WORKER'S COMPENSATION STUDY COMMISSION

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Dave
Frank

Mon 7:00
Oct 13

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TT, PP, PT, TP	Carlson
Injuries/Diseases	Rasley
2nd Injury Fund	Rogers - Chair
Benefits/Source Funding	

M E M O R A N D U M

TO: Senator Terry Stimson
Representative Brian Rogers

FROM: Bob Williams

DATE: SEPTEMBER 16, 1980

REF: Preliminary Study Outline for Worker's Compensation Study Commission

Below is a brief study outline which you may wish to consider as a starting structure for this Commission's work.

1) Worker's Compensation Rates

Analyze the role of the National Council of Compensation Insurance (NCII) as a rating organization, and the effect of their filings on fixing prices and inhibiting competition.

Review the October 9, 1979 rate filing submitted to the Division of Insurance by the National Council. That filing uses an expense allowance of 31.6%. Other evidence indicates that the actual expense loading for Alaskan carriers is lower for the period covered in that filing.

Develop a hypothetical cash flow model for the typical insurance operation to determine rates of return on actual invested capital.

2) Legal Procedures and Law Changes

Review HB 1011 as a possible means of correcting the serious fund imbalance of the Second Injury Fund.

Review possible changes to the Worker's Compensation Board under AS 23.30.055 which will speed up the hearing process and allow the Board to issue timely decisions.

The Division of Worker's Compensation is currently suggesting adding six alternates, two for each panel to sit as Board members. This would allow the Board to meet at least once a week.

Provide a specific legal analysis of (Cos. vs. Smallwood) 550 P.2d 1261 (1976). This case requires that, if a party insists, medical evidence of doctors be subject to cross examination. This involves deposition of a doctor at a hearing, which is costly, time consuming, and adds little to the medical reports. The problem is exacerbated by the fact that many of the physicians treating claimants practice in the Lower 48.

Provide a specific legal analysis on the question of attorney fees, AS 23.30.145, in view of (Arant vs. Wien Air Alaska), 592 P.2d 352 (Alas.1979). In the "Arant" case the court recognizes that under AS 23.30.145 fees can be awarded out of proportion to the attorney's actual service in the case. The court has stated that the remedy to this situation is statutory change by the Legislature.

Review AS 23.30.191 EXPENSES FOR REHABILITATING INJURED EMPLOYEES. This statute, as written, reduces an employees incentive to participate in the rehabilitation process because this section requires that his wage loss benefits be reduced to one-half the compensation he is due under AS 23.30.185 if he is being rehabilitated.

3) Vocational Rehabilitation

Study the feasibility of transfering the vocational rehabilitation process for compensation claimants from the Alaska Board of Vocational Rehabilitation, Department of Education, to the Alaska Worker's Compensation Division, Department of Labor.

WORKER'S COMPENSATION RATEMAKING AND RATE REGULATION - A REPORT - PREPARED FOR THE ALASKA WORKER'S COMPENSATION STUDY COMMISSION, JANUARY 15, 1980.

by

Bob Williams

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INTRODUCTION

This report deals with the regulatory and ratemaking aspects of worker's compensation. It looks at the system as an investor would, which is essentially what a stock insurance company is. The conclusion is straightfoward. The potential rate of return to an individual company can be very high, because of investment income. Also, the regulatory system employed by the State furthers the interest of the industry by inhibiting competition and encouraging price fixing. These two facts, taken together, make worker's compensation a very attractive investment for a company with a skilled underwriting staff.

The recommendations of this report are equally straightfoward, and are aimed at increasing the options available to employers in purchasing comp policies. This report recommends open competitive rating to end the regulatory system of price fixing. This will give employers the opportunity to shop around for the best deal. Also, responsible self-insurance should be encouraged, and this report recommends the use of deductible comp policies. Deductibles allow a limited form of self-insurance, and they can be structured in a way to protect the employees. Finally, group insurance is encouraged, to take advantage of the economies of scale benefits available to large insureds.

