Only social security payments can be offset.

WCCA

WCCA GOALS

The short-term goals of WCCA are to:

- A.) Monitor and detect waste and abuse within the Alaska workers' compensation system, irrespective of the source of such waste and abuse, and bring such proven or suspected waste and abuse to the attention of the public and public officials.
- B.) Study the structure of Alaska's workers' compensation statutes and administrative regulations and compare them with the laws of other states.
- C.) Study the relationship and interaction of system providers (i.e., adjustors, medical and chiropractic communities, rehabilitation counselors, attorneys, insurance companies and others) with the Alaska workers' compensation system and compare it with experience in other states.
- D.) Study the structure, organization and mission of the Division of Workers' Compensation and the Workers' Compensation Board.
- E.) Study the structure, organization and mission of the Alaska Classification and Rate Committee.
- F.) Study the classification and rating system utilized by the National Council on Compensation Insurance and the Alaska Classification and Rating Committee.
- G.) Study, jointly with labor, the creation of a competitive state insurance fund for workers' compensation insurance along with other insuring alternatives.
- H.) Study the structure, organization and mission of the Second Injury Fund to gauge its effectiveness as an employer incentive to hire the pre-injured and disabled.
- I.) Communicate the results of such studies as well as the conclusions and recommendations of WCCA to the public and public officials.

WCCA

THE MISSION OF WCCA

The mission of the Workers' Compensation Committee of Alaska, an Alaska corporation, is to:

- A) Promote management's continued education and understanding of Alaska's worker's compensation laws and regulations.
- B) Act as a platform for communication between management and the service providers whom interact daily with the Alaska workers' compensation system.
- C) Act as a liaison between management and various governmental and non-governmental institutions, including, but not limited to:
 - * The Department of Labor
Division of Workers' Compensation
Workers' Compensation Board
 - * The Department of Commerce
Division of Insurance
 - * Alaska Classification and Rate Committee
 - * National Council on Compensation Insurance
- D) Administer and foster greater practical utilization of the Second Injury Fund among Alaskan employers.
- E) Play an active role in the rate making and classification process by gaining and retaining admission to the Alaska Classification and Rate Committee.

WCCA

THE 1988 RATE INCREASES

On January 1, workers' compensation rates increased an average 25 per cent. The following is a partial listing of industries and the actual rate increases which relate to them.

Oil or Gas Pipeline Work	68%
Oil/Gas Lease Operators	56%
Millwright	54%
Street or Road Construction	54%
Oil/Gas Lease Work/Contractor	53%
Drilling	53%
Oil and Gas Pipeline Operation	52%
Light/Power Line Construction	49%
Sheet Metal Work Erection	48%
Oil and Gas Logging/Surveying	47%
Contractors/Permanent Yard	47%
Iron or Steel Erection	47%
Logging	45%
Drivers and Chauffeurs	43%
Aircraft Commuter Flying Crew	43%
Lumber Yard Store Employees	43%
Water Works Operation	43%
Gasoline/Oil Dealers	43%
Automobile Salesmen	43%
Hotel Restaurants	43%
Hospitals, Professional	42%
Barber Shops, Beauty Parlors	41%
Street Paving	40%
Electric Light and Power Co.	40%
Insulation Work	39%
Labor Unions	39%
Wallboard Installation	38%
Oil Still Erection or Repair	38%
Restaurants	35%
Bakeries	33%
Newspaper Publishing	32%
Hospitals, Other	32%
Commissary	31%
Concrete Construction	30%
Carpentry	30%
Contractors/ Exec. Supervisors	30%
Attorneys	29%
Plumbing	28%
Printing	28%
Auto Body Repair	25%
Carpentry Shop Only	25%

JAN 1 1988

CRCC

**GUIDE TO
REHABILITATION COUNSELOR
CERTIFICATION**

COMMISSION ON REHABILITATION COUNSELOR CERTIFICATION
1156 Shure Drive, Arlington Heights, Illinois 60004
A DIVISION OF
BOARD FOR REHABILITATION CERTIFICATION

SECTION 3: CRITERIA FOR ELIGIBILITY

To be eligible to sit for the CRCC examination, an applicant must meet all requirements in ONE of the categories of eligibility listed below. Education and employment experience requirements must be fully satisfied by the application deadline date (January 1 or July 1). Any application that does not meet the eligibility criteria of one of the following categories at the application deadline date will be rejected automatically, with no refund of the application processing fee. CRCC WILL CHARGE A \$20 HANDLING FEE FOR ANY CHECK RETURNED FOR NON-SUFFICIENT FUNDS.

CATEGORY A

Degree required: Master's in rehabilitation counseling.
Granted by: A rehabilitation counselor education program that was fully accredited by CORE at the time the applicant's degree was granted."
Internship required:" Internship in rehabilitation counseling of 600 hours (semester system) or 480 hours (quarter system) under the supervision of a Certified Rehabilitation Counselor (CRC).
Acceptable employment experience required: None

CATEGORY B

Degree required: Master's in rehabilitation counseling.
Granted by: A rehabilitation counselor education program that was NOT fully accredited by CORE at the time the applicant's degree was granted."
Internship required:" Internship in rehabilitation counseling of 600 hours (semester system) or 480 hours (quarter system) supervised by a CRC on-site or by a faculty member who is a CRC.
Acceptable employment experience required:" One year under the supervision of a CRC."

CATEGORY C

Degree required: Master's in rehabilitation counseling.
Granted by: A rehabilitation counselor education program that was NOT fully accredited by CORE at the time the applicant's degree was granted."
Internship required: None
Acceptable employment experience required:" Two years, one of which must have been under the supervision of a CRC."

CATEGORY D

Degree required: Master's RELATED to a Master's in rehabilitation counseling."
Acceptable employment experience required:" Three years, one of which must have been under the supervision of a CRC."

CATEGORY E

Degree required: Master's UNRELATED to a Master's in rehabilitation counseling. (This category will be phased out at the end of 1992.)
Acceptable employment experience required:" Five years, one of which must have been under the supervision of a CRC."

CATEGORY F

Degree required: Bachelor's in any discipline. This category will be phased out at the end of 1992.

Acceptable employment experience required:¹⁾ Seven years, one of which must have been under the supervision of a CRC.²⁾

CATEGORY G

Category G is a special eligibility category ONLY for students working towards a Master's degree in rehabilitation counseling. In order to be eligible under Category G, a student must:

- a. be enrolled in a Master's degree program in rehabilitation counseling that is fully accredited by CORE³⁾,
- b. have completed 75% of the coursework toward a Master's degree by the application deadline date (January 1 or July 1) for the CRCC examination for which he/she is applying;
- c. (by graduation) have completed an internship⁴⁾ in rehabilitation counseling of 600 hours (semester system) or 480 hours (quarter system) supervised by a CRC; and

A student who applies before the appropriate deadline and who qualifies under Category G may sit for the CRCC examination on the next scheduled administration date. However, the individual's examination results, profile, and certificate will be released only when CRCC receives an official transcript reflecting the granting of the Master's degree in rehabilitation counseling. The "CRC" may not be used by these individuals until they have received their examination profiles indicating they have achieved a passing score in the Certification Examination.

CATEGORY H

CRCC has created this limited category to facilitate the development and advancement of the rehabilitation counseling profession outside the United States. To be eligible an applicant may not hold U. S. citizenship nor reside in the United States. Category H is limited to the first 1000 applicants. Residency may be proved by employment verification, a certified copy of a passport, affidavit, or other legal documents.

Category H is available ONLY to an applicant who meets the required educational and employment criteria in any one category listed. The only exception is that CRCC does not require CRC supervision at internship or employment.

Applicants applying under this category are reminded that the examination is based upon the body of knowledge of laws, public regulations, and the delivery of rehabilitation services in the United States.

All CRCs, regardless of their residence, must comply with CRCC's Certification Maintenance Plan in order to maintain their certification.

CATEGORY I

Degree and Dissertation required: Doctorate with a specific program and Doctoral Dissertation emphasis in rehabilitation.

Internship required: 600 hours of internship at the doctoral level in a rehabilitation setting, supervised by a CRC.

OR

Acceptable employment experience required:¹⁾ One year full-time employment under the supervision of a CRC.²⁾

1, 2, 3, 4, 5, see page 26. "Notes to Section 3."

MTL SERVICES

9111 Vanguard Drive
Anchorage, Alaska 99507
(907) 344-3341

MARJORIE T. LINDER, M.A., C.R.C., C.I.R.S.
Vocational Rehabilitation Counselor

March 23, 1988


MAR 28 1988

Representative John Sund
Pouch V
Juneau, Alaska

Dear Representative Sund:

I am a vocational rehabilitation counselor who has worked in Alaska in the workers' compensation system for ten years, which gives me a unique vantage point. I also worked on the WCCA rehab committee. Thus, I believe I understand the intent of the proposed legislation.

Rehabilitation under the current Alaska Workers' Compensation System reminds me of the movie, "Requiem for a Heavy Weight," which deals with a no longer popular but aging boxer. His trainer and manager arrange a phony wrestling match for this once proud athlete and then they bet against him. Like the movie's protagonist, the injured worker, in the course of his claim, must enter an arena he does not want, participate in a contest he does not choose, and purposely throw the fight to support others who bet against him. If he works hard to preserve his income, under the wage loss concept, he receives no money. I have seen many a frustrated claimant utilize rehabilitation not to advance himself but to advance his claim. Likewise, I have seen many an insurance company utilize rehabilitation services to decrease the value of the claim. Both are a waste of time, energy, and money!

I believe that SB322 provides the claimant with an alternative to winning by losing. By scheduling all injuries, the claimant can obtain a settlement based on the degree of medical impairment and help himself without hurting his claim. By requiring the claimant to invest the proceeds from his claim into his own support during his rehabilitation program should the program's length extend past medical stability, the system can attend to more motivated clients and promote early intervention. By reducing the amount of support provided after medical stability, the system will discourage crippling dependency. By making participation voluntary, the system will encourage freedom of choice. The increased length of training programs should make bonafide programs more possible.

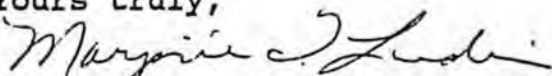
While I hope I have your attention, I wish to comment on a recent amendment which came out of the House Labor and Commerce Committee regarding a Board order to change the specialty of the Board selected IME physician from that of the treating physician.

Some people have dubbed this the "chiropractic amendment". I believe the issue is much larger than chiropractor vs. M.D. It has to do with the Board's right to have complete information to make an informed decision without requiring the employer to put on an expensive hearing and the employee to incur delays in swift adjudication of his case. It has to do with quality medical attention. For instance, I can think of cases in which the claimant naively chose the wrong specialist as his treating physician. I remember a claimant who was utilizing a pulmonary specialist to treat her back pain. I remember a claimant who was misdiagnosed by a GP as having a herniated disc when the claimant's real problem was a disc space infection (a life threatening problem, I might add). I remember a chiropractor who alleged that a plantar wart was somehow related to a female claimant's lifting a cow. Yet another claimant's cancer of the spine was missed by his family practitioner from whom he sought care after he experienced back pain on the job. Obviously, all of these folks were treating with the wrong specialist for their problem. Had it not been for an IME ordered by the employer, no one would have had appropriate information. In these cases, the IME physicians' opinions radically differed from the claimants' treating physicians. Under the House amendment outlined, the Board would be limited to selecting yet another inappropriate specialist for the claimant's problem. Somehow, this does not make sense in either the name of justice or the quality medical care.

Yet one more amendment to the bill disturbs me. This one has to do with a mandated roll back in insurance rates. I believe the proposed bill, should it not be tampered with, has at least a 6% reduction in costs built into it. My understanding is that a new NCCI report corroborates this belief. However, having a roll back in rates thwarts the free enterprise system. It may well chase carriers from Alaska leaving only one Alaskan based company. Creating a monopoly may foster opportunism. I strongly urge you to reconsider this additive, which I believe will prevent healthy competition and eventually raise the insurance rates.

In short, I support the original Senate Bill negotiated by the Labor Management Task Force and no House substitute. I invite you to call on me to provide information to you or your committee. Please thank Sherry Kockman for being responsive to my comments when I telephoned her last week.

Yours truly,


Marjorie T. Linder, M.A., CRC, CIRS

MTL

SERVICES

MARJORIE T. LINDER, M.A., C.R.C., C.I.R.S.
Vocational Rehabilitation Counselor

9111 Vanguard Drive
Anchorage, Alaska 99507
(907) 344-3341

April 5, 1988

Representative John Sund
State of Alaska
House of Representatives
Juneau, Alaska 99811

Re: SB 322

Dear Representative Sund:

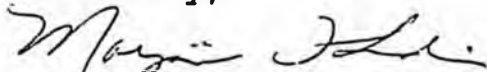
The following represents my feelings in support of scheduling all injuries using the Whole Person theory under the AMA Guides instead of using the wage-loss concept.

As a rehabilitationist, I believe that any system for compensating disability of any sort tends to contribute to the degree of disability by reducing the normal economic incentives for return to work. I believe that scheduled systems seem to offer an advantage over wage loss systems in that they discontinue the dependency relationship between the worker and the insurance company at the earliest possible opportunity. That minimizes the effect of compensation on functional overlay and incentives for return to work.

Scheduled systems also minimize the necessity for insurance companies to maintain relatively large numbers of reserves against the potential of future wage loss, a very expensive proposition in the current insurance rating system. By removing the interest of the claimant and his attorney to build awards based on wage loss, substantial savings in costs should be realized. By discontinuing the relationship with the insurance company at the earliest possible time, the claimant will also discontinue his relationship with his attorney sooner, thus reducing litigation (which I believe will be heavy at first.)

Despite the critics and actuarial reports, I know that while the currently scheduled awards may increase, the unscheduled awards will decrease and be more predictable. Please give every consideration to supporting this bill.

Yours truly,


Marjorie T. Linder, M.A., CRC, CIRS

MAR 30 1988

4325 Laurel, Suite 103
Anchorage, Alaska 99508
(907) 561-3162

March 10, 1988

House Judiciary Committee
Mr. John Sund, Chairman
Post Office Box "V"
Juneau, Alaska 99811Re: Rehabilitation of Injured Workers
Bill #322

Dear Mr. Sund:

Northern Rehabilitation Services (NRS) is a private firm offering a variety of vocational rehabilitation services to industrially injured persons throughout the state of Alaska. Over the past 12 months, many interested parties have asked Northern Rehabilitation Services (NRS) what our position is concerning rehabilitation of the injured worker. This correspondence will act as a position paper, outlining thoughts and beliefs regarding how to establish a more cost effective system. In an effort to remain objective, and due to the sensitivity of this issue, NRS has not previously taken a position; however, as we come closer to legislative endorsement and approval of new rehabilitation proposals, NRS has become increasingly concerned with the proposed changes in rehabilitation of the injured worker.

NRS agrees that changes need to be made in Worker's Compensation, and more specifically, rehabilitation of the injured worker. WCCA has spent time and effort establishing a new system within Worker's Compensation, and those efforts to make changes should be commended. NRS does not intend to criticize WCCA's proposal for changes in rehabilitation; however, after reviewing the most recent proposal, NRS is unable to endorse it. This statement comes primarily from two main issues: eligibility determination for rehabilitation; and voluntary vs mandatory rehabilitation.

WCCA's proposal states eligibility for rehabilitation services as follows: "An employee shall be eligible for rehabilitation benefits upon his written request by having physical capacities predicted to be permanent by a physician which are less than the physical demands of the job as described in the U.S. Department of Labor's 'selective characteristics of occupations defined in the Dictionary of Occupational Titles' for:

1. Job at the time of injury.
2. Other jobs the injured worker has held within the past ten years that he/she can physically handle according to specific vocational preparation codes as described by the Classification of Jobs (COJ)."

While the above eligibility definition may appear to be quite structured, its validity is rather weak. It is NRS's experience that the COJ is adequate at best in determining the physical requirements of occupations, and is limited in vocations specific to Alaska. Often the COJ may underestimate the physical

requirements of the job; therefore, if this approach is utilized, the accuracy factor may be only fair. At the present time, an on site job analysis is performed of the person's position at the time of injury, and/or transferable skills he/she may have that could be used to return them to suitable gainful employment. It is felt this approach more accurately determines the physical requirements. The rehabilitation counselor can assess the physical capacities of the job at the job site.

The other issue of determining eligibility for rehabilitation is that of using the treating physician's statement of the client's physical capacities. Physicians do not enjoy completing physical capacities evaluation (PCE) forms. If, and when a physician fills out a PCE, they will generally consult with the injured worker, and essentially complete the form in a subjective manner, making it more difficult for the rehabilitation counselor to establish a Vocational Rehabilitation Services Plan (VRSP), following through with the requirements of suitable gainful employment.

It has always been NRS's position that an occupational/physical therapist is more qualified to determine an injured claimant's physical capacities. The Alaska chapter of the American Physical Therapy Association and American Therapy Association have organized a committee which strives to establish standards on how best to evaluate Worker's Compensation claimants to determine their true physical capacities in an objective manner. By utilizing occupational/physical therapists, the system would avoid subjective information and in turn save time and money for insurance companies that have been "chasing their tails" trying to work with physicians on this issue.

The eligibility statement also discusses the issue of returning an injured person to work within 60% or more of the wages he/she was earning at the time of injury, i.e., if an individual was earning \$20.00 per hour (\$3360.00/month) at the time of injury and a transferable skill is identified that will provide the injured person an hourly rate of \$12.00 (\$2016.00/month), he/she would not be eligible for rehabilitation services. When looking at that difference, it is NRS's belief that a loss of \$8.00 per hour (\$1344.00/month) is quite drastic. Based on experience, NRS is of the opinion that most people could not handle such a reduction in salary. Conversely, the seasonal employee or an injured worker obtaining a position whose salary far exceeds their usual earning capacity would greatly benefit. Using an individual's average weekly wage would be more in line with their current life style and financial commitments when assessing transferable skills and/or a new vocational objective.

It has also been noted that the new rehabilitation proposal states the injured person and/or employer may make a request for an eligibility evaluation. The word "may" is interpreted by NRS to mean eligibility evaluations may never happen. How is the injured worker provided the necessary information regarding rehabilitation? If the injured person is not provided with this information, and it is left up to the employer to make that decision, a percentage of cases may go unserved.

Mandatory rehabilitation on the surface may appear to be a costly approach; however, it is NRS's opinion that early referral to rehabilitation will result

in cost savings for the insurance company. While this may be disagreed upon by many people in the insurance industry, a study conducted by NRS substantiates early referral to be the most cost effective method.

If a sound eligibility determination is implemented, injured worker's who do not need rehabilitation services would be eliminated from the system. The injured workers who require the service should be referred immediately to rehabilitation. NRS receives many referrals where the injured person has been off work for more than a year. When that injured worker is finally referred to rehabilitation, they are so bitter and angry that the rehabilitation specialist has difficulty establishing a positive working relationship. Generally, the injured worker who has been off work for more than a year is in financial jeopardy, often depressed, lacks motivation, and will play a passive role in cooperation with rehabilitation.

Based on past experience, the following issues are often present:

1. The claimant has made a decision in his/her mind that they are going to "get even" with the insurance company.
2. The claimant has become comfortable with compensation benefits, and consequently will not make an effort to return to gainful employment, especially if a significant loss of wage earning is identified.
3. The claimant becomes dependent upon the system and, therefore, overreacts to the injury when interacting with the physician regarding physical capabilities.

If the insurance company is given authority to make referrals on a voluntary basis, a portion of the injured workers who would benefit from services may be denied the right to rehabilitation. It will be those cases where the insurance adjuster may influence the claim by conducting "piece work" rehabilitation. The final result is a hostile injured worker with no end in sight for resolving the claim or returning to gainful employment as a productive member of society.

It is because of the above two issues that NRS is unable to specifically endorse WCCA's rehabilitation proposal. It has always been NRS's position that our present rehabilitation law (.041) be preserved with the necessary changes. Resolutions to the present rehabilitation law should be implemented and monitored by a committee of insurance personnel, employers, doctors, attorneys and rehabilitation specialists. These professionals should be appointed for a period of two years and statistics maintained for future recommendations and revisions.

What needs to be absolutely avoided is the "Pendulum Affect." If we eliminate our present law (.041) and establish a totally new law, the pendulum, in essence, will swing from the one extreme to the other. A new law will have problems that will also need to be changed and litigated. It is NRS's position that the industry should work with what is now available and make it more effective.

The professional staff at NRS has many years of experience working in the field of Worker's Compensation. With that experience, and under the .041 guidelines, the following concerns continue to arise:

1. What constitutes a reasonable labor market?
2. How does one deal with a change in the labor market due to economic instability when a Vocational Rehabilitation Services Plan is successfully completed?
3. What constitutes non-cooperation?
4. How much time is needed to train injured persons in appropriate occupations?
5. How does one deal with "doctor shopping", or physicians that refuse to cooperate with the rehabilitation process?
6. What can one do to effectively obtain an appropriate physical capacities evaluation form?
7. What is the definition of suitable gainful employment?
8. Is there a better way of resolving claims when an injured worker establishes a goal that goes beyond the .041 training time requirements (74 weeks)?
9. When an injured worker wants to resolve a claim, is unnecessary litigation required to obtain that result?
10. How can situations be avoided where the insurance company may not support the rehabilitation provider's recommendations; consequently, they hire and fire specialists until one is found to endorse their concept of what they feel is appropriate rehabilitation?

The above issues need to be addressed within our present .041 rehabilitation system. It is strongly felt that the rehabilitation community is aware of the problems and may have recommendations to resolve them. Why has it become apparent that most persons with interests in Worker's Compensation want nothing to do with rehabilitation?

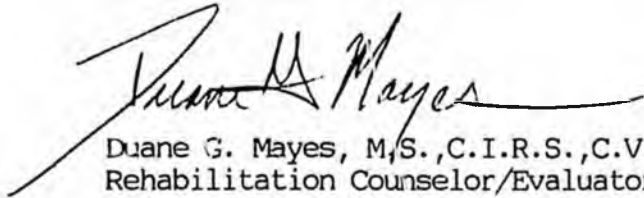
Because costs have increased over the years in Worker's Compensation, it is more important than ever that all parties objectively establish a sound Worker's Compensation Rehabilitation Program.

NRS has gathered statistical data in the past two years to identify the outcome of claims referred to our office for rehabilitation services. After reviewing the data, one may determine that the results were cost effective; however, a percentage of cases were closed through compromise and release. Certain individuals are not willing to accept the time frames rehabilitation has to offer within our present system. There should be a more effective way of resolving a claim that is heading towards an agreed upon conclusion.

There have been positive results in rehabilitation within NRS, as well as other rehabilitation firms in the Anchorage community over the past four years. Due to greatly increased costs in Worker's Compensation over the years, it is important that all parties involved within the system avoid emotional reaction. Granted, there are problems within each profession, but instead of dealing with a negative approach, we should deal with change in a positive manner and work with each other to arrive at resolutions. Objectivity and professionalism, with good common sense, are necessary to establish a sound program that is fair to all parties.

If an individual reading this letter is interested in speaking with a rehabilitation specialist regarding their concerns, please do not hesitate to contact NRS at the above number or contact the Executive Board of the Alaska National Association for Rehabilitation Professionals in the Private Sector.

Respectfully submitted,



Duane G. Mayes, M.S., C.I.R.S., C.V.E.
Rehabilitation Counselor/Evaluator



Carol Jacobsen, R.N., C.R.R.N
Certified Rehabilitation Registered Nurse

DM:gm
2173

*Chiropractor's
Recommendation
for changes to
the original
WCA Bill*

SECTION A.S. 23.30.095(a):

- (1) DELETE underlined passage beginning page 12, line 7 through line 11, starting with "The employee".

RATIONALE: This passage is objectionable for several reasons:

- (a) because there is an insufficient definition of "attending physician";
- (b) because there is an insufficient definition of "specialist";
- (c) because there is no indication of when a physician becomes an "attending" physician as opposed to an examining or consulting physician; and,
- (d) because there is no real indication of how a choice of a different specialty is treated. For instance, if employee's attending physician is a GP and he has a broken leg and decides that a orthopedist would be better able to treat him, does that decision count as a change? Or, the employee has a lower back injury, choses to try an osteopath or a chiropractor instead of his GP, does that decision count as a change when he is not merely changing from one doctor to another but is actually seeking a different type of treatment?

If the passage must remain in, here is a suggested change:

The employee may not make more than one change of attending physician within the employee's attending physician's discipline or speciality without the written consent of the employer.

We would suggest that A.S. 23.30.265 be amended to include the following definitions.

An attending physician is the physician of the patient's choice responsible for the provisions of primary health care.

A specialist is a physician to whom the patient is referred by the attending physician for the provision of secondary care and/or consultation.

- (2) Keep language that will be deleted (bracketed language on page 12, line 11 through line 13). There does not appear to be any justification for taking away the boards authority to make exceptions to this rule in the appropriate cases.
- (3) Amend the language in the next sentence, page 12, line 13, starting "Upon procuring" to read:

Upon procuring the services of an attending physician, etc.

SECTION A.S. 23.30.095(c):

- (1) DELETE the added language (underlined and appearing on page 13, line 2 through line 13).

RATIONALE: This passage is ill considered:

- (a) because there is no definition of what is considered "continuing and multiple treatments" and health care providers must necessarily guess;
- (b) because there is no designation of who will approve the plan and what standards will be employed and upon what facts or basis the review will rest;
- (c) because the process of review will occur simultaneously with the provision of treatment and, according to the current language, the health care provider must bear the financial risk of disapproval;

- (d) because there are no provisions for amendment of the plan should the need arise; and,
- (e) because the provision imposes maximum limits arbitrarily.

Generally, it appears to us that these provisions will probably result in an increase in litigation and resulting costs rather than a decrease since so much is left unstated.

If the reason for this amendment is to guard against unreasonable or unnecessary treatment, there are already regulations in place and the employer can, with most health care professions, submit perceived abuses to the appropriate peer review committees.

If the reason for this provision is, as some of our members strongly suspect, an indirect attack on Chiropractic, it is not in fact cost effective and is, to say the least, discriminatory.

SECTION A.S. 23.30.95(e):

- (1) Proposed amendment deleting requirement that examining physician be authorized to practice is inappropriate and suspect. Therefore, bracketed section on page 13, line 18 through line 19, should be RETAINED.

How is either the Board or the employee able to rely upon the competence of a report or examination if there is no requirement that the physician doing the examining be appropriately licensed? Does the legislature really intend to require that the employee must submit to an examination by someone who may not be capable of meeting license requirements?

- (2) The creation of a presumption of reasonableness of requiring examinations every 30 days appears to be irrational. It seems obvious that the added language could easily be used by the employer to harass an employee in cases where either (1) the condition is stable enough that monthly examinations are unnecessary, and/or the examination technique used is painful and the likelihood of substantial changes in condition would not, in the absence of an adversary relationship, be normally considered justified. In addition, should the employee not be able to work at his/her old job, a requirement for monthly examinations by the former employer's doctor may well interfere with the ability of the employee to secure other employment.

- (3) Although there are fairly draconian provisions within this section for employee non-cooperation, there are no provisions for (i) advance (reasonable) notice requirement by the employer; or, (ii) a means by which the employee can contest the necessity and/or reasonableness of the monthly examinations prior to their imposition.

SECTION A.S. 23.30.95(f):

DELETE (UNDERLINED) changes.

AMEND LANGUAGE

RATIONALE: The present section, prior to amendment, limited fees charged for medical treatment and services to charges that generally prevailed in the community. (See bracketed section, page 14, lines 18 through 19). The new section (underlined, page 14, line 20 through line 22) adds to the Board's responsibility the necessity to determine whether or not the charge, which may well be customary in the community, is reasonable (underlined).

That being true, the phrase that the Board may regulate fees and charges contained within this section would become a reality since the Board would have authority under this section to override free market considerations, including local economics and the effects of local competition and declare that charges that were in fact usual and customary but, in the Board's opinion, unreasonable.

The proposed change is actually unnecessary since normal free enterprise processes supply reasonableness of price through market place competition.

The purposes behind this section are two-fold. First, the legislature is rightly concerned over the incurring costs of workmens' compensation insurance to employers. Second, paying inappropriately high charges to a physician will encourage bias that inevitably leads to increased litigation. Assuming that these provisions are laudatory, the measure only goes half way in treating the problems. The other half of the costs associated with workmens' compensation cases arises from the physician retained by the employers to examine the employees. The costs associated with those physicians contribute to the burgeoning costs of insurance in the same manner as those of the employer's physician. Additionally, the issues of bias for over compensated physicians are not confined to either side.

Finally, the present language limits comparison to an obviously vague and confusing standard of "treatment of injured persons of "like standard of being". That portion should have the confusing language removed. Therefore, we suggest that the language of A.S. 23.30.095(f) be as follows:

All fees and charges for treatment, service or examinations by physicians for either party should be limited to charges that prevail in the same community for similar treatment, services or examination of injured persons and shall be subject to regulation by the Board.

SECTION A.S. 23.30.95(j):

DELETE changes. AMEND CURRENT LANGUAGE.

The most offensive of the added language is contained on page 14, lines 25 through 26, which allows for an out-of-state organization to advise the Board on the appropriateness and necessity for and costs of medical treatment of Alaskan workmen by Alaskan physicians. A host of questions arise by this wording. If an out-of-state organization is appointed, how well qualified are they to judge these issues? Could they pass the relevant Alaska boards? Are they in fact licensed physicians/health care providers? Are they anything more than claim adjusters? How is an out-of-state organization going to determine appropriateness of treatment without recourse to examining the patient or taking additional xrays or additional studies? Why is an out-of-state organization needed when there are peer review committees set up within the various disciplines for these purposes now?

Regarding costs, once again, how is an out-of-state organization going to determine appropriate levels of costs? If for instance, the person making the determination on appropriateness of costs lives in and is familiar with medical costs in some small town in Illinois, will that familiarity influence the advice he gives to the Board on treatment rendered in Alaska where the cost of everything is higher?

Based upon the recommendations that are made to the Board, the Board will be determining whether an employer should pay a bill for services that have already been rendered. Because it has the power to approve of the withholding of payment, the employee and the local physician in Alaska rendering treatment to him is at a distinct disadvantage in challenging the advice of an out-of-state organization.

If the advice is unsound, but because of economics, remains unchallenged, the Board's decision will eventually begin to influence the manner in which Alaskan physicians treat injured workmen since their choices will essentially be to either adopt an approved (but unsound) procedure or to refuse to treat the injured workman. Additionally, injured employees may not seek appropriate treatment since they might end up having to pay for it themselves, which will either add to the term of the injury or begin to increase costs of employee medical insurance plans.

We suggest the following language REPLACE Section (j):

The board may appoint a medical services review board consisting of physicians licensed in the state and employer and employee representatives to assist and advise the Board in matters involving the costs of health care services. The medical services advisory board shall conduct anonymous surveys biannually to determine usual and customary costs of treatment and procedures, and in the case of unusual situations, may conduct special surveys to determine usual and customary costs for treatment of procedures not normally encountered. If the Board shall determine that a physician or health care provider has inappropriately or unnecessarily provided treatment, or has habitually and substantially exceeded the usual and customary charges in the community in which treatment was rendered, the committee shall refer the matter to the peer review committee of the health care provider's discipline and advise the Board to disapprove the charges in question.

SECTION A.S.23.30.095(k):

(1) AMEND proposed language.

RATIONALE: The clear import of this section is to provide the Board with an independent source to turn to when a dispute arises between the parties' experts. Unfortunately, the proposed section as it's presently worded does not go far enough to insure the independence of the source. Additionally, it fails to guard against "apples and oranges" comparisons that so often create or increase litigation before the Board. Finally, the proposed section creates an inappropriately limited standard of review which is inconsistent with current diagnostic techniques.

First, in order to insure the independence of the review, the selection of a physician or health care provider should be from a rotating list so that there can be no question as to impartiality in the selection process.

Second, both parties should have the right to object to one selection within a reasonable time period so that questions of bias may be minimized.

Third, the lists that are resorted to by the Board should be kept by discipline and specialty and the selection made should conform to the discipline or specialty of the health care provider of the employee. Otherwise, there is every likelihood that the Board will become embroiled in jurisdictional disputes between disciplines and specialties that will provide no meaningful comparison.

Fourth, limiting the standard required to overcome the presumption to objective evidence deselects critical subjective findings that often times form the backbone of a valid diagnosis.

Fifth, although shielding the independent physician from liability for ordinary negligence is a good idea, making his liability dependent upon proving fraud goes too far. As a result, it is our feeling that the limits of liability should extend to fraud's cousin, misrepresentation, and to gross negligence in order to ensure an appropriate level of reliability in the findings of the independent physicians.

We would suggest the following language be substituted for the proposed language:

In the event of a dispute regarding determinations of causation, stability, degree of impairment, functional capacity, the amount and efficacy of the continuance of or necessity of treatment, or compensability between the employee's attending physician and the employer's medical evaluation, an independent medical evaluation shall be conducted by a physician or physicians of the same discipline and specialty of the employee's attending physician.

Such physicians shall be licensed in the State of Alaska or the state that treatment was rendered and selected from a list established with the aid and advice of the medical advisory board, and maintained by the Board. Both the employee and employer shall have the right to challenge one

appointment. In the event of a challenge, the next physician on the list will be appointed. The contents of the list and the order of its contents shall be kept confidential by the Board. The report of the independent medical examiner shall be furnished to the Board and both parties within 14 days after the examination is concluded. The opinion of the independent medical examiner shall, in the absence of clear and convincing evidence to the contrary, be presumed to be correct. A person may not seek damages from an independent medical examiner caused by the rendering of an opinion or providing testimony under this subsection, except in the case of fraud, misrepresentation or gross negligence.

SECTION A.S. 23.30.155(c):

DELETE Added language.

RATIONALE: As will be explained more fully when Subsection (m) is discussed, the exception being grafted onto this section is, in essence, gutting the penalty provisions by allowing an employer to escape the penalties by simply performing once a year ministerial acts that have nothing to do with the merits of a particular controversion, or for that matter, to do with a habitual practice of unjustifiably controverting employee claims. As a result, it is our suggestion that the amenditory language be deleted.

SECTION A.S. 23.30.155(m):

DELETE changes.

RATIONALE: This section as it is proposed, essentially vacates the penalty provisions in subsection (c) by allowing an employer to avoid penalties for failure to timely notify the employee and the board of changes it unilaterally makes to the employee's compensation, or whether or not the employer intends to controvert at all. In essence this provision allows, on a sliding scale, an employer to escape substantial penalties if it performs the ministerial acts that, under the present and proposed statute, it must perform.

For the employee who is caught within the exception's parameters, however, there is little relief. If the filing requirements did not incorporate notifications to the employee and were, in fact, only ministerial, there might be

some justification for the proposal, although it is not readily apparent even in that situation. However, the reports do require notification to the employee and, in the absence of receiving timely reports, the employee may well make decisions that he might not should he receive a timely notification that the employer was either going to controvert, suspend or terminate his compensation. In essence then, the employer is, according to this section, allowed to escape penalties for failing to comply with the employee notification provisions in Subsection (c).

SECTIONS A.S. 23.30.185, A.S. 23.30.200:

DELETE proposed language unless the term medical stability is changed as noted below.

RATIONALE: Obviously, the employers and their carriers are seeking to place a limit upon TTD and TPD payments. However, they are basing the proposed limit upon an unrealistic and unfair standard, "medical stability". As will be demonstrated below, the definition for the term "medical stability" is suspect.

SECTION A.S. 23.30.265 (34):

AMEND proposed language.

RATIONALE: According to the proposed language, an employee's medical condition is "stable" after the date that no further objectively measurable improvement is reasonably expected to result from additional medical care or treatment. This definition has several flaws.

The section is used in conjunction with two other sections, AS 23.30.185 and AS 23.30.200 which deal with payments for temporary disability records to those sections, payments will be cut off once medical stability is reached. Therefore, for both parties the definition of medical stability becomes paramount. However, under AS 23.30.265(34) the definition is highly suspect. According to the proposed language, medical stability is measured solely upon the question of whether further care or treatments will result in improvement and specifically disallows consideration of improvement generated by the natural healing process of time. Therefore, it is

easily conceivable that an injured employee who is temporarily disabled and unable to be gainfully employed, and who will get better over time, would lose his temporary benefits because the health care providers could not provide treatment or care that would improve upon the natural healing process. In essence, the injured employee would be penalized because of the impotence of current science to help him.

Second, once again the standards for making the determination based solely upon objective findings when modern diagnostic techniques use a combination of objective and subjective techniques. As a result, the employee and all of the physicians coming into contact with him are artificially limited to decision making that bears no relationship to how medical decisions are normally made.

SECTION ENTITLED LEGISLATIVE INTENT, SUBSECTION (b):

AMEND proposed language.

RATIONALE: In decreeing that the Board has increased powers, there must be some authority for decision making concerning his medical treatment left to the injured employee. Therefore, there should be some provision contained within the statute that it is not the legislature's intent that the employee's right to chose who his health care provider will be will not be restricted unreasonably.