While this report deals extensively with insurance, it does not deal with one major concern over worker's comp -- benefit levels. This is a social issue seperate and aside from worker's comp as an investment. I would like, however, to make a point on this issue. When dealing with worker's comp as a social issue, one fact must always be kept in mind. Employees, subject to the worker's compensation system, have given up a basic right -- the right to sue. In return, they have accepted a social system of insurance, a system which must assure workers of adequate compensation.

Some employers have publically advocated reducing benefits to reduce premiums, This report does not deal with that alternative for two reasons. First, it is inimical to the essential compromise of worker's compensation -- giving up the right to sue in return for adequate compensation. Second, the historical data on premium costs indicates that premiums have acually increased slower than the overall inflation rate.

Exhibit 1 in a report entitled Identification Of The Causes of the High Cost of Worker's Compensation Insurance to Alaskan Employers, prepared by Richard L. Block & Associates, shows the historical cumulative rise in premium costs. Between 1957 and 1980, a period of 24 years, premiums rose from a base

of 100.0 to 197.9, or 97.9%. (Note; I have updated the data in the Block Report) Compounded annually, this is an increase of approximatley 3% per year. The Anchorage Consumer Price Index, on the other hand, rose from 100.0 to 230.9, or 130% from 1967 to 1980. In other words, it rose 32% higher during a period that was ten years shorter.

To see how inflation has tracked with increases in benefits we turn to Exhibit 1 of the (Block Report) and the column entitled "Cumulative Change Due To Law Change". In 1967, that index stood at 132.7, and by 1980 it was approximately 250.0. This is an increase of 88%, or approximately 4.5% per year compounded annually. The Anchorage Consumer Price Index we recall rose 130%, during that period, or approximatley 6% per year compounded. Even since 1967, increases in premiums due to benefit changes have not kept pace with inflation.

Finally, as of January 1, 1981, the maximum rate of compensation rose from 166.6% to 200% of the Alaska Average Weekly Wage. This is the last law change currently in statute. The effect on premiums, by the way, was <u>less</u> than a 1% increase. What this means is that from here on out benefits due claimants under worker's comp will decrease in real terms because of inflation, and it makes little sense for the Legislature to accelerate that process.

SECTION 1 - HISTORICAL BACKGROUND

The insurance industry has historically been exempt from Federal antitrust laws. This exemption has allowed the industry, including casualty insurers writing worker's compensation, to set prices in concert. The system of rate regulation and ratemaking for worker's compensation in Alaska is a case in point. Every company writing worker's compensation in Alaska is a member of the National Council on Compensation Insurance (NCCI). The NCCI is a rating bureau, and promulgates rates charged by carriers for worker's compensation. The system in Alaska, and countrywide is equivalent to legalized price fixing.

Prior to 1944, the exemption from Federal antitrust arose from a line of court decisions descending from Paul v. Virginia. (See, Wall 168 (1869). This case involved a state statute which subjected a foreign insurance company and its local agents to a licensing requirement. The statute was challenged as violating the commerce clause of the United States Constitution. The United States Supreme Court upheld the statute, however, stating in their decision, "issuing a policy of insurance is not a transaction of commerce." For 74 years the case was construed to mean that insurance was not interstate commerce, and therefore not subject to federal jurisdiction.

From 1869 to 1944, various attempts were made by states to regulate the insurance industry. Results were sporadic, and in most cases dealt largely with discriminatory rates. The state regulatory mechanisms evolved also toward the policy of requiring rating bureaus and allowing the companies to set rates in concert. The situation, however, changed dramatically in 1944 when the United States Supreme Court handed down its landmark decision -- United States v. South Eastern Underwriters Association. (Sec. 322. U.S. 533 (1944).

South-Eastern Underwriters Association (SEAU).

The SEAU case arose from a Department of Justice investigation that resulted in the criminal indictment of the South-Eastern Underwriters Association, 27 of its officers, and 198 member companies. Member companies included stock insurers writing fire insurance and allied lines in Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia. The SEAU sold 90% of the fire insurance and allied lines in those six states. Because of the investigation, two counts were brought against the SEAU; (1) a conspiracy to fix premium rates arbitrarily and on a non-competitive basis, and (2) a conspiracy to monopolize trade and commerce in fire and allied lines in the six-state area. The investigation alleged, the conspirators not only fixed premium rates and agents

commissions, but also employed boycotts, coercion, and intimidation against non-member companies to force compliance with SEAU rates.

The case was heard in District Court, where the indictment was dismissed on the grounds that insurance was not commerce, and therefore not within the scope of the Sherman Antitrust Act. The Supreme Court, however, subsequently reversed the district court ruling. In doing so, the court said;

> "No commercial enterprise 'of any kind which conducts its activities across state lines has been held to be wholly beyond the regulatory power of Congress under the Commerce Clause. We cannot make an exception of the business of insurance. (U.S. v. South-Eastern Underwriters Association. 322 U.S. 533.552-3 (1944).

Overnight, the entire legal basis for the immunity from Federal anti-trust laws was eliminated. Pricing in concert, the cornerstone of the insurance business, had become illegal. The decision precipitated near panic.

Quickly, efforts were initiated to resolve the crisis. The National Association of Insurance Commissioners (NAIC), assisted by the industry, drafted a proposal which became the prototype for the legislation ultimately enacted. The NAIC draft placed a moratorium period before the Federal antitrust laws would apply. After the moratorium -- if

the states enacted regulatory laws -- there would be an exemption from antitrust. The NAIC draft in no way, however, rendered the Sherman Act inapplicable to any act of boycott, coercion, or intimidation.

McCarran Ferguson Act In 1945 Senators McCarran and Ferguson introduced the NAIC draft as S. 340. After considerable debate and modification S. 340 passed Congress. Throughout deliberations, the bill retained one basic concept -- pricing in concert would be permitted, but only when regulated by the States. The McCarran Ferguson Act (Public Law 15) passed on March 9, 1945. Section 2(b) of the Act states;

> "No Act of Congress shall be construed to invalidate or impair or supersede any law enacted by any State for the purpose of regulating the business, unless such Act specifically relates to insurance: Provided that after June 30, 1948, the Act of July 2, 1880, as amended, Known an the Sherman Act, and the Act of October 15, 1914, as amended, Known as the Clayton Act, and the Act of September 26, 1919, known as the Federal Trade Commission Act, as amended, shall be 'applicable to the business of insurance to the extent that such business is not regulated by the State Law.

Under provisions of Sec. 2(b) of the McCarran Ferguson Act, both the states and the industry had every incentive to move expeditiously in enacting laws regulating the business of insurance. So insurers, together with

the NAIC developed a model bill outlining specific requirements for State regulation. The bill became known as the NAIC All Industry Committee Bill. The Alaska Insurance Code is a direct descendant of that bill.

This brief historical background is important ffor one reason. It points to the fact that the insurance industry is different form other industries. They are exempt from antitrust. This means the insurance industry can do things which would result in criminal indictments of corporate officers of other major industries. Insurers can fix prices. The trade off is State regulation.

SECTION 2 - STATE REGULATION

Worker's Compensation, as with other casualty lines, is regulated under AS 21.39. That statute, modeled after the NAIC All Industry Bill, requires rates or any change in rates proposed by insurers for worker's comp be filed. The filings must be reviewed by the Director of Insurance. If a filing is not specifically disapproved by the Director, the rate becomes effective after 15 days, unless the period is extended. The Director, however, may disapprove a filing if it does not meet statutory guidleines. He may also require the submission of additional data before approving a rate. Insurers may

meet filing obligations by becoming members of or subscribers to a rating organization. This system of rate regulation is called "Prior Approval".

The criteria used by the Director of Insurance to approve or disapprove a rate filing is in AS 21.39.030. There it states;

> (a) rates shall not be excessive, inadequate, or unfairly discriminatory".