We suggest that the following language be added to subsection (b):

With the exception of the provisions contained in A.S. 23.30.095(a), nothing contained within this section shall empower either the board or any party to interfere with or infringe upon the employee's right to select the type of health care and the person to provide it for the treatment of his injuries. Any employer or its representative that violates this section is guilty of practicing discrimination against the employee and subject to the provisions of A.S. 23.30.247.

Miscellaneous: I didn't have a chance yet to gratf in some changes that will try to limit what the employer/insurance carriers pay for their expert. I also need to go through the IME language dealing with the experts hired directly by the employers to perform examinations and try to exclude references to that process as an IME since the employer's experts are no more "independent" than the employee's experts. I'll try to complete those tasks by tomorrow.

I didn't do a cheat sheet yet but will be prepared to verbally discuss the manner in which the testimony will be presented at our meeting and, if it is felt that a sheet would be helpful, I'll prepare and deliver one to you.

PLD



IRELAND Clinic of Chiropractic APC

541 WEST 36TH AVENUE, ANCHORAGE, ALASKA 99503-5899. (907) 561-1222

MAR 04 1988

February 28, 1988

Representative John Sund
P.O. Box V
Juneau, AK 99811

*part in
copy file* *JK*

RE: PROPOSED WORKERS' COMPENSATION LEGISLATION (H.B.352/S.B.322)

Dear Representative Sund,

Your time is precious and valuable; hence I will keep my remarks as brief as possible. As you attend to the vital task of organizing and running state affairs, and bringing about economic recovery, I feel that you should be aware of the following information.

H.B. 352 and S.B. 322 are NOT likely to benefit the injured worker as they claim to do. The language utilized is cleverly written to protect the interests of MANAGEMENT. It is legislation that is clearly out of balance. The labor participation during the drafting stage ("Task Force") therefore appears to be of "mysterious" significance and value.

The proposed legislation places few controls on insurance carriers but many on the health care providers. This bill is conspicuous in nature, in that insurance carriers are given NO guidance to pay health care providers on a timely basis and NO authority is provided for a FINANCE CHARGE AND/OR PENALTY to be levied on an insurance carrier when a delinquency occurs. The "Board" recommends payment within 15 days, but experience and statistics show that payment is usually made many months later, after an exercise in collection procedures has transpired!

To perpetuate the free enterprise system and therefore encourage competition between the various health care providers (best procedure to decrease costs) it is essential to keep the professions "distinct and unique" unto themselves. (Naturally inter-professional relationships would be encouraged.) In keeping with the American way, it is recommended that EACH PROFESSION DOES ITS OWN INDEPENDENT MEDICAL EXAMINATIONS (I.M.E.).

It should specifically be noted that Chiropractors take care probably of the majority of neuro-musculoskeletal (neck and back) injuries. The proposed legislation, supported by the Alaska Medical Association, is designed to move patient care from the Chiropractic model to the MEDICAL MODEL. Research over many years, utilizing tens of thousands of patient studies, has concluded that CHIROPRACTIC IS COST-EFFECTIVE OVER MEDICINE in treating these

injuries. Is it logical therefore to embrace a more costly approach when trying to save money? Furthermore, extensive documented research reveals that WORK TIME LOSS can be significantly decreased utilizing the CHIROPRACTIC approach!

The history of medicines' activities cannot be ignored . . . even though Chiropractors would like to "move on positively" into the future. In 1972, the Alaska Medical Association supported legislation to ELIMINATE CHIROPRACTIC on the basis that it was "QUACKERY." In 1987, the A.M.A., the American College of Surgeons and American College of Radiology were all found guilty, in the United States District Court, of CONSPIRACY TO DESTROY THE CHIROPRACTIC PROFESSION. It should therefore come as no surprise that Chiropractors are "sensitive" whenever a situation requires medical co-operation . . . such as I.M.E.'s performed on Chiropractic patients by medical doctors!

Please be aware that at the "practical field level" I.M.E.'s are "devices" frequently utilized by insurance carriers to interfere and disrupt Chiropractic care. These I.M.E.'s are almost always done by medical doctors (orthopedic surgeons not educated or trained in Chiropractic Methodology.) In my extensive practice experience I have never seen a patient under medical care receive an I.M.E. by a Chiropractor! It seems only reasonable that a professional trained in a particular specialty should evaluate treatment within that specialty. Does a neurologist suggest a patient should seek a second opinion from a pediatrician? It should also be noted the I.M.E.'s performed by MEDICAL DOCTORS usually take about 15 minutes of the physicians' time (an average time according to patients) and COST about \$500. This professional fee also EXCLUDES diagnostic studies like x-rays, CAT-scans etc. The present and proposed I.M.E. procedure simply perpetuates DISCRIMINATION and elevates COSTS!

I am the elected Western Regional Director for the International Chiropractors Association, representing the Chiropractors in Alaska, Washington, Oregon, Idaho, Montana, Wyoming, California, Utah, Arizona, Nevada and Hawaii, and have practiced continuously in Anchorage for 17 years. In the interest of "fairness and economics," you are requested to please research and evaluate the issues raised by the Alaska Chiropractors. The Alaska Chiropractic profession, its legal counsel, and lobbyist Mitch Gravo, Esq. are willing to participate in discussions that will mature into laws that are fair to all parties concerned.

I request that you consider the following criteria and proposed amendments, and that they become, at the least, minimum requirements for an acceptable workers' compensation bill.

* The injured worker receives fair benefits and compensation;

* The insurance industry guarantees a 20% reduction in premiums for at least a two year period (premium increase only upon the objective display of need);

* I.M.E.'s are performed by the same type of licensed health care provider as the treating doctor;

* The health care providers are paid by the insurance carriers within 30 days and a legally enforceable finance charge to prevail thereafter. A penalty clause should be invoked for habitual offenders and for other irresponsible actions;

* That injured workers are regarded as important individuals and treated as such. The obligation for the physician should be to provide only "necessary care" and not categorize individuals under a health care delivery system that demands or forces upon people a pre-determined visit structure; (The Medical and Chiropractic professions already have PEER REVIEW panels in existence to control "utilization.")

* That health care providers charge only "reasonable fees" for services provided; (The fee profile to be documented by a skilled person [statistician] for specific geographic areas in Alaska and updated on a quarterly basis. An independent audit of the fee profiles is also essential for the maintenance of accuracy.)

* That non-licensed health care providers (usually insurance adjusters, etc.) NOT be given the authority to approve or reject "TREATMENT PLANS," on the basis of having insufficient Medical/Chiropractic experience and knowledge;

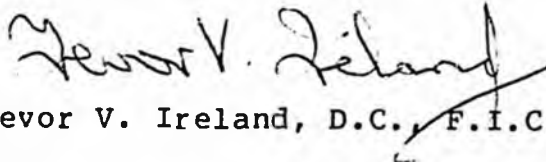
The ultimate solution, which has not been addressed in the proposed legislation, is to PREVENT the industrial accident from happening in the first place! According to an article in the "Anchorage Times," which appeared on February 22, 1988, the following is true: "...as well as an insurance industry that pays more attention to the premiums than it does lowering accident rates." This same newspaper article claims that a safety program reduced a construction firms' annual premium...and furthermore resulted in a REBATE of \$110,000 (that the insurance company reimbursed to the construction company). The CORE ANSWER to the Alaska workers' compensation situation could be found in placing emphasis on SAFETY PROGRAMS which could imply a drastic departure from the present version of H.B. 352 and S.B. 322.

Thank you for taking the time to acquire insight into the "other

side of the story." We, as Chiropractors, are positive that by the implementation of the above stated ideas, we can improve the system for all parties concerned and furthermore help Alaska to get back on its "financial feet" by helping business (employers) to pay reasonable workers' compensation premiums again.

Sincerely,

IRELAND CLINIC OF CHIROPRACTIC, A.P.C.



Trevor V. Ireland, D.C., F.I.C.A., F.P.C.W., F.P.A.C.

TVI/dld

attch: Anchorage TIMES article "Firm Funds Safety Cut Workers' Comp. Fee"

P.S. Cost effective research studies, Court decisions, etc. are available upon request.



IRELAND Clinic of Chiropractic APC

541 WEST 36TH AVENUE, ANCHORAGE, ALASKA 99503-5899. (907) 561-1222

March 3, 1988

MAR 04 1988

Representative John Sund
P.O. Box V
Juneau, AK 99811

Re: Proposed Workers' Compensation Legislation (HB 352/SB 322)

Dear Representative Sund,

As the Western Regional Director for the International Chiropractors Association, I feel obligated to express my opinion pertaining to the proposed workers' compensation legislation.

The proposed legislation, in a subtle manner, moves the Chiropractic model of health care into the MEDICAL model. This "movement" is likely to ELEVATE COSTS because numerous studies have proven Chiropractic care to be cost-effective over medicine.

Medicine has long relied on the "diagnostic and objective" approach in providing health care. This approach typically entails many x-ray studies, CAT-scans, M.R.I.'s etc... all of which are COSTLY.

Chiropractic care, in contrast to medical care, has emphasized a "hands-on" approach with a blending of objective and subjective findings. (Subjective findings are those elements such as the feeling of pain, headache etc.)

Chiropractors understand neck and back problems probably better than anyone else. They also understand that BACK and NECK PAIN CAN EXIST WITHOUT OBJECTIVE DOCUMENTATION.

H.B. 352 and S.B. 322 insists upon "objective" documentation. Should these bills become law it is reasonable to assume that ALL health care providers will be FORCED to perform additional COSTLY tests and procedures to PROVE that the care rendered was necessary.

RECOMMENDATION: Necessary care may be rendered when "subjective" and/or "objective" findings are demonstrated. (Psycho-somatic observations and malingering tests should be utilized by the physician to eliminate non-compensable type conditions.)

Thank you for taking the time to note our Chiropractic concerns.

Sincerely,

IRELAND CLINIC OF CHIROPRACTIC, A.P.C.

Trevor V. Ireland

Trevor V. Ireland, D.C., F.I.C.A., F.P.C.W., F.P.A.C.

TVI/mli

PLEASE NOTE: Additional information available upon request. Please refer to "Information Package" forwarded to you dated February 28, 1988.



IRELAND

Clinic of Chiropractic APC

541 WEST 36TH AVENUE, ANCHORAGE, ALASKA 99503-5899, (907) 561-1222

MAR 11 1988

March 9, 1988

Representative John Sund
P.O.Box V
Juneau, AK 99811

RE: Proposed Workers' Compensation Legislation (HB352/SB322)

Dear Representative Sund,

I have practiced in Anchorage for almost 17 years. It is apparent that we need workers' compensation reform in Alaska. The proposed legislation unfortunately corrects some problems, but CREATES others.

The most visible problem, at least to Chiropractors, is the subtle language utilized to move the practice of Chiropractic into the MEDICAL MODEL of practice. Study after study has proven Chiropractic to be COST-EFFECTIVE over medicine! (As referenced in "Information Package" forwarded to you February 28, 1988.)

Having medical doctors evaluating Chiropractic patients is like having plumbers evaluating electricians work. Independent Medical Examinations (I.M.E.'s) usually provide the medical doctor with a "classroom setting" to discuss their anti-Chiropractic feelings...and seldom result in the clinical merits of the case being adequately evaluated!

Chiropractors are collectively "upset" when the vast majority of I.M.E.'s, performed by medical doctors claim "The care is unnecessary," "The care is palliative," "The care is hindering your progress," "The care is actually causing you additional injury," etc. These misleading and inaccurate statements are encountered so frequently that many Chiropractors feel that certain medical (I.M.E.) doctors have ONLY these findings programmed into their word processors!

Chiropractors have complained about the situation for many years. On August 27, 1987, the United States District Court in Chicago found the American Medical Association, American College of Surgeons, and the American College of Radiology guilty of conspiring to destroy the nations' Chiropractic practice.

In view of this court decision, it is apparent that there may be more to the I.M.E. situation than meets the eye!

RECOMMENDATION: Require that each licensed health care profession perform its' OWN I.M.E.'s.

Sincerely,

IRELAND CLINIC OF CHIROPRACTIC, A.P.C.

Trevor V. Ireland

Trevor V. Ireland, D.C., F.I.C.A., F.P.C.W., F.P.C.A.

TVI/mli

PLEASE NOTE: Additional information available upon request. Please refer to "Information Package" forwarded to you dated February 28, 1988.

PLACE EMPHASIS ON PREVENTION (SAFETY PROGRAM). H 20%

REDUCTION IN PREMIUM IS POSSIBLE! (SEE "REBATE" BELOW.)

Firm finds safety cuts workers' comp fee

By Harry McFarland
Times Business Writer

The owner of a Homer construction firm, a \$110,000 rebate check from his insurer in hand, believes safety programs may be a partial answer to lowering the workers' compensation insurance crisis in Alaska.

"It's not uncommon to receive a rebate," Tony Neal, president of Neal & Company, said Saturday. "It is uncommon to receive such a large check."

Neal credits his insurance agent,

Doug Vincent of Corroon & Black, and his insurer, Industrial Indemnity, for helping design the safety program that has helped reduce annual premiums.

Workers' comp pays medical, rehabilitation and compensation costs to employees injured on the job. The benefits package is specified by state law but provided by private insurers, whose policies are reviewed by the Alaska Division of Insurance. All employers must carry the coverage.

Neal's annual workers' compensa-

tion bill for 250 employees totaled \$500,000, he said, but the company, which was established in 1974, had no accidents. Neal started negotiating to lower premiums for his company, which has branch offices in Anchorage and Guam.

Working with Vincent and Industrial Indemnity, Neal's company added a safety engineer to oversee an accident prevention program. And when the Industrial Indemnity representative re-

See Safety, page B-8

Safety: Pays off

Continued from page B-4

commends procedural changes, Neal said the company complies.

With the two years of rebate checks, he ultimately subtracted \$170,000 — \$110,000 for 1987 and \$60,000 for the previous year — from his firm's operating costs.

"A lot of the credit should go to Industrial Indemnity," Neal said. "They pay a lot of attention to safety when a lot of insurance companies don't."

Currently, the legislature is considering a measure aimed at lowering insurance premiums, which have skyrocketed 42 percent the past two years. Experts say the higher premiums can be blamed on high medical expenses, permanent and partial disability payment policies, vocational rehabilitation that ends

up in confrontation and litigation and stress at the workplace as well as an insurance industry that pays more attention to the premiums that it does lowering accident rates.

Among the proposals in the legislature are lowered weekly benefits for claimants living outside Alaska and taking steps to stop "doctor shopping" by workers looking for the medical opinion they want to hear. The legislation also proposes lowering the maximum benefit.

> NOTE.

WCCA

For Release October 14, 1987

Contact: Steve Haag
344-1577

ALASKAN BUSINESSES FACE 25 PERCENT INCREASE IN WORKERS' COMPENSATION INSURANCE RATES

Alaskan businesses will be faced with an average 25 percent rate increase in the cost of workers' compensation insurance effective January 1, 1988, according to the director of the state Division of Insurance, John George. George made the announcement at a recent seminar sponsored by the Workers' Compensation Committee of Alaska.

Employers are required by law to carry workers' compensation insurance to pay for the medical costs and lost wages incurred by employees who are injured on the job. Employees do not contribute toward the cost of the insurance.

"Based on the paid loss method of determining what the workers' compensation rate increase will be effective January 1, 1988, the average will be an increase of 25.1 percent. That's not good news," George said.

The 1988 average rate is almost double the 1987 rate increase of 14.3 percent. In 1987 industries such as construction, manufacturing and oil and gas experienced increases of almost 40 percent. George says the continuing increases are founded in losses via claims incurred by insurance companies.

- more -

"Payrolls have been going down in Alaska for the last few years. One would expect that the losses incurred by carriers would also be going down," George said. The opposite is true.

George noted that workers' compensation claims totalled \$70 million in 1983, \$89 million in 1984, \$124 million in 1985 and \$150 million in 1986 despite a decreasing payroll base.

He said the rate hike this coming year could have been even higher since one method of calculating rates showed Alaska facing a 58 percent increase. "We insisted the national rating company use the method that came up with the lowest increase," George stated.

He added that the Division of Insurance ran its own calculations and predicted a 25-30 percent rate hike was legitimate. "We're fairly confident that the 25.1 percent is a legitimate number. It is an unfortunate number," George said.

Steve Haag, President of the Workers' Compensation Committee of Alaska, said the rate increase is bad news for Alaskan businesses already impacted by slow economic growth. "Without a doubt I can say some of the businesses here today will not be here several months from now and the skyrocketing insurance rates will be a major cause of that," Haag said.

George agreed that the rate hikes will have a negative impact on Alaskan employers and employees. "We recognize the problem it is causing employers and employees. We recognize it makes Alaskan employers non-competitive with employers in other states who come up and do the work with an all-states endorsement on their policy," George stated.

George encouraged employers and employees to examine the factors that affect rates to determine if the benefits are appropriate and if employers can legitimately afford to pay the cost of those benefits.

"I don't think anyone wants to deprive a truly injured worker of his due benefits," George stated, "Yet we're getting to a point where employers just can't afford to keep paying, insurers can't afford to keep selling insurance if they can't charge an adequate rate and we end up at a place where you can't have a business in Alaska employing people."

WCCA reorganized last winter after the 1987 rate increases were announced. The organization is currently examining all aspects of workers' compensation law in an effort to prepare a reform package for the legislature in 1988.

"I think this group is doing a good job of looking at the things that go into making up the losses to see if there are appropriate adjustments," George said. "I think it's outstanding that we finally have gotten the employers and employees together to do this."

George said the Division of Insurance would hold two public hearings in Anchorage on the rate increases. They will be at the Loussac library from 1-4 p.m. and 7-10 p.m. Friday, October 23.

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WCCA

For Release
October 23, 1987

Contact: Steve Haag
344-1577

1988 Workers' Compensation Increases Hardest on Oil and Gas Industry

The oil and gas industry can expect workers' compensation insurance premium increases of as much as 68 percent beginning January 1, 1988 according to State Division of Insurance Deputy Director Don Koch. Koch unveiled the official increases during two public presentations Thursday in Anchorage.

The average rate increase for all businesses will be about 25 percent with ranges depending on the specific type of business. Rates are broken into four general classes with the following average and range increases:

	Average	Range
Oil and Gas	43%	18% to 68%
Contracting	29%	4% to 54%
Manufacturing	10.5%	-14% to +36%
All Other	17.6%	-7% to +43%

The rate hikes will mean Alaskan businesses will pay about \$38 million more in 1988 for workers' compensation insurance.

"This filing could not have come at a worse time," Koch said while warning there may be more bad news in future years if the system remains unchanged. "I have a suspicion these rates will still be somewhat inadequate. The filing we had last year was absolutely deficient."

Koch referred to the fact that workers' compensation losses have more than doubled in the past four years, from \$71 million in 1983 to over \$150 million in 1986 despite a drop in overall state payroll to pre-1982 levels.

The rate increase is the result of an analysis conducted by the National Council on Compensation Insurance, an organization responsible for analyzing insurance rates in 32 states. NCCI actuary Mark Mulvanney explained that much of the rate increase came from workers' compensation claim experience in the past few years.

Between 1979 and 1986 wages in Alaska rose about 30 percent while hospital costs escalated 80 percent and other medical service costs skyrocketed 90 percent. The most recent year analyzed, 1986, showed medical costs inflated by 6.8% while indemnity payments showed an inflation rate of 30.2%. Indemnity costs include payment of wages while recovering from an injury.

"The new experience figures that came in were a lot worse than past years. "We are seeing basically the same numbers and types injuries but paying more for lost time and wages. A lot of that has to do with the change in the economy in 1986," Mulvanney explained.

While not formally adopted by the Division of Insurance, Koch said he recommended that the Director of Insurance accept the rates as adequate and not excessive nor discriminatory.

Koch explained the Division only reviews the rates to determine if they are adequate under the current benefit system which is administered by the Division of Workers' Compensation. The House of Representatives Labor and Commerce Committee has planned a public hearing in Anchorage for November 12 to review the entire workers' compensation system and statutes. # # #

WCCA

For Release
January 11, 1988

Contact: Steve Haag
344-1577

WORKERS' COMP BILL INTRODUCED TO LEGISLATURE

Legislation designed to reform Alaska's costly and inefficient workers' compensation system will be introduced to the 1988 Legislature this week. After more than a year's work, the legislation was finalized by a joint labor-management task force. The legislation will be introduced in both the House and Senate by the Labor and Commerce Committees.

WCCA President Steve Haag calls the bill one of the most important pieces of legislation lawmakers will address this session. "With our current economy, every legitimate step to protect businesses and jobs must be taken. Passage of this bill as it exists, will save hundreds of jobs that will otherwise be lost due to skyrocketing insurance rates," Haag says.

Workers' compensation insurance rates increased by an average 25 percent effective January 1 with some industries seeing rates jump by as much as 68 percent.

The proposed legislation makes substantial changes in statutes regarding vocational rehabilitation services. It also places limits on how often doctors may be consulted by a claimant without an independent medical examination. Limits on charges for medical services would also be imposed.

- more -

The proposed legislation would reduce the maximum weekly compensation benefits while increasing the minimum weekly benefits. Under the new law, benefits could be readjusted if a claimant moved outside the state to an area with a lower cost of living.

Haag says the bill strikes a delicate balance between the needs of employers and employees. "I'm hopeful the legislature will pass this bill with little amendment as it represents a year's worth of negotiation and compromise. Any major change to the bill will affect one side substantially and that could jeopardize cooperative support that has been generated from both sides," Haag says.

Legislative hearings have been scheduled on the bill for January 19 and 21 in Juneau and January 29 and February 12 in Anchorage.

House Labor and Commerce Committee Chairman Dave Donley, D-Anchorage, says the legislation needs to be viewed as a jobs bill. "Employers are having to lay off employees, in part, because of the high compensation rates and claims they have to pay. This is one area where the legislature can make a positive impact on the job situation in Alaska without spending more money," Donley notes.

Senate Labor and Commerce Committee Chairman Tim Kelly says legislative action on the issue could be swift. "There's enough momentum so I think there will be a bill passed early in the session," Kelly says. # # # #

Note: A summary of the proposed legislation is attached FYI.

WCCA

Workers' Comp Reform
Management Perspective

by Steve Rhenberg

Workers' Comp Reform: An Employer's Perspective

For employers in Alaska, workers' compensation reform is not an issue of insurance but an issue of survival. Skyrocketing premiums for workers' compensation insurance have forced many Alaskan businesses to close causing a loss of jobs for Alaskan workers.

Within a two year period, Alaskan employers were subjected to an increase in workers' compensation premiums in excess of 42 percent and the State Division of Insurance indicates those increases were substantially inadequate.

For the past fifteen months, individuals representing Alaskan employers and labor unions met as a combined labor-management task force to study and recommend changes in the workers' compensation statutes. The goal of the task force was to reduce the cost of workers' compensation in Alaska but not at the expense of the injured worker. The result of the task force work is the legislation now being debated.

As a management representative to the task force and an Alaskan employer, I believe the proposed legislation will result in at least a 15 percent cost reduction within a short period of time. The reduction will come from control of medical costs, limiting vocational rehabilitation services and reduced litigation. Additional savings will come from limitations placed on stress related claims, reduction in the maximum weekly benefit from 200 percent of the average weekly wage and scheduling awards for all injuries.

In 1983 medical costs represented 25 percent of a \$70 million in claims. In 1986 medical costs represented 38 percent of \$150 million in claims. Currently there is no limit to what medical providers can charge for services. Our proposal limits medical charges to usual, customary and reasonable fees, similar to controls used in medical insurance plans.

Medical providers would be required to establish a written plan for treatments of a multiple or continuing nature. However, the proposed legislation does not limit treatment when proven to promote recovery.

To reduce "medical opinion shopping", employers would have to agree to a change in medical provider if an injured worker changes more than once. The bill proposes a cost-effective, unbiased method to settle medical disputes which currently result in lengthy and costly litigation.

Both management and labor strongly endorsed a voluntary vocational rehabilitation program that provides effective and efficient services to the worker.

The proposed legislation establishes guidelines for service providers and employer and employee responsibilities. Rehabilitation specialists would be required to prepare written plans establishing reasonable occupational goals that meet the mental and physical capabilities of the injured worker. The plan would need agreement from both employee and employer.

Rehabilitation plans would be limited to 2 years and a maximum cost of \$10,000. Plan disputes would be settled by the workers' compensation board.

The bill proposes that compensation benefits be increased for major disabilities but also places a cap on awards for necks and backs, awards which now are litigated to extremes.

Temporary total disability payments would be limited to the sooner of when the injured worker is deemed medically stable or two years. Temporary partial disability benefits would end at the time of medical stability except as provided for in a rehabilitation plan. The goal of management and labor in establishing limits on benefits is to create an incentive for a worker to return to work or to seek alternative training rather than lingering in the system.

An estimated thirty percent of workers' comp recipients reside outside the state but collect benefits based on Alaska's cost of living. The proposed bill would adjust benefits for those recipients based upon differences in the cost of living between Alaska and the "lower 48."

Included within the bill are provisions to bar an employee from collecting benefits under a workers' compensation claim if the employee had, knowingly and willfully, falsely represented his physical condition prior to employment. Other provisions provide that an employee claiming stress as a work related injury must be able to prove that such stress was extraordinary and unusual for the employment situation.

A major consensus of both labor and management is that the courts should not construe workers' comp laws in favor of either party but should be fair and decide cases on their individual merits and within the limits of statutes.

The major asset of any Alaskan business is its employees. When an employee becomes injured through a work related accident, immediate and adequate medical treatment should be provided as well as adequate compensation for lost wages while the employee is unable to work. The legislation now before the State Senate and House will ensure that this continues while, at the same time, making the system affordable and thereby helping employers provide the jobs on which labor depends.

#

WCCA

Workers' Comp Reform
Labor Perspective

by Robert Anders

Workers' Comp Reform: An Employee's Perspective

Workers' compensation should be exactly what those two words describe. It is not lawyer, doctor, chiropractor or vocational rehabilitation compensation. The system was designed to compensate an injured worker for lost time and wages and to help return an employee back to productive work. In Alaska, that system is failing.

Realizing that Alaskan employers pay an extremely high rate for workers' comp coverage, labor representatives worked cooperatively with management to search for ways to lower the cost of insurance for employers while improving the system for injured workers. The proposed bill before the legislature accomplishes that goal.

The process followed in preparing the current proposal was one of give and take. Both sides brought their specific goals and issues to the table and negotiations over very sensitive issues became strained at points.

The end result has proven what the real meaning of labor-management cooperation is all about. Working together to solve problems and improve the system for both in the process has truly resulted in a win-win situation for labor and management.

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From labor's perspective the bill provides many benefits. The minimum weekly benefit will be raised from \$110 to \$154 while the maximum will be dropped from \$1100 to \$700. Labor feels this is necessary to better provide for individuals at the low end of the scale.

Out of 365 permanent partial disability cases in 1985, only 11 were able to claim over \$700 per week. The vast majority of cases come at the low end. By raising minimums we will be able to provide assistance for those who most need it. The bill will also authorize vested pension and profit sharing benefits to be included when determining an average weekly wage.

The changes proposed in the permanent partial disability rating structure will significantly increase payments to the more severely injured workers while putting reasonable time limits on the length of time some benefits may be paid.

Employer disputes over who is responsible to pay claims can cost an employee their life savings, home and possessions. The proposed legislation would reduce the effects of those disputes on the worker by requiring the last employer of a worker to pay claims until a dispute is resolved. This will ensure worker's that they are quickly and adequately compensated.

The bill would prohibit discrimination against workers who have filed workers' compensation claims.

Vocational rehabilitation was an area labor and management both felt was necessary to change. The bill would make acceptance of rehabilitation services voluntary rather than mandatory.

First, under the present system it's estimated that many of those who enter a rehabilitation plan return to their prior occupation or an occupation of their choosing as is evidenced by the fact that 90 percent of all compromise and release agreements waive vocational rehabilitation.

Second, when carriers control a mandatory rehabilitation system that's tied to the claims process, as is done now, there are abuses on both sides and a lack of trust which results in program failure.

Labor supports a voluntary program which takes service provider selection away from the carriers and removes it from the claims process. The end result should be more cooperation from the injured worker and those providing rehabilitation services, less litigation and lower costs.

The injured worker will have control over the rehabilitation plan along with a quick method to resolve disputes over how the plan is carried out.

Labor agreed with management that language to prevent an avalanche of stress claims is necessary. This bill would provide adequate guidelines necessary to make these determinations. Without this preventative measure, we're going to see the floodgates to stress claims open causing further rate hikes and lost jobs.

Labor also supports denial of benefits to an employee who knowingly misrepresents his physical condition prior to employment. If an employee withholds information, he could be endangering himself or others since it's not known what duties that employee may be required to perform.

Labor's belief in supporting these and other changes is that a greater portion of worker compensation dollars will be directly allocated to injured workers while providing for a cost effective, equitable program which provides incentive for injured workers to return to work.

As expected, some attorneys and members of the medical profession have criticized our efforts because we focused our concerns on the litigation and disputes that are presently built into the system. I would hope that reasonable minds would put concerns for injured workers ahead of vested financial interests such as those which are held by the critics of our efforts.

In proposing the changes now before legislators, both labor and management realized some major issues are yet to be addressed. Both parties agree the process to reform the current system must continue. The complexity of the issue will require our cooperative, ongoing effort in the years ahead but we are off to a positive beginning.

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WCCA

For Immediate Release
March 2, 1988

Contact: Steve Haag
344-1577

1989 WORKERS' COMP RATE INCREASES PREDICTED

The Alaska Division of Insurance and independent actuaries expect insurance companies to request substantial workers' compensation insurance premium increases again in 1989 unless legislation now before the Alaska House and Senate is passed this session.

Workers' comp rates increased an average 25 percent in 1988 with some industries being hit with increases as high as 68 percent. The 1988 rates followed a 1987 rate hike which averaged over 14 percent.

Division of Insurance Special Deputy Don Koch says the 1988 rate increase, as large as it was, was about 8 percent deficient. Koch says passage of the bill could eliminate the need for a rate increase in 1989.

"If the language in the bill is correct and the intent is followed, the bill could have a substantial effect on rates in the long run and an immediate effect on stabilizing rates," according to Koch.

Without passage of the bill, rates can be expected to rise significantly according to the independent actuarial firm Milliman and Roberston.

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M and R was retained by the State Division of Insurance to assess premium cost impacts of proposed legislation and to recommend changes which would result in additional cost savings for employers.

M & R spokesman Mike McMurray says 1989 rates can be expected to increase unless the current legislation is passed. "An increase of 10 percent or more would not be unexpected," McMurray says.

M & R's recent report on the proposed bill stated, "In general, we believe the proposed revisions to the Alaska workers' compensation law will improve the benefit delivery system. Changes such as the proposed reduction in the average weekly benefit maximum, reduction of benefits for out of state claimants and limits on duration of temporary benefits will almost certainly reduce costs."

Workers' compensation losses have more than doubled in the past four years, from \$71 million in 1983 to over \$150 million in 1986 despite a drop in overall state payroll to pre-1982 levels. The 1988 rate hike is expected to result in Alaskan businesses paying about \$38 million more than paid in 1987 for workers' compensation insurance.

Proposals now being considered by the legislature were drafted by a statewide labor-management task force which conducted 15 months of research into Alaska's workers' compensation system. The legislation, which has garnered broad support from organized labor and employers statewide, has passed the Senate and awaits action in the House.

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WCCA

For Immediate Release
March 8, 1988

Contact: John Lewis
(305) 443-8111

NATIONAL WORKERS' COMPENSATION EXPERT PROMOTES CHANGES IN ALASKA'S SYSTEM

Solutions which have worked in other states to reduce the cost of workers' compensation insurance will also work in Alaska. That's the opinion of John Lewis, a nationally recognized expert in the field of workers' compensation.

Lewis has practiced as a trial lawyer for 15 years. He has devoted the last 8 years exclusively as a workers' compensation law consultant representing both management and labor clients. Lewis assisted a statewide management-labor task force in preparing reform proposals now before the Alaska legislature. He has been involved with Alaska's workers' compensation system for 6 years.

In the past two years Alaskan employers have been burdened by a 42 percent increase in the cost of workers' compensation insurance. An additional major increase is expected in 1989 unless the legislature passes reform measures this session.

Lewis says problems with the system being identified in Alaska are similar to problems experienced in other states.

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"Twenty years ago it was not a terribly important cost item in any state. It also meant that many injured workers were not getting what they needed in terms of benefit support. Now it's expensive in many cases. You couple that cost with what's gone on in the economy and suddenly people are paying attention," Lewis says.

Labor and management working together to solve workers' comp problems is not unique to Alaska. "It's a joint issue in many jurisdictions. Employers obviously perceive workers' comp as a cost but so do employees and labor representatives," Lewis says.

"As an employer, when you're paying 20 dollars per hundred in workers' comp costs, that affects wages so that employees pay those costs just as much as employers do. All of a sudden we have labor concerned about wages and jobs and all the things affected by workers' comp premiums."

Lewis is highly critical of Alaska Supreme Court decisions which he says have increased the cost of the system by misinterpreting what the system was designed to provide.

"They have come down with more earth shattering decisions than any other court that I'm aware of. They tear the fabric of the system apart more often than most Supreme Courts," Lewis says.

"The frustrating part is that they are using a statute that's 80 years old and which has been used across the country and they come to totally contrary decisions as compared to states with history."

In contrast, Lewis says efforts of a statewide ad hoc labor-management task force to reform Alaska's system have been productive and have targeted the same issues addressed in other states.

Among those issues are medical costs. Lewis says placing reasonable limits on medical costs is one action many people believe offers a tremendous opportunity for cost savings without negatively impacting on injured workers in terms of benefit duration or the quality of medical care received.

Medical costs represent 30-50 percent of all workers' comp costs according to Lewis.

"In every other area there are lots of medical cost containment activities going on. Workers' comp is viewed as one of the last bastions of fee for service medicine."

"The doctor says how much you're going to pay and how long you're going to pay it. There's very little out there that permits anyone to control what goes on in the delivery of medical benefits," Lewis says.

Proposals before the Alaska legislature would impose a limit of "usual, customary and reasonable" limits on what doctors could charge workers' comp recipients similar to what is allowed under medical insurance plans.

Another major area where Lewis feels Alaska can improve benefit delivery to injured workers while cutting employer costs is in the delivery of vocational rehabilitation services.

Lewis says vocational rehabilitation services are relatively new to the workers' comp systems nationwide. "Until ten years ago there was virtually no significant vocational rehabilitation activity in any jurisdiction."

"When it was put into place in Alaska in 1982, it was not met with open arms. Now you hear people say it is the heart and sole of the system," according to Lewis.

While he says there are less than a dozen states that provide substantial amounts of vocational rehabilitation in their systems, he adds that the states with the most experience are abandoning it or changing it significantly.

"They are finding it's extremely difficult to make rehabilitation work within the context of a workers' comp system, particularly one where things are resolved on the basis of litigation," Lewis says.

Lewis notes there is a great deal of cynicism about vocational rehabilitation in the states that have had major programs. "Many of the parties are willing to simply walk away from it. In most workers' comp systems there is simply no incentive to make vocational rehabilitation work."

Lewis claims there are states that have no rehabilitation programs that appear to have just as good return to work results as states that have very active rehabilitation systems.

As an example Lewis points to California, the first state that made a major attempt to put in a significant vocational rehabilitation system. Initial estimates stated it would cost 3-5 percent of total system cost.

It now consumes 15% of total system cost. Lewis says there is virtually no evidence proving more people are returning to work as a result of that program compared to no program at all.

"What we are seeing in other jurisdictions is that we have to get back to basics and provide a small amount of rehabilitation in serious cases first and then provide it in other cases as we make the small system work first. That is the approach I'm seeing in other states," Lewis says.

The bill before the Alaska legislature significantly changes the philosophy of rehabilitation services making the system voluntary for an injured worker rather than mandatory. The bill places limits on how long and at what cost services may be provided.

"I think under the Alaska proposals there will be major inroads into vocational rehabilitation in terms of getting it to the people who need it and eliminating from the system the people who are just using it as a way to stay out of work longer," Lewis says.

One of the latest developments in workers' comp are stress claims. Legislation being considered in Alaska would place limits on when stress related claims could be filed. Lewis says such limits are being imposed in other states and are necessary to prevent the workers' comp system from self-destructing.

"Stress cases are probably the subject of more horror stories in states than anything else you see in workers' comp. In stress cases you can always buy the appropriate testimony. It is very difficult to defend," Lewis says.

"Labor in many states has indicated that stress is not something that they want to permit to tear apart a workers' comp system. Once it gets out of control it causes difficulties for the entire system and it's not something they want to see happen."

"In states in which the horror stories have come, labor and management have gone to the legislature usually hand in hand and said we can't deal with this. It detracts from the other things that the workers' comp system can handle," Lewis says.

Lewis has high praise for the direction taken by the ad hoc labor management task force in Alaska. "There's no doubt in my mind that, if the Alaskan task force proposals go as a package and if they're permitted to operate the way they are intended, they will have a substantial impact on the system both in terms of cost savings and the efficiency with which the system delivers benefits to injured workers."

"Your problems here are the same and your solutions can be found in the same areas in which other jurisdictions are finding solutions," Lewis adds. "What works in other states may very well work here. What has already failed in other jurisdictions will almost certainly not work in Alaska."

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FEB 20 1988

R. CLARK DAVIS, D.C.

CHIROPRACTOR

320 BAWDEN, SUITE 306 KETCHIKAN, ALASKA 99901 (907) 225-6815

February 19, 1988

Representative John Sund
Capitol Room 122
P.O.Box V
Juneau, Alaska 99811

RE: HB 352/ SB 322

Dear Representative John Sund:

I am writing in regard to the Workman's Compensation bill. In previous correspondence I have pointed out that an arbitrary limit on treatment under proposed Workman's Compensation regulation changes (e.g. 20 visits for the first sixty days and subsequent limits) is not practical for realistic patient care. Admittedly MOST patient treatment schedules fall within the above proposed limits but the most severely injured patients will have their essential treatment being interfered with by setting limits effectively in stone. This will result in patients that are making progress under the chiropractic treatment but faced with an arbitrary cut off of treatment benefits, by third party payors, to be steered toward LESS CONSERVATIVE treatments such as SURGERY and CHEMNUCLEOLYSIS, at times unnecessarily. To prematurely force an injured worker into the above alternatives with their record of HIGH FAILURE RATES an UNACCEPTABLE costs is unreasonable at best, and unpardonable in my estimation.

Recent government inquiries in Australia (1986)¹ and Sweden (1987)² have found chiropractic treatment effective and cost-effective, and recommended increased government funding for chiropractic services. This report looks at the evidence of cost-effectiveness, emphasizing acute and chronic back pain including workers' Compensation figures, neck pain/migraine/headache, and prevention.

Compelling evidence of effectiveness and cost-effectiveness comes from Kirkclady-Willis, an orthopaedic surgeon, and Cassidy, a doctor of chiropractic, who have been researching chiropractic treatment of chronic low-back pain for the past 10 years. Their striking results have been published in a number of prominent texts^{3 4} and journals.^{5,6} This included a population of 171 patients examined by consulting chiropractors in a hospital setting and found to have posterior joint syndrome

and/or sacroiliac joint syndrome⁵, totally disabled by low back pain, averaging 7.6 years.

In a trial study⁷ Silverman, a Florida chiropractor, was sent a consecutive series of 100 patients with persistent low-back or neck pain by AV-MED, a large South Florida health maintenance organization (HMO). Faced with fixed funding per patient, and prohibitive rates and costs of surgery, Dr. Herbert Davis, AV-MED's medical director, agreed to a study wherein the next 100 patients requiring hospital evaluation with a view to surgery would first be sent for chiropractic evaluation and, if appropriate, care.

- a) The patients had already been seen by 1.6 MD's on average.
- b) 23% had already been hospitalized.
- c) 12% had been confirmed medically as requiring surgery.
- d) Chiropractic care consisted of spinal adjustment supplemented with physical therapy modalities, remedial exercise programs and advice.
- e) Chiropractic treatment was shown to be very cost-effective.
- f) There were no referred costs for outside diagnostic investigations, other health care practitioners, or hospitalization.
- g) No patient, including the 12 medically diagnosed as needing surgery, required surgery.

In conclusion, chiropractic treatment, unlike medical practice, does NOT increase costs through the medical system through adjunctive and specialist services, hospitalization, and pharmaceutical supplies. "Usually a dollar spent on chiropractor services causes no further costs"⁸. This cost-effectiveness is both in terms of direct costs (treatment) and indirect costs (compensation, lost production, lost opportunity). An injured workers access to chiropractic treatment should not be restricted by an arbitrary treatment limit that does not take into account the most severely injured patients. These most seriously injured patients still often successfully avoid spinal surgery and other similarly invasive and very costly procedures. I recommend amending HB 352/ SB 322 accordingly. If it is not amended so, I strongly recommend a negative vote.

If you have any question feel free to call.

Sincerely,


R. Clark Davis, D.C.

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THE CHIROPRACTIC REPORT

An international review of professional and research issues, published bimonthly.

Editor: David Chapman-Smith, Toronto

January 1988

Vol. 2 No. 2

Cost Effectiveness of Chiropractic – the evidence

A. Introduction

1. In a paper entitled 'Health Economics and Chiropractic'¹ Professor John Dillon, a prominent Australian economist, studies modern health care economics and concludes:

"Undoubtedly, in terms of economic appraisal of the current health scene ... chiropractic is in a very strong position. Compared to medical services, it is an extremely cheap avenue of health care for those who seek it. Unlike primary medical practice, it does not spiral costs into the system through ancillary and specialist services, hospitalization and pharmaceuticals. On average, a dollar spent on a chiropractor's services causes no further costs".

"... until very recently and unlike medical services ... chiropractic has stood the market test of exhibiting a growing demand for services without the inducement of price subsidies, health insurance coverage and tax deductibility. ... Far more, therefore, than the demand for medical services, the demand for chiropractic services reflects an expressed need in the community".

"... in terms of meeting the not insignificant need felt by many members of the community to have an occasional friendly chat with a professional practitioner about their health, chiropractic beats medicine hands down".

2. In terms of cost-effectiveness a chiropractor can best be compared with a dentist. Both see the patient directly, and generally provide all necessary diagnosis and treatment themselves.

The essentials of chiropractic practice are the same worldwide. Treatment is conservative without the cost of drugs or surgery. Principal treatment approach is joint adjustment, comprising a wide range of specific manipulative techniques, with adjunctive use of remedial exercises, nutritional therapy and advice, soft tissue and pressure techniques, traction and electrotherapy. These are self-contained inexpensive approaches to care.

3. Recent government inquiries in Australia (1986)² and Sweden (1987)³ have found chiropractic treatment effective and cost-effective, and recommended increased government funding for chiropractic services.

This report looks at the evidence of cost-effectiveness, emphasizing acute and

chronic back pain including workers' compensation figures, neck pain/migraine, headache, and prevention.

Most talk of cost-effectiveness is at the community level – costs to insurance companies, WCBs, government and society. A final section looks at chiropractic cost-effectiveness from the patient's point of view.

B. Back Pain

4. Surveys of chiropractic practice in a number of countries confirm that approximately 90% of chiropractic patients have headache, neck and back pain as chief presenting complaints - 50-60% have acute or chronic back pain.^{4,5}

5. In the western world 80% of the population will experience disabling low-back pain during their lives. At any given time 6.8% of the adult U.S. population is experiencing a bout of back pain that has been continuing for more than two weeks.⁶

30% of WCB claims by injured workers are for back pain (more than twice the percentage of any other complaint) and, because of the acknowledged poor medical management of this complaint and the huge cost of chronic cases, these 30% of claims generate 60% of total WCB compensation costs.⁷

6. In 1985 U.S. workers compensation boards disbursed \$6 billion for low-back pain.⁸ The estimated total annual cost of back pain in the U.K. in 1982 was £1,000 million.⁹

7. No one knows the true cost and, as the manager of a large U.S. insurance association has confessed, "the insurance industry should be and is being criticized for an obvious lack of statistical data on the costs of back related injuries. What we have, however, is scary".¹⁰

8. The high cost of medical management of low-back pain is a major subject in the scientific literature in recent years, which reveals:

a) Surgery and chemonucleolysis have been subject to high failure rates and unacceptable costs, and are now used rarely, with under 1% of patients.¹¹

b) Bedrest, which promotes 'illness behaviour' and huge compensation costs has now been proven ineffective. It has been a general medical first response to back pain. It is being outspokenly rejected by leaders in medicine – most notably in recent months by

Professional notes:

Medicine Deserts Bedrest

The times they are a'changin. It was always going to happen, but medicine is now moving sharply towards the chiropractic model of management of back pain. There are two important recent reviews of which you should be aware.

The Biopsychosocial Model

'A New Clinical Model for the Treatment of Low Back Pain' Waddell G, Spine (1987) 12(7):632-644. PN 1

This article will be highly influential within medicine. It is by Gordon Waddell, a well-published British orthopaedic surgeon from the Western Infirmary, Glasgow. It won the prestigious 1987 Volvo Award in Clinical Sciences, and is thus accepted in medicine as a foremost international spinal research contribution for 1987.

On considerable clinical and research evidence Waddell says:

a) "The main theme of management must change from rest to rehabilitation and restoration of function".

b) There is "a fundamental antithesis between the passive and active approaches" to treatment of back pain.

c) "There is no evidence that rest has any beneficial effect on the natural history of low back pain. On the contrary, there is strongly suggestive evidence that rest, particularly prolonged bed-rest,

continued on insert page 1.

Gordon Waddell, in work which won the 1987 Volvo Prize for spinal clinical research.¹¹ (See professional notes)

c) The basic approach to treatment now recommended is on a chiropractic model – early active treatment to restore spinal function and prevent onset of illness behaviour.

C. Acute Back Pain

9 Research from chiropractic^{12,13} and medicine^{14,15} reports a greater than a 90% success rate with skilled specific spinal manipulation for treatment of acute back pain. There is such broad acceptance of effectiveness with acute pain that the major research effort has been directed at chronic back pain.

10 A prominent finding of great importance with respect to cost is the speed of relief. This has been confirmed by recent research in both England¹⁶ and the United States¹⁷. In the U.S. study, from the University of North Carolina:

a) There were 54 patients with acute low-back pain, one group with duration of pain under two weeks, the other with pain from 2-4 weeks.

b) The purpose of the study was to compare two active forms of manual therapy – mobilization ("use of insufficient force to move the facet joints" – i.e. moving the vertebra more slowly through a lesser range of movement as commonly practised by physiotherapists) with spinal manipulation (by a medical physician, but using the controlled low-amplitude high-velocity thrust basic to chiropractic practice – the physician claimed his technique was the "one used by chiropractors").

c) Outcome was monitored by questionnaire immediately after treatment and every three days for two weeks.

d) "The vast majority" of patients in both treatment groups "improved dramatically" over the two weeks follow-up period.

However, the group that had suffered acute back pain for slightly longer – the patients with pain for 2-4 weeks – did much better with manipulation than mobilization. Speed of response was commented on particularly. The advantage of manipulation "was most striking midway through the first week" and was statistically significant.

11. Accordingly chiropractic spinal adjustive techniques, are effective and, since they produce a generally quick response, are also cost-effective. This is both in terms of both direct costs (treatment) and indirect costs (compensation, lost production, lost opportunity).

D. Chronic Low-Back Pain

12 While there is no real debate concerning cost-effectiveness with acute pain, there has been concerning chiropractic treatment of chronic low-back pain. That is rapidly being laid to rest by recent research arising from the new era of cooperation between chiropractic and medicine.

13 Compelling evidence of effectiveness and cost-effectiveness comes from Kirkaldy-Willis, an orthopaedic surgeon, and Cassidy, a doctor of chiropractic, who have been researching chiropractic treatment of chronic low-back and leg pain for the past 10 years. Their striking results have been published in a number of prominent texts^{18,19} and journals^{20,21}. Consider the population of 171 patients examined by consulting chiropractors in a hospital setting and found to have posterior joint syndrome and/or sacroiliac joint syndrome:²⁰

a) These were patients who had been totally disabled by chronic low-back pain ("constant severe pain") for an average of 7.6 years.

b) Over that period they had proved unresponsive to a wide variety of medical treatments. No details of cost are given – obviously direct and indirect costs will have been substantial. Patients were now being referred, or re-referred, to the hospital back pain clinic for further investigation with a view to initial or further surgery.

c) Following a "2-3 week regime of daily chiropractic manipulation", 87% returned "to full function with no restrictions for work or other activities".

d) Importantly, that success rate was maintained at 12 months follow-up. Additionally, no patient was made worse.

Quite simply workers compensation and insurance fund managers should be swept off their feet by those figures from internationally respected researchers. They should be establishing studies in their own jurisdictions to see if they can repeat such startling success with such an intractable problem.

14. Interesting evidence is now emerging from the United States, as the health care system reacts to years of unacceptable cost increases and is producing new health care partnerships and delivery systems.

15. In a trial study²² Silverman, a Florida chiropractor, was sent a consecutive series of 100 patients with persistent low-back or neck pain by AV-MED, a large South Florida health maintenance organization (HMO). Faced with fixed funding per patient, and prohibitive rates and costs of surgery, Dr. Herbert Davis, AV-MED's medical director,

International Meetings

Cervical Spine and Upper Extremity
April 27-30, 1988
Nashville Tennessee
Contact:

ACA, Combined Council Forum
1701 Clarendon Blvd
Arlington VA 22209
(703) 276-8800

Chiropractic USA

June 16-19, 1988
Las Vegas Nevada
Contact:

The American Chiropractor
P.O. Box 350
LEO Indiana 46765
(219) 423-1432

International Chiropractic Congress

October 2-9, 1988

Sydney, Australia

Contact:

John Sweeney, D.C.
Australian Chiropractors' Association
459 Great Western Highway,
Faulconbridge
N.S.W. 2776, Australia

American Back Society: Spring Symposium

May 12-14, 1988

Orlando, Florida (Disney World)

Contact:

A.B.S.
2647 East 14th Street, Suite #401,
Oakland, California, 94601
(415) 536-9929

Spinal Disorders 1988:

Current Solutions

June 26 to July 1, 1988

Gothenburg, Sweden

Contact:

Aif L. Nachmeson, M.D.
Department of Orthopaedics
Sahlgren Hospital
S-413 45 Gothenburg, Sweden.

agreed to a study wherein the next 100 patients requiring hospital evaluation with a view to surgery would first be sent for chiropractic evaluation and, if appropriate, care. Comments are:

a) The patients had already been seen by 1.6 MDs on average.

b) 2% had already been hospitalized.

c) 12% had been confirmed medically as requiring surgery.

d) Chiropractic care consisted of spinal adjustment supplemented with physical therapy modalities, remedial exercise programs and advice.

e) Average number of visits per patient was 12.1, average cost per patient \$326.76.

f) This was total cost – there were no referred costs for outside diagnostic investigations, other health care practitioners, or hospitalization.

g) No patient, including the 12 medically diagnosed as needing surgery, required surgery.

15. At six months follow-up 36% had used no further chiropractic or medical services.

11. AV-MED advised an average cost of neck back surgery at the time as \$20,000. Accordingly AV-MED considers it saved approximately \$225,000 (medical and surgical costs, less cost of chiropractic care) on the 12 confirmed surgical cases alone.

Following the trial AV-MED established a corporate policy requiring all patients to receive chiropractic assessments before referral to hospital for back and neck pain.

16. Impartial clinical evidence of cost-effectiveness is emerging from U.S. hospitals now that many hospitals have chiropractors on staff.

In the recently decided Wilk Case Dr. Per Freitag, a Chicago orthopaedic surgeon, gave testimony comparing the progress of hospitalized back pain patients in the two hospitals at which he is a consultant, the John F. Kennedy Hospital in Chicago where patients receive combined chiropractic and medical management, and the Lutheran General Hospital in Park Ridge, which has no chiropractors on staff.

He reported that with chiropractic care at JFK the term of hospitalization of his orthopaedic patients was cut by half. "An average of ... six or seven days in hospital (at JFK). At Lutheran General Hospital the same type of orthopedic patients spend an average of 14 days".²³

17. There are two points to be made here:

- a) Hospital bed costs are reduced by 50%
 - b) Overall costs are reduced by far more because of the conservative low cost nature of chiropractic care. A number of costly examinations and surgeries will have been avoided by sending these patients first to conservative chiropractic care. (See Silverman (para 15 above), and Kirkaldy-Willis and Cassidy (para 13)).
18. In the United Kingdom Breen reported a survey of British chiropractic practice in 1977.⁴ Data was obtained over a one year period. Specific information on cost was reported.

a) 1595 patients (53.4%) presented with low back pain. One in two had chronic back pain (complaint for over 1 year), one in three had experienced back pain for over 5 years, and only one in four was seen within 3 months of onset of pain.

b) The 'average patient' from this group made a preliminary visit for examination and assessment including x-rays, and then 6 treatment visits - 7 visits total.

c) Costed on chiropractic fees at May 1976 (when survey results were analyzed) the total cost for chiropractic care per patient in this largely chronic sample was approximately £35. On fees as at January 1988 the average cost is approximately £120.

d) These results are consistent with those reported in Canada by Kirkaldy-Willis and Cassidy (para 13 above).

Comparison figures from medicine are not available. However, this is evidently cost-effective management of acute and chronic low-back pain.

Workers Compensation Costs

19. WCB studies relate to both acute and chronic low-back pain. There is an injury, but this is often a re-injury or aggravation of an advancing degenerative problem. United States WCB studies have been performed in Florida (1968), Iowa (1969), Oregon (1971), California (1972) and Wisconsin (1978). All favour chiropractic, and suggest a 45-50% saving in health care costs for low-back pain when the treatment is chiropractic rather than medical.

20. Methodology used in the studies has varied. The most thorough study is that in Wisconsin in 1978²⁴ concerning which:

University of Wisconsin. The methodology is clearly described and demonstrably thorough.

b) The study deals with all injuries diagnosed as back strain or sprain under the Wisconsin WCB during 1977, and compares those treated by a chiropractor and those by a medical doctor. Thus fractures and other more serious cases treated by medicine which would have biased the study are excluded.

c) The average compensation periods for time off work were 13.2 days for chiropractic cases versus 21.8 days for medical cases - 40% saving in compensation costs.

d) The average health care costs were \$145.64 per chiropractic case, \$267.68 per medical case - a 46% saving.

e) These results are consistent with the outcomes of the other studies mentioned, including the large California study done by Richard Wolf, MD, a specialist in occupational medicine.²⁵

21. Given the staggering cost of low-back pain to WCBs - and thus employers, and thus all of us who buy their services and products - and this evidence, WCBs should be making far greater use of the chiropractic profession.

Failure to do so represents gross inefficiency. Sadly it also represents, as those who deal with WCBs know, the victory of medical politics over patient and employer interests.

C. Neck Pain/Migraine/Headache

22. The following case, an appeal to a Canadian WCB,²⁶ illustrates well the cost-effectiveness of chiropractic treatment for chronic neck pain:

a) Mr. C. suffered severe strain and sprain type neck injuries in a motor vehicle accident. He received medical care for seven months without improvement. This included consultations with a general practitioner, a specialist in physical medicine and two neurosurgeons, extensive use of medication, four months of intensive physiotherapy treatment, and use of a surgical collar.

His condition worsened throughout. Both neurosurgeons recommended neck surgery.

b) Mr. C. considered chiropractic treatment, but by letter

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California

Employers, insurers kick off campaign for workers' comp reform

SACRAMENTO - The Californians for Compensation Reform has kicked off a campaign designed to get action from the governor and state legislature on problems in the workers' compensation system.

At a press conference in Sacramento, the employer insurance coalition said it will press for legislative action with help from Governor George Deukmejian and if nothing is done by the lawmakers this year the fight will be taken to the voters statewide in 1990.

"We are here today to focus attention on a multi billion dollar crisis that is bleeding California government and private industry: the runaway cost and rampant abuse of the state's workers' compensation system," said Ed Mangialico, president of CCR, in opening the campaign.

"Workers' compensation has become an insatiable beast whose yearly appetite has grown by \$700 million each year during the last three years, costing employers an additional

(Continued on page 14)

The WEEK in A MINUTE

MARCH 25, 1988

- ✓ 13.2% GAIN FOR P/C INDUSTRY 3
- ✓ FTC PUSHES FOR REGULATORY POWER 3
- ✓ N.M. REVISES D&O LIABILITY 5
- ✓ GEICO LOSES RADAR COMPLAINT ... 6
- ✓ RENTAL CAR FIRMS WARNED BY NAIC ... 7
- ✓ LIABILITY AND PUBLIC STREETS 8
- ✓ FRIENDLY DRINKS PROMPT SUIT 9
- ✓ REPORT BLASTS BANKS 10
- ✓ PIA ANNOUNCES SCHOOL 12
- ✓ GROUP FORMS FOR TRUCK COVERAGE ... 15

Major suit announced

Eight states accuse industry of creating the liability crisis

SAN FRANCISCO - California and six other non western states have sued some 31 insurance companies and the Insurance Services Office for conspiring to create the liability insurance crisis, eliminate the occurrence policy in favor of the claims-made form and eliminate pollution coverage.

The suit was announced March 22 at a press conference held by California Attorney General John Van de Kamp, who said the company's actions were "a major contributor to the insurance crisis that forced so many cities and business up against the wall. It was the public and the consumer who paid the price for this collusive exercise in corporate greed."

It was well known that a number of state attorneys general had been investigating the industry during the past two years. The focus of that investigation was unclear, however.

"The allegation against ISO is unfounded and without merit," said David Ostwald, an ISO vice president

(Continued on page 4)

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MCA



California

Employers, insurers kick off campaign for workers' compensation reform

(Continued from page 1)

\$4 billion since 1985.

"Yet benefit payments to workers have not increased by a penny during this same period. The workers' comp system consumed \$7 billion a year in 1987, threatening the very foundation of the state and private economy in California. Obviously something is dreadfully wrong," he said.

Mangiafico, who is chairman of May Co. California, told reporters the problem is "very simple, there are too many problems."

"Neglect has fostered abuse," he said. "Nowhere is that better illustrated than within the agency that administers the workers' comp system itself, the division of industrial accidents in the department of industrial relations. Research conducted by Californians for Compensation Reform has disclosed some creative 'uses' of the system by the employees who know it best."

Judges on the dole

He cited as an example two workers' comp judges who filed permanent disability claims, received substantial awards and are collecting monthly pension payments for life.

"Yet," Mangiafico added, "they are still on the job, collecting their full salaries. Another workers' comp judge with a poor performance record took a stress-related leave of absence. He came back to work with a letter from a doctor saying that he could only return to the job if he was assured he would not face disciplinary action of any kind."

Mangiafico said stress claims have become the disability of choice for thousands of workers and cited it as the "number one occupational disease in California today."

The system allows doctors and lawyers as middlemen to "siphon millions of dollars from the system," he said. "Between 1977 and 1985,



Employers have poured an additional \$4 billion into California's workers' compensation system since 1985.

Yet, benefits for injured workers haven't increased one cent since then and it's about time Pete D'Angelo, and tens of thousands of workers just like him, finally saw some of that money!

"IF IT'S BROKE... FIX IT"

CCR is sponsoring advertisements in support of workers' comp reform.

attorney-driven litigation costs climbed 104%. Forensic medical costs — those paying for doctors' reports of illness — jumped 106% over the same period."

Kirk West, president of the California Chamber of Commerce, charged that millions of dollars are "leaking through the sieve" created by loopholes in the current system.

"California employers are willing to pay the price for labor, services and goods — as long as they are receiving their money's worth," West stated.

"Unfortunately, this is not the case with workers' comp. It is not just employers who are the losers. Employees who abuse the system are ripping off their fellow workers as well by taking money from a system that is needed by those who are truly injured."

Thomas Ellick, president of the Sacramento-based California Manufacturers Association, which also is an

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...is aggressively encouraging the governor and the leadership of both houses of the legislature to make workers' comp reform a top legislative priority. Working together with employers, labor, insurance groups and lawyers, a compromise can and must be reached.

"Without an agreement between labor and management that enjoys the support of the governor and legislature, it is doubtful a comprehensive reform proposal can be enacted into law. As long as that is the case, CCR will push for legislation this session that addresses well-documented abuses associated with stress claims and medical-legal evaluations."

According to Ellick, the "initiative process" may be the "only alternative if lawmakers are unwilling or unable to find an acceptable solution to this crisis."

Larry E. Naake, executive director of the County Supervisors Association of California, who also took part in the CCR briefing, said stress-related claims are now costing taxpayers in California's 50 counties up to \$70 million in benefits each year.

Job stress grows fast

"Job stress is the fastest growing area for workers' compensation claims," Naake reported. "These types of claims have proven to be big business propositions for some public and private sector employees who are cashing in on a decaying system."

"The claims are filed by all types of workers and by both sexes. However, the major growth is in the white collar and safety jobs such as police and fire."

He also noted that when the system was developed more than 70 years ago it was to protect workers from physical injuries on the job and never designed for stress-related injuries.

PROPOSALS INVITED

Portland Community College is inviting proposals from qualified applicants interested in serving as the college's Agent of Record for casualty and property insurance. The Agent must meet minimum qualifications as determined by the college in the areas of experience, staff, and services provided. Applications must be received by 2:00 p.m. Pacific Standard Time, April 11, 1988.

For more complete information and applications materials, contact H.E. Lile, Director of Business Services, Portland Community College Ross Island Center, Portland, Oregon, (503) 244-8111, Ext. 2808.

Applicants to be interviewed will be selected from written applications.

On the wagon again

By Bob Kopta

"After reading all those pledges by insurance company executives in the past couple of years, I can hardly believe it. The soft market is back."

These are the words of a long-timer broker, a CPCU, who knows well the cyclical history of the property/casualty insurance business. Most surprising to her is how rapidly the market has shifted from hard to soft.

The insurance industry follows the pattern of a binge drinker. Periods of clear-headed sobriety are followed by a fall from the wagon which is followed by another solemn promise never to drink again.

For the alcoholic there is hope for recovery by abstaining. The property/casualty insurance industry, however, has shown no inclination to abstain from its cyclical behavior, and competition is unlikely to eliminate this new soft-market binge.

Since current interest rates are low, it is unlikely that the soft market will be extreme. There is little margin for profit in cash-flow underwriting, which was blamed for the depth of the last soft market cycle when record high interest rates prevailed.

If interest rates have as great an impact as was indicated by the last protracted soft market, the current cycle should be much shorter in duration.

48 states

Risk retention group to write truck cover

GARY, IN — The American Inter Fidelity Exchange, headquartered near Gary, Ind., a risk retention group, has resolved differences with the insurance transportation departments in Kentucky and Wisconsin and will commence writing liability coverage for truckers operating in the 48 contiguous states.

Kentucky and Wisconsin were the last two states to agree to accept the

risk retention group policies to meet insurance filing requirements. The group agreed to maintain a \$2 million net surplus to achieve approval of both states and to participate in the Kentucky assigned risk program. It also will furnish quarterly financial reports in both states.

The Interstate Commerce Commission announced a year ago that it would accept insurance from risk retention groups. The ICC requires interstate truckers to provide liability coverage of \$750,000 for ordinary, non-dangerous cargo; \$1 million for hazardous cargo; and \$5 million for ultra-dangerous cargo.

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Business

Comp bill flawed, Croft

By Yereth Rosen
Times Writer

The workers' compensation legislation that sailed through the Alaska Senate by a vote of 15-0 and, in revised form, appears to have enough support to pass the House is loaded with too many problems to save employers money in their workers' compensation insurance premiums, an attorney specializing in workers' compensation claims said Wednesday.

Chancy Croft, a claimants' attorney and former state legislator, presented his argument against the legislation that's scheduled to be heard by the House Judiciary Committee. Croft spoke at a luncheon sponsored by the Anchorage Job Service Employer Committee.

The legislation is aimed at simplifying and controlling a compensation system that has escalated in cost to employers and in complexity to employees. Both employers and workers are frustrated with a system in which insurance premiums have risen an

average of 40 percent in the last two years and the time to settle workers' claims has expanded 70 percent, Croft said.

But the workers' compensation law pending in the Alaska Legislature might make matters worse, not better, he argued.

Croft said the current workers' compensation legislation is flawed, much like the workers' compensation legislation drawn up in the late 1970s — legislation that he as a legislator voted against — was flawed.

"No legislature, in my experience as a legislator, had produced more legislation by anecdote than workers' comp legislation," he said.

As before, he said, legislators have drafted a workers' compensation bill without some crucial information about what is driving premiums.

"One real problem with the legislation is there is an expectation now for premium reductions," he said.

If the hikes in insurance premiums have been justified, and the legis-

lature isn't addressing the real causes of the premium increases, then non-Alaska insurers will have no choice but to pull out of the state, he said.

Croft criticized what he said were the arbitrary limits the legislators hope to place on injured workers' benefits.

Much has been made of the maximum weekly benefit of over \$1,100 that the current workers' compensation statutes allow injured workers, he said. In fact, less than 0.1 percent of Alaska's injured workers are awarded weekly compensation in excess of \$700, the dollar maximum that the legislation would impose.

Still, Croft argued, the \$700 limit is arbitrary and might not meet the needs of some injured workers who've suffered extreme economic losses due to their injuries.

Another arbitrary limit the legislation would impose is the two-year maximum for temporary disability payments, Croft said. Severely in-

See Workers, page E-4

Workers: Expectations high

Continued from page E-1

jured workers, such as those suffering brain trauma or burns, might be able to recover from their injuries but might need more than two years to do so, he said.

Croft said he's troubled by the aim of the pending legislation to pay benefits for permanent partial disabilities based on the severity of the injury instead of on the basis of lost earning power.

That emphasis on medical impairment rather than earnings impairment is contrary to the tradition of workers' compensation, he said.

Authors of the legislation say it's written so that the most seriously injured workers get the most money in compensation, Croft said.

"That may be good or bad. You may like it or not. But that is a significant and major departure" from previous workers'

compensation law in Alaska.

The "arbitrary" nature of the legislation "places too high a premium on getting the matter resolved," Croft said. "And it loses sight of the fact that what we're dealing with is human beings."

An injury at work "probably affects the average person as seriously as anything in their life," Croft said.

Second of a series

High rates hit business hard

Worker's compensation may become one of the leading legislative issues in 1988. In this second of a four-part series, the News-Miner looks at why businesses are worried about the issue.

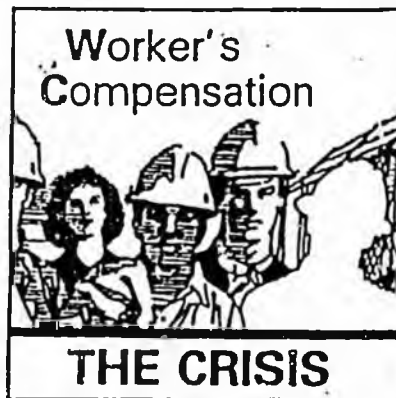
By **BILL KELDER**
Staff Writer

For 17 years, Al Pagh has operated Four Star Lumber at Mile 4 on the Parks Highway without an accident, and without an employee ever filing a claim for worker's compensation.

Pagh even mechanized part of his operation to reduce the risk of injuries.

In spite of that safety record at Four Star, Pagh has watched his worker's compensation insurance premiums continue to increase over the years.

"The state's planned 25 percent increase in worker's compensation rates this January will cost us \$49 per \$100 spent on employee wages," Pagh said.



When January's increase is added to state unemployment insurance and other federal tax payments, Pagh says he will be paying out "a little over" \$60 in insurance and tax fees for every \$100 he spends in salary on employees.

Increasing compensation insurance fees already has caused Pagh to cut back on the number of employees he hires at Four Star. "We

used to have 10-12 full-time employees here," he said. "Now, we've cut back to hiring only family members."

Pagh describes his lumber/sawmill operation as a small one, a "mom-and-pop operation that's only open during the summer season now, about 4½ months out of the year."

Pagh said he doesn't believe the proposed compensation rate increase is necessary.

"For one thing, it makes it hard for us and other Alaskan firms to compete with Outside firms for contracts in Alaska, and makes a mockery of our efforts to export products to other countries."

That's because the compensation rates charged Alaska firms are part of the total labor cost that must be factored into every bid for a project. An Outside firm, paying lower compensation rates, can submit a lower bid on a project than an Alaskan firm, even if the project is in



AL PAGH
Opposes rate increase

the state. The result: more competition from Outside.

"In 1985, Canada shipped 18 million board feet of lumber—the same species lumber we're cutting here—into the state," he said.

(See WORKERS, Page 8)

(Continued from page 1)

"That's because they pay lower compensation rates in Canada."

"They haven't gone crazy in Canada with the court awards on compensation like we have here in America," he said.

In 1971, before the compensation rates rose here, Pagh's firm exported 26 million board feet to Japan. "Now, we're importing from Canada the same lumber we have available here in Fairbanks. It's crazy," Pagh said.

The cost of worker's compensation premiums makes it hard for small firms to compete, he said. "We're not like General Motors, who can just add on a compensation increase to the price of their product and pass it on to the consumer. With the Lower 48 and Canadian

competition, if we don't that we'd price ourselves right out of the market."

Pagh said he's heard of instances in Alaska where an employer ends up paying an injured employee a compensation twice what the employee earned on the job. But he also says there's more than one reason for the high compensation rates in Alaska.

"Courts award outrageous settlements for injury claims in this country, that's part of the increasing costs. Another part is the doctors. They're afraid to turn an injured employee loose too early for fear of a malpractice suit. That keeps him (the employee) on the compensation system longer, increasing costs. And there's other factors," Pagh said.

In Alaska—even with "all that stuff" factored in—the rates are excessive and the result is lost jobs, he maintains.

"When rates get so high you can't afford to hire people, then you have to lay them off. That reduces your service to your customers, further reducing your competitive edge," Pagh said.

One thing that puzzles Pagh is why the insurance industry isn't encouraging firms to work for good safety records by reducing their premiums.

"You'd think they'd want to lower rates to the firms that do well as a means of encouraging the other firms, the ones with bad safety records, to do better," he said. "But they won't. I've been in business 17 years without an accident, and I still have to pay the same high-end rate as if we were having an accident every week. It just doesn't make sense."

Pagh said Alaska would do well to follow the example of Oregon. That state has its own worker's compensation insurance program, as well as the program established by the insurance industry, he said.

"It gives Oregon employers a choice of programs for one thing," Pagh said. "For another, the state program rewards employers with clean safety records by reducing their rates."

Like Al Pagh, Claire Morton's Golden Wheel Amusement Co. has been operating in Alaska for a long time: 22 years. It's the only company of its kind in the state.

Because of rising worker's compensation rates, next year there may be no rides and concessions at the Tanana Valley fair and other fairs, she said.

"The high cost of worker's compensation insurance has forced me to close the company indefinitely," Morton said in a telephone interview from her Anchorage office. Morton said she's laid off her 10 year-round employees.

Since 1981, Morton has paid more

than \$379,000 in compensation premiums to her insurance company. In the same period, the insurance company paid only \$13,000 in claims to injured workers.

This year Morton will pay \$150,000 for compensation insurance and, with January's 25 percent increase, her premium payments for 1988 would have increased to more than \$200,000. That's enough to force her to call it quits.

"The insurance companies are getting rich off of me, and now I have to close my business because I can't afford to keep paying the high compensation rates," Morton said.

She has a permanent year-round staff of 10 employees. During the summer months, the staff increases to about 60, Morton said, and during the state's peak fair season as many as 200 Alaskans work for Golden Wheel, many of them local residents who have been hired as ticket-takers for the fairs' rides and concessions.

The worker's compensation rate for Morton's business is 28 per 100.

That means she pays out \$28 in insurance premiums for every \$100 she pays an employee. "It's a high rate, but it's scheduled to jump to 36 percent in January," she said.

Morton says not all of the jobs in her company warrant the high rate. Some jobs, like erecting the ferris wheel and other rides, carry more risk than others.

"But what has me steamed is that the insurance companies want me to pay the same compensation rate for ticket-takers as I do for roustabouts," Morton said. "I ask you, where's the injury risk in selling a ticket?"

Morton says her employees "are among the most experienced in the business. I've retained a three-star rating on my liability insurance. My people are careful and do a job properly. My liability insurance is only three percent of what I have to pay in worker's compensation," she said.

"If I can't stay in business, it means there will be no midways, no rides and games, at any fair in Alaska," she said.

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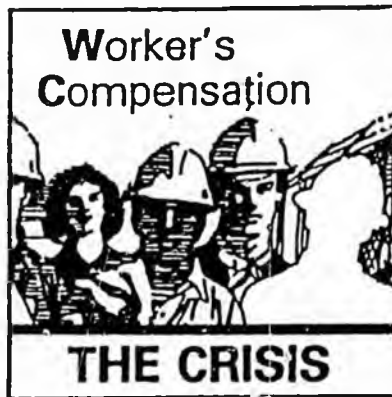
Frustrations of system not lost on doctors

By ⁰⁴¹⁰ BILL KELDER
Staff Writer

Dr. Kurt Merkel, an orthopedic surgeon with the Fairbanks Clinic, has seen a fair share of worker's compensation cases in the two years he's practiced medicine in Fairbanks.

"It's easy to say the problem (with worker's compensation) is the insurance companies, or this or that doctor, attorney, or employee, but the whole system has its bad points as well as its good points," Merkel said in an interview.

"For one thing," he said, "not all injuries are the same, and some can be tough to verify." A broken arm, for example, is easy to identify and reasonably easy to treat. An employee who breaks an arm on the job, can get it fixed and be back



to work without having to go through vocational rehabilitation training and with little lost work time.

"On the other hand, a back or neck injury can be very tricky,"

Merkel said. "Those types of injuries can be very real, very painful for the patient and never show up on an x-ray. When that happens, it's almost natural for the insurance company to say, this guy's faking the injury.