The phrase excessive, inadequate, or unfairly discriminatory is not explicitly defined in the Insurance Code. Its meaning varies depending on which line of insurance is being regulated. For worker's compensation, the term has come to mean a 2.5% underwriting profit.

On the surface, a 2.5% underwriting profit sounds <u>low</u>. The 2.5%, however, cannot be equated with a rate of return. Most people would agree that if they invested capital in an interest bearing certificate that earned 2.5% it would not be a good investment. The 2.5% is not, however, equivalent to interest rate earnings, and is somewhat misleading. The 2.5% underwriting profit does not include the lion"s share of an insurer's profit -- investment income.

Investment Income The bulk of an insurer's profit is not made on underwriting. In fact, the 2.5% underwriting profit margin is an expense loading used in the ratemaking formula. Whether the company actually earns an underwriting profit, bears little relevance to overall profitability. Insurance companies make most of their money not on underwriting, but by investing premium.

Investment income is derived from two sources -- loss reserves and unearned premium reserves. Loss reserves are amounts of capital laid aside in liquid interest bearing instruments to pay claims. Since claims for worker's comp can extend over many years, the investment earnings from loss reserves can be significant. Investment Income is also earned on unearned premium reserves, but the amount is not as significant.

To understand the significance of investment income to an insurance company it is necessary to translate the underwriting profit to a meaningful financial yardstick -- a rate of return on equity. Suprisingly enough, it is not a difficult thing to do. thing

Each year the National Association of Insurance Commissoners (NAIC) publishes a report entitled NAIC Report on Profitability By Line and By State. The 1979 NAIC

profitability report indicated that insurers writing worker's compensation suffered a -1.8% underwriting loss based on their countrywide writings. While on the surface it appears the industry lost money in 1979, this is not the case. A few simple calculations show that the -1.8% underwriting loss actually resulted in a 20.6% rate of return. Extrapolating from inflation, at roughly 12%, leaves the industry with a 8.6% real rate of return. Conceivably, under our present system of rate regulation, carriers experiencing a 1.8% underwriting loss could be elgible for a rate increase.

To derive the rate of return, using the NAIC data, two assumptions must be made. First, an assumption must be made on the ratio of a company's surplus to the volume of premium it writes. I have used a ratio of 2 to 1, which is conservative, but in line with 'countrywide estimates. What this means is that if a company's equity is $5 million it can write $10 million in premium. This provides a certain amount of leverage. Second, and assumption must be made on the rate of return the company makes from investing their own equity, because the NAIC investment income data expresses investment income only on premium. Company's also earn investment income on their own assets.

To calculate the rate of return we start with the operating profit. The operating profit is expressed in the

NAIC report as a percent of earned premium. It is premium earned by the carriers plus the investment income earned on the premium minus all expenses, losses and taxes -- and finally either plus or minus the underwriting (profit or loss).

In 1979, the operating profit countrywide for all carriers writing worker's compensation was 5.3% of earned premium -- earned premium totaled $13.3 billion. We multiply the 5.3% by 2 (5.3 x 2) since we assumed a 2 to 1 ratio of equity to premium, and we come up with 10.6%. This 10.6% is now expressed as a percent return on their equity. We must now add in investment income on the insurers assets. I have assumed this to be 10% for 1979 -- giving a total rate of return of 20.6%. This is a meaningful yardstick. According to Forbes magazine, the All Industry average in 1979 was 16.7%. Obviously, comp carriers did quite well, relatively speaking.

For a clearer perspective, I have calculated rates of return for the lat five years, using the NAIC profitability reports. The results, both countrywide and for Alaska, are shown in Table 1 on page ten.