"But the doctor can't jump to that conclusion. If a doctor releases a patient for work too soon, the doctor can be sued for malpractice. So doctors are naturally cautious in such situations," Merkel said. He said back injuries account for about one-sixth of all compensation claims nationally. "We spend about \$40 billion a year nationally on back injuries through compensation payments, days lost, etc.," Merkel said.

Merkel says the vast majority of all compensation claims are legiti-

mate. Some clearly are not, and others fall into a gray area. He said some people now file worker's compensation claims because of stress on the job.

"Insurance companies want physical documentation or proof of injuries," Merkel explained. "Sometimes that's just not possible and the doctors get caught in the middle. But when insurance companies know they're liable and can be shown proof of an injury, they're usually pretty good about coming around."

Merkel said the way the compensation system is defined has a lot to do with the problems now being experienced by people involved in it.

"I don't know of any compensa-
(See WORKERS, Page 7)

WORKERS

ALU

(Continued from page 1)

law here that's been drafted with solid input from doctors," Merkel said. "Orthopedic surgeons get half to 70 percent of all worker's compensation cases referred to them, but we weren't even asked to sit on the governor's workers' compensation task force."

Frequently, the employee is frustrated by the injury as well as by the compensation system.

"Blue-collar workers seem to have the most on-the-job injuries. They're brought up to work hard for a living," Merkel said. "Thus, an injury to them can be frustrating not only because it keeps them out of work, but also because they are embarrassed to be injured in the first place."

He said it's not uncommon for laborers to go back to work before an injury has been completely healed or has had time to heal.

"If you take a paper clip and bend it out of shape, then bend it back into shape, it might work fine. But if you keep bending it, it eventually weakens and breaks from overuse," Merkel said. "The same thing is true of people. I think a lot

of people with back, shoulder and neck problems get the occupational overuse syndrome."

Merkel has one compensation patient, an iron worker, whose back is totally worn out, like the overused paperclip. "He tied rebar, that was his job. It meant lifting the iron rebar and tying it into place 30 to 40 times an hour, 15 to 16 hours a day," Merkel said. "If you do that for three or four work seasons—unless you're an exceptional person—you'll start developing back pain."

Merkel says employers can save themselves a lot of trouble and money by physically testing an employee's back, shoulder and arm strength before they are hired.

Under state workers' compensation laws, anyone injured on the job who cannot return to that job because of an injury is, after 90 days, evaluated for referral to a vocational-rehabilitation service. Once approved, the employee receives training for a new job, often in a new career field, said Claire Hiratsuka.

Hiratsuka is a counselor with Northern Rehabilitation Services,

one of a number of privately owned rehabilitation firms that have sprung up in Alaska since 1982.

Vince Gollogly, owner of the service, told attendees at a recent Unified Fairbanks meeting that, prior to 1982, only about six such firms were operating in the state. Since then, he said, the number has grown to about 50. The 90-day provision was added to the state's compensation laws in 1982.

Hiratsuka said clients referred to her agency by insurance companies often face problems returning to work.

"Employers frequently do not want to hire, or rehire an employee who has filed a compensation claim for fear their insurance rates might go up or they might get hit with another claim themselves," Hiratsuka explained.

Another problem is the downturn in the state's economy.

"It's hard for a healthy person to find a job out there right now," Hiratsuka said, "let alone an injured person who is limited in the type of work they can do. It makes it that much tougher on the injured employee and that's sad."

"We deal with the doctors, the lawyers, the employer, the employee, the insurance companies and state agencies," said Mike Stackhouse, who handles job development for NRS. He said the company often is the first to encourage discussion among all parties involved in a claim and that, in turn, frequently leads to a more timely resolution of problems.

"But our main goal is to see the employee's situation all the way through medical recovery, the legal and paperwork process, and retraining until a suitable new job is found for them."

Under state law, Hiratsuka said, vocational rehabilitation workers need to have a background in counseling and psychology.

Hiratsuka recalled an episode involving an injured laborer who was anxious to get back to work. He had been cleared medically by his doctor, had been retrained, and was ready and eager to go back to work.

"We kept sending him out on job interviews," Hiratsuka said, "and he kept coming back saying 'no, not for me.' These were good jobs paying pretty close to what he had

earned before his injury. I couldn't understand what the problem was. His health and attitude were positive, and his job training was complete."

Finally, she called the man

to her office and asked "What's going on?" The man sheepishly told

her that, while he personally was ready to go back to work, his attorney had told him not to accept any new

offer because it might adversely affect his chances for a good settlement with the insurance company. Hiratsuka believes that kind of problem is not rampant though it does occur occasionally.

Date JAN 13 1988

Fairbanks Daily News

Client No. 04160

Labor, management fight bids to change workman's comp bill

0460 0333

By BILL KELDER
Staff Writer

Representatives of Alaska labor and management spent more than a year drafting legislation to revamp the state's worker compensation laws; now they are worried that attempts to amend the legislation could undo their efforts.

The legislation has been introduced through the Senate Labor and Commerce Committee.

"This bill is truly a compromise bill," said Richard Cattanach Tuesday. Cattanach is vice president for finance with the Anchorage-based Unit Co. and is one of the management representatives who negotiated with his labor counterparts to develop the new legislation.

"Parts of the bill are dear to me and parts are dear to them," he said, motioning across the table to his counterparts: labor representatives Bob Anders, field representative of the International Union of Operating Engineers, Local 302; Ralph Mingo, safety security officer with Teamsters Local 959; and John Giuchici, with the International Brotherhood of Electrical Workers, Local 1547.

"It has been a lot of work, geared to reducing worker's compensation costs to employers while still meeting the rights of injured employees," Anders said. "If the bill is changed, it could affect how labor or management might support it."

Cattanach, Anders and Mingo are all from Anchorage. They were

in Fairbanks Tuesday to drum up local labor and management support for the legislation. Giuchici, of Fairbanks, will present the bill to the members of Fairbanks building trades and construction locals at a meeting this afternoon.

"The workers compensation law was originally designed so that the employer pays the bills and the injured employee receives the benefits," said Anders. "But, since then, a lot of people have come between those two ends," he said referring to the doctors, lawyers and vocational rehabilitation workers that now crowd the worker's compensation landscape.

"The system wasn't designed to benefit them, it was designed to be-

(See COMP, Page 8)

COMP
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(Continued from page 1)

neff) injured employees. That's what we've tried to get back to in this legislation," Anders said.

"If anybody's going to torpedo this legislation, it will be those with a vested interest," said Mingo.

"There are a lot of issues we were unable to resolve this year—more issues still need to be addressed. But we're off to a good start and we'll continue our efforts," said Anders.

"We're by no means finished," said Cattanach. "This is an ongoing process."

Anders said the group asked John Lewis, a Miami, Florida-based independent national consultant on compensation to review their effort before submitting it to the Legislature. "Lewis said our proposals should reduce the cost of worker's compensation insurance to employers by 15 percent the first year and by 20 percent in two years," Anders said.

"We discussed our work with the governor and he seemed receptive to what we're doing. We appreciate his support," said Mingo.

Workers' comp premiums raised

By BILL WHITE
Daily News business editor

Alaska business owners could pay as much as \$38 million more next year for workers' compensation insurance because of heavy claims made by injured employees, according to the state Division of Insurance.

Don Koch, a special deputy in the division, said the premium increase next year will average 25 percent. But that's just the average. Actual premiums paid by individual businesses will range from a decrease of 11 percent to an in-

crease of 65 percent.

Businesses paid premiums totaling \$153 million this year. A 25 percent increase would raise that figure by \$38 million, assuming payroll costs don't decline.

"Without a doubt I can say some of the businesses here today will not be here several months from now, and the skyrocketing insurance rates will be a major cause of that," said Steve Haag, president of the Workers' Compensation Committee in Alaska. Haag's employers' group is trying to prepare a package of legislation designed to

lower workers' compensation costs.

The latest increase comes after a 14.3 percent boost in premiums in January.

The National Council on Compensation Insurance, a rating group of insurers, proposes the rates based on claims made and expected to be made, Koch said. The state reviews the proposal before adopting it.

Losses paid to injured employees under workers' comp have more than doubled in the last four years, Koch said. Losses in 1983 totaled

See Page C-8, WORKERS COMP

WORKERS' COMP: Businesses face higher premiums

Continued from Page C-7

\$71 million. The next year they reached \$90 million, followed by \$124 million in 1985.

By last year, even as payrolls statewide were shrinking, losses had soared to \$159 million, he said.

Why are losses so high?

No one knows for sure, said Koch.

Benefits paid nationally have leaped 60 percent since 1982, according to the Social Security Administration. So Alaska probably is part of that phenomenon.

"You can have your benefits reach a level where there's little incentive to go back to work," Koch said. "The workers' comp system was originally designed to keep people off the welfare rolls, but it has gone beyond that."

Events peculiar to Alaska, however, could be contributing to the rise.

"We think that in a lot of cases with workers' comp, in the economy we have now, it becomes kind of a replacement for unemployment insurance." Employees who feel a layoff is imminent will go on workers' comp, whose benefits are better than unemployment insurance. Some such claims likely are fraudulent, Koch said, but in many cases the prospect of joblessness psychologically can cause ailments.

John George, director of the Insurance Division, told the workers' comp committee that "we are getting to a point where employers just can't afford to keep paying, insurers can't afford to keep selling insurance if they can't charge an adequate rate, and we end up at a place where you can't have a business in Alaska employing people."

The state uses 600 different business classifications for workers' comp, each paying a

different premium.

The classifications are divided into four categories. The following are the categories and the how much the premiums will change within the category on Jan. 1:

- Manufacturing, an 11 percent decrease to a 39 percent increase. This category includes bakeries, canneries, carpentry shops, machine shops and newspapers.

- Contracting, 4 percent to 54 percent increase. This includes plumbing, masonry, welding, electrical, water drilling, excavating, roofing and sewer construction businesses.

- Oil and gas, 15 percent to 65 percent increase. This includes oil companies, oil-field service businesses and pipeline firms.

- All other, 5 percent decrease to 45 percent increase. This includes logging firms, trucking, airlines, retailing, sales, hospitals, hotels, restaurants, legal and government.

The division will hold public meetings next week in Anchorage to explain the new rates and how they were derived. The meetings will from 1 to 4 p.m. and 7 to 10 p.m. Thursday in the Loussac Library.

10-17-87

Workers' Comp to jump 25%

Alaskan businesses will be faced with an average 25 percent rate increase in the cost of workers' compensation insurance effective Jan. 1, 1988, according to the director of the state Division of Insurance, John George. George made the announcement at a recent seminar sponsored by the Workers' Compensation Committee of Alaska.

Employers are required by law to carry workers' compensation insurance to pay for the medical costs

and lost wages incurred by employees who are injured on the job. Employees do not contribute toward the cost of the insurance.

"Based on the paid loss method of determining what the workers' compensation rate increase will be effective Jan. 1, 1988, the average will be an increase of 25.1 percent. That's not good news," George said.

The 1988 average rate is almost double the 1987 rate increase of 14.3 percent. In 1987 industries such as

construction, manufacturing and oil and gas experienced increases of almost 40 percent. George says the continuing increases are founded in losses via claims incurred by insurance companies.

"Payrolls have been going down in Alaska for the last few years. One would expect that the losses incurred by carriers would also be going down," George said. The opposite is true.

George noted workers' compensation claims totalled \$70 million in 1983, \$89 million in 1984, \$124 million in 1985 and \$150 million in 1986 despite a decreasing payroll base.

He said the rate hike this coming year could have been even higher since one method of calculating rates showed Alaska facing a 58 percent increase. "We insisted the national rating company use the method that came up with the lowest increase," George said.

He added the Division of Insurance ran its own calculations and predicted a 25-30 percent rate hike was legitimate. "We're fairly confident that the 25.1 percent is a legitimate number. It is an unfortunate number," George said.

Steve Haag, president of the Workers' Compensation Committee of Alaska, said the rate increase is bad news for Alaskan businesses already impacted by slow economic growth. "Without a doubt I can say some of the businesses here today will not be here several months from now and the skyrocketing insurance rates will

be a major cause of that," Haag said.

George encouraged employers and employees to examine the factors that affect rates to determine if the benefits are appropriate and if employers can legitimately afford to pay the cost of those benefits.

"I don't think anyone wants to deprive a truly injured worker of his due benefits," George stated, "yet we're getting to a point where employers just can't afford to keep paying, insurers can't afford to keep selling insurance if they can't charge an adequate rate and we end up at a place where you can't have a business in Alaska employing people."

WCCA reorganized last winter after the 1987 rate increases were announced. The organization is currently examining all aspects of workers' compensation law in an effort to prepare a reform package for the legislature in 1988.

George said the Division of Insurance would hold two public hearings in Anchorage on the rate increases. They will be at the Loussac library from 1-4 p.m. and 7-10 p.m. Friday, Oct. 23.

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Fairbanks Daily News

Client No. 0460

Rising workers' compensation cost said threat to small business

By BILL KELDER
Staff Writer

From 1983 to 1986 the amount of workers' compensation insurance paid out to Alaskans suffering from job-related injuries and illnesses more than doubled: from \$70 million to \$150 million, according to state officials.

Because of that, Alaska employers last January saw the cost of their workers' compensation insur-

ance payments increase an average 14 percent. The insurance companies now plan to raise those rates again, by an average 25 percent this coming January.

State Sen. Bettye Fahrenkamp predicts that efforts to reduce worker's compensation costs will be one of the Senate's top three legislative priorities next year.

With the state's economy in tough shape, the workers' compensation

increase could cause some smaller businesses in the state to go under because those employers won't be able to afford the hike.

"In 1983, total workers' compensation paid out to injured Alaska workers was \$70 million. In 1986, it was \$150 million statewide," said John George, director of the state's division of insurance.

It's the insurance division's job to make sure that rates aren't excessive, he said. "But if you don't charge enough, insurance companies stop writing policies for employers, or the insurance companies go broke."

Even so, George described January's scheduled 25 percent increase as "a very substantial increase."

"It's a mess," said Chuck Rees at Wednesday's Unified Fairbanks luncheon meeting at the Sunset Inn.

The problem has led both Unified Fairbanks and the Fairbanks Chamber of Commerce to begin efforts to hold seminars for local employers on workers' compensation insurance reform.

The House Labor and Commerce Committee has scheduled hearings in Anchorage on workers' compensation and related matters next Thursday and Friday.

There will be a statewide teleconference.
(See WORKMEN, Page 7)

WORKMEN 0460

(Continued from page 1)

ference Friday afternoon. Interested parties can testify at the Fairbanks Legislative Information Office on Barnette Street.

Ray Price, the governor's special assistant for labor matters, said that Gov. Stever Cowper will soon appoint a special task force to look into the high rates Alaska employers must pay for workers' compensation insurance.

Price has been in Fairbanks the past few days on a series of meetings with local community leaders on this and other labor-related issues. According to George, the money for compensation payoffs can only come from a few places: One is from company surpluses, or savings accounts; another is from rate increases in workers' compensation insurance; or it could

come from a company's investment income.

"One way or another it ultimately comes out of employers' pockets," George said. "Insurance companies are conduits for money, they have to match income with outflow," he said.

"Setting workers' compensation rates is a lot like driving your car forward by looking in the rearview mirror," George said. He was referring to the fact that compensation rates are set by looking at past years' compensation claims and payoffs filed by Alaska employees injured on the job.

"It gives you an idea of what the rate ought to be for the following year, but there's no real way to predict the future, to say how many claims will be filed and paid," George said.

Bill would cut employee insurance coverage costs

By LARRY PERSILY
The Associated Press

JUNEAU — Employers are expected to save millions of dollars in premiums and insurance companies may save millions of dollars in claims under a rewrite of workers' compensation laws passed Thursday by the Senate.

The measure is intended to reduce the increasing cost of workers' compensation coverage, while also providing some help to injured workers.

The bill (SB322) passed the

Senate 15-0 and now moves to the House.

Alaska employers paid \$153 million in workers' compensation premiums in 1986, said Don Koch, special deputy for the state Division of Insurance. That cost increased in 1987, he said, but an exact figure is not available.

Insurance companies paid out more than \$150 million in claims in 1986, Koch said.

Anchorage pays out \$2 million to \$3 million a year in claims, said Harry Sjoberg,

the municipality's risk manager. He said the city expects in time to save more than \$500,000 a year if the bill becomes law.

"There could be less litigation because of it," he said, and stress-related claims and vocational rehabilitation costs to employers would be reduced under the bill.

The municipality covers its own employee claims up to \$500,000, and buys insurance to handle claims over that amount, Sjoberg said.

In passing the bill, senators approved a letter of intent asking the Division of Insurance to request insurance companies to adjust their rates to reflect changes in the law.

The letter of intent, which does not have the force of law and only expresses the wishes of legislators, said the bill is expected to reduce workers' compensation costs at least 2 percent.

The bill would prevent workers' compensation bene-

fits for stress unless it was "extraordinary and unusual in comparison to pressures and tensions experienced by individuals in a comparable work environment."

Stress-related claims were cited at legislative committee hearings as a growing problem. "Workers' compensation was not designed to deal with stress," an attorney told lawmakers last month. He said stress may be pre-existing or caused by factors outside the work place.

Briefcase

Alaska job-related injuries drop

Job-related injury and illness rates in Alaska dropped nearly five percent in 1986, according to the U.S. Bureau of Labor Statistics. Latest statistics also show the rate of injuries and illnesses for the nation remained unchanged from last year. The rate in Alaska declined from 10.7 to 10.2 percent in 1986. The incidence rates represent the annual number of recordable private sector occupational injuries and illnesses per 100 full-time workers. About one out of every 10 workers in Alaska suffered an on-the-job injury or illness during 1986.

Employers decry workers' comp hike

By HAL BERNTON

Daily News reporter

Escalating costs for workers' compensation threaten to close a carnival and cripple Alaska construction firms in bids to win in-state and Outside work, testified witnesses at a Thursday hearing.

The hearing, hosted by the House Labor and Commerce Committee, drew more than 200 business people, workers, lawyer and politicians.

The committee scheduled the hearing to give the public a chance to respond to a Division of Insurance announcement of a 25 percent average increase in workers' comp rates in 1988. That increase is expected to cost Alaska businesses up to \$38 million.

Workers' comp pays medical, rehabilitation and compensation costs to employees injured on the job. The benefits package is specified by state law but provided by private insurers whose policies are scrutinized by the state Division of Insurance. All state employers must carry the coverage.

For Golden Wheel Amusements of Alaska, a

22-year fixture at Alaska fairs, the new year's rise in insurance costs is a financial disaster, said Claire Morton, the carnival's owner. "This raise will put my company out of business," Morton said.

In 1986, Morton was paying 25 cents to the insurance companies for every \$1 in payroll costs. This year, that insurance bill jumped to 36 cents and next year she expects it to jump to 42 cents.

A closure of the carnival would be a big financial blow to Anchorage's Fur Rendezvous winter festival, testified Fur Rondy's director, C. Weymouth Bowles. Fur Rondy, hurt by state funding cutbacks, is walking a financial tightrope and depends on the carnival for \$30,000 in revenue, he said.

The carnival also is a pillar of the state fair in Palmer, said Marsha Melton, the fair's executive director.

Many businesses may be forced to shut down, according to Steve Haag, president of the Workers' Compensation Committee of Alaska. Even larger firms that survive "won't be able to compete with

See Page C-3, WORKERS' COMP

WORKERS' COMP: Employers voice concerns over rate increase

Continued from Page C-1

out-of-state companies that can bid jobs based on out-of-state rates."

Haag's employers' group, as well as ad-hoc committee of labor and business people, are preparing legislative proposals to reform Alaska's workers' comp law.

Donald Koch, a Division of Insurance deputy, said Alaska's workers' comp package is one of the most generous in the nation.

Maximum salary compensation rates, for example, al-

low an injured worker to be paid up to twice the average state wage. In many states, the average state wage is the maximum, he said.

Insurance companies need rate increases to keep making profits in the face of escalating claim costs, he said. In 1983, workers' compensation losses were \$70,678,000, Koch wrote in an analysis, "... and in 1986 they were \$150,294,000. That is more than doubled in a four-year period and with a decreasing (state) payroll to boot."

But Sen. Tim Kelly, R-An-

chorage, questioned Koch's statistics. He wondered what the insurance companies counted as costs, and whether injured workers were collecting their fair share, instead of some of too much of it going to doctors, lawyers and adjusters. "We got a whole lot of people splitting up the pie and I'm not convinced that it's going where it should be," Kelly said.

Mano Frey, an AFL-CIO representative, warned that reforms should not harm those who need service. "In the middle of this are thousands of people who are hurt,

and those are the people who should be compensated."

During the hearing, several injured workers told harrowing stories about not getting any assistance while insurance companies fought over who should pay bills.

"We don't have a Division of Insurance that is aggressively regulating the industry," said Chancy Croft, an attorney who represents injured workers, in an interview after the hearing.

Croft fears that new reform laws might be passed, but then insurance companies wouldn't cut rates.

COMPENSATION

(Continued from page A-1)

It also sends a message that it's okay to steal \$750,000 through fraud in Alaska because no one is going to prosecute you for it."

About 120 employers and interested persons attended the the symposium.

"They were there because employers' insurance premium rates are scheduled to increase next month by an average 25 percent. In some cases, employers will see increases as high as 60 percent, George said.

On hand to help local employers and the symposium was a panel of experts familiar with the state's workers' compensation system.

In addition to George, the panel included Jacques McClinlock, director of the division of workers' compensation; Jan Hansen, chief adjudicator for the system; Anchorage attorney Chancy Croff; Fairbanks orthopedic surgeon Kurt Ferkel; insurance broker Peter

Kelley; and Anchorage compensation defense lawyer Shelby Nuenke-Davison.

Fairbanks Borough Mayor Juanilla Helms joined the group as moderator.

"People from all areas were on hand to discuss just about every aspect of the compensation system," said Helms. "The discussions were very open-minded. Boy, I learned a lot. I knew it (the compensation system) was complicated, I just didn't know how complicated," she said.

The panelists reminded the audience of employers that an injured employee often feels alienated and left out once away from the job.

They suggested that employers call an injured employee at home shortly after he or she has left work to ask how they're doing and to let the employee know that he or she is missed at work.

It was suggested that the employer attempt to modify the em-

ployee's job, enabling them to come back to work for the firm in spite of the injury.

"Encourage the employee to come back to work as soon as they are medically able," said one panelist. "That way the employer doesn't lose an experienced employee, familiar with his business, and the employee doesn't feel alienated and resentful."

At one point in the symposium, the audience broke into several working groups. Each group discussed a specific aspect of the compensation system such as the insurance, medical and legal aspects, plus those affecting employers and employees.

"Each working group then formulated recommendations on how best to improve that aspect of the system," Helms said. She said those recommendations will be taken up at a follow up session next Saturday to develop them into specific proposals for change. "Those

proposals will be submitted to the Alaska Legislature and to Gov. Steve Cowper's administration," she said.

Next Saturday's meeting will again take place at the Westmark Hotel, beginning at 9 a.m. "We hope to have everything wrapped up by noon," Helms said.

She said some of the changes discussed at Saturday's session don't require legislative action, and can be accomplished administratively. One such item referred back to George's earlier comments on prosecuting insurance fraud. The recommendation is to increase cooperation between the state Attorney General's office regarding the prosecution of insurance fraud.

"It makes it difficult to get people to comply with any law if there's no enforcement," Helms said.

There was also a recommendation that the Legislature require Outside firms bidding on Alaska projects to submit a certificate of

insurance before being considered eligible to submit a bid on a state project.

Among other information, that certificate would state that Alaska compensation insurance rates were being by the Outside firm for the in-state project on which it was bidding. If not, the recommendation was to impose a penalty on the Outside firm, similar to a penalty now imposed if a state firm fails to obtain compensation insurance. It's believed such a change would allow Alaska firms to be more competitive when bidding against non-Alaska firms on in-state projects

QUALITY SERVICES

Date DEC 13 1987

Fairbanks Daily News

Client No. 0460

Compensation for workers complex issue

227 BY10
By BILL KELDER
Staff Writer

One reason state workers' compensation and other insurance costs are increasing is because limited cases of insurance fraud are

The News-Miner will take a closer look at problems with the workers' compensation system in a series of articles beginning Tuesday.

being prosecuted, according to John George, director of the state Division of Insurance.

George was a panelist participating in an employers symposium Saturday on workers' compensation insurance at the Westmark Fairbanks Hotel.

The state's restricted budget and staff cutbacks have added to the problem of prosecuting insurance fraud and other so-called "white collar" crimes, George said. He said his division—with limited personnel—investigates available insurance fraud cases.

"In one case we investigated, we believe we came up with proof that an individual committed insurance fraud in the amount of three-quarters of a million dollars (\$750,000)," George said.

"We put the case together carefully and turned it over to the attorney general's office responsible for prosecuting white collar crime. They came back to us and said, 'Gee, we'd like to prosecute this, but three-quarters of a million dollars isn't that much money and we're spending our limited funds prosecuting murderers and rapists,'" George said.

While that may be true, he said, (See COMPENSATION, Page A-3)

1-1/88
What They're Saying to Patients (Constituents):

Chiropractors Critical Of Workers' Comp Bill

One major group in Alaska having problems with the proposed new 'Worker's Comp' legislation is the chiropractic profession, and they are lobbying with their patients concerning what they see as problems. Chiropractors are also concerned because they inherit the patients that suffer from job related injuries that tend to be 'cumulative.' These injuries, unlike the more definitive 'accident' injury, are less easy to define, and sometimes substantiate, as job related.

The following complaints are taken from a circular many chiropractors are providing their patients. (There have been a few deletions.) They say the new proposed law would do the following.

** An insurance rehabilitation specialist will have total control over your rehabilitation. You (the patient) will have almost no say. Also, you can only be rehabilitated once in your life, regardless of how many injuries you suffer. And it can't cost over \$10,000.

** You can only receive 20 treatments in 60-days, regardless of how extensively you are injured.

** After 14-days, the insurance company can make you go to their doctor.

** The insurance company can use 'lower 48' companies to determine fees, making you responsible for the difference.

** Permanent disability payments will have a limit, no matter how extensively you are injured.

** Once you have stopped improving, or your condition is expected to get worse without continued care, you can receive no additional medical care, regardless of how extensively you are injured, unless you prove it to the board

** Your doctor has one week to submit his treatment schedule to the insurance company, and they have two weeks to accept or deny it. Therefore, if they do not like you, or your doctor, or his plan of treatment, they can deny the entire claim without penalty.

** You can change doctors only once without written permission from the insurance company.

** If there is a dispute between you and your insurance company they can stop all benefits to you, regardless of your condition, until you take it to a board hearing. You are guilty until proven innocent!

** The IME doctor can say anything he wants about your claim or your doctor, and will not be held liable.

For all of this (and more), the insurance companies are not required to report how much they set aside in reserves, how much is spent on injuries, or how much was collected in premiums. Therefore they can charge whatever they want, regardless of how it may strangle our economy.

The handout to patients then urges patients to contact their representatives to oppose the proposed workers' comp bill. It (the bill) is highly discriminatory, (the handout states) and will seriously jeopardize your ability to seek health care as an injured worker. Employers, (it continues) demand that the insurance companies justify those exorbitant rates which they charge us.

Insurance Carriers' Long-Term Plan: World of No Liability

By N. MICHAEL RUCKA
CAAA Past President

(Editor's note — The following was delivered at the meeting of the Association of Trial Lawyers of America Nov. 11 in New Orleans.)

In the inexorable march to limit victims' rights, my premise is that the insurance carriers have no one single game plan, because the insurance industry is not monolithic.

Within the insurance industry are regional, national and international carriers, as well as those that specialize in one or another type of risk.

While there are certain competitive forces which operate on the short-term basis and appear to encourage diversity and competition, there is at the same time, common to all carriers, the object of eliminating or at least neutralizing the presence of effective trial counsel for the plaintiff.

There is, without question, a common ultimate goal to have a legal system which precludes civil trials as we know them today, i.e. with juries; to eliminate punitive damages as well as damages for pain and suffering; to do away with concepts of strict liability; and ultimately to bring about a major change in the judicial system so that, to the extent that litigation does occur, it will be held in an administrative law forum, a la the workers' compensation system.

Those of you who have read my articles in the California Trial Lawyers Association FORUM know that in 1986 at Orno, Maine, a conference was held entitled "The 10th Annual Symposium on Workers' Compensation". This symposium was subtitled, "Workers' Compensation: a Paradigm for Tort Reform". A number of major figures in the insurance "reform" community were present, among them Victor Schwartz and Kenneth Feinberg.

Schwartz was a major force in the development of the now defunct Danforth Products Liability Bill, which was an attempt through the U.S. Congress to make major changes in the field of product liability. Feinberg is a former chief aide of Sen. Ted Kennedy, and was the Special Master in the Agent Orange case. There were others present whose names are not well-known, but who are policymakers for various insurance carriers.

The common theme of the Orno conference speakers was that the system has to be changed. Even the representatives from organized labor bought into this concept! As expressed by one

of the several speakers "... change will come, it may take many years, but it will come because the message has been given and accepted by the public that change in the tort field is necessary."

The logic fallacy operative in the minds of the "insurance reformers" is that the current system is malformed, or at least malfunctioning and needs reform. Discussion always centers upon the supposed fact that lawyers and/or doctors take too much out of the system, leaving too little to be distributed to those "truly in need".

No discussion ever takes place concerning the amount of profit, method of bookkeeping, etc., employed by the various insurance carriers to manipulate public opinion or the level of dollars actually paid to the disabled.

Even representatives of organized labor avoid asking questions about insurance profits, accepting unquestioningly the premise that the system is not working and is being "ripped off" by lawyers, doctors and claimants.

Because it is assumed that the leaders of "organized labor" represent all of labor, it is also assumed that they know what is best for the working people of this country. In point of fact, "organized labor" represents only 19 percent of the entire work force, and of that 19 percent only 13 percent belong to the traditional AFL-CIO/Teamster organizations.

The remainder, six percent of the work force, is represented by nonaffiliated or quasi-unions, such as teacher and public employee unions, leaving a full 81 percent unrepresented.

In a world of mainly unorganized workers in which organized labor asserts little influence, who would speak

for the injured if there were no members of the trial bar? Obviously no one — at least that is what recent history has shown.

Even so, in California the effort to remodel the world of liability into a world of no liability and lots of profit is actively driven by the insurance community which over the years, through concerted campaigns, has effectively "stoked up" the employer/manufacturing/medical community to the point that its members believe that the problems of negligence, defective products, etc., are caused by lawyers.

What is occurring in California is not unique. Throughout the country there is the same battle cry. In Florida, Colorado, Oregon, Idaho — in some 26 states over the last dozen years, major changes have occurred in tort and workers' compensation, precipitated by the erroneous belief that it is the lawyers who are the root of all evil.

What is not fully understood by both lawyers and the consuming public is that what is occurring in each state is not really an isolated incident, but rather the product of a long-term, well-orchestrated campaign. An example of how this occurs can be seen from my California experience.

In 1986 the insurance community, with the aid of manufacturing groups and the California Chamber of Commerce, convinced the California Senate to hire as a consultant to its committee which deals with insurance, industrial relations and workers' compensation, a consultant who had been instrumental in rewriting the controlling laws in Florida, Massachusetts and Oregon, among others.

This fellow can truthfully, and probably
(Continued on Next Page)

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No Liability World

(Continued from Page 12)

ably proudly, say that he has caused more change in state laws throughout the nation than virtually any other single individual. His name: John Lewis, who is really a spokesman for a point of view espoused by the insurance industry and large manufacturers.

The plan in California was to reform workers' compensation, minimizing lawyers' participation by making their clients' access to the system extremely difficult, if not impossible. In this effort, organized labor, or at least its "leadership", was an active supporter.

That support came not because of a promise of increased levels of long-term benefits for members whose disabilities would take them away from their crafts, but because the short-term *quid pro quo* would be an increase in the "temporary disability" payment to the injured worker.

Perhaps the subtle reasoning for organized labor's concern for the temporarily disabled worker versus their reduced concern for the permanently disabled worker is that a permanently injured worker who can no longer ply his or her craft pays no dues to the union and, therefore, is no longer a constituent and no longer the responsibility of the union leadership.

We must understand that the insurance carriers want to segregate from the trial bar those organizations which should be the supporters of a litigation system that makes the workplace safer and more healthful.

The carriers attempting to cut off such groups employ as point persons individuals who are able to convince labor that controlling access to lawyers and restricting contingency fee

contracts help them provide a valuable service to their membership. Those who accept his argument often do not understand that complex litigation is costly and that not all cases brought are likely to succeed.

What can we do? As knowledgeable members of the trial bar, we must communicate regularly and clearly with organized labor. We must realize that the insurance industry has beaten out the trial bar in the public relations contest for the hearts and minds of the public.

Proof of this is to be found in frequent ads appearing in the WALL STREET JOURNAL and other major newspapers and magazines of the cities and towns across this country which say the system is in crisis and needs to be reshaped. Equally important, in virtually every market, radio talk shows feature frequent progams of "lawyer bashing".

As an organization, we must develop the capacity to respond! We must have a speakers' bureau staffed with knowledgeable and articulate individuals who can refute the outlandish claims and misconceptions floating around. There must be a dialogue with the public that reflects the positive things that the system brings to them.

In those state legislatures and in Congress, where the battle to maintain the tort system as we know it is being fought daily, the presence or absence of empathetic legislators determine the continuation or alteration of the present system. It is incumbent upon us, therefore, to become acquainted with candidates in state and federal campaigns and participate actively to make certain that the positions we believe correct are represented.

Yes, it would be presumptuous to suggest that the present system is without flaws, or that there are no attor-

neys who cause the plaintiff trial bar great embarrassment, or are an insult to the profession.

But we must not be complacent in our desire to preserve a good system. We must be willing to consider change — if it will make for a better system, we must consider the problems caused by those of our brethren who do overreach, do overcharge in their contingency contracts. We must be willing to share our special knowledge with the public in a way that it can understand.

This means that we have to give of our time. Appearing at public forums, Rotary, speaking before clubs and the like is extremely important. It has been said by some demographers that two of the most influential organizations in the U.S. to the general public are the WALL STREET JOURNAL and the Rotary Clubs. Nuff said!

Lastly, we have to be politically important players in our own communities. We must remember that when the public sits in a jury box, or enters the voting booth to vote for or against us and our clients, both short-term memory and long-term memory are at work.

If the long-term memory perceives lawyers as greedy and uncaring, we lose no matter how much we, in the short-term, try to educate.

Only if we adopt the approach of the insurance industry, a long-range program of constant education, constant advertisement and constant dialogue will we be able to change long-term memory in favor of the causes in which we believe we can be successful.

There is no doubt in my mind that if a vote were to be taken today, the views of Shakespeare, Trotsky, Lenin and a few well-known jurists would prevail: the lawyers would all be killed. My purpose for being here is to ensure that this does not occur. In reality, however, only through the concerted effort of all of the trial bar can this really be assured.

(Editor's note — The preceding was presented to the largest attendance of all of the section seminars at the ATLA convention. The Workers' Compensation Section seminar was chaired by Bob Buch, CAAA media chairman.)

DON'T INTERRUPT YOUR SECRETARY

What causes secretaries the most stress? According to a survey done by Panasonic Industrial Co. Professional Secretaries International, interruptions were the number one problem. Following closely behind were lack of advancement opportunities, lack of input into decisions and lack of communication from the secretary's immediate supervisor. — *Communication Briefings*.

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Workers' Compensation in Alaska: Lassoing a Good Idea That's Run Amok

Workers' compensation legislation being considered by Alaska's lawmakers during the current session addresses one of the most critical problems ever to face Alaskan business.

By Steve Haag

ONE OF THE MOST important pieces of legislation ever to come before Alaska lawmakers is being debated in Juneau: a long-overdue revision of the state's complicated and costly workers' compensation system. The bill is designed to protect Alaskan employees, businesses, jobs.

Workers' compensation originated in the United States in 1912 was based on a belief that an employee is entitled to wage compensation and medical coverage for injuries suffered on the job. Workers' comp insurance coverage now is mandatory for every employer in the country, and Alaska has one of the most generous benefit and compensation packages.

In practice, workers' comp systems and methods have run amok in Alaska. Neither employer nor employee is benefiting, and the cost of the system is threatening the very existence of many businesses in the state.

The problem isn't widespread abuse so much as that the system has gone far beyond what it was intended to accomplish. The goal of workers' compensation should be to help an injured worker to recover and return to gainful employment. During disability, he or she should be compensated at a level comparable to the income that would have been generated on the job at which the injury occurred. But that basic premise has been altered here. Under the Alaskan system, there's little or no incentive to return to work.

Why is Alaska's system so expensive? Numerous reasons. Some of the factors that have driven up the cost of coverage: runaway medical expenses, the failure of occupational rehabilitation legislation adopted in 1982, the absence of limits on benefits and a lack of fraud investigation.

Alaskan employees are being excluded from Alaskan jobs because Outside companies using all-states endorsements have a competitive advantage bidding on work in Alaska. Such endorsements enable Outside firms to pay workers' compensation premiums based on their home-state rates

even though the work is being performed in Alaska.

Last year workers' comp premiums in Alaska jumped an average of 14.3 percent; many industries suffered rate hikes of 30 to 40 percent. This year the average premium soared an additional 25 percent. Some industries—like oil and gas—were hit with an increase of 68 percent!

To put recent increases into perspective, consider these numbers: Workers' compensation claims in the state totaled \$70 million in 1983, \$89 million in 1984, \$124 million in 1985 and \$150 million in 1986 . . . despite a payroll base that's declined below 1982 levels.

In 1988, Alaskan companies will pay almost \$38 million more for workers' comp coverage than they did in 1987. Many businesses are struggling to survive; many won't be able to afford the most recent round of increases. The outlook isn't bright for the survivors, either. Another increase in 1989 is inevitable unless the system is reformed.

draft legislation currently before lawmakers.

A 10-member labor-management task force was formed to hammer out compromises and bring issues concerning both sides to the table. Both those who pay and those who benefit were heard. Both sides agreed lawyers, doctors, chiropractors and other special interests who earn handsome livings off the current system should not be represented on the task force.

Among the major issues addressed was a redefinition of vocational rehabilitation services. Under the agreed-upon proposal, such services would become voluntary instead of mandatory. Limits on the length and cost of rehabilitation programs would be established.

The task force also proposes that weekly minimum benefits be increased and maximum limits be reduced. Weekly compensation benefits should be adjusted for cost-of-living differences when claimants move outside Alaska. Numerous changes also are proposed for medical payments. Only four years



Steve Haag is president of the Workers' Compensation Committee of Alaska and controller of Udelhoven Oilfield System Services.

Already the number of claims filed in fiscal 1988 is outpacing the number filed during the same period in fiscal 1987.

Knowing that meaningful changes to the system would require the involvement of labor, Workers' Compensation Committee of Alaska approached a number of organized labor groups to gauge their interest in reform. Realizing there will be less business and fewer jobs as premiums continue to rise, labor worked closely with management to

ago, 25 cents of every workers' comp dollar went to medical care; today it's 38 cents—more than a 50 percent increase.

There's no issue more critical to business and the economy in Alaska today than the workers' compensation system. Unless the system is changed during this session of the Alaska Legislature, there will be even fewer jobs and businesses in the state in the very near future. We cannot afford that happening. □

Worker's compensation proposal delights some people, riles others

By JOHN LINDBACK
The News reporter

TUNEAU A business legislative coalition is convincing legislators to curb the services employers and insurance companies must provide for injured workers.

So far this month is clear about the proposed rewrite of Alaska's worker's compensation law.

Businesses love it. The lower cost of services should halt increases in worker's compensation insurance rates

that the owners claim threaten to sink them. Also, the bill bars workers from qualifying for worker's compensation due to job related mental stress.

• Union leaders like it. For the first time, the pay that goes out to an incapacitated worker will be based on the value of his salary and fringe benefits, including his pension. State law now limits the payment, leaving fringe benefits out of the formula.

• Some workers distrust it

The bill would limit temporarily disabled workers to two years of twice-monthly benefit payments. After that, the bill allows only a lump-sum settlement. Advocates claim it will speed up settlements between workers and insurance companies and put an end to ruses that linger for years.

• Vocational rehabilitation counselors hate it. The bill allows workers to forgo reha-

See Back Page **WORKER'S**

not ready. The Sandinistas took this to mean that the Reagan administration was pressing the contras to avoid a peaceful settlement.

Paul Reichler, an American lawyer who is part of the Sandinista negotiating team, said last week the Nicaraguan army was prepared to halt the offensive if the peace talks had been held that week and made progress.

After the dimension of the military offensive became clear, contra leaders agreed to talk, and the negotiations were rescheduled.

"This confirmed the Sandinistas' conviction that military pressure is essential to get the talks to succeed," Reichler said. "The Sandinista pressure is eroding the administration's control over them, because Reagan is unable to deliver them any aid."

The peace talks and the U.S. aid cutoff are the most tangible results of the Central American peace agreement signed last August by five Central American presidents. It called for restoration of democratic freedoms and an end of outside aid and sanctuary to rebel forces in the region's guerrilla conflicts.

Bethesda, Md., and put last year showed a link between drinking, breast cancer and age. It concluded that women increased their risk of developing breast cancer if they drank moderately before they were 30; after 30, drinking had no effect on breast cancer risk.

"There is a major uncertainty here," said Dr. Walter Willett of the Harvard University School of Public Health. Willett and his associates conducted one of the large studies that did find increased breast cancer risk in women who drank. He said he was planning to investigate whether there is a relationship between breast cancer, alcohol and age.

WORKER'S COMPENSATION: Proposed revision of state law doesn't make everybody happy

(Continued from Page A 1)

ation counseling that is mandatory. Workers will get counseling only if they want it.

• Chiropractors hate it. An injured worker and his doctor must get the blessing of an employer if the worker wants to visit a chiropractor or any other medical professional more than 20 times in the first two months after an injury. If the employer says no, the worker pays for the extra visits. Chiropractors, more than other medical professionals, treat patients in a series of brief visits.

A 30-page bill passed the Senate last month that makes dozens of changes, both major and minor, to the law. An amended version of the Senate bill cleared the House Labor and Commerce Committee early this week. If it passes the House, its future will hinge on whether House and Senate negotiators can reach a compromise late in the session.

The bill is one of the most difficult to follow this year.

The complexity of worker's compensation law and a lack of up-to-date statistics on worker injuries makes the potential impact on injured workers difficult to determine.

"It's a compromise proposal. You're getting some things and you're giving up some things. That's the way it is," said Rep. Dave Donley, D-Anchorage. Donley, a pro-labor union legislator and chairman of the House Labor and Commerce Committee, has been deeply involved in efforts to rewrite the law.

Even though the bill gives businesses a financial break, the workers gain plenty, too, he said. Donley and other advocates say the bill redistributes benefits so that seriously injured workers get more money and the marginally injured get less.

The bill will allow seriously injured workers — those determined to be partially disabled for life — to qualify for bigger lump-sum payments when they settle cases with insurance companies. Depending on the seriousness

of the injury, a partially disabled worker could qualify for as much as \$240,000 under the bill. Under current law the biggest lump-sum settlement possible is \$60,000.

Another provision would redistribute weekly worker's compensation benefits so low-wage workers qualify for more money and high-wage earners get less. It raises the minimum weekly pay for disabled workers from \$110 to \$154 and drops the maximum monthly pay from \$1,100 to \$700. Those rates depend, though, on the worker's ability to document his wage.

Most injured workers will be better off because the vast majority of them earn low wages, Donley said.

Businesses believe they will be better off. For the past two years insurance companies have increased premiums for Alaska businesses by a total of 39 percent, according to the state Division of Insurance. The bill is expected to cut worker's compensation costs by at least 2 percent, a savings that businesses believe would halt the increases. The House ver-

sion of the bill orders a 6 percent decrease in insurance rates.

Critics of the legislation, such as Anchorage lawyer Chancy Croft, say the bill changes the state's entire philosophy of helping the injured worker. Croft, a former president of the state Senate, represents injured workers in his law practice.

"The primary goal from the beginning has been to compensate people for lost earning capacity," he said. "It's now shifting to paying workers for medical impairments. It's a mistake because it just says that if you have an injury, what the state's really concerned about is just giving you dollars, just throwing money at an injury."

The legislature is also acting without up-to-date injury statistics, Croft said.

"Workman's comp causes more legislation by anecdote and less by information than any other area the legislature addresses. There just aren't statistics to say, 'Here's what caused the problem and here's

how to solve it.'"

"What this produces is the legislature acting arbitrarily. And doing things like limiting temporary disability to two years. What justification is there to saying, 'Two years is all you get. We don't care how badly injured you were, how long it takes you to recover, or anything like that. It's just bam, two years.'"

Donley agrees with some of Croft's criticisms. The bill requires the state to keep better statistics, he said. And the two-year limit is "probably pretty arbitrary," he said. But a task force of labor and business representatives who worked on the legislation felt that most cases would probably be resolved in the two-year period, he said.

Even though labor leaders support the bill, legislators are getting calls and letters from workers who fear the changes.

Glen Rainwater, an Anchorage worker injured in late 1985 on the North Slope, claims that insurance companies would gain more power

over injured workers.

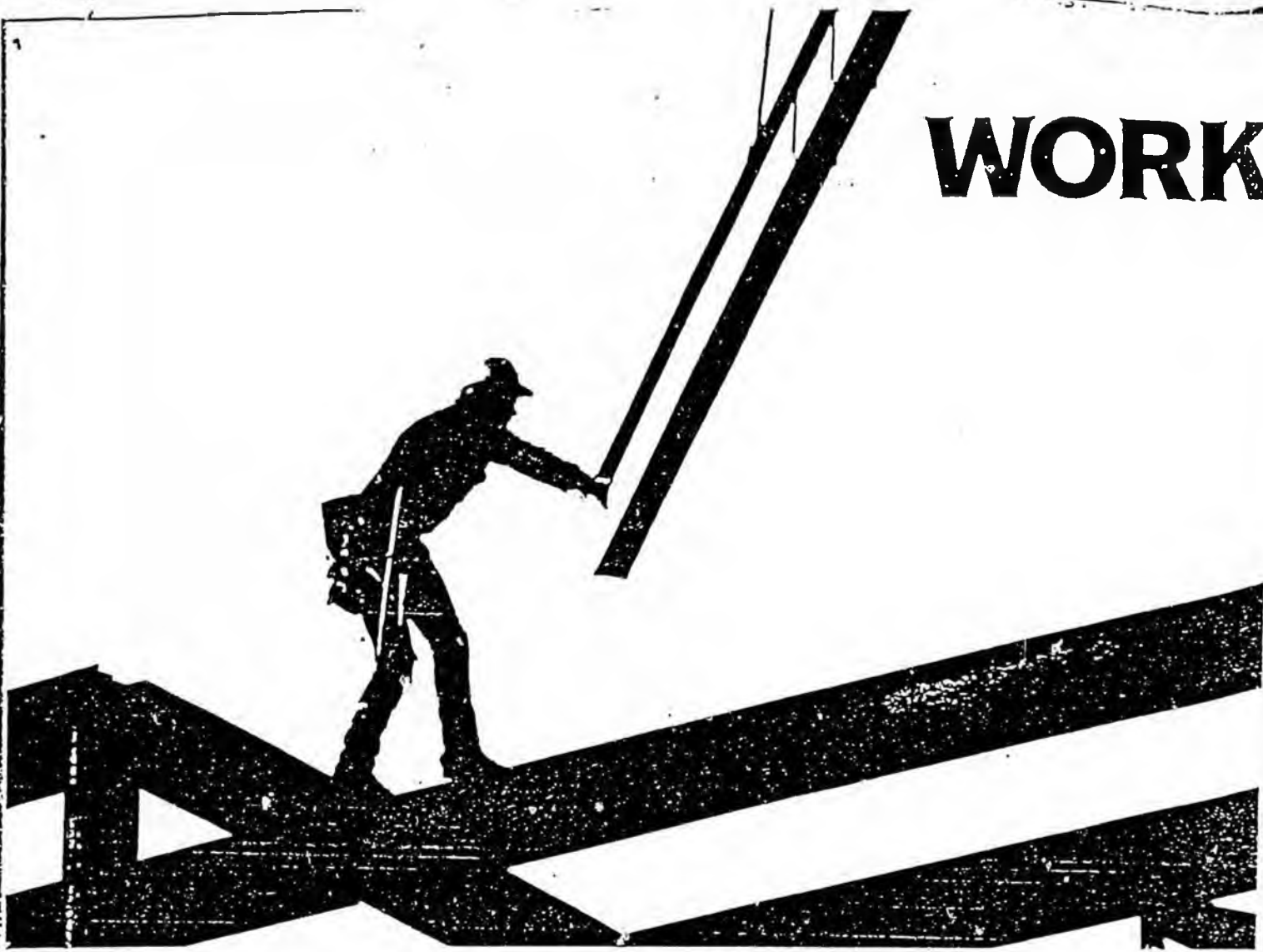
"They've got so much power and so much money that they can just whip a little man right into the ground," he said. "This bill is just going to give them that much more power."

"The two-year cut off and provisions that restrict workers' choices on doctor visits are particularly alarming," he said.

Rainwater said his benefits were cut off in 1986 when the insurance company decided to dispute his claim. The case still isn't settled and he is receiving no benefits, he said. He belongs to a group of injured workers who plan to lobby legislators to reject the bill, he said.

"Now that I've had my benefits cut off, there's no way I could donate to their campaign or anything like that," Rainwater said. "But I'll guarantee you this, the group we have together now, the people that vote for this bill, we are going to blanket the whole state and try to keep these people from being re-elected. They think I'm just blowing smoke but I'm not."

WORK



1987 Jan.

BY PAUL LAIRD

SPIRALING WORKERS' compensation insurance premiums and claims in a climate of shrinking margins and business bankruptcies. Soaring doctors' bills stemming from work-related injury claims and a bevy of barristers poised to litigate them straight into the stratosphere. An army of incompetents masquerading as vocational rehabilitation specialists, a squad of state Supreme Court justices interpreting new costs and confusion into existing workers' comp legislation.

Symptoms of a potentially fatal virus in Alaska's workers' compensation system. A virus characterized by hefty benefits and skimpy controls that encourage abuses, vague to nonexistent regulations that add to bureaucratic overhead and costs, a preoccupation with tailor-made justice tilted toward claimants that casts reason and efficiency to the wind.

A virus that was subdued by the natural defenses of a booming Alaskan economy earlier in the '80s . . . a virus that triggered a 14.3 percent average increase in workers' compensation premiums for the state's employers on Jan. 1 and threatens to claim corporate vic-

like contracting and construction when coupled with the current recession.

"There's no question the increase is going to wipe out a number of contractors," maintains Paul Duclos Jr., executive vice president and general manager of Ken Brady Construction Co. and vice president of Associated General Contractors of Alaska. Premiums for Alaska's contractors increased an average of more than 20 percent; for some construction job classifications, they rose as much as 46 percent.

The real issue, however, isn't so much the increases as the factors that caused them. Put simply: more claims and greater payouts to cover them the last few years. Premium rates are projections of what insurance underwriters will have to spend on claims for the term of a policy. They're based on overhead and expenditures on workers' comp claims for specific job classifications and specific employers over the most recent three to five years. Due to fewer claims and smaller payouts for some job categories, some rates actually declined in January - road paving and construction (down 4 percent); clerical (10 percent) and seafood processing (10 percent), to name a few.

WORKERS' COMPENSATION

The cure for work-related injuries has become a sickness in itself for Alaska's employers and employees alike.

1987's premium increases and decreases aside, Alaska has one of the most generous and expensive workers' comp benefits packages in the country. Some of the key factors: the state's historically high wages, the seasonal nature of much of its employment, benefit levels set by the legislature and other features of Alaska workers' comp law; interpretations of those laws by the Alaska Supreme Court, lack of controls on medical costs and litigation, the absence of regulations governing occupational rehabilitation five years after it was mandated by state law.

"You're going to find abusers in any kind of system, but the problem with Alaska's is that there's an incentive not to get well," says attorney Randall Weddle of Faulkner, Banfield, Doogan & Holmes, the largest workers' comp underwriters' defense firm in Alaska. "Workers' compensation is a social policy. The whole point of it is to provide a quick and consistent means of assuring that injured workers will continue to be paid at a rate that will keep them alive. In Alaska we've whittled away at that quick and rough justice and gotten too hung up on precise justice."

Adds attorney Shelby Nuenke-Davison, who also represents insurers in workers' comp disputes, "Employers don't want to do away with workers' comp, but the system has gone far beyond what it was ever intended to be. It's supposed to help injured workers, not make them whole again. In Alaska, all a person has to do is say 'ouch' and some doctors will say, 'OK, you don't have to go to work.'"

Workers' compensation began in the United States in the early 1900s, when the number of industrial accidents was increasing and injured workers' avenues for collecting compensation without suing were decreasing. It was based on the premise that an employee automatically is entitled to wage compensation and hospital-medical coverage funded by the employer's workers' compensation insurance if he or she is injured on the job. (Since then, occupational reha-

bilitation has been added to the list of benefits required in most states.)

Workers' compensation insurance is mandatory for all employers in the United States—through a private carrier, a state fund or self insurance. Maximum fine for failing to have workers' comp coverage in Alaska: \$50,000, 10 years' imprisonment and personal liability for damages by the person in charge of the corporation. Maximum penalty in other states: \$10,000 and a year in jail. Most have fines of less than \$1,000.

Fault and negligence are irrelevant in determining eligibility for benefits. The only criteria: Was the person an employee at the time of the injury? Was the injury job-related? In exchange, employees sacrificed the right to sue employers over job-related injuries.

In his 10-volume treatise on workers' compensation, legal scholar Arthur Larson writes that workers' comp should be structured to provide "bare minimum income and medical care to avoid destitution." Larson, one of the foremost authorities on workers' comp in the United States, maintains the system never was intended to restore everything an employee loses, but rather to provide him or her enough to avoid being a burden to others. To do otherwise, he writes, is to encourage malingering. He describes the system as "social protection, not righting a wrong."

What constitutes "bare minimum income" in Alaska in 1987? In some cases, more than \$57,000 a year. Tax-free. Maximum weekly wages under workers' comp are based on a percentage of the average weekly wage for the entire state. Injured workers are paid 80 percent of their spendable earnings up to that maximum. In Alaska, the ceiling has been set at 200 percent of the average weekly wage. That, in turn, pencils out to a weekly maximum of more than \$1,100.

According to a 1986 survey by the U.S. Chamber of Commerce, only one other state—Iowa—bases maximum benefits on 200 percent of its average

weekly wage. In Iowa, however, that amounts to less than \$600 a week. New Hampshire's are based on 150 percent of the average (\$462 a week). Illinois uses 133⅓ percent (\$512), and all other states and the District of Columbia use 100 percent or less.

It gets better. Because of one Alaska Supreme Court ruling, a worker injured in Alaska can relocate to another state during his disability and continue to receive workers' comp wages based on Alaska rates. One attorney tells of a North Slope worker who was injured while earning about \$40,000 a year and moved to a small town in New Mexico, where he continued not to work "and had to be the highest-paid person in the whole town."

"Can you imagine what would happen if somebody collecting the maximum decided to move to South Carolina?" the attorney quips. "He'd probably be making more than the governor."

Workers' comp rates more than doubled between 1973 and 1977. In 1975, the year the legislature adopted a new workers' comp law enacting the 200 percent maximum, they rose 50 percent. It's reported the National Council on Compensation Insurance (NCCI) has agreed to analyze the impact on premium rates if the state used the same standards as Washington State—60 to 75 percent of an employee's weekly wages with a cap of 75 percent of the state's average weekly wage.

NCCI is the national nonprofit rating organization that compiles statistical data on premiums, payroll, losses and expenses and files rates for Alaska and 31 other states. Rates filed by NCCI must be approved by the Alaska Division of Insurance. Alaska rates are based on experience in Alaska, unless there are too few workers in a given category to give an accurate representation. In such cases, national figures are used as well. (As an example of the disparity between Alaska rates and those elsewhere in the country, Alaska employers pay 99 cents in workers' comp premiums for every \$100 in wages for clerical workers; Texas employers



*Attorney Nuenke-Davison:
The system has gone beyond
what it was intended to be.*

pay 35 cents.)

While some Alaskans suggest the state hasn't monitored the organization's rate-making activities closely enough before approving changes, few will argue the revisions haven't been warranted by poor loss experiences in Alaska the last few years. Contractors, however, maintain they aren't given sufficient notice of increases, and major increases like the ones they've just suffered threaten their ability to survive in lean times.

New rates that took effect in January were filed Oct. 31, a hearing on them was scheduled for later Nov., and the new rates were approved by the Division of Insurance in mid-December. Notice of the most recent rate adjustment was no shorter than notices of the past, but the division has notified NCCI that in the future, 60 days' notice will be expected instead of the 15 required by law.

Ken Brady's Duclos says labor accounts for nearly two-thirds of an average contractor's costs. When two-thirds of a business's costs jump more than 20 percent in a climate of razor-thin margins, disaster is almost sure to follow for some. In some job categories, contractors now pay more than \$30 in workers' comp premiums for each \$100 in wages; in one isolated classification, the rate is \$85 in premiums for each \$100 in wages.

"We can't change our prices at will; we're bound by our contracts," he says. Because of fierce competition in the construction industry, jobs are being bid with small margins. A hefty workers' comp rate increase in the middle of a project conceivably could turn a marginally profitable project into a loser.

William Reeves, general counsel for

Alaska AGC, wrote the Division of Insurance that increases that took effect in January added about \$3 per man-hour to labor costs. "It could spell financial ruin for many small contractors," he said.

Another competitive consideration for contractors: Those whose policies came up for renewal in December have a huge advantage over those whose policies expired in January in bidding jobs in 1987. AGC lobbied the Division of Insurance to phase in rate increases over the year instead of implementing them all at once. Howard Cutter, risk manager for Alyeska Pipeline Service Co. and an 11-year veteran of the construction industry before joining Alyeska, says disparities among contractors' workers' comp rates "can make the difference between getting business and not getting it."

INSURERS, HOWEVER, counter that increases have to take effect sometime, and delaying rate increases simply shifts the burden of escalating losses to the insurance industry. Contractors should consider the possibility of premium increases when they bid multi-year projects, insurers maintain.

"Otherwise, it's just a question of who should operate unprofitably," says Carl Anderson, executive vice president of Alaska National Insurance Co. "Our business is really set by the legislature and the courts; we're almost a conduit." Alaska National is the No. 2 writer of workers' comp insurance in the state.

Stanley Sparks, director for NCCI in Portland, comments Alaska state officials for authorizing adjustments that

enable rates to keep pace with changes in the market. In some states where regulators have kept rates artificially low, insurance has been increasingly difficult for employers to secure through normal channels.

When that happens, employers are forced into an "assigned risk pool" where poor risks and companies that can't buy insurance directly are divvied up among insurers and the companies purchasing insurance must pay an additional premium on top of their normal rates. In Alaska, that additional premium increased during 1986 from 10 to 20 percent. Insiders, however, say an increase to 33 percent would have been justified by past loss experiences in the pool. In Maine, where rate increases were refused five consecutive years, about 80 percent of the workers' comp insurance written is through the assigned risk pool; underwriters say they can't generate sufficient returns to justify their risks in that New England state otherwise.

There's concern the high rates in Alaska discourage not only local hire, but hire in general. Says Larry Taylor, president of Taylored Construction Services and the Building Industry Association of Anchorage, "The increases are going to force us to stop hiring people. We'll just have to look for subcontractors to do the work instead, and that will affect the level of service we can give our customers."

Alaskan contractors maintain some lower 48 competitors circumvent Alaska's laws and rates by insuring for workers' comp in their home states. That gives outside firms a competitive edge over their Alaskan counterparts. That tactic would be a violation of the state's

workers' comp laws.

The owner of one Alaskan steel fabricating firm that does work for North Slope oilfield operators is concerned higher workers' comp rates will make his company uncompetitive with fabricators in the Pacific Northwest.

A very real concern in a climate of declining wages and layoffs in some sectors: Because workers' comp wage benefits usually are based on the injured worker's earnings performance the most recent three years prior to the injury (but not always, thanks to court and workers' comp board decisions), an employer who hires someone laid off elsewhere to a lower-paying position puts himself at risk for disproportionately high premiums at renewal time if the employee suffers an injury on his new job.

Example: The employee recently was laid off from a North Slope job that netted him \$1,000 a week. He lands a new job that pays \$400 a week, but suffers an injury shortly after starting the new job. His incentive to get well and return to work effectively has been quashed since his past earnings entitle him to \$800 a week under workers' comp until his condition stabilizes or for a maximum of two years (as long as the courts or the comp board don't alter that, too). Even though the level of wage compensation essentially has been determined by the employee's previous position, the claim is charged to the new employer, whose policy renewal rate likely will reflect the expenses incurred in settling the claim.

Economic conditions play an important role in determining the number of

workers' comp claims in any state. Notes NCCI's Sparks, "Anytime you have an economic decline, there's a temptation to look at workers' comp as a (wage) cushion." Unemployment compensation not only falls short of workers' comp benefits, but also is taxable. Alaska National's Anderson says the current recession doesn't so much encourage malingering as unnecessary extensions of injury benefits.

ADDS FAULKNER, Banfield, Doogan & Holmes's Weddle, "It's not a matter of fraud in most cases. People will tolerate little things when they're working, but when they know they're going to be laid off, they figure, 'Hey, I'd better get this taken care of while I'm still covered.' People are perfectly honest, but they tend to develop a

State funds, private insurance and self insurance

IS A STATE FUND A VIABLE SOLUTION FOR ALASKA'S workers' compensation insurance premium woes?

Six states currently administer their own workers' comp insurance programs: Ohio, Nevada, North Dakota, Washington, West Virginia and Wyoming. When premium rates as a percentage of payroll doubled in Alaska between 1972 and 1977, Alaska considered a state fund as well. Variations are competitive funds in which employers have an option of purchasing private insurance and exclusive funds in which the state program is mandatory.

A study by the Research Division of the Alaska Legislative Affairs Agency published early in 1977 concluded potential savings from a state fund need to be weighed against the potential for poorer service from the loss of private brokers and agents. The study didn't pinpoint how much employers could expect to save, but it did note the state would have to make a substantial investment in setting up such a fund.

According to the study, 65 percent of the employers surveyed at the time said they preferred a state fund if the savings were *substantial*, but their second most significant concern was that government involvement in the fund be minimal. The study also concluded private insurance offers superior occupational rehabilitation, but the cost of greater controversy.

In Ohio, where there's an exclusive state workers' comp fund but self insurance is allowed, the state's insurance investment portfolio has reached \$6 billion; spokesman Tony Mangini of the Ohio Bureau of Workers' Compensation says the estimated \$400 million in annual investment earnings are reinvested, and revenues from premiums "more than cover expenses" incurred in running the program and settling claims.

He says rates haven't risen dramatically in nearly a decade. "Ohio has between the 10th and 12th lowest premiums in the country and is ninth highest in benefits," he reports. "The program is economically desirable for the employer." Ohio voters overwhelmingly rejected a switch to private workers' comp insurance in 1980.

A risk manager from one of Ohio's largest corporations, however, says the sole advantage to the state's system is the

\$6 billion "kitty" and the fact that all investment earnings can be reinvested. "The system is very slow to respond—a typical bureaucracy," he says.

A recent audit of the state workers' compensation system in Ohio indicated that if the state were to settle all of its pending workers' comp claims immediately, there would be a \$2 billion deficit even with the \$6 billion in the fund. Now there are rumors premiums will increase 30 percent in 1987 to close the gap.

The risk manager blames the overwhelming rejection of private workers' comp insurance at the polls in 1980 on "horrible public relations tactics" on the part of the insurance industry, and he speculates voters would favor private insurance if there were another vote today.

While only 850 of Ohio's estimated 250,000 employers are self-insured, they account for 30 percent of the state's employment.

The risk manager for a large Alaskan corporation that self insures, Howard Cutter of Alyeska Pipeline Service Co., says the major benefits of self insurance for workers' comp are economic ones, in-house risk management and personal contact with injured employees and their families. At Alyeska, any claim over a certain amount is reported to corporate management. The company also has its own safety staff and extensive training programs to minimize the number of claims.

Among the criteria for determining eligibility to self insure for workers' comp in Alaska: financial stability (corporate net worth of at least \$5 million), bonding, loss control programs, number of claims filed in the past, other self insurance. It's reported fewer than 50 firms self insure in Alaska.

"Before any company commits to self insurance, though, it should carefully weigh the hazards against the benefits," Cutter cautions. "It should be viewed as a long-term commitment. You don't do it for the short term, because once you're in it, it's not always easy to get out." He says some underwriters are reluctant to cover companies that have had self insurance because of claims and liabilities that may arise from the period the company was self-insured.

'stay-sick' psychology if they know there's no job for them to go back to."

Weddle and his firm represented Alaska Pacific Assurance Co. during construction of the Trans-Alaska Pipeline System when Alaska Pacific wrote workers' comp insurance for Alyeska Pipeline Service Co. He recalls the number of claims skyrocketed in the final weeks before construction was completed. Claims in the construction industry traditionally increase as the construction season winds down.

"Maybe I'm imagining it, but it seems like my work load (in representing underwriters in claims disputes) has been up dramatically the last few months," adds Weddle.

It's estimated between 90 and 95 percent of the workers' comp claims filed in Alaska are resolved without dispute. When there is a dispute, arguments are heard by a three-person panel from the Alaska Board of Workers' Compensation. The board is composed of six members—three representing management, three representing labor, all appointed by the governor. Cases are heard by one labor representative, one management rep and an attorney-hearing officer from the Alaska Department of Labor's Division of Workers' Compensation.

Many employers complain hearing panels traditionally have been biased in favor of claimants. Alaska law, in fact, dictates that the burden of proof is on employers and insurers to prove a claimant *isn't* entitled to compensation and not on the claimant to prove he or she *is* entitled. Panels hear cases to determine matters like whether a claimant was an employee at the time of injury, whether the injury was in the scope of employment and the rate at which the injured employee should be compensated. They also must approve settlements between claimants and insurers.

Says Mary Pierce, senior management representative on the workers' comp board, "The employee's physician is honored as the ultimate authority unless he's proven not to be credible." She adds state Supreme Court decisions "have had even more impact than the statutes themselves."

A claimant can insist on a hearing within 10 days of filing a complaint. Attorneys for insurers maintain that isn't enough time to prepare an adequate defense. They can secure extensions, of course, but at a price. The price: paying the contested benefits until the matter is resolved in a hearing. Odds of recovering those benefits later: slim to none. In one case, an insurance company is said to have paid \$70,000 in benefits to one claimant before it was determined his claim "wasn't credible."

"The board never calls it fraud," says attorney Nuenke-Davison. "They sim-

COCAINE

The Fastest Way To Life In The Slow Lane

You are young with a promising career ahead of you.

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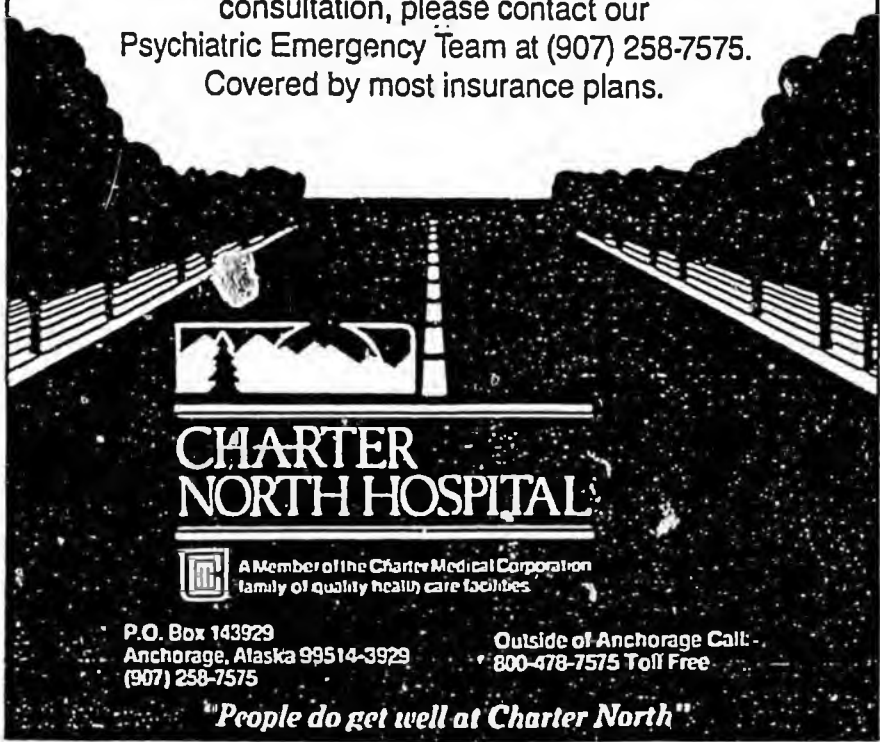
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ply say the claimant's case 'isn't credible.'" She complains there's no apparent relationship between the workers' comp board and the prosecutor's office, so fraudulent claims consistently go unpunished.

Since workers' comp began in Alaska 70 years ago, there's been a single case where a claimant was convicted of filing a fraudulent workers' comp complaint. The state's Division of Insurance says it's investigating four other cases with claims totaling \$380,000 for possible prosecution.

Adds Nuenke-Davison, "The state investigates welfare fraud, and it should be doing the same thing with workers' comp. The public would be appalled if they knew what some of their neighbors are doing and getting paid for it." At present, the only viable avenue for pursuing workers' comp fraud is for insurers to sue. That rarely happens, given

the expense of prosecuting and the bleak prospects for recovery in the event of a court victory.

Another attorney, Kevin Dougherty of the Alaska State District Council of Laborers, describes Alaska's workers' comp system as a "pipeline" — one that has a number of leaks and diversions that result in employers not getting their money's worth from compensation insurance. Among those leaks and diversions: attorneys, physicians, occupational therapists and the insurance industry itself. "Some are taking far more money out of the pipeline than was ever intended," he maintains.

Workers' comp is yet another battlefield for the war that's broken out in recent months between physicians and attorneys. Lawyers complain there's no regulation in Alaska of what doctors can charge for treatment. Since a claimant's physician is a direct beneficiary of ongoing

if they release an injured worker too early. As the system stands, they have everything to lose and nothing to gain when they release a patient to return to work.

In his recommendations and comments on the new rates filed by NCCI last year, Division of Insurance hearing officer Donald Koch wrote that the fear of being sued intensifies "an already difficult situation for the physician. In other cases, the expression 'ambulance chaser' has been used with some charity." He also expressed concern that claimants "are growing increasingly litigious in a system that is intended to be no-fault. Why this is felt to be necessary should be examined before it gets out of hand."

The workers' comp board's Pierce, whose private practice provides insurance and risk management consulting services to employers, says the biggest problems with the system are runaway medical costs; the means of determining average weekly wage, "especially in this economy," and the failure of occupational rehabilitation legislation adopted in 1982.

1982 legislation mandates that an injured employee be referred to an occupational therapist once he or she has been off work for 90 days. Mission of the occupational therapist is to get the employee back to work.

"THERE ARE three problem areas with occupational rehabilitation as it stands," says Pierce. "First of all, the insurer chooses the therapist. That often leads to non-cooperation on the part of the person being treated. Second, there should be a mechanism for insurers to buy out of rehabilitation benefits if the person doesn't want to cooperate, and finally, we need regulations."

That lack of specific regulations from the Alaska Department of Labor to govern occupational rehabilitation is said to have had a twofold impact: It's enabled unqualified individuals and companies to pose as therapists and forced legitimate firms to waste a lot of time and money taking measures to comply with what they think those regulations eventually may be.

State Rep. Virginia Collins, whose occupational rehabilitation firm Collins & Associates has been operating in Alaska since 1975 and now has offices in Anchorage and Fairbanks, says the 1982 legislation mandating vocational therapy prompted a flood of new occupational therapy firms in the state. Says she, "There's no mechanism for screening who's qualified to provide the service and who's not. In terms of rehab qualifications, it's often been a case of, 'Yesterday I didn't know what a vocational rehabilitation therapist was, and today I am one.'"



Brady's Duclos: Some contractors will fold.

ing treatment — regardless of whether it's necessary — the doctor isn't always a reliable and objective source for the claimant's condition, they argue.

A spokesman for the Ohio Bureau of Workers' Compensation says Ohio and many other states have set fees that can be paid for certain procedures. "If a physician's bill is out of line, we have a department that finds out why." Ohio handles workers' compensation through an exclusive state fund.

Physicians' counterattack: If some attorneys weren't so eager to file malpractice suits, medical costs wouldn't be running wild. Doctors are afraid of subjecting themselves to malpractice suits

Attorney Weddle dismisses the state's rehabilitation law as "a joke. There's no incentive to get back to work." Pierce, who worked on the bill prior to its adoption, agrees the law needs to be revamped. "I'm the first to admit that it just isn't working," she says.

'A dollar spent on workers' comp premiums is a dollar that's not being spent on additional wages, benefits or jobs.'

Because of problems that have arisen with Alaska's workers' comp system, a group of the state's business and labor leaders has revitalized the Workers' Compensation Committee of Alaska to study changes to make it less expensive and more effective. The committee's acting director says a business-labor coalition is vital to the group's success because of historic differences between the two interest groups on workers' compensation issues.

While previous pushes for workers' comp reform primarily have come from management, the latest round of increases has sparked a new awareness in labor as well. Says one executive, "Unions have begun to realize that every dollar spent on workers' comp premiums is a dollar that's not being spent on additional wages, benefits or jobs."

Alaska Gov. Steve Cowper reportedly has agreed to appoint an 11-member task force to study workers' comp—four representing management, four representing labor, one "neutral." Frank Mears, acting compensation committee chief, says task force recommendations should be ready for the 1988 legislature.