Perhaps the most startling fact shown, is the excessive profitability of Alaska worker's comp carriers during the period from 1975 to 1977. For thos years, rates of return exceeded the Forbes All Industry average, as well as the rates of return

Table 1 Worker's Compensation Carriers -- Rates of Return

	1975	1976	1977	1978	1979
Country	13.0%	7.0%	10.2%	14.9%	20.6% (-1.8%)
Alaska	27.0%	14.6%	23.6%	-1.6%	3.4% (-10.1%)
Industry	11.7%	12.9%	13.9%	15.4%	16.7%

(Note: These rates of return are calculated assuming a premium to surplus ratio of 2 to 1, and assuming earnings on equity are equal to the investment earnings on premium -- on a year to year percentage basis. The numbers in parentheses are underwriting results.)

earned by carriers countrywide. In 1978 and 1979, however, we notice a cyclical downturn in profitability, due primarily to due adverse underwriting losses.

The real point we are trying to make here, however, is that the regulatory criteria of a 2.5% underwriting profit is a meaningless number in the financial world. It bears no relationship to profitability, and is a poor indication of how a company or the industry as a whole is doing. A company can earn a respectable rate of return even though they may post an underwriting loss. Insurance compnaies collect interest free premium, leverage that premium, and invest it. That is how the industry operates. Finally, because the State uses the underwriting profit figure to determine rate level adjustments, companies can actually recieve rate increases during years of relative profitability.

Rating Bureaus As mentioned, an insurer may meet the rate filing obligation under AS 21.39.040 (a) by becoming a member of a rating bureau, and all Alaska comp carriers have. The National Council on Compensation Insurance (NCII) promulgates all rates, rating plans, rules and rating classifications for every insurer writing worker's compensation in Alaska. By law, each member of a rating organization must adhere to the filings made on their behalf by the rating organization. Rating bureaus are essential to setting rates in concert, and maintaining the system of p: ice fixing unique to the inusrance industry.

While no carrier is legally compelled to become a member of a rating organization, for all practical purposes they must. Unless a company is exteremly large, they simply can't pull together the statistical information necessary for sound loss data. This is essentially why rating bureaus are allowed -- to gather statistics individual companies cannot compile. The problem is that rating bureaus inhibit competition. The companies are compelled out of necessity to become members and then, by law, must adhere to their rates.

The curious fact is that the companies prefer the system. Understandbly, it prevents price cutting or rate wars. Fireman Fund's Vice President is vociferous in his objection to open

competitive rating for worker's compensation, which is being considered nationwide by the NAIC. Mr. Meeahaghan stated;

> "We a Fireman's Fund believe that a move to competitve rating for other property liability lines of insurance is long overdue."
>
> "It is obvious there will not be widespread industry support for the committee's recommendations on comp."
>
> "We at Fireman's Fund have found that our philosophical committment to open competitive rating seems to collide with the practical realities of today's real world market for worker's compensation. (See, Competitive Rating For Worker's Compensation, Remarks by James J. Meehaghan, Vice President, Fireman's Fund, before the NAIC, Serptember 17, 1980.)

Mr. Meenaghan concluded his remarks by claiming that worker's comp is, "every bit as competitive as any other line of business". A closer examination of Alaska's comp market does not bear Mr. Meenaghan's assertion out.

Deviations Members of the NCCI, the rating organization, must adhere to the filings made on their behalf. There is, however, a limited way in which insurers may escape the iron-clad system of rates prescribed for them. They may file deviations. AS 21.39.070, the statute on deviations, states;

> "(a) Each member of or subscriber to a rating oragnization shall adhere to the filings made on its behalf by the organization except that an insurer may make written application to the director to file a deviation, which in the case of of casualty insurance may only be a uniform percentage

> deviation, form the class rates, schedules, rating plans or rules respecting a kind of insurance, or class of risk within a kind of insurance, or combination thereof."

Of the more than 500 individual rating classifications developed for different industries, deviations have been filed for <u>two</u> of those classifications -- loggers and air carriers. It is not possible for a single carrier to deviate for all 500 rating classifications. Nor would it be possible for the Division of Insurance to review them. The system of mandatory adherence to Bureau rates, and allowing competition via deviations, does not result in price competition. It allows companies to selectively underwrite -- offering certain groups preferred rates.