Workers' Compensation Committee of Alaska's goal, meanwhile, is to push for workable occupational rehabilitation regulations and to identify an agenda of problems with the current system, Mears says. "One thing we won't be discussing right away is the level of compensation," he adds. "Why start off with a war between business and labor and jeopardize the future of the thing right away? Initially, we'll be focusing on areas where we can agree."

The level of compensation in Alaska historically has been the biggest bone of contention between labor and management when the subject of workers' comp has come up. Employers want it reduced, labor doesn't. The issue is a political hot potato, one that Alaska's

politicians aren't likely to be eager to handle.

Laborers' attorney Dougherty maintains there should be no cap on benefits at all, since limits on wages are just as damaging for a highly paid employee as they are for others. Adds he, "The whole concept of the system was supposed to be that employees would exchange the right to sue for wage replacement. If you had the old laws and today's juries, you'd be seeing a lot of \$1 million verdicts." Responds Alyeska's Cutter, "You hate to penalize a person for being injured, but you need an incentive to get him back to work."

In the absence of a strong economy to temper the effect of the virus in the state's workers' comp system, many Alaska employers in labor-intensive businesses will continue to be easy victims with no antidote. Their only defense: an aggressive corporate safety program that enables them to limit the number and severity of claims.

A company's premiums are tailored, to an extent, with "experience ratings" that increase or decrease individual rates on the basis of past claims. Experience ratings are derived by comparing the loss performance of a specific employer with the average of all employers in that category.

An experience rating of "1" means the employer's claims in recent years have been similar to the average. An

experience rating of "0.8," on the other hand, means the employer has done better than the average; with a standard premium rate of \$10 per \$100 of payroll and an experience rating of 0.8, his premium would be \$8 per \$100 of payroll. The opposite is true as well. If an employer's loss experience is worse than the average, he'll have a rating of greater than 1 and pay a surcharge above the standard rate. Some Alaskan employers have experience ratings of more than 2, and they pay more than twice the standard rate because of it.

Says William Gee, account executive for Frank B. Hall & Co. of Alaska, "When the economy was booming, a lot of employers didn't take the time to worry about loss control; now some of them are paying for it. If the economy were going as it was a few years ago, you'd be hearing a lot less complaining about the rates today. In this economy, employers have to make sure they know that the way to reduce their insurance rates is through loss control."

Adds Pierce, "Safety is the only area where an employer has any control. In a bad economy, there's a lot more interest in cutting injuries in the workplace."

The recession has sparked a lot more interest in wiping out the virus, too, but the cure for that will have to come from the legislators and judges who've created and spread the infection and the officials who administer it. □

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WHAT YOU SHOULD FIND OUT ABOUT THE PROPOSED WORKERS' COMPENSATION LEGISLATION

If you are covered by Alaska State Workers' Compensation you should be extremely concerned about the proposed legislation. Approximately 10% of you are going to have time loss injuries in 1988. Of this number about 21% are women. No one regardless of occupation is immune from injury.

You have heard a great deal about how fair the new legislation is to employees. There are many bad aspects to the legislation but ask your union representative or your legislator the following questions:

1. Why is it fair to reduce weekly benefits if you are unable to exist in Alaska on the present benefit rate. (The average check is about \$340.00 per week.) Under the new law this would be reduced to about \$170.00 per week depending upon which state you move to if you leave Alaska.
2. Why is it fair to pay an injured worker a reduced rate when this clause would tend to promote Outside hire
3. Why is it fair to stop temporary disability payments when your injury has healed even though you still cannot return to work because of your injury.
4. Why is it fair to prevent you from changing doctors more than once without the adjuster's permission.
5. Why is it fair to allow an adjuster to send you to any state in the nation as often as every thirty days for a medical exam whether you like it or not.
6. Why is it fair if an Outside doctor's report is in your favor and you cannot get such a report before the Board without paying, in advance, for your lawyer to take a deposition of the doctor.
7. Why is it fair to reduce the maximum disability payment allowable from its present \$1,050.00 down to \$700.00.
8. Why is it fair for the insurance adjuster to arrange for another doctor to overrule your treating doctor.
9. Why is it fair to reduce your temporary partial disability payments from five years to two years.
10. Why is it fair, for example, if you have a 20% disability of your leg and will now get \$16,864.00 (if receiving the average payment of \$340.00 per week) but under the new law, you will get \$3,480.00.
11. Why is it fair that no injured worker has ever been appointed to the various "study groups" to research the alleged problems with the present Alaska Workers' Compensation system.

If you get satisfactory answers to the above questions then by all means tell your legislator that you support the new law.

If you do not get satisfactory answers, then tell your legislator that if he votes for the new law he is voting against you.

There are many ways of reducing the cost of worker's compensation that apparently have not been considered.

Written and paid for by Gil Johnson and no one else.
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Reform Alaska's workers' compensation system

By STEVE HAAG

Alaskan jobs and businesses will be threatened more than ever this winter by skyrocketing costs for workers' compensation insurance, and that's a very real threat to every employer and employee in this state.

The workers' compensation system began in the United States in the early 1900s. It was based on a belief that an employee should be entitled to wage compensation and hospital-medical cost coverage for injuries that occurred on the job.

Workers' compensation insurance coverage is now mandatory for every employer in the United States. Alaska has one of the most generous benefit and compensation packages in the country.

In 1987, Alaskan workers' compensation rates increased an average of 14.3 percent with some industries shouldering increases as high as 40 percent. That increase added \$20 million to the \$155 million statewide that employers were paying annually for coverage. It's expected that a 25 percent average increase will take effect in 1988.

The potential results are obvious. Businesses already hard hit by a faltering economy will be dealt a death blow by higher premiums. Jobs will be lost by the hundreds.

The problem is not that the system is being abused in large part, but rather that the system has gone far beyond what it was ever intended to accomplish. The goal of workers' compensation should be to help an injured worker

recover and to return to gainful employment. During the time of disability, the worker should be fairly compensated at a level comparable to the income that would be generated if the worker was on the job at which the injury occurred.

However, the basic premise of workers' compensation has been altered in Alaska. Under our system there is little or no incentive to return to work.

Why is Alaska's system so expensive? There are numerous reasons. Alaska is one of only two states which provide that benefits paid to an injured worker will be based on 200 percent of the statewide average weekly wage. This can result in a weekly compensation wage of more than \$1,000, tax free, while the salary an employee may have been earning while on the job was significantly less.

To make matters worse, a worker injured in Alaska may choose to move to another state with a substantially lower cost of living, yet be compensated at the rate determined in Alaska.

Compensation is based on a worker's income for the past two years. Under Alaska law a person can work on the North Slope earning \$40,000, then switch to a job paying half that, become injured on the new job and be compensated at a rate based almost totally on the prior job. As a result, that person would earn more from workers' compensation than from working.

Unlike many states, Alaska has no provision for peri-

odic reviews of standards for treatment of injured workers by medical or rehabilitation providers, nor any guidelines for fees.

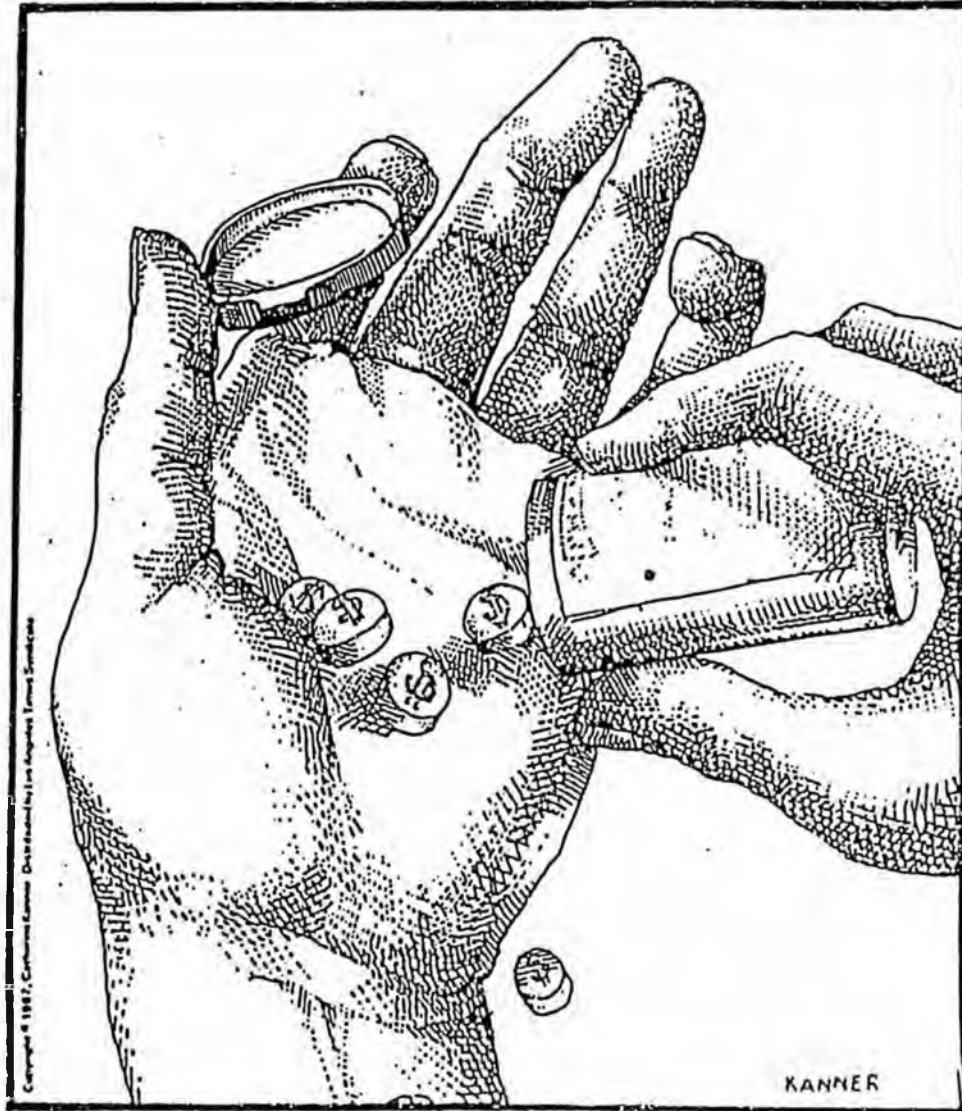
Many other factors have driven up the cost of coverage including runaway medical costs, the failure of occupational rehabilitation legislation passed in 1982, a lack of limits on benefits and a lack of fraud investigation.

Alaskan employees are being excluded from Alaskan jobs because Outside companies can bid on those jobs using an all-states endorsement, which allows payment of workers' compensation based on the home-state rate, even though the job is in Alaska. As a result, Alaska companies paying premiums based on Alaska experience cannot compete for those jobs.

To remedy these and dozens of other faults with the system, the Workers' Compensation Committee of Alaska, a statewide organization, is reviewing every aspect of the law. WCCA hopes to present a legislative package negotiated by labor and management to the legislature in 1988.

While employers are the only group that pays premiums, this is both a management and labor issue. As premiums rise, businesses will fold, taking needed jobs with them. It is in everyone's interest to make the system work as it was originally intended.

Steve Haag is president of Workers' Compensation Committee of Alaska.



KANNER

Worker's comp

Mc

It appears that the worker's compensation program is part of the problem for Alaska companies trying to compete with companies from the Lower 48.

The premiums for most basic-industry companies are outrageous. Construction companies frequently pay \$20 for worker's compensation insurance for every \$100 they pay their employees, while logging companies pay more than \$50. Rates are scheduled to take a 25 percent increase in January.

The rates in Alaska are significantly higher than the rates in other states, and this gives out-of-state companies a big advantage in bidding against Alaska companies for Alaska work.

There is evidence that the problem has caught the attention of the Legislature. The House Labor and Commerce Committee is pledged to report a bill designed to reduce costs and make the program fairer to workers and employers.

The state should start by getting more control over the worker's compensation program. The Legislature should review worker's compensation programs from other states for ideas on what might work here. Oregon, for example, has its own worker's comp program, which is available along with the insurance companies' program. The Oregon program rewards employers with clean safety records with lower premiums.

According to the table printed below, which was published recently in U.S. News & World Report, Alaska's maximum weekly rate of payments for worker's comp claims is \$1,108, nearly twice the second highest rate of \$632 paid by Iowa. A worker injured in Texas receives only \$224.

Wages and cost of living, obviously, are higher in Alaska, but are they that much higher? Any plan to revamp the worker's compensation system should take a close look at the rate of payments.

Another problem with Alaska's system is the adversarial relationship it promotes between the workers, their employers and the insurance companies. Lawyers frequently dominate the proceedings, their fees adding to the cost of worker's comp.

There will always be areas of disagreements if workers feel wronged by the system, but disagreements will decrease if the system becomes more responsive to the workers.

Alaska's system of worker's compensation tends to discourage small companies and encourage large ones that are well capitalized and can afford the premiums. Companies based Outside benefit the most.

There is no reason why Alaska-based companies can't compete with other companies if the conditions are fair. With the amount of construction in our state, Alaska should be developing companies that can compete for jobs Outside, not have jobs here taken by companies from Outside.

Maximum weekly worker's compensation

Alaska	\$1,108	Rhode Island	\$320
Iowa	632	Hawaii	318
Illinois	549	South Carolina	308
New Hampshire	525	North Carolina	308
Vermont	486	New Jersey	302
Washington, D.C.	454	New York	300
Maine	448	Montana	299
Connecticut	408	North Dakota	299
Michigan	391	Washington	289
Idaho	386	South Dakota	272
Massachusetts	384	New Mexico	271
Ohio	376	Missouri	270
Maryland	365	Louisiana	261
Pennsylvania	361	Kansas	256
Minnesota	360	Delaware	251
Colorado	358	Nebraska	235
Oregon	355	California	224
Nevada	353	Texas	224
West Virginia	351	Oklahoma	217
Wyoming	348	Tennessee	210
Virginia	344	Arizona	204
Wisconsin	338	Indiana	190
Utah	335	Arkansas	189
Alabama	331	Georgia	175
Florida	330	Mississippi	140
Kentucky	322	Puerto Rico	45

(Continued from page A-1)

weekly benefit from 200 percent of the state average weekly wage—now \$1,100—to a set maximum of \$700.

- Changing the minimum weekly benefit from \$110 to \$154 if the injured worker submits wage documents. Otherwise the lower rate prevails.

- Consider an employee's vested pension contributions in determining a weekly wage benefit.

- Eliminating "doctor shopping" to allow an injured worker to change his or her treating physician only once without the written consent of the employer.

- Subject medical payments to the usual and customary criteria of major medical plans.

- For workers with significant injuries (impairment of 20 percent or more, including back and neck injuries), change the present cap of \$60,000 to a "whole man" value of \$240,000 using American Medical Association guidelines.

- Limiting rehabilitation programs to two years.

- Bar an employee from making a false compensation claim.

- Increasing the permanent partial disability benefit for the most severely injured workers.

- Requiring the last employer

to pay benefits if a claim is denied solely because another employer may be liable, until such time as final liability is determined.

Donley said the committees have received numerous suggestions for correcting flaws in the state's compensation system. "While we hope to improve the system as much as possible during the next session, there will be other changes that may take longer to approve," he said.

"I think the main thing for people to consider when they think about this bill is that it is a jobs bill. Employers are having to lay employees off, in part, because of the

high compensation rates and claims they have to pay. This is one area where the Legislature can make a positive impact on the job situation in Alaska without spending more money," Donley said.

"We're trying to do the best we can."

The Anchorage Democrat, said he and Senate Labor Committee Chairman Tim Kelly, R-Anchorage, have scheduled four joint hearings on the bills. The first two hearings will be in Juneau on Jan. 19 and 21 and the third and fourth in Anchorage Jan. 29 and Feb. 12.

QUALITY SERVICES

Date DEC 20 1987

Fairbanks Daily News

Lawmakers seek changes in workers' compensation

By **BILL KELDER**
Staff Writer

Changing vocational rehabilitation of injured workers from mandatory to voluntary and limiting the rehabilitation programs to two years are among changes included in legislation being prepared by the House and Senate Labor and Commerce committees.

The committee members hope to reduce complexities and costs of Alaska's workers' compensation laws in the next session, according to House Labor and Commerce

Committee Chairman Dave Donley.

"We're trying to improve the law not only to reduce costs, but also to balance the rights and responsibilities of the injured employee with those of the employer," Donley, D-Anchorage, said. "We want to eliminate as much as possible the adversarial relationships that tend to develop in workers' compensation cases."

Changes being considered:
• Changing the maximum

(See **WORKERS**, Page A-6)

QUALITY SERVICES

Date DEC 15 1987

Fairbanks Daily News

First of a series

It's a system full of questions

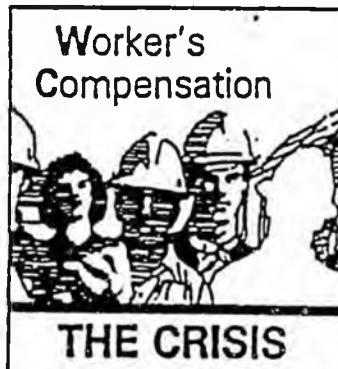
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Key legislators predict that attempts to revise the workers compensation system will emerge as one of the top issues of the 1988 Legislature. In this first of a four-part series, the News-Miner examines the system and what's wrong with it.

By BILL KELDER
Staff Writer

There was a time when an injured employee had to fall back on the generosity of his employer or to go on relief if he was unable to work.

Early this century, workers compensation laws changed all that by providing medical and disability benefits to workers injured on the job.

The workers compensation rates paid by Alaska employers, already among the most expen-



sive in the nation, are slated to rise by an average of 25 percent next month.

The 25 percent is an average. The cost will vary from industry to industry, and from job to job within a given industry. In contracting, for example, the increase will range from 4 percent

to 54 percent; while for the oil and gas industry the increase is expected to range from 18 percent to 68 percent.

Compensation rates are on a per 100 basis. Thus, if an occupation has a workers' compensation rate of, say, 45 per 100, it means the employer pays \$45 in workers' compensation insurance premiums for every \$100 he pays the employee. In some high risk job categories, such as iron working, the insurance premium may exceed the cost of the employee.

Many small employers say they can't afford the increase. Others say it will make it that much more difficult for Alaska companies to compete.

Several key legislators have
(See WORKERS, Page 12)

WORKERS 0410 217

(Continued from page 1)

said that one of their top priorities in 1988 will be to straighten out the workers' compensation system.

In 1983, Alaska employers paid \$125.5 million in compensation premiums to insurance companies, while the companies paid out \$70.1 million in claims. But each year since, the amount paid out in claims has crept closer and closer to the amount paid in through insurance premiums. Last year, employers paid \$153.4 million in premiums, and \$150.2 million of that was paid in claims.

Though the number of claims decreased 5 percent in fiscal year 1987, the amount paid out on those claims has increased, partially due to larger jury awards to employees injured on the job, and partially to an increase in settlements between an injured employee and the employer's insurance company.

Officials with the Division of Workers' Compensation say the amount of claims filed thus far in fiscal year 1988, which began last July 1, is up over the previous fiscal year.

As the difference between those figures declines, insurance companies are pushing for a premium rate increase, to ensure that the amount they pay in benefits does not exceed the amount they take in.

Some people familiar with the system argue that high costs are just a symptom of the workers' compensation problem in Alaska.

Jon Deisher used to work for

the state Department of Labor as a rehabilitation administrator with the workers' compensation system. Frustrated by that system, he recently quit his job and now works with a private vocational-rehabilitation service in Anchorage.

"The state's workers' compensation system has no goal and, therefore, has no way of getting to that goal," Deisher said. He said there are many irregularities in the laws and regulations governing the system; irregularities that work against the system and the people it should be serving.

"One thing wrong with the system is its built-in disincentives," he said. Under the system, an injured employee who earned \$10,000 a month on the job, gets \$10,000 a month in compensation payments when he or she is injured on the job. But if the injury means the employee can never earn that kind of money again and must work for a lower wage once rehabilitated, what's his incentive to take the lower-paying job and get off the compensation?"

"There isn't any incentive," said Deisher, "so he might as well stay on compensation and get paid more money plus the medical benefits."

Deisher said the system needs a balance between the rights and the responsibilities of the employee and those of the employer. A balance that won't leave each mistrusting the other.

"Too often, the system pits the injured employee and the em-

ployer against each other. The employer sees the injured employee as a cost drain, and the employee begins to feel that his employer thinks of him as a disposable item," Deisher said.

He said the system also needs to develop a definition of disability, something it now lacks.

"If a right-handed attorney loses his left hand in an elevator accident, he certainly has a medical disability, but is that a wage-earning disability, or he is still able to practice law and earn what he earned before the accident," Deisher said. "Those are the kinds of definitions we need to make the system work properly."

The way insurance adjusters are qualified by the state to handle workers' compensation claims is another problem, he said.

"The compensation system is a very complex and convoluted system, with issues unique to itself. Yet on the state test to qualify an insurance adjuster to handle these cases, there are only four questions relating to compensation," Deisher said.

"There's a big difference between adjusting a claim for a bent fender on your car and adjusting one for a person who will never be able to work again. There need to be more compensation questions on the test."

These irregularities lead to litigation, Deisher said, which drives up the cost of the system to employers and employees.

There's also a lack of data available to those who must operate and regulate the sys-

tem. "The state division of workers' compensation has no way to check on how the insurance companies come up with the figures they say justify an increase," Deisher said. "If they can check the figures, how can they know if the figures are accurate?"

State officials and others say part of the problem is staff and budget cutbacks. Another part, they say, is that the state Division of Insurance lacks the statutory authority to examine how the insurance companies come up with the figures.

Deisher says he worries that the latest efforts to revamp the workers' compensation system may actually result in making the system worse—that some of the system's good points may be thrown out with the bad.

"It gets back to knowing where you want to go and then figuring out the best way to get there," Deisher said. "Without answers to those two questions, revamping the system doesn't make much sense."

For Wednesday: the compensation system through the eyes of two employers.

Workers' Comp Out of Control

By MARK HARRIS

Workers' compensation insurance premiums could increase by up to 68 percent for some sectors of business in Alaska, according to Alaska Division of Insurance Deputy Director Don Koch.

Beginning Jan. 1, 1988, premium increases will cause businesses to pay about \$38 million more for workers' compensation coverage, or an average of 25 percent more than in 1987 under a new rate filing (see Table 1).

"This filing could not have come at a worse time," Koch said during public hearings held in late October. "I have a suspicion these rates will still be somewhat inadequate. The 1987 filing (an average 14.3-percent increase) was absolutely deficient."

The rate increase comes through an analysis by the National Council on Compensation Insurance, an organization responsible for analyzing insurance rates in 32 states.

In Alaska, workers' compensation claims paid by insurance companies have more than doubled in the past four years, from \$71 million in 1983 to more than \$150 million in 1986, despite a drop in overall state payroll to pre-1982 levels, said Koch.

Between 1979 and 1986, wages in Alaska rose about 30 percent while hospital costs escalated 80 percent and other medical service costs skyrocketed 90 percent, according to state figures. For 1986, medical costs increased by 6.8 percent, while indemnity payments increased 30.2 percent. Indemnity costs include payment of wages while recovering from an injury.

The Workers' Compensation Committee of Alaska Inc., an employers

group, began work last winter to get the laws changed. As this article was going to press, a WCCA task force of four management and four labor representatives was completing a legislative reform package to submit to the Alaska Legislature next month. New legislation will focus on changes and adjustments in four main areas; vocational rehabilitation, compensation and benefits, medical parameters and the second-injury fund. Points WCCA would like to see addressed within these areas include the following:

Vocational Rehabilitation

- Voluntary rather than the current mandatory rehabilitation program, with eligibility determined by impartial firms not able to later deliver the service.

- Re-employment-preparation benefit provider to be chosen mutually by employee and employer. The plan to be signed off by qualified rehabilitation professional and recipient.

- Rehabilitation plan length specified. Benefits to end for clearly defined non-cooperation.

- Rehabilitation benefits' end to be triggered by test devised to establish re-employment eligibility.

- Law would establish maximum tuition and supply costs for rehabilitation and would set timeline for design and implementation of a plan.

- Remove financial disincentive for returning to work by establishing a schedule for injuries and the end of total temporary disability payments when a worker is medically stable.

- Begin partial disability payments at that point with rehabilitation ser-

vice. Worker would have choice of a final disability payment without rehab benefits or lower payments with rehab and re-employment training.

- To determine "gainful employment," benefits would terminate when a worker is ready to be employed rather than at actual employment. This would include a labor market definition.

- Medical disputes to be settled by an independent medical examiner rather than attending physician.

Compensation and Benefits

- "Gross earnings" definition which restricts some fringe benefits. Compensation to be reduced if claimant is paid by a pension or profit-sharing plan.

- Where injury liability is in question, the last employer will be held liable to pay workers' comp until specific liability is determined.

- Compensation rates would be tied to the recipient's current area of residence, allowing for recalculation of benefits if a claimant moves to a region with a lower cost of living.

Medical Parameters

- Limit the number of times a claimant can change primary physicians.

- Limit on doctors' claim amounts from workers' comp recipients. "Reasonable and customary fees" suggested at the 90th percentile as scheduled by the Health Insurance Association of America.

- Limit on number of medical visits a claimant may make to doctors before an independent medical evaluation is made.

- A definition of "stress" as a cause of disability and when this can be claimed as a compensation injury.

Second-Injury Fund

- Abolish and replace with a "Return-to-Work" fund administered by the Division of Vocational Rehabilitation, to provide incentives for employers to hire an injured worker. Incentives to include fund-paid job training and cash bonuses for employers who hire injured workers. Fund to be separate from workers' comp system.

- Claims now being paid by the Second-Injury Fund would be sunsetted with final payments negotiated with claimants.

Steve Haag, president of WCCA, stressed that the above points are what the organization would like to see encompassed in a legislative package. At press time, management-labor committees on each of the four major areas had not endorsed all points presented here. □

TABLE 1

	Average	Range
Oil and Gas	43%	18% - 68%
Contracting	29%	4% - 54%
Manufacturing	10.5%	-14% - 36%
All Other	17.6%	-7% - 43%

Workers' comp legislation no help to workers

By CHANCY CROFT

Workers' compensation reform was touted as reducing costs 15 to 20 percent until reality entered the debate.

A study by the National Council of Compensation Insurance was followed by a second major study from a private actuarial firm. Both concluded that the legislation under consideration in Juneau would not reduce costs. There might even be a cost increase. Yes, that's right — the hard number boys said there might be a cost increase.

The bill was touted as providing jobs from cost savings to employers. Without any cost savings, of course, no jobs will be created. But senators, anxious to please their business constituents, ignored the hard facts and passed a resolution — which has no legal effect — asking insurance companies to reduce premiums by 2 percent.

Even a fictitious 2 percent reduction would provide a saving of only a few hundred dollars to the average employer. The permanent fund dividend would be three times as large as any fictitious savings to an employer under SB 322.

Do we have the most expensive workers' compensation system in the United States? No. Several states have more expensive systems, including Oregon and Montana.

Are we the only state that's facing an increase? No. Oklahoma, Louisiana, South Carolina, Maine and New Hampshire are all facing larger increases.

So why is there an increase in Alaska? Nobody can say for sure. The Division of Insurance has no figures, the Workers' Comp Division has no figures.

The only thing we know for sure is the injury frequency has hit a 10-year high and that the delay in handling cases has increased 70 percent. This alone probably accounts for some of the increase. But SB 322



ignores safety and makes delays worse.

If the legislation does nothing to control insurance companies or reduce premiums, does it benefit injured workers? Only a few workers at the expense of the many. Some legislative provisions are good. Many more are regressive.

The benefits are not worth the price most injured workers will pay.

• Seriously disabled workers get less. People with closed head injuries, burn victims, multiple trauma injuries requiring repeated operations, all are arbitrarily cut off temporary disability after two years. This is done in the name of a false premium reduction to those employers who caused the injury in the first place.

• All payments for permanent partial wage loss are totally eliminated. This would make Alaska the first state to reject compensation to injured workers based on permanent loss of earning capacity. Instead payment is solely on medical impairment.

If you're a lawyer and lose an arm you'll get a lot, but if you're a laborer with a bad back, you're mostly out of luck.

• Workers pay their own time loss during rehabilitation once they are medically stationary.

• A worker's right to a determination of actual earning capacity is ignored, claims based on stressful jobs are excluded, compensation is limited regardless of actual earnings, out-of-state benefits are reduced (a similar provision was declared unconstitutional

years ago) and workers get only one choice of a doctor.

• Court review of board decisions is severely restricted.

But even more strangely, all medical benefits are excluded. To the average Alaska family, medical benefits are more important than pension. Some states have mandated that employers continue health insurance for injured workers — why not Alaska?

The legislation was the result of long hours of hard work by a select group of people. But it has three philosophical premises not in the interest of injured workers.

First, the legislation is arbitrary. What is the legal or moral authority to make arbitrary rules about injured workers? Who can say that some workers get a high percentage of their pre-injury earnings and others have to get by on less? Why aren't all workers treated equally?

Second, a case is closed regardless of condition. Injured workers are treated like dated products on a grocer's shelves. After time, they are disposed of.

Third — and the most serious fallacy behind this legislation — is the notion that workers' compensation can be reduced without reducing benefits. It's a nice theory, but it doesn't work here. In short, there's no free lunch. This bill is the first workers' comp legislation in a long time that both raises costs and reduces benefits!

The theory of workers' compensation legislation is "that the cost of all industrial accidents should be born by the consumer as part of the cost of the product." *Searfus vs. Northern Gas Company*, 472 Pacific 2nd 986 (Alaska 1970).

If workers' compensation is costing too much, it's because employers are injuring too much. If the cost of doing business in Alaska is too great because workers are too careless,

Do Alaska businesses really deserve an economic bailout from the state and a subsidy by their injured workers, as well?

Why reduce benefits to injured workers? Do Alaska businesses really deserve an economic bailout from the state and a subsidy by their injured workers, as well?

Workers in other states are fighting winning battles for a higher minimum wage, decent health insurance and better working conditions. Why do Alaska workers have to settle for a second-rate compensation act?

So, I come back again to the question each of us should ask. Why is it that when injured workers and businesses alike are affected by increased delays by the Division of Workers' Compensation, the legislative solution is to increase those delays? Why is it that when workers' comp costs increase because of an increasing injury rate, nobody does anything about safety?

Why is it that if insurance companies want an increase in premiums one year, nobody asks if they made excess profits years before? Why is it that every time something is done about insurance costs the reaction is always to reduce benefits to the state's 25,000 injured workers? Why must the worker always pay the price?

□ Chancy Croft is an Anchorage attorney.

Workers' compensation bill a 'win-win' solution

By ROBERT ANDERS
and STEVE RHENBERG

For employers in Alaska, workers' compensation reform is not an issue of insurance but a matter of survival. Skyrocketing premiums for workers' compensation insurance have eliminated many Alaska businesses and jobs.

For employees, workers' compensation should be exactly that, not lawyer, doctor, chiropractor or vocational rehabilitation compensation. The system was designed to compensate an injured worker for lost time and wages and to help return an employee to productive work.

For the past 18 months, individuals representing Alaska employers and labor unions met as a combined labor-management task force to study and recommend changes in the workers' compensation statutes. The goal of the task force was to reduce the cost of workers' compensation in Alaska but not at the expense of the injured worker.

Working together to solve problems and improve the system for both in the process has truly resulted in proposals that are a win-win situation for everyone.

Under the bill, minimum weekly benefits will be raised from \$110 to \$154 while the maximum will be dropped from \$1100 to \$700. Labor believes this is necessary to better provide for individuals at the low end of the scale who most need it.

The changes proposed in the permanent



partial disability rate structure will significantly increase payments to the more severely injured workers while putting reasonable time limits on the length of time some benefits may be paid.

Employer disputes over who is responsible for paying claims can cost an employee his life savings and possessions. The proposed legislation would eliminate those possible consequences by requiring the last employer of a worker to pay claims until a dispute is resolved.

The bill would prohibit discrimination against workers who have filed workers' compensation claims. But benefits could be denied to an employee who knowingly misrepresents his physical condition prior to employment.

Management and labor agree that medical costs must be contained to achieve any significant premium reductions. Currently there is no limit to what medical providers can charge. Our proposal limits medical charges to usual, customary and reasonable fees, similar to controls used in medical insurance plans.

Medical providers would be required to

establish written plans for treatments of a multiple or continuing nature. However, the proposed legislation does not limit treatment if it's proven to promote recovery.

The bill proposes a cost-effective, unbiased method to settle medical disputes which currently result in lengthy and costly litigation.

Both management and labor strongly endorse a voluntary vocational rehabilitation program that provides effective and efficient services to the worker.

When carriers control a mandatory rehabilitation system that's tied to the claims process, as is the case now, abuses occur on both sides, fanned by a lack of trust that produces program failure.

A voluntary program which takes service provider selection away from the carriers removes it from the claims process. The end result should be more cooperation from the injured worker and those providing rehabilitation services, less litigation and lower costs.

Labor agreed with management that limits to avoid an avalanche of stress claims are necessary to prevent further rate hikes and lost jobs. The bill includes reasonable limits.

The proposed bill would also allow recalculation of benefits for recipients who move outside Alaska based upon differences in the cost of living between Alaska and the "Lower 48."

Labor believes that by supporting these and

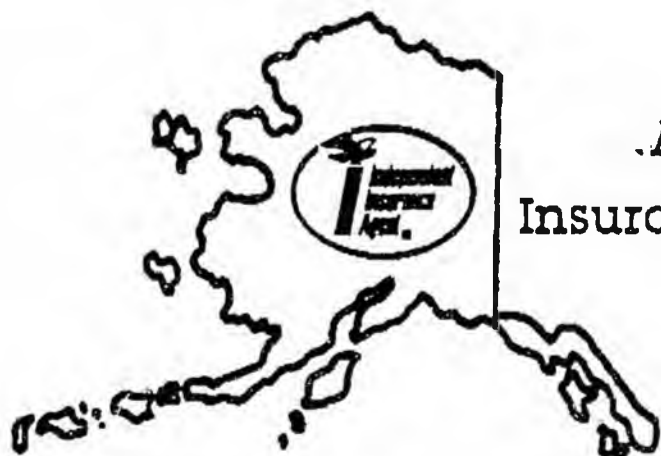
other changes a greater portion of workers' compensation dollars will be directly allocated to injured workers, and a cost effective, equitable program providing incentive for injured workers to return to work will be put in place.

Predictably, some attorneys and members of the medical profession have criticized our efforts because we focused our concerns on the litigation and disputes that are presently built into the system.

We would hope that reasonable people would put concerns for injured workers ahead of vested financial interests such as those held by critics of our efforts.

The major asset of any Alaska business is its employees. When an employee becomes injured through a work related accident, immediate and adequate medical treatment should be provided. They employee also should receive adequate compensation for lost wages while the employee is unable to work. The legislation now being considered will ensure this continues while, at the same time, making the system affordable and thereby helping employers provide the jobs on which labor depends.

Robert Anders is the field agent for Operating Engineers Local 302. Steve Rhenberg is president of BMR Company, a financial consulting firm.



Alaska Independent
Insurance Agents & Brokers, Inc.

March 11, 1988

Representative Dave Donley
Chairman House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Re: Proposed Workers Compensation Legislation (HB 352 / SB 322)

Dear Representative Donley,

The Members of the Board of Directors and the Legislative Committee have requested I write you this letter and copy all members of the House Labor & Commerce Committee & members of the House Judiciary Committee.

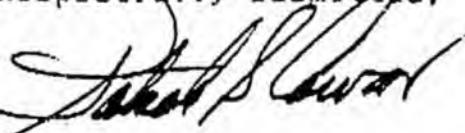
We support the efforts of the WCCA (a group of labor and management) to draft Legislation to revise the current Workers Compensation Statute. HB 352 and SB 322. This is a very difficult area, as the Workers want maximum benefits, and Management wants affordable premiums. We request you work as closely with this group as possible. They have spent numerous hours and have made considerable compromises to achieve an acceptable piece of Legislation, and even though it may need some amendments before it succeeds in reaching it's original intent, we believe that they are the best group to accomplish this goal. As the goal is to make the system better for both the employer and the employee.

We wish to request that no consideration be given to mandating reduced premium in this area. It has been tried in other states, and it doesn't work! You cannot force private enterprise (Insurance Companies) to sell a product (Workers Compensation policies) guaranteed to lose them money.

What will happen if this is attempted, is that some Insurance Companies will just stop writing Workers Compensation coverage in Alaska, other Insurance Companies will just refer all Workers Compensation policies to the Work Comp. Pool, which is presently approximately 30% higher than Standard policies. So by mandating reduction in rates, you will actually have the reverse effect in the market place.

We thank you for taking the time to read this letter. If you have any questions or comments, please let us know.