Besides being administratively impossible for insurers to file deviations for every rating classification, the NCCI routinely objects. For example, in 1976, Industrial Indemnity filed a downward deviation from the Council's rate approved rate for loggers. Industrial Indemnity was following Alpac's example. Alpac had already filed a 50% downward deviation for loggers. In response to Industrial Indemnity's downward deviation, the Council wrote;

> "The National Council, as you know, takes the position that the only permissble deviations under the Alaska Insurance Law, are uniform percentage deviations. See, March 25, 1976 letter to your attention relative to independent filing for Loggers Association by Alaska Pacific Insurance Company."

> "The Industrial Indemnity Company of Alaska is a member of the National Council, and as such must adhere to National Council's filings under the Alaska Insurance Law, Section 21.39.070. which reads in part, "Each member of or subscriber to a rating organization shall adhere to the filing made on its behalf by the rating organization..." (See, Letter from Donald T. DeCarlo, National Council on Compensation Insurance, to Richard L. Block, Director of Insurance, June 16, 1976.)

These subtle coercive attempts by rating bureaus to insure rate conformity are not new. In 1955, the Pacific Fire Rating Bureau filed a rule with several state insurance departments aimed at eliminating the right of partial subscribership. Partial subscribership is where a company subscribes to only part of Bureau's filings, and makes independent filings for lines where they have sufficient 10ss data to develop their own rate. Pacific Fire's rule basically stated that if an insurer made an independent filing in a class rated field (like dwelling classes) they would be deprived of bureau services for other rates. Their rule was subsequently overturned by the Arizona Supreme Court, but the incident provides an interesting parallel.

The question -- what is a permissable deviation under the Alaska Insurance Code-- has been a "bone of contention" between the NCCI and the Division of Insurance since the NCCI became a liscensed rating burequ in Alaska in 1976. The dispute involves an interpretation of AS 21.39.070, the statute permitting deviations. In a January 9, 1981 memorandum from Don Koch of the Division of Insurance, to Hank Edminston, Vice President

of the National Council on Compensation Insurance, Mr. Koch writes;

> "Briefly, NCCI takes the position that a deviation can only be a uniform percentage applied to its entire schedule of rates. The divison on the other hand takes the position that the uniform percentage can be applied to all of a class within the schedule of rates."

The Council's position is that if you file a deviation it has to be across the board, an has to apply to every rating classification. This interpretation would eliminate selective underwriting, but it would also eliminate any deviations. Mr. Koch in his memorandum urges the NCCI to adopt a more flexible interpretation to A.S. 21.39.070, and in most cases the Division of Insurance has chosen to ignore the NCCI's objections to deviations.

Conclusion In Section 1, we examined the insurance industries exemption from antitrust -- stressing always -- the only reason they are exempt is State regulation. This section has examined State regulation. The conclusion to be drawn is, the system (1) allows a very high potential rate of return, and (2) inhibits competition. Now we look at ratemaking.

SECTION 3 - RATEMAKING

Rate filings are complex and voluminous documents. The basic method, however, for determining rates is not that complicated. A rate filing contains the loss experience data from the insurance companies underwritings, and computes that information into a loss ratio -- premium divided by incurred losses. The loss ratio based on experience is then compared to what the actuary finds to be the "permissable loss ratio", the loss ratio that allows the companies to cover losses, expenses and still leave an underwriting profit. If the loss ratio based on experience is below the "permissable loss ratio" -- rates will decrease. If losses exceed the "permissable loss ratio", -- rates will increase.

Understanding the ratemaking process is important for two reasons; (1) it shows the percentage split of the premium dollar -- how much is retained by the insurer and how much is actually paid out in claims, and (2) it shows the importance of reducing expenses which is a key to understanding the "open competitve" rating proposal explained in the introduction.

Permissable Loss and Loss Adjustment Ratio The permissable loss and loss adjustment ratio, hereinafter referred to as the permissable loss ratio, is exactly what it says. It is the loss ratio that permits a company to cover its

expenses, pay all claims, and retain a 2.5% underwriting profit. It is derived by subtracting expenses, expressed as percentages, from 100%. Exhibit III, in the NCCI's November 10, 1981 rate filing, shows the derivation of the permissable loss ratio.

Table 2 Worker's Compensation Expense Exhibit

Expense Item	
(1) Acquisition and Field Supervision	15.0%
(2) General Expenses	6.2
(3) Taxes, Liscenses and Fees	3.6
(4) Profit and Contingencies	2.5
(5) Total Expenses and Profit	27.3%
(6) Permissable Loss Ratio	72.7%

(Note: Taken from Exhibit III, NCCI's November 10, 1980 rate filing, as submitted to the Division of Insurance.)

The permissable loss ratio is the ratio around which rate changes are made. One point, however, should be clarified here. The Expenses shown in Table 2 do not include loss adjustment expenses. Loss adjustment expenses, expenses incurred in adjusting claims, are normally considered a claim loss for ratemaking purposes, and are actually part of the 72.7% If they were expressed as a percent of premium, they would be 7.5% -- bringing total expenses to 35%. Also, Table 2 expenses apply to small and medium size risks, or risks generating $5,000 or less in annual premium. Largers employers become elgible for premium discounts or retrospective rating plans, and this

effectively lowers the expense component.

Examining an insurer's expenses and profit loadings allows us to see how the premium dollar is divided between insurer and claimant. According to Table 2, on a pro forma basis, the company keeps $35 and claimants recieve $65 per $100 of premium collected -- well almost. If you add in investment income on the premium, at roughly 10%, the split becomes $65/$45. Keep in mind, however, that this is only relevant to the small to medium size employer. The split becomes more attractive to larger employers, because of premium discounts and special rating plans. Also, the split becomes less attractive to the very small employer, as he will usually be placed in the asigned risk pool, with an 8% surcharge.

Actual Loss and Loss Adjustment Ratio The actual loss and loss adjustment ratio, hereinafter referred to as actual loss ratio, is the ratio of premium collected by the insurers, divided by their incurred losses. These figures are adjusted by the insurance actuaries before they are used. The exact actuarial methodology is not important for this discussion.[1] What is important, is how the Actual Loss Ratio is compared to the Permissable Loss Ratio to determine the overall change in rates.

[1] (Note: For a complete discussion of rate making, See, "A Current Look at Worker's Compensation Rate Making", by Roy H. Kallop, Proceedings of the Casualty Actuarial Society, 1975, Vol. LXII.)

According to the NCCI's November 10, 1980 rate filing, the actual loss ratio was 80.4%. In other words, the standard earned premium, divided by incurred losses was 80.4%. We recall the Permissable Loss Ratio, in that same filing, was 72.7% -- considerably lower than the Actual Loss Ratio. The overall change in rates is calculated by dividing 80.4% (the Actual Loss Ratio) by 72.7 (the Permissable Loss Ratio). The result (80.4/72.7) equals 1.106 or a 10.6% increase. Rates increased because actual losses exceeded permitted losses.

Now that we have examined how rates change, let's examine an alternative. Let's assume that somehow a company can reduce its expenses. Under the current regulatory system there is little incentive to do so, at least for the small to medium size employer, because of price fixing. Assume for a moment, however, a company only needs $25/$100 of premium to cover its expenses and still make a respectable rate of return. Perhaps the company can shave off some agents commissions, is a domestic company exempt from premium tax, and is predicting a good year on investment income -- not unreasonable assumptions. Reducing expenses in effect increases the Permissable Loss Ratio -- in this case from 72.7% to 82.7%. In other words, a company can pay more out in claims.

Taking the Actual Loss Ratio, 80.4%, and dividing that by our <u>new</u> Pemissable Loss Ratio, 82.7%, gives 96.6% or a 3.4%

decrease in rates. The overall change from existing rates would be a 14% decrease. There is, however, no incentive for an insurance company to do this, particularly to obtain business from small insureds. There is no competition for these policies, and they are basically written at one rate.

Conclusion We have examined ratemaking in a simplified fashion. The rate, as we have seen, is divided into two parts -- expenses and claim