Respectfully submitted,


Patrick S. Cowan
Executive Director

On the back page (February 21, 1988) of the Metro Sunday section of the Anchorage Daily News is a full page ad stating the benefits of the proposed addendum to the Workers' Comp Law.

The vast majority of workers never expect to become injured on the job. No sane person would deliberately disable themselves. However, even though you may be meticulously cautious, you may be severely injured by a co-worker or as a result of employer negligence. If you are injured because of negligence on the part of another person and they refuse to pay you compensation for your true loss, you take them to court. Under our democratic system you can have a jury determine the responsibility for your injury and value of your loss. However, if you are injured while performing duties during employment all of your rights of financial recovery are taken away from you. The Workers' Comp Law has gradually become more anti-worker and the new proposed legislation will take away even more financial assistance from an injured worker.

It is hoped that no individual ever falls under the Workers' Comp Law. The law allows the insurance carrier to be ruthlessly harsh and cruel to the very person who should be treated with consideration and sympathy. Instead he is treated like a criminal. He is badgered and intimidated until he either caves in to their tyranny or commits his life to an all out war with them. An insurance carrier should not be able to deliberately punish a worker because he has been injured.

The fifteen points stated in the Daily News Ad, on Workers' Comp., should be addressed individually to consider their accuracy.

1. There is a negligible increase in the permanent impairment benefit. However only \$10,000. is allocated for a re-employment plan. This allocation is separate from the weekly benefit payment. When that fund is exhausted the employee only receives 60% of his spendable income. The law now allows benefits of 80% of the employees spendable income. Also, a workers pension plan will be kept current under the new law. However, if an injured worker is forced into early retirement or files for permanent disability on his pension plan, these funds, which he has paid into his pension for many years, will be subtracted from his Workers' Comp disability payment.

2. If an employee works only three months in each of the two calendar years preceding his injury, his benefits will be determined in a more reasonable manner. However, only minimum wage is guaranteed. Ask yourself, could you make your car payment or take care of your other obligations on Alaska's minimum wage?

3. The greatest financial burden to the Workers' Comp Law as it is, is the rehabilitation program. The insurance carriers have used this program to controvert claims and prolong just compensation. These totalitarian actions of the insurance carrier will not be changed under the new law. Under the new legislation an injured worker will be allowed to refuse the insurance carriers rehabilitation plan. However, the employee will be made to suffer because of his decision.

4. Any time the phrase "encourage co-operation" is used the employees basic human rights are in jeopardy. The rehabilitation counselors are working for the insurance company and not the injured worker. So when the rehab counselor tries to take your right to privacy, self-determination, and pursuit

of happiness, in reality, it is the insurance carrier who is abusing the injured worker. The new legislation will bring about even more human rights abuse.

5. The suggestion to establish minimum qualifications for rehab counselors is only a cover to convince labor they are going to be treated justly. In reality the wishes of the insurance carrier are given first priority over the injured workers best interest.

6. Physicians charge workers' comp patients the same as any other patients. The insurance carriers are trying to set fees which are much less than is usually charged. The reason behind this proposal is to discourage physicians from giving thorough and complete treatment to an injured worker.

7. The proposed new law will set up an independent medical doctor to determine an injured workers injury status. This is an affront to the medical profession. The independent doctor can give an opinion which is completely different from your family doctor's diagnosis. The independent doctor has the final say and you cannot sue him for future damage incurred by you because of his judgment. This law will only give the insurance carrier more tools to defraud an injured worker.

8. The phrase "encourage" is used again instead of "demand". The insurance carrier will demand that you take the medical treatment they dictate even if this treatment is detrimental to your health or life.

9. In many cases continued treatment of an injured worker will not promote recovery. However, continued treatment is necessary to maintain a minimum of suffering and side effects detrimental to the injured worker. The new law would terminate this treatment when it was determined that the injury itself was not getting any worse.

10. There are so many ways to subvert a discrimination law against a previously injured worker that any law of this nature is frivolous.

11. The new Workers' Compensation legislation will not protect workers from delays in implementing benefits. The reality is the law gives the insurance carrier more loopholes to controvert a claim and therefore more delays.

12. Compensation benefits, especially for permanently disabled workers should be inflation-proofed. Compensation payments are not inflation-proofed. This deficiency in the law causes slow economic death. Therefore, to reduce benefits even further when an injured worker is forced to move where his money will go farther, is geometrically unjust.

13. There is a catch-all in the new law which will eliminate all stress claims.

14. Less than one-third of the cost of Workers' Comp Insurance goes to the injured worker. Under the new legislation he will receive even less. However, the insurance carrier will receive more and the cost of Workers' Comp Insurance will not be substantially reduced for the employer.

15. "Cost-effective" and "equitable" programs are merely catch-all phrases, which means there will be less financial liability to the insurance company and more financial distress to the injured worker.

The Workers' Comp Law in Alaska has been quietly and methodically adulterated for many years. The only solution for cost-cutting in the program is to start from scratch. The uncontrolled profit-making of the insurance carriers will have to be addressed. The conflict provision will have to be addressed. Long conflict situations instigated by the insurance carrier are not only expensive, but hard on the already depressed, injured worker. The rehabilitation program should be a complete and separate program from Workers' Comp. The insurance carriers should not be able to use the program to their advantage. As the law is now, the insurance carriers can continue to badger and control the life of a permanently disabled worker for the the rest of his life. The future economic status of every worker in Alaska is in jeopardy. Even many of the unions have caved in to intimidation by the insurance carriers. If you want the truth about the Workers' Comp law ask someone who as been snared by it. Don Sasser PH: 688-2614

ALASKA STATE SENATE



SENATOR TIM KELLY
ANCHORAGE EAGLE RIVER
CHAIRMAN

MEMBERS
SENATOR BETTYE FAHRENKAMP
FAIRBANKS

SENATOR DICK ELIASON
SITKA
VICE CHAIRMAN

LABOR AND COMMERCE COMMITTEE

SENATOR RICK UEHLING
ANCHORAGE

SENATOR MIKE SZYMANSKI
ANCHORAGE

February 4, 1988

Maurun Bayliss
7774 Mayfair, #4
Anchorage, AK 99502

Dear Maurun,

I appreciate you taking the time to send me a card with your thoughts on the worker's compensation bill before us.

After receiving a number of cards, we have reviewed the flier suggesting the postcards and making comments about the legislation. I am somewhat disappointed to see that a good portion of the information given you about the legislation is inaccurate. To clarify the situation, I want to give you some additional information.

This bill was developed by a task force made up of 5 representatives of organized labor and 5 representatives of management. Both groups realized that a solution to the current problem needed to be found and that an agreement had to be negotiated. After several months of work, this agreement was reached and the same bill was introduced in both the House and the Senate to use as a starting point.

First let me highlight a few points that the bill does for Alaskan workers.

- * There is a significant increase in the payment for permanent partial disabilities. This assures that the more substantially injured workers receive greater benefits.
- * The minimum weekly benefit is being raised and the maximum weekly benefit is being reduced. Only about 3 percent of the cases will be effected by the reduction and a much larger number of workers will get increased benefits. This section will actually increase in dollar amounts, the overall wage benefits to injured workers.
- * The bill requires that pensions and benefits be included in calculating a workers' average weekly wage instead of just wages and salaries.

- * An injured worker will immediately receive benefits if an argument breaks out over which carrier will be responsible. Currently a worker can go for months without benefits.
- * Vocational rehabilitation will become voluntary under the bill. The injured worker has a choice of whether or not to enter a vocational rehabilitation program, and will no longer be forced to "play the game" just to continue receiving benefits.
- * Discrimination against a worker who has filed a worker's compensation claim will be prohibited under this new law.

There has been some other misunderstandings that need to be clarified. It has been said that the cost of vocational rehabilitation can't exceed \$10,000. In truth, only the cost of the plan for rehabilitation can't exceed that amount. There isn't a cap on the cost of the rehabilitation itself.

It is not the insurance company who must approve additional changes of doctors, but the worker's employer. Referrals to other doctors by a primary physician don't count as a change of doctors. Additional changes of doctors can be made if the worker's employer approves.

The area of only allowing 20 visits in 60 days has also been mis-stated. After the 60 day period 4 visits per month are allowed. If more than the 20 are needed, they are allowed if they are justified in the written plan.

Under the current system, less than 40 cents out of every dollar paid in worker's compensation premiums actually goes to the injured worker. The bill being worked on is designed to give more of the money to the injured workers and less money to the people in the middle. The idea behind worker's compensation is to provide a system to ensure that an injured worker gets the appropriate care and compensation. It is my intention to support a bill that is fair to both the injured worker and the employer, after all, that's who the system was designed to protect in the first place.

Hopefully, I have cleared up some of your concerns. Please be assured that I won't support a bill that I feel is unfair to injured workers.

Best Regards

Tim

TIM KELLY

PS: Any changes enacted this year would not take effect until July 1, 1988. Anyone that suffered an injury or has a claim or settlement in process before July 1 of this year would not be effected and would continue to settlement under the current law.

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THOMAS W. FINDLEY
PHILIP M. PALLEMBERG

January 11, 1988

TELEPHONE 586-3811
AREA CODE 907

The Honorable Tim Kelly
Chairman,
Senate Labor and Commerce Committee
P.O. Box V
Juneau, Alaska 99811

SUBJECT: S.B. 322/H.B. 352--Proposed amendments to Alaska Workers' Compensation Act

Dear Senator Kelly:

As an attorney representing injured workers in workers' compensation cases, I have viewed with interest the recent efforts to reform the Alaska workers' compensation laws. It has long been clear to everyone involved in the system that changes are necessary. Costs are out of control, numerous abuses are occurring on both sides of the system, and too much money is going to individuals other than the most deserving injured workers. It is even more important, however, that the rush to make those changes does not result in a bill that deprives injured workers of basic fairness, and does not achieve the needed savings. I have reviewed the amendments contained in S.B. 322 and H.B. 352, and I am appalled at some of the proposed changes. Cost savings should not be achieved at the expense of fundamental fairness.

It must be remembered that workers' compensation benefits are not handouts. Workers' compensation was devised as a trade-off--workers were allowed benefits, without regard to fault, to compensate them in part for their losses resulting from on-the-job injuries, in exchange for losing their right to sue their employers for negligence. If employers are to continue to be immune from suit, their employees have a right to receive fair and adequate benefits in return.

Clearly, the bill represents a great deal of effort by a large number of people. While much of the proposal is a constructive approach to the problem, I feel that many of the proposed amendments are discriminatory, unfair, or simply unworkable.

The bill's tone is set by its first section, which states that its intent is to assure the "quick, efficient, and predictable" delivery of benefits. While these are worthwhile goals, there is no mention of fairness--not only to the injured worker, but also fairness to the employer.

The major structural changes in the statute are in the areas of rehabilitation and computation of permanent partial disability benefits. I will first discuss my concerns about the rehabilitation provisions.

Although I have other concerns about the rehabilitation section of the bill, I am most concerned about a few items. First, under new section 041(j)(2), the injured worker is ineligible for vocational rehabilitation unless he or she requests a rehabilitation eligibility determination within 60 days after the injury. This will automatically deprive many needy workers of rehabilitation, since 60 days after their injury most employees don't know whether they will be able to return to their old jobs. Most workers that I speak to are almost totally unaware of their right to rehabilitation benefits. The average injured worker does not want rehabilitation after 60 days, since he expects to return to his previous job. It is only after the worker discovers that he will not recover fully that rehabilitation becomes necessary. The 60 day requirement of new section 041(j)(2) sets a trap for the unwary injured worker.

New section 041(i) defines "noncooperation" with rehabilitation, which disqualifies the worker from further rehabilitation benefits. The proposal needs to define noncooperation more carefully. This section could be interpreted to provide that an injured worker forfeits his or her reemployment benefits if he or she misses one meeting with the rehabilitation specialist. The statute should contain the requirement that the noncooperation be unreasonable. It is also not fair to deprive a worker of his or her benefits for failure to maintain average grades. By definition, half of all students are above average, and half are below average. It seems somewhat elitist to suppose that any student who does not maintain average grades is not cooperating.

The rehabilitation section eliminates the provision in present law that an employee's ability to return to work be judged by the availability of work in his or community, or the place of work at the time of injury. Instead, it is judged by the existence, not availability, of work anywhere in the state. Under this rule, a Petersburg resident who is injured would not be eligible for rehabilitation if a job exists anywhere in the state, whether in Petersburg, Anchorage, or Nome, which he is capable of performing--regardless of whether the job is available to him.

The new statute also eliminates any payment of temporary compensation as maintenance during rehabilitation. Employees instead are expected to live on their permanent partial disability award during rehabilitation. Maintenance would be awarded only after the worker has exhausted his or her PPD award. I find it unfair to require an employee to live off his or her permanent partial disability settlement during the period of rehabilitation. Coupled with the changes in permanent partial disability awards, this will leave many workers with no money after they complete their rehabilitation programs. This is inconsistent

with the purpose of permanent partial disability, which is to partially compensate injured workers for their permanent loss of earning capacity.

I am very concerned about the changes in permanent partial disability (PPD) awards. PPD is intended to be compensation for an employee's permanent loss of earning capacity. For the typical worker with a back injury (or any "unscheduled" injury), the existing system attempts to base compensation on actual loss of earnings. The new statute eliminates any attempt to calculate actual loss of earnings. Instead, the award is based on the arbitrary disability ratings established in the AMA Guides to the Evaluation of Permanent Impairment. Most physicians will agree that the AMA Guides are a poor way of evaluating many injuries. They are particularly arbitrary when it comes to evaluating back injuries. The gross unfairness with this system is that the arbitrary award is paid whether or not the injury affects the employee's ability to work. A longshoreman with a 5% impairment of his back may be unable to do his job, but he would receive an award of \$250. An attorney with a 40% disability may be fully able to work, but he or she would receive \$96,000. While this may meet the stated intent of "quick, efficient and predictable" delivery of benefits, it is far from fair--to either side.

Section 190 contains another curious provision. After the injured worker's impairment is rated, the rating is "adjusted" by multiplying it by an "Adjustment Factor", ranging from zero for impairments of 5% or less, to one for impairments of 31% or greater. This will result in the following payments for permanent disabilities:

<u>Impairment</u>	<u>Payment</u>
5%	\$250
10%	\$4,800
15%	\$14,400
20%	\$28,800
25%	\$42,000
30%	\$57,600
50%	\$120,000

While workers with large impairment ratings will receive large sums of money, the new schedule, for some reason, sharply discounts the awards to workers with small disabilities. If a worker with a 5% impairment is onetenth as impaired as one with a 50% impairment, it is not clear why the second worker should receive an award four hundred and eighty times as large. The use of the "Adjustment Factors" to discount small awards is discriminatory.

It is interesting to note that, at the same time that Alaska seems to be moving toward a purely scheduled system, the general trend nationwide is away from such systems. This state would do well to heed the example of other states such as Florida, which abandoned a scheduled disability scheme when it found, according to Professor Arthur Larson, the national authority on workers' compensation, that 79 percent of administrative and legal time

was consumed arguing about disability ratings. I predict that, if this section is adopted, there will be just as many disputes about disability ratings as there are now about earning capacity.

Another provision of the bill which I find unduly harsh is the two year limit on temporary total benefits contained in new section 185. While benefits generally are not paid for more than two years, there are instances in which an injured worker has not fully recovered in two years. Occasionally, an employee's condition is not properly diagnosed right away. If an employee needs major surgery, or complications develop, he or she may well be left destitute, while still under medical treatment.

Under new section 095(k), medical disputes are to be submitted to a physician selected from a list kept by the Board. The determination of this physician is presumed to be correct, in the absence of clear and convincing evidence to the contrary. In many cases, all three doctors may be on the Board's list. There is simply no reason to decide a case solely on the basis of the opinion of one doctor who has seen the worker just once. This is just another way of making the process more arbitrary, and less fair.

Under new section 020, a worker is totally ineligible for benefits if he or she misrepresented the worker's physical condition at the time of hire, and the employer relied thereon. It would appear that, under this section, a worker who denied a previous back injury would go uncompensated if he or she aggravated the previous injury on the new job. The consequences of this section for many workers will be disastrous.

In many industries, such as the logging industry, it is very difficult, if not impossible, for a worker with even a minor back injury to return to work. No logging company, if given a choice, will hire a worker with a back problem. Under this section, a logger with a prior back injury will have to make a choice between mentioning his injury, and probably not getting a job, and not mentioning it, and forfeiting his workers' compensation benefits if he is reinjured. While the new statute does contain a toughened anti-discrimination section, such provisions are very difficult to enforce. It is usually impossible to prove discriminatory intent.

This section illustrates the peril of assuming that labor interests can speak for injured workers. A union worker, dispatched through a hiring hall, would not be harmed by this section. The employer could not discharge the worker if his preemployment health questionnaire reflects an injury. A nonunion worker, such as a logger, does not have this protection.

New section 220 revises the procedure for calculation of compensation rates. Under section 220(1), which is unchanged from existing law, rates are based on wages during the two years preceding the injury. Under existing law, if those wages do not

fairly represent the employee's wages at the time of the injury, the Board may adjust the wages by considering the employee's work and work history. This "escape hatch" has been substantially enlarged in recent years by the Supreme Court. The new section would limit this "escape hatch." The rate could only be adjusted if the employee had no earnings, or was "voluntarily" absent from the labor market for 18 months or more during the two years. I can see no justification for limiting this section to voluntary absences. The main justification for the "escape hatch" of section 220(2) has always been to allow the Board to adjust the compensation rate when the employee was absent from the labor market for a portion of the previous two years due to previous illness, disability, or other circumstances beyond the employee's control. Under the new language, such involuntary absences from the labor market would not qualify an employee for an adjustment. This cannot be justified.

Under new section 265, an employee is presumed to have reached medical stability if he or she goes 45 days without objective medical improvement. Medical stability becomes all the more important under the new rehabilitation provisions, since it marks the point at which an employee's temporary benefits end. While the standard of objective medical improvement has some merit, 45 days is much too short a time to judge stability. Many workers go more than 45 days between follow up visits after major surgery. It is not fair to throw an injured worker back in the labor market simply because his injury is slow to recover.

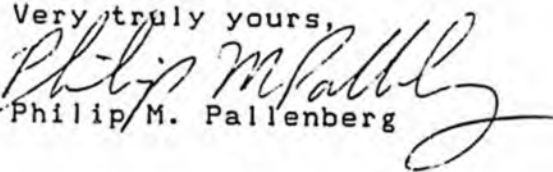
I would suggest four basic reforms which would substantially cut the costs of the system. First, lower the maximum benefit, as S.B. 322 and H.B. 352 do. Second, restore the adjustment of benefits for out of state claimants, as S:B. 322 and H.B. 352 do. Third, return the calculation of compensation rates in section 220 to what the Legislature originally intended, which is that the rate be based on the employee's historical wages. Finally, and most importantly, rewrite the vocational rehabilitation provisions to require a quick, fair determination of an injured worker's entitlement to rehabilitation. Too many workers draw temporary benefits for many months or even years while waiting for a rehabilitation plan to be completed. I can provide more specific proposals along these lines if necessary.

Clearly, the present system has major flaws. Too much money and time is expended in litigation. Too much money is wasted on meaningless rehabilitation. Too many workers are being financially devastated by injuries while other workers receive excessive benefits. The existing statute is an attempt, although not an entirely successful one, to compensate injured workers for their lost wages, and to return them to work. The proposed bill would abandon that effort, and instead pay settlements based solely on the impairment of the body--without regard to earnings. We must not let the need to cut litigation costs and promote certainty eliminate fairness. Fairness, after all, means only that benefits have some relation to what a worker has lost as a result

January 11, 1988

of an injury. That is what the system is supposed to do--and can do, if we are willing to make it work. I sincerely hope that this Legislature will not be remembered as the one which stripped injured workers of their right to be fairly compensated for their injuries.

Very truly yours,


Philip M. Pallenberg

cc: Governor Cowper
Members of the Senate Labor and Commerce Committee
Members of the House Labor and Commerce Committee
Senator Duncan
Representative Hudson
Representative Ulmer

Dear Senators and House Members:

This letter is in regard to House Bill 352 which proposed changes in the Workers' Compensation law. On page one of this proposal at line 14-15, it states "The legislature declares that the Workers' compensation laws must not be construed by the courts in favor of any party." This part denies the worker to take any dispute to the courts. Has the legislature found our courts wanting or needing.

Page 6, line 5, part E states "an employee is not eligible for re-employment benefits if" (see part 2 line 11) the employer has been previously rehabilitated in a former workman's comp claim and returned to work in the same or similar occupation in terms of physical demands." My question is, if the injury is clearly a new injury, why do you not want to give the injured worker his right to re-employment benefits or have you guys decided to have this as a once-in-a-lifetime benefit. What a sorry commerce kissing plan.

Page 7, line 14-19 - If an employee is in the re-employment part of workmen's compensation, an employee will be considered non-cooperative if he fails to maintain average grades (C) in any schooling they propose, and if you don't maintain an average C grade, you are history. Any one who can see through a ladder can see that this new piece of legislation is definitely not for your average worker. If the average construction hand could hold down average graded (C), or better, he darn sure would not be a blue-collar worker.

Page 9, line 4-6, the cost of the re-employment plan incurred under this section shall be the responsibility of the employer, but may not exceed \$10,000. It will take a lot more than \$10,000 to re-employ a man physically incapacitated, especially if a limb is missing.

As the law states, a person doesn't even have to have a degree to be a rehabilitation specialist. I believe they should.

Page 9, line 26, your definition of "employability" is an amazing snow-job designed to dump the worker off workmen's comp. You are aware of this and I plan to make the workers and voters in my voting district aware of this in the next election. Rest assured of this fact. I will also organize other voters in other districts come next election.

Page 10, line 6, if you are injured and on workman's compensation and a job in Timbuktu is available, you must take that job - 3,000 miles from home, family, friends, future union benefits, relatives, possessions, or whatever, or you are off workman's compensation. If by now you have discovered I am mad ----- you are right!

Page 12, line 7-9, this next one really blows my mind. The bill states "the employee may not make more than one change in the employee's choice of attending physician without the written consent of the employer." The injured worker has never been the one who is doctor shopping. It has always been the insurance companies who search (doctor shop) for a doctor who will give them a favorable report or diagnosis and the insurance companies pay well, and I mean well if this new found prostitute will examine you and report back with the right words. They are paid \$700 to \$900 for a 45-minute exam of the injured worker, and if they don't give the insurance company the right report about the injured worker, they are no longer used by the insurance company for independent medical exams. They then are back into honest medicine.

You may not know it, but there are only a few (10 or 12) doctors in town who will prostitute themselves and these are used a lot by insurance companies. Most doctors will give an honest IME, but that is not what the insurance company wants.

Scenario: A man is injured and is sent to town and is usually coerced into seeing the company's doctor or the one recommended by the insurance company. Then he can make only one more change and then must get permission from his past employer (who by now is mad cause this man got hurt) and will not get their permission and must stay with his second choice irregardless of the doctor's field of expertise and specialties.

You are either ignorant or you think the voters are ignorant if you think we will take this piece of legislation as is. Your opinion of the general public must be at a new low if you think we believe this new law is for the injured worker. Don't forget who you are supposed to represent.

Page 13, line 8-9. "The initial treatment plan may not include more than 20 visits in the first 60 days." Why limit the visits to 20 the first 60 days and 4 per month in the next month unless you have completely disregarded the injured worker's needs and rights to fair treatment.

Page 13, line 15-29, more money will be spend by the insurance company on IME than the employees will spend on treatment. And, yet, the insurance company is screaming that too much money is spent on doctors. What a farce!

Page 14, line 1-3, the employee must submit to "[ANY]" examination by the 10 or 12 doctors (prostitutes) or his compensation is suspended. These exams are electro-milogram which is where they stick 2 inch needles into your muscles and they turn the electricity on and see if the muscle moves, which is a hideous thing if a person is afraid of being shocked. And, if needed, the electricity can be turned up to make you do an uncontrolled dance if needed. Usually one visit is all that is needed to get the injured worker to drop workers compensation and find self-help.

Page 14, lines 17-22, here you have limited the injured worker to going to doctors who are average in price for services, but no limit was put on IME doctors. Whose side are you on anyway? All you want is average care for the injured worker.

Page 15, line 1-13. This bill states that if a dispute between the injured worker's doctor and the insurance company's doctor (prostitute) exists, the insurance company's doctor will be presumed to be the correct one. My, my, my, does our prejudice show! You are so narrow-minded and prejudice that a gnat could sit on your nose and kick both of your eyes out.

Same page next " s, same paragraph. You have the audacity to write into this bill these words, "a person may not seek damages from an independent

medical examiner caused by the rendering of an opinion or providing testimony under this subsection, except in the event of fraud." If IME are caught prostituting for the insurance company with a false statement, they will plead ignorance which doesn't constitute fraud.

You have made it an air-tight case for the insurance company. Shame on you! If you had a part in making or drafting this bill, then plead ignorance-----it works for the IME doctor, but don't vote for it.

Page 16, lines 9-11. It reads as follows: "Subject to an employer's or employee's burden of proof, a finding of fact made by the board as a part of a compensation order is conclusive if supported by any evidence." What have you got against the court system in Alaska? Are you afraid of judges and jury's decisions? Our court system may not be perfect at times, but its better than a group of hand-picked workman's comp board members who are also slanted and prejudiced in favor of big commerce and insurance companies.

Page 20, lines 21-23. "Failure to achieve remunerative employability as defined in AS 23.30.04(n)(7) does not, by itseif, constitute permanent total disability." In my mind and to anyone else who has been on workman's compensation, we know what your motives are.

Jerry Brinkley
4106 Northwood
Anchorage, Alaska 99517
Phone: 248-0266

February 2, 1988

Dear Senators and House Members:

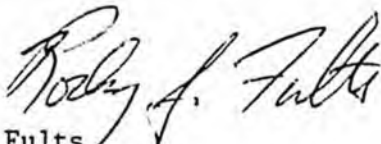
This letter references the proposed new Workman's Compensation Bill (Senate Bill No. 322 and House Bill No. 352). After attending the recent teleconference hearings and testifying before the committee at the public hearing held in Anchorage on January 29, I decided to send each of you a copy of my speech.

I am not a public speaker, nor am I a politician. I am an injured worker who has been through some of the bad faith methods the insurance company practices. This bill made me so mad that I recently registered to vote and have joined a group that will campaign against anyone who votes for the bill as is.

The proposed bill has been tailored to benefit insurance companies and employers, while the employee is often left in the cold. I feel you were elected to serve as the people's voice and to represent the public interest, not the concerns of big money. I am asking for your support in ensuring that worker's needs will be met.

In closing, please feel free to call me if you have any questions or feel I am off base in my statements. If you have already decided to vote against this bill, please disregard this letter. In any case, thank you for your time.

Sincerely,



Rodney Joe Fults
6311 Debarr Road, #124
Anchorage, Alaska 99504
(907) 333-2576

Hello. My name is Rodney Fults and I am speaking as an injured worker that knows the Workman's Compensation System. I've been through it... The reason I got involved with this bill? I read this in the paper....

Worker's Comp committee has office
The Worker's Compensation Committee of Alaska, a statewide employers' organization, has opened a headquarters office in Anchorage. According to a spokesman of the group, WCCA's major goal is the revision of workers' compensation statutes to lower insurance costs while better serving injured employees. The address is 2204 Cleveland Ave., 99517. The phone number is 248-7630.

Well, I went to the Legislative Affairs Building, got a copy of the bill, and read it when I got back to my truck. After I read it, I got out of the truck and walked back to see if I had dropped part of the bill, because I couldn't find the part that "better served the worker."

FIRST OF ALL, I would like to comment on the part that states "the board poses the greatest possible authority in the exercise of its fact finding responsibilities and that the board's decisions be conclusive if supported by any evidence." This means you can't take it to the courts if you feel you've been wronged. The words "any evidence" could mean "wrong evidence" or "bad evidence." This is a clear violation of the 14th Amendment of our constitutional rights...the right to due process. What's wrong with the WCCA? Don't they have any faith in the Alaska Court System? They trust twelve board members but not twelve honest people and a judge? I feel this gives the Comp Board too much power. We need a check and balance system.

SECOND...the part of the bill that states changes of benefits according to what state you live in...I believe this will encourage out-of-state hiring, especially for self-insured companies. It would be cheaper if you had a job going and some worker from Mississippi was injured than if an Alaskan worker was injured. Alaskans would be discriminated against more than they are now. Imagine living in Anchorage and having to get a post office box in Seattle so you could get a job in Alaska...

THIRD...The Independent Medical Exam...This bill talks about cutting medical cost, yet at the request of the insurance company an injured worker must go to a doctor, hand picked by the insurance company, for an exam. This doctor is paid very well--\$500 to \$1,000 for 30 to 45 minutes. If the doctor doesn't give the report the insurance company wants, they discontinue future use of this doctor for Independent Medical Examinations. If he gives them the report they want to hear, they've found themselves a "new friend." As a normal doctor visit only averages \$50.00, I feel this should be looked at as a bad faith method.

FOURTH...Litigation...Litigation is brought on by the insurance company's lawyers to try and get out of the responsibility, not the injured worker trying to get on workers compensation. Defense lawyers are paid two to three times the amount the lawyer for the injured worker receives. Lawyers fees for the injured worker have to be okayed by the Comp Board. If they are not okayed, they will not be paid. The defense lawyers, on

Section #9
Page 1
House Bill
#352

Sec. #21
Page 19

Sec. #10
Page 13

the other hand, do not have to be okayed and they can make up any excuse to litigate a case--literally "starving out" the injured worker in the process. This should be changed to where all lawyers fees need to obtain approval from Board. This needless waste of money should be stopped.

FIFTH...I would like to see a breakdown in cost. What are the litigation costs listed under? Rehabilitation? Medical? Wages? I also feel that before anyone votes on this bill, insurance companies should show their profit margins for last two years as premiums have gone up 40 to 60% in that period. A lot of costs seem to be hidden or not monitored. As one committee member said in the public hearings in Juneau last week..."they have a difficult time getting that information." If only 30 cents of \$1.00 goes to the injured worker, I think we should know exactly where the rest goes...

SIXTH...The subject of a Rehabilitation Specialist...They want to cut cost, but yet they speak of hiring more people through the State. This would not only give one person too much power over another person's future, but would also add cost to the State. I feel rehabilitation should be a voluntary program. This certainly needs to be re-examined.

Sec. #6
page 4

SEVENTH...Cooperation...If you don't cooperate with the Rehabilitation Specialist you lose your benefits. That means if you don't agree with what they say about your future, you're screwed. If you don't attend designated programs, your benefits stop. Does this mean if a person gets the flu and misses a week of school, they're out of the program? These things are worded too vaguely. It leaves too many loopholes that are not to the injured worker's advantage.

Sec. #6
page 7

EIGHTH...Requires the most recent employer to make the compensation payments if there is a dispute of liability. This should not even be in this bill. There is already a law that covers the "last injurious exposure". All this would do is discourage anyone from hiring you if you've ever been injured before.

Sec. #19
page 17

NINTH...Section 9 deals with a "written plan for continuing medical treatment" within seven days of treatment from your attending physician. I don't know about you, but I'm not a damn car going to the body shop for an estimate. Doctors don't always know what you're going to need in a week.

Sec. #9
page 13

TENTH...I don't agree with this bill, but I do agree with a maximum of \$700.00 per week. I don't know many workers who can't make it on that amount.

Sec. #21
page 18

In summary, I've listened to several people in Juneau stand up and beg for the legislature to pass this bill "as is" because the WCCA worked so hard putting it together. Hard work isn't the issue here. Jesse James worked hard, but that doesn't make what he did right. I've also heard Workman's Comp referred to as a runaway train. You don't stop a runaway train by shooting the passengers.

Next time the WCCA decides to write a bill of this nature, I hope they talk to the workers and ask for their input.

Rene Bales
4859 Wesleyan
Anchorage, Alaska 99508
February 5, 1988

FEB 10 1988

Dear Representative:

We all agree the system is not working. We all agree too much money is spent to keep the present system. But a wrong doesn't make a right! Things that need to be changed should equally be done for the good of all and not the good of some. Injustices have to stop. For by whatever name they are called they do exist and are causing a lot to hurt. I for one would like to see costs down but not at the expense of the worker and family. They are the real victims. The insurance raises premiums, the employer pays, but what does the worker do when he is injured, unable to work or make wages that are not able to put food on the table? It is well and good to say that people are using the system for monetary gain, but lets be sensible, who stands to gain by all of this, surely not the injured worker. If you really check claims you will see that most of the money goes to the doctor, rehabilitation, therapy and defense attorney. Only after people can't afford to have to hold out any longer they submit and accept too soon and settle. I know of many of such cases.

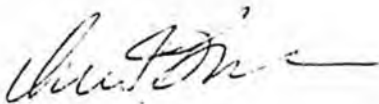
It is a known fact that doctors are being influenced prior to doing an IME requested by defense attorneys. They are told what they want to hear and some doctors very unprofessionally comply even at the point of asking such questions as how much money the injured workers' spouse makes, why are they doing this (meaning going to hearing). Vocational Rehabilitation doesn't help. They go through the motions but they know there is no industry or job that will employ injured workers with limitations. They collect all that is in the kitty and more and after harrassment, lies, etc., they throw you to the wolves. As for the word stress, you can be sure that by the time they get through with you if you were a normal, unstressed person, you aren't after they are finished. Some doctors treat us like criminals and by the time vocational rehabilitation gets through with you we are nothing. But that's OK with them. They can blame stress that may have been pre-existing and try to get away from the main issue that you are injured. You are not OK and will never be again. Your life has changed and it is easy for those who are not in your shoes to say forget the continuous harrassment. The injured worker has trouble getting an attorney when by law they only get 10% on top of the benefit awarded. Thus very few attorneys who are willing to stay in workers' compensation cases because there is little money in it but the defense attorney have the right to

set fees and they can afford to spend unlimitel amounts to find reasons as to why claimants shouldn't receive the money due him or her even after proof of injury. IME's only serve for the purpose of finding a willing doctor to lie or twist the truth and we have quite a few in this town that are doing just that. If this situation exists now it can only worsen by giving insurance carriers power without repercussion when mistakes are made deliberately. It is ironic that insurance companies want to take steps to stop doctor shopping by workers, for the reverse is true. IME's are intended for just that and injured workers are usually being sent to them even after medical proof on disability. In my particular case the doctor's deposition in my favor I ended up paying for \$660 for wasn't even introduced.

I go on with life for me it will never be the same. I have lost 6½ years of my life, the years when I should have been the happiest. I feel like an old lady already unable to do the things I like. All they can say is chronic pain - Give me a break! Why would I want to not work? The money I get now isn't even enough to go out to dinner or pay for the help in my house that I need. I was a very happy energetic person before. I enjoyed work and independence. I have nothing to gain from this except misery. I would gladly give you the \$35.00 a a week if I could gain my health back.

Sincerely,

RENE BALES



February 5, 1988

Dear Representative Sund:

You have before you an important piece of legislation regarding workers compensation. If it passes it will go a long way in reducing costs and taking more appropriate care of our injured workers instead of all the doctors, lawyers, chiropractors, and rehabilitators the current system is designed to reward. I would strongly urge you to support HB 352 in an effort to stem the losing tide of worker compensation premium costs in Alaska. It has the broad support of management and labor, and even though not everybody is happy with it, I believe it will do the job we want our comp system to do for us.

Please support the effort put forth by labor and management, and help our economy at the same time.

Thank you.

Respectfully,



Larry Peck
3136 Doil Drive
Anchorage, Alaska 99507

FEB 22 1988

Taylor

CONSTRUCTION SERVICES, INC.

DESIGN • REMODELS • ADDITIONS

Representative John Sund
P.O. Box V
Juneau, Alaska 99811

Feb. 16, 1988

Dear Representative Sund:

I'm writing as a small business person who is trying to stay alive in these tough economic times. While we are able to bring most of the overhead cost for our business under control the one that needs to be brought back to a reasonable cost can only be corrected with your help of legislative action.

Workers Compensation Rate for construction has risen over 50% for carpentry in the last two years - while the construction industry has been the hardest hit industry in the State's recession. It is literally forcing companies to get rid of any employees.

On top of the rising cost, in my business I have been able to watch the devastating results of a bogus claim by an employee who was hurt on the weekend working on his own home. He made more than any of the carpenters which I had working because of the tough economic times. Tell me, what incentive did he have to go back to work. Especially when he moved back to North Dakota and lived comfortably on the income from workers compensation paid at the Alaska level. After a settlement in March because he can never work as a carpenter again, I recently got word that he is framing in Oregon now. So take the 50% increase of workers compensation for carpentry and add a modification factor of 1.39 because of the incidence above.

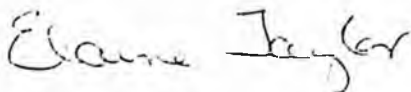
I understand that the major opposition to the compromise bill negotiated between labor and management is coming from the chiropractor community and the claimants attorneys. I can certainly see why they have an interest in the bill as the people whose pockets are affected but what about those who are paying for the cost and are being forced out of business for this large contingency at the feeding trough. I would love to have someone pay for me to see a chiropractor every week. It is a real addiction that makes one feel relaxed. What is asked of the bill is no more than accountability by those who are paying for the cost. It has always been my understanding that a profession is

one who polices its own profession. The fact that there are such documented claims of abuse by some chiropractors only shows that they as a profession have forced others to monitor because they are not willing to do it themselves.

The recent report to the Senate & House joint hearing of the Labor and Commerce Committees the insurance industry testified without the bill now before the Legislature that there would be a guaranteed increase of workers compensation of 10% to 30%. Small business people cannot keep biting the bullet of these increases so that special interest groups such as the chiropractors and claimants lawyers can be assured of their present level of living. If two groups of such diversified interest as labor and management can make a compromise - and these are the two groups that pay the bills and receive the benefits- than those who are living off the shirt tails need to step back so that the other two entities can exist.

I urge you to take quick action to protect Alaskan jobs and businesses by swift action on the labor-management workers compensation reform bill.

Sincerely,



Elaine Taylor

FEB 22 1988



OK Lumber Company, Inc.
Building Supply Center & Hardware

February 7, 1988

P. O. BOX 10449
FAIRBANKS, ALASKA 99710
(907) 457-6270
FAX (907) 457-3122

Representative Dave Donly
Pouch Y State Capital
Juneau, Ak., 99811

Ref: Workmans Compensation HB 352

Dear Mr. Donly,

Thank you for sending House Bill 352 and Memorandum,

Section 4. AS 23.30.020 has some great loop holes for the attorneys to fight over to get a greater piece of the "workmans compensation pie" that was assigned to protect the employer and the employee.

If you will keep intact only item (b) with a period after the word "chapter" and eliminate items (1) and (2) that are immediately after (b), you will have a "cut and dried" piece of legislation.

The fact remains clear in my mind, for the protection of all employers and all the honest employees, who work for those employers who are participants in the WORKMANS COMPENSATION ACT, should NEVER be at risk, due to any employees who lie by filling out a fraudulent application to get employment.

The excessive costs to the employers is what the jest of the re-assessment to this act is all about. Make sure that you write this in a laymens language that can be readily understood by all, and not a preparation for a "feast" for the attorneys to gorge on in the courts!

Sincerely Yours,

Angie Kruckenberg
Angie Kruckenberg

I am sending copies of this to every one that I had sent my original packet providing the evidence of the frauds that we have experienced in our firm. Plus, to those who I feel need to know.

Copy to:

John Sund
Alaska State Legislature
P. O. Box V, Capitol, Room 122
Juneau, AK 99811



**Risk and
Insurance
Management
Society, Inc.**

FEB 22 1988

Alaska Chapter

February 18, 1988

President
HOWARD P. CUTTER
1835 South Bragaw, MS 512
Anchorage, Alaska 99512
(907) 265-8172

TO: Representative John Sund

Vice President
MIKE KLAWITTER
Risk Manager
North Slope Borough
P.O. Box 63
Barrow, Alaska 99723
(907) 852-2611

SUBJECT: HB-352, Workers' Compensation

Secretary
GAIL J. JONES
Sr. Insurance Specialist
Alyeska Pipeline Service Co.
1835 South Bragaw, MS 512
Anchorage, Alaska 99512
(907) 265-8798

Dear Representative Sund:

I am writing to you as President of the Alaska Chapter of Risk and Insurance Management Society. Our organization represents about twenty of the largest employers in the State of Alaska, such as State of Alaska, Municipality of Anchorage, Alascom, Enstar, North Slope Borough, Sealaska, Alaska Railroad Corporation, and Alyeska Pipeline Service Company. Employers who are members of RIMS employ more than 36,000 people in the state.

Treasurer
IKE CHARLTON
Risk Manager
University of Alaska
Bunnell Building
Fairbanks, Alaska 99775-5580
(907) 474-7428

Workers' compensation rate increases during the past three years have significantly impacted the cost of doing business in the state, whether it be private or public entity. A couple of examples are that oil and gas pipeline operations have jumped from \$3.09 to \$10.83 in 1988, or 251%. Drilling operations have gone from \$11.93 to \$30.26, or 153%. Milliman & Robertson (actuaries) have indicated we could expect a 10-30% increase in 1989 if legislation is not enacted.

Society Director
VICTORIA RATCHYE
Risk Manager
Enstar Natural Gas Co.
P.O. Box 190288
Anchorage, Alaska 99519-0288
(907) 264-3753

Many employers, labor representatives and others have spent many hours in 1987 and 1988 working on legislation that would reduce the cost of workers' compensation in the State of Alaska and yet would not deprive the injured worker of his/her right under the law. Although H.B. 352 does not correct all the major problems with the current law, it does correct some of the high cost areas.

There are special interest groups who do not like the bill, i.e. plaintiff attorneys, rehabilitation counsellors, and chiropractors. Labor, the recipients of the benefits, and management, the people who pay the bills, have a consensus agreement on the bill. Therefore, it is paramount you give primary consideration to the majority involved in the process and not the loud minority.

The Board of Directors of RIMS strongly endorse the bill and request your affirmative vote in the committee and on the floor.

Yours truly,

H. P. Cutter, President
Alaska Chapter of RIMS

LARRY BUCHHOLZ DBA I.D.E.A.
Injured or Displaced Employees of Alaska
801 West Fireweed Lane, Suite 200-B
Anchorage, Alaska 99503
(907) 273-3730

February 19, 1988

Dear Friend:

The attorneys who represent injured workers for workers' compensation claims in Alaska have asked me to contact you to inform you of how proposed legislation amending the Alaska Workers' Compensation Act will affect your interests.

The proposed legislation reduces all the wrong things -- it reduces your medical benefits, your time loss benefits and your vocational rehabilitation benefits.

Please complete the enclosed card and mail today. Time is of the essence, because introduction of the proposed legislation in the Alaska Legislature is scheduled to occur on February 26.

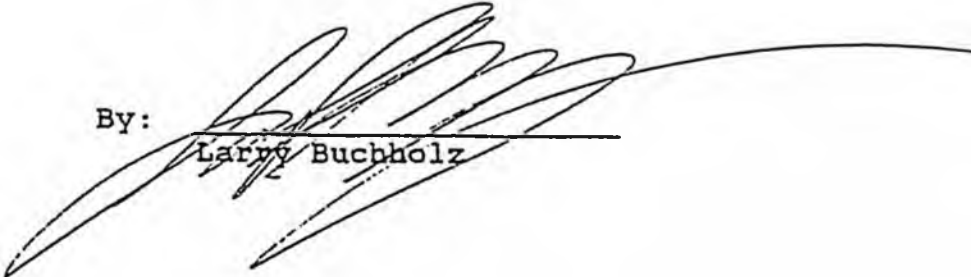
You may also object to particular aspects of the proposed legislation by telephoning the Legislative Affairs Office (phone number 561-7007) and dictating a free public opinion message to any or all legislators and the governor.

By protecting the interests of injured workers, you will protect yourself. Thank you.

Very truly,

I. D. E. A.

By:


Larry Buchholz

LB/jce

FEB 24 1988



Family Chiropractic Center

SUITE 301 • 615 EAST 82nd AVENUE • ANCHORAGE, ALASKA 99518
TELEPHONE 349-8922

February 19, 1988

Senator Tim Kelly
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Kelly,

I read your response to one of my patients concerning the new workers' compensation bill. As a doctor, I agree the bill needs revision for cost effectiveness. There are clinics that intentionally abuse workers' comp. cases with excessive billing visit recommendations, there are workers who would rather collect than work and there are insurers who don't cover those with truly severe injuries. The problem lies in that I don't believe the new workers' comp. bill, which gives more control to employers and insurance companies, handles the problem.

Consider the following as part of the solution. We have a Workers' Comp. Board to handle disputes of cases, why not have a Workers' Comp. medical panel to review the need, excessiveness of care, lack of care, rehabilitation, parameters, etc. The current I.M.E. structure is weak, lacks communication and promotes animosity between parties because some doctors become well-paid hired guns for the insurance companies, being paid \$500 - \$1,000 for a fifteen (15) minute exam and writing a report.

If you are really interested in solving the problems, my suggestion would create a definitive structure (M.D., D.C., Psychologist, Rehab. specialist) that could evaluate and set a logical plan as far as the injury, disability, and proper care aspects of each case that exceeds whatever guidelines are reasonable.

Thank you for your attention to this matter. I look forward to a bill that is truly fair to all.

Sincerely,


Avery N. Martin, D.C.

ANM/k

cc: all Representatives

for job - write letter - Andy - ask me
what the terms of his settlement were
How much does he receive per month?

Andy Mischenko
HC 89 Box 608
Willow, Alaska 99688
February 29, 1988

John Sund
P.O. Box V
Juneau, Alaska 99811

Dear Mr. Sund:

I am a workman's compensation recipient involved in a serious problem.

To begin with, my name is Andy Mischenko. I am 45 years old, married, and have four children. I have resided in the Talkeetna, Ak. area since moving to this state in 1968. My wife has lived in the Talkeetna area since 1960. I have been on medical retirement from the Operating Engineers Union Local 302 since my back injury in 1984. I have had three back surgeries and have been informed by my doctors that chances are I will require another surgery. Needless to say, I can no longer return to this or any other type of strenuous work.

Since my wife and I decided many years ago to stay in this area we worked hard, constructed and paid for our home, purchased property, and invested in another commercial building, which we now lease. To acquire what we now have meant that I had to work in remote locations, primarily Prudhoe Bay, on the pipeline, Barrow, ect. This, of course, was a necessity due to the fact that there were no steady, well-paid jobs in my craft in the Talkeetna area. Anchorage was out of the question because its simply to far away to drive back and forth to work.

This is where the problem presents itself. My insurance carrier, Scott Wetzel Inc., has been pushing for a settlement and a rehabilitation plan, which I would be more than happy to resolve if they would be reasonable. Scott Wetzel Insurance and their attorney are attempting to rewrite the Workman's Compensation Laws and set a new president by forcing my family and I to uproot everything we have worked for, leave our house and friends, and move to Anchorage. I know that most Americans abhor South Africa's policy of apartheid by relocating people where the government feels like, and I certainly hope we are not coming to that. So, in response to this threat of relocation, I willingly offered to:

- 1- Taking into consideration my physical restrictions, I offered to take a job at Prudhoe Bay or other remote site which paid enough to make a living for my family and I under the same conditions I had worked before
- 2- I had presented the insurance company as well as the Workman's Compensation a self-employment plan which is a viable part of the Workman's Compensation laws.
- 3- I would be willing to work in the Talkeetna area if a job was available that would make a living for my family and I.

Needless to say, Scott Wetzel Insurance Company has given the above mentioned propositions little or no consideration. I would like to further add that the self-employment plan which I presented was unanimously accepted by all three of my Rehabilitation counselors, my doctors, as well as all the personnel at the Virginia Mason Pain Clinic which I attended last year.

On the 18th of February, 1988, a hearing was held concerning my rehabilitation status. At the beginning of the hearing, my attorney, Mr. Richard Wagg, asked one of the Workman's Compensation Board members to be excused due to the strong evidence of a conflict of interest. This evidence was based on the knowledge that this Board member is a mutual friend of the insurance company's attorney and that this attorney had the Board member in her work resume. There was further proof brought out that the

insurance company lawyer and Board member were working together on material to be presented to the Legislature in order to change Workman's Compensation laws. Needless to say, Mr. Wagg was overruled and the Board member was allowed to hear my case. I believe this disregard for the possibility of a biased decision is highly unethical.

I believe that in this insane rush to save the Insurance Industry as well as big business money, the intent and purpose of the Workman's Compensation program and its recipients are being jeopardized. We, as injured workers, are not represented by a powerful lobby group. Thus, I feel that before the legislature passes further crippling laws there should be an input from the injured people who will be the ones most effected by these laws.

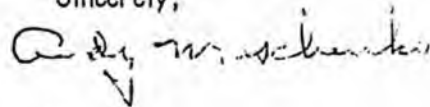
It is very apparent to me as well as many other Workman's Compensation recipients that the present Workman's Compensation laws pertaining to retraining and rehabilitation are not being, and will not be, administered adequately as long as the arm-in-arm relationship between members of the Workman's Compensation Board and insurance industry representatives is allowed to proliferate. Once again, I point to the intent and purpose of the Workman's Compensation Program and ask the Administration to reconfirm the atmosphere of fairness in the decisions made by the Workman's Compensation Board members, collectively.

I believe that if insurance companies and employers spent as much time and money on safety measures in the work place as they spend on lobbying for unfair laws and hiring lawyers to fight Workman's Compensation recipients we would all be better off.

Once again, I ask the Administration and Legislators to allow input from the injured workers who depend on a fair Workman's Compensation program to allow them to return to work as productive members of society. This will only happen if we maintain a strong rehabilitation program.

Any help or advise you can offer will certainly be appreciated. Thank you

Sincerely,



Andy Mischenko

Ph. 733-2357

Andy Mischenko,

Applicant,

Richard L. Wagg,

His Attorney,

vs.

Kodiak Oilfield Haulers,

Employer,

Scott Wetzel Services,

Adjuster.

HC 89 Box 608
Willow, Alaska 99688

1500 W. 33rd, Suite 110
Anchorage, Alaska 99503

4300 B Street, Suite 600
Anchorage, Alaska 99503

741 Sesame Street Suite 1A
Anchorage, Alaska 99503

HC Box 608
Willow, Alaska 99688
March 31, 1988

Representative John Sund
2504 2nd Avenue
Ketchikan, Alaska 99901

Dear Representative Sund:

I certainly was happy to receive your reply to my letter concerning my Workers Comp. case.

In response to your question concerning my settlement terms, I will try to be as brief as possible. I received a decision from a Workers' Compensation hearing that was held February 18, 1988 concerning my rehabilitation status. The outcome was as follows:

1. According to Workers' Compensation Board, bi-weekly payments would be made to me until the sum of between \$50,000-\$60,000 was used up.
2. As far as the actual rehabilitation, the Board assigned me to go to work on a nonexistent job; as ludicrous as this may sound, this is the morbid truth. You can verify this through my Comp. attorney, Mr. Richard Wagg, at (907)258-7077 or 1500 West 33rd Avenue Suite 110, Anchorage, Alaska 99503.
3. The insurance company and Workers' Compensation Board failed to address or recognize the fact that in April 1987 further MRI tests on my lower back clearly showed further disc herniation as well as an unstable fusion from a previous operation.

As I stated in my previous letter, I would be more than willing to return to work once my medical situation could be pronounced as stable. I have also requested help in pursuing a self-employment plan, which I have submitted on two occasions and which has been highly thought of by the majority of medical and rehabilitation people involved in my case.

The unanimous concensus is that I cannot return to work as a 302 operating engineer or to any other construction-related job at which I am trained or skilled. The severity of my back injury and the resulting operations prevent this. The Workers' Compensation Board, as well as the insurance company involved, have given little or no consideration for my self-employment plan,

have given no consideration for additional schooling or retraining, and have not offered to re-hire or help in finding a job at which I can make a living.

My opinions of present and proposed Workers' Compensation legislation are as follows:

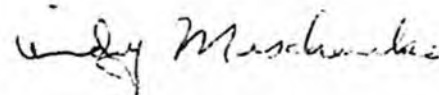
1. Present and proposed legislation would place all injuries, re-injuries, or even questionable medical problems as being the responsibility of the last or present employer. My question to this is, what incentive would this give to a potential employer to hire a person who has had a previous history of personal injuries in the neck, back, knees, ect? Certainly, this does very little to help a viable rehabilitation program for previously-injured employees.
2. Present laws prevent an employee from suing or taking any legal action against an employer for negligence or having an un-safe workplace. I have never been a person who believes in suing anyone for an extravagant amount of money, but I do believe that the state, through the Workers' Compensation system, should be allowed to fine or penalize employers for negligence on the job. Wouldn't it be appropriate to suggest that this type of checks and balances system would help alleviate or reduce accidents which would be to everyone's benefit.
3. To the best of my knowledge, our Workers' Compensation boards consist of a representative of the insurance industry, another representative of the employers and big business conglomerates, and lastly, a supposed representative of labor (in theory). Since it takes a majority vote to make and pass Board decisions, how can we, as Workers' Compensation recipients, expect un-biased hearings and decisions coming out of these hearings? I believe that if a serious inquiry were conducted by the legislature or the administration, the answer would be evident that there has been and will continue to be many injustices perpetrated by the so-called Mutual Admiration Society, composed of the insurance industry, big business, and members of the Workers' Compensation system.

Mr. Sund, I apologize if I sound too bitter, but when my wife's and four children's futures are at stake, I collect the evidence and call a spade a spade! I have mentioned previously that I am 45 years old and I have worked hard for the majority of those years to try and better my family and I would like to think that there is an opportunity to continue providing for them.

I am sad to admit that out of the 10 copies of the previous

letter which I sent out to you, as well as your fellow legislators, you were the only person to reply. On the other hand, it certainly is gratifying to know that we have an elected representative such as yourself who unselfishly lives up to the position of a good representative of the people. I'm sure I can speak for all Alaskans, injured or otherwise, in passing on a very special "Thank you!"

Respectfully yours,

A handwritten signature in cursive script that reads "Andy Mischenko". The signature is written in dark ink and is positioned above the printed name.

Andy Mischenko

MAR 09 1988

RG & B CONTRACTORS, INC.

P.O. Box 213609 • ANCHORAGE, ALASKA 99521 • 338-2667

2 March 1988

Rep. John Sund
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Rep. Sund:

As an Alaskan employer I urge you to support the Workmens' Compensation Bill currently before the House of Representatives as it is written.

The labor management task force has worked together for over a year to reform a system that will benefit employers as well as employees.

If the current system is not changed it will prove devastating to many Alaska businesses. Some have already closed their doors and others may follow if there are more rate increases. In this economy we can not continue to allow the loss of jobs.

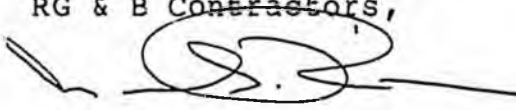
Our business competes with outside companies who have much lower Workmens' Compensation rates. Considering the low profit margins allowed in this market we are finding it increasingly difficult to compete with these firms. This bill is crucial to this business as well as the few remaining businesses' in this community.

This company has personally seen many abuses in the system which has been extremely costly to us. The system needs this reform to fairly represent both the employee as well as the employer at a reasonable cost.

Please support this bill as it has been presented to avoid the loss of more jobs and businesses' in the state.

Sincerely,

RG & B Contractors,


Barbara A. Reiersen
Secretary/treasurer

CC: file

Alaska Chiropractic Society

MAR 1 1988
P.O. Box 111507 • Anchorage, Alaska 99511

March 4, 1988

Representative John Sund
P.O. Box V
Juneau, AK 99811

RE: Memorandum from Senator Tim Kelly

Dear Representative Sund,

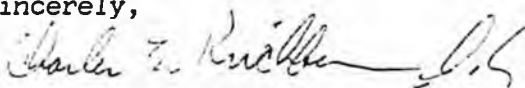
Senator Kelly states in his 2/1/88 memorandum (see attached) that misinformation has been distributed by Alaska chiropractors concerning S.B. 322 and H.B. 352. I believe anyone who studies the proposed workers' compensation bill with an open mind will see that the bill greatly reduces the injured workers' rights and is specifically targeted against chiropractors.

Two actuarial studies have recently been completed by NCCI and Milliman & Robertson, Inc. to see what cost impact the new workers' compensation bill will have. Both studies show no significant cost savings.

Past workers' compensation studies comparing chiropractic vs. medical care have shown chiropractic care to be of significant cost savings in California, Oregon, Washington, Wisconsin, Florida, Colorado, Kansas, Montana, etc. I, therefore, ask you why would Senator Kelly support a bill that two actuarial studies have shown will not produce any significant cost savings, that reduces an injured employees rights and discriminates against a form of treatment (chiropractic care) which has been shown to be cost effective? I think you will find, in this case, Senator Kelly, not the chiropractors, has been misinforming the public about S.B. 322/H.B. 352.

I believe that further statistical analysis should be performed before hastily passing an ill-conceived workers' compensation bill. I am, therefore, asking you not to support S.B. 322/H.B. 352. If, however, you feel that a workers' compensation bill must be passed, I have enclosed revisions to the bill our attorney drafted. We believe these changes will protect the injured workers' rights and decrease cost at the same time.

Sincerely,


Charles E. Krichbaum, D.C.
President

A. Fred Miller
Admitted to practice in Alaska & Wyoming

A. FRED MILLER

ATTORNEYS AT LAW
A PROFESSIONAL CORPORATION

426 MAIN

KETCHIKAN, ALASKA 99901

907-225-6666

TEMPORARY ADDRESS

220 Front St. (Upper)

TELEFAX #(907) 225-8857

Michael P. Heiser
Admitted to practice in Alaska & Washington

March 7, 1988

Representative John Sund
Alaska House of Representative
P. O. Box V
Juneau, Alaska 99811

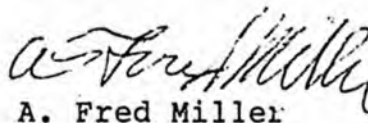
Dear John:

I am writing to you with reference to the changes that are now being made in the Worker's Compensation law. As you know, it has long been that attorneys go out of their way to avoid taking a claimant's case as you know. I have recently written to the Worker's Compensation Department expressing my concern in this regard in general and addressing specific concerns. I'm pleased to say that the staff has written me back and has adopted certain of my suggestions, but more importantly recognizes that while insurers and employers' attorneys are adequately compensated, many times claimants' attorneys are not. In this regard, staff mentioned that AS 23.30.145 has not been amended. I would respectfully suggest that it should be amended to permit a reasonable hourly charge or a reasonable contingency and should also permit the claimant client to advance costs. Right now, it is questionable whether the client can advance costs, and therefore the claimant's attorney may find himself or herself advancing costs in these matters. I truly believe that the whole Worker's Compensation system would run smoother and the workers, as well as the employers and the insurers, would be benefited if that particular statute and the law in general were amended to provide for claimants to have adequate legal representation. To achieve this, the law should provide for reasonable compensation to claimants' counsel.

Representative John Sund
March 7, 1988
Page 2

I hope you will agree at least in principle with the foregoing and be able to have inserted in the present amendments language which will address this problem. Thank you very much for considering this and for your continuing hard work on behalf of your constituents.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. Fred Miller".

A. Fred Miller

AFM:ce

Letters to the Editor
Anchorage, Times
P.O. BX. 40
Anchorage, AK. 99510

March 8, 1988

Dear Editor:

I would like to respond to Mr. Larry Taylor's letter regarding the pending Workers' Compensation legislation. I believe he has not had an opportunity to clearly evaluate the facts of this bill. I personally have been involved in this particular legislation and feel it is grossly unfair to the injured worker. Most importantly, though, is the fact that the injured worker is guilty until proven innocent. If there is a dispute between the employee and the employer, all benefits can be legally stopped (or controverted) until the Board can decide. This can leave the injured worker without any financial support for months (or longer) until he can get a board hearing. I have literally seen legitimately injured workers lose all their savings, their cars, and their homes waiting for a board hearing. So, let us look at who stands to benefit the most from this bill. If you think the injured worker will benefit from this bill, you are wrong. Sure, the minimum benefits have been raised to meet minimum wage, but the maximums have been decreased way out of proportion. Choice of physicians has been decreased, amount of treatment has been limited and must be approved by the insurance company, insurance companies can use out of state organizations to determine fees (making the worker responsible for the difference), and the list goes on. The injured worker cannot by any stretch of the imagination benefit from this legislation as a whole. How about the provider? You made mention that the chiropractors and the claimants' attorneys are the ones making such wonderful livings from the Workers' Compensation system. I cannot speak for the attorneys, but I can tell you that approximately 11% of our practice is Workers' Compensation patients, and we have one of the largest clinics in Alaska. It is not by any means the major portion of our business. Nor do I appreciate the implication that we as a class are anything less than ethical regarding injured workmen. Our fees are our fees, and they are no different if you were hurt on the job or carrying out the garbage. As a matter of fact, studies from around the country have shown that chiropractic is twice as effective as medical care for work related injuries, and many foreign governments have come to the same conclusions, finding chiropractic both effective and cost effective. In a study yet to be released by the

Italian Medical Community, that spanned two years and 17,142 patients, they found that chiropractic care saved 75.55% of days absent from work and 83.6% of hospital admissions. Any implication that chiropractic is not effective or would not save the employer valuable time lost from work can only be based on ignorance of the facts and bias.

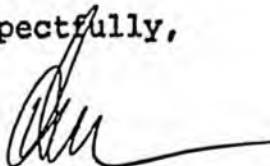
So, let us turn our attention to the employer. Unfortunately, the employer does not stand to gain from this legislation either. As your letter implies, the emphasis is on containing your costs. Will that really be accomplished? Neither of the two actuarial studies performed showed any significant cost savings, and during a teleconference held in Anchorage, an unidentified insurance representative stated that there would be no cost savings. This could actually increase costs due to litigation, and therefore increased premiums.

Let us finally consider the insurance industry, and I include the self-insureds. In my opinion, these are the ones who stand to gain the most. In 1945, the United States legislature passed the McCarran-Ferguson Act, which gave the insurance industry legal ability to monopolize. This has made it difficult if not impossible for state regulatory agencies (ie-Division of Insurance) to obtain accurate information by which to base rates. Therefore, insurance consumers (you and I) are forced to pay rates that are determined by a what-the-market-can-bear attitude. In this proposed legislation, fines for late payments to injured workers can even be avoided by simply providing custodial reports on time (which are already required by law). And the self-insureds are no better. Because of their status, they can avoid some of the laws that apply to the insurance companies, while also avoiding payment of the premium tax which insurance companies are required to pay. That means they enjoy the benefits of the Workers' Compensation system while providing absolutely no support for it.

Mr. Taylor, I have to admit that I empathize with you. I also pay Worker's Compensation premiums for my employees. It is the law. But what is so frustrating is to be forced to buy insurance and having absolutely no input as to its cost. I agree that there needs to be changes to the current law, but not necessarily the ones proposed. We have been led to believe that the "insurance crunch" is our own fault and that we need to do something about it, but I really think this is the smoke from another fire. Nowhere in this bill does it say anything about mandating a premium reduction. If insurance coverage is to be required by law, maybe they should be regulated similar to the public utilities. It is your responsibility (and mine) to demand justification for these outrageous premiums, and not just "costs are going up". Insurance companies are getting rich thanks to you and me, and we should have some input into the

process (other than paying into it). I simply do not think the injured worker should be left holding the bag. I hope you will take a second look at the proposed legislation with a more objective eye. I am not opposed to it because it will affect my practice. The impact will be minimal. I am opposed to it because it is arbitrary, it is restrictive to the injured worker, and because it is wrong.

Respectfully,



David J. Mulholland, D.C.
Community Chiropractic Clinic, Inc.

cc: Governor Steve Cowper
Dr. Trevor Ireland, D.C.
Dr. Charles Krichbaum
Alaska State Legislature, et al

Chancy Croft Law Office

738 H Street -- Suite 200
Anchorage, Alaska 99501

MAR 14 1988

Chancy Croft
Michael J. Jensen

(907) 272-3508

456-8777

March 11, 1988

Representative John Sund
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Sund:

One of the problems with the Alaska Workers Compensation Act is that the existence of insurance often allows employers to ignore violations of safety conditions. Since employers cannot be sued for their own negligence, even gross negligence, some employers get rather callous with regard to the safety of workmen. I believe that this is one of the reasons for the increasing accident rate in Alaska. Employers should not be able to ignore known safety requirements and then hide behind the limited benefits of the Alaska Workers Compensation Act and escape full financial responsibility for the damages they have caused.

This problem came to light recently in Fairbanks where Price/Ciri Construction, J.V. allowed a dangerous condition to exist which resulted in permanent brain damage to a hard working, operating engineer. My unfortunate client may be permanently, totally disabled for the rest of his life. The accident could and should have been avoided. Enclosed is a copy of the notice that was immediately sent by the Corp of Engineers to Price/Ciri Construction as a result of their past and present wanton disregard of safety regulations.

I would like to see the Alaska Workers Compensation Act amended so that employers who violate known safety regulations lose the exclusiveness of liability provision of the Alaska Workers Compensation Act. Would you support such an amendment?

Very truly yours,

Chancy
CHANCY CROFT

PS. Please let me know as soon as you schedule hearings on this bill as I would like to attend. Thanks CC

Executive Director

**Humana Hospital
Alaska**

March 17, 1988

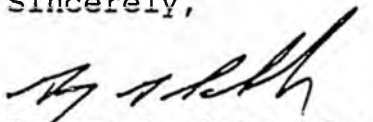
Representative John Sund
P.O. Box V
Juneau, AK 99504

Dear Representative Sund:

The current worker's compensation laws are adversely affecting employers in the state of Alaska. The issue is very complex, but I believe CSSB 322 (L&C) does correct some of the system's deficiencies.

Therefore, I urge you to vote favorably on CSSB 322 (L&C).

Sincerely,


George G. Schneider
Executive Director

GE/je



March 22, 1988

Representative John Sund
Pouch V
Capitol Building, RM 122
Juneau, Alaska 99811

Dear Representative Sund:

I am writing to recommend prompt passage of proposed House Bill 322 and 352 as is, with no modification. The current Worker's Compensation situation does not serve a beneficial purpose, is counterproductive and its resulting loss of employment opportunities is detrimental to the labor force it attempts to safeguard. Small business economic conditions in Southeast Alaska are extremely poor. Passage of House Bill 322 and 352 would be a much needed step in a road to recovery, opportunity, and healthy economy.

Very truly yours,

A handwritten signature in black ink, appearing to be "Virgil Soderberg", is written above the typed name. The signature is stylized and somewhat cursive.

Virgil Soderberg
President

March 22, 1988

Representative Jim Zawacki
Pouch V
Juneau, Alaska 99811

Dear Jim;

Thank you for sending me the copy of HB 352 and SB322, referencing the proposed changes to the Worker's Compensation Laws.

I wish to voice my opinions on the following issues:

Issue # 3 - Board established list of providers; I agree the board should provide a list of health care providers, who would be pre-approved by the board by means of application to the board by the provider.

Issue # 4 - I think an employe should be denied benefits for making a "false statement" about pre-existing injury as the employer does depend on that statement.

Issue # 5 - I believe the Vocational Rehabilitation Service needs to be closely monitored as this is an area that can be highly abused.

Issue # 7 - Medical "Continuous and Multiple Treatment"; I believe there should be some limitations on the number of treatments in a given period. Mainly, I am referring to the chiropractors who wish to put an individual on a "maintenance program" which goes on and on and on!

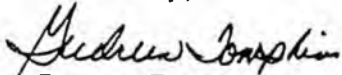
Other issues:

I am in favor of mandating a rate decrease and including it in the bill.

I would also like to see the "all states rider" eliminated. As long as a contractor is working in the state of Alaska, he should pay the same premium as an Alaska contractor.

Hopefully, these changes will make the program more equitable for the employe and the employer.

Sincerely,



Gudrun Tompkins
14185 Hancock Dr.
Anchorage, Ak 99515
907 345 3114



March 23, 1988

Representative John Sund
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Sund:

The purposes of this correspondence is to express our support for the positions the Task Force has taken with regard to Senate Bill 322, "An Act Relating to Workers' Compensation." We feel the Task Force positions on this bill are equitable to both employees and employers and will result in lowering Alaska work comp costs to everyone's benefit.

It has come to our attention that the House Labor and Commerce Committee has proposed a change to Senate Bill 322 which is not supported by the Task Force. We ask that you not support this change, which requires that Independent Medical Examiners be in the same speciality as the treating physician of the employee unless the Work Comp Board unanimously agrees otherwise. We suggest instead, that the original wording, which required majority approval by the Board rather than unanimous approval, be implemented. Such a change not only has our and the Task Force's support, it also has the support of the Department of Labor, Workers' Compensation Division.

We greatly appreciate your taking the time to hear our concerns.

Sincerely,

Kevin James
Senior Vice President &
Chief Financial Officer

KJ:mls

KLUKWAN, INC.

P.O. BOX 32077 • JUNEAU, ALASKA 99803-2077 • (907) 789-7361

RICK ABBOTT, D.C. HOPE WING, N.D.
CHIROPRACTIC & NATUROPATHIC HEALTH CARE
520 EAST 34TH AVENUE SUITE 305
ANCHORAGE, ALASKA 99503
19071 561-2330

APR 5 1988

March 25, 1988

Representative John Sund
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

RE: S.B. 322

Dear Representative Sund:

Enclosed you will find a recent article dated Wednesday, March 23, 1988 that appeared in the Anchorage Daily News business section.

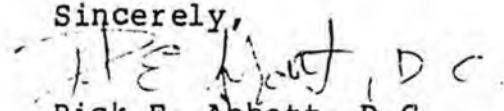
This article deals with the current rapid rise in liability insurance fees. It is my belief that there are many similarities and questions that this article raises that apply to the proposed changes in the Workers Compensation law in this state.

We have no hard statistical breakdown as to where the Workers Compensation premium goes. We do not know what percentage goes to administrative, medical, legal, salary compensation or disability settlement expenses. To make sweeping changes without this information is questionable.

The legislature should be freezing the W/C premium level for one year, and gathering hard data in order to study all the variables which effect premium levels.

S.B. 322 as written will, in all propability, raise W/C premiums in this state. Please do not support this legislation.

Sincerely,


Rick E. Abbott, D.C.

REA/sb

MAR 30 1988

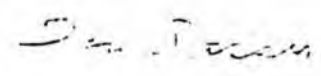
P. O. Box 670055
Chugiak, AK 99567
March 28, 1988

Mr. John Sund
Alaska State Legislature
P. O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Mr. Sund,

Enclosed is a discussion in answer to statements made in the newspapers concerning the Workers' Comp law. Also, an Oratory on the cost of Workers' Comp insurance. I understand that the rehabilitation process has been addressed properly, however there is much misinformation being fed to the public concerning the new Workers' Comp amendments. There really needs to be another public hearing to give everyone, especially workers, rather than business the change to express their concerns about the new proposed law.

Sincerely,



Don Sasser

AN ORATORY ON WORKERS COMPENSATION COST

He could not visit a nearby town. He could not travel to another state. He was being punished for a crime against society by incarceration. Most of society does not need the threat of punishment to encourage them not to commit serious crimes. However, a significant percentage of the population need to be reminded that they will suffer restrictions of their freedoms if they criminalize others. A few arrogant, insensitive, greedy individuals will commit crimes against society anyway. They are the ones who are incarcerated. If it were not for the reminder of punishment for a crime, anarchy would soon prevail. The cost of imprisonment is very expensive. The total cost per year of conviction, incarceration, and housing one criminal is more than most people will ever make, per year, during their life time. The point is, regardless of the cost of the justice system, it is justifiable.

Automobile drivers must have liability insurance. Automobile liability insurance is costly. However, having the insurance guarantees complete compensation for damage you may cause with your automobile. Is this reasonable? - For a civilized society the answer has to be yes. Homeowners insurance gives a property owner complete compensation for loss incurred. Therefore, it is only reasonable that a worker be covered by liability insurance. The insurance may be costly, but it is just as justifiable, even more justifiable, than the cost of incarceration or drivers' liability insurance. Workers' Compensation is no more welfare than the compensation for other losses. Is compensation for the loss of one's home welfare? Or if you decided to leave the state would it be just to reduce the amount of the homeowners loss. Of course not, however, this is the logic the Workers' Comp insurance companies would have everyone accept.

A law abiding individual works hard and contributes to the well-being of society, but if he has an unfortunate accident while working he is punished. Many times the accident is caused by negligence on the part of the employer. Is the employer punished? No, however, the Workers' Comp insurance companies are allowed to punish the injured worker economically and mentally. If the cost of liability insurance for workers is to be reduced, then maybe it is time the employer insists on a safe work place. Maybe it is time to look much closer into the insurance companies hidden profits. It is certainly not just to punish an injured worker by scarring him economically for the rest of his life.

Don Sasser



COMMUNITY CHIROPRACTIC CLINIC

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Dear Representative Sund:

The enclosures on insurance problems are only a sample of how widespread the collusion of the insurance companies has progressed.

One year they target malpractice insurance for increases, the next liability insurance, then workers' compensation, then auto and etc.

The Alaska workers' compensation bills that were stimulated by high insurance rates and prodding from the insurance companies (adjusting companies included) are nothing more than "our turn in the barrel." Last year it was Medical Malpractice. Next year, who knows what?

What is wrong with our legislative body that it cannot see through the scam? Have we reached the point in Alaska that the public interest is no longer of concern? It seems that way!

I urge you to re-think your position on passing any workers' compensation reform this year. The State of Alaska deserves a better bill than you have before you now.

Sincerely,

Adrian G. Barber, D.C.

AGB/jc

cc: Governor Steve Cowper
House Judiciary Committee
Representative Dave Donley
Senator Tim Kelly
Alaska Chiropractic Society
Dr. Trevor Ireland

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A UNIT IN THE ORIGINAL FILE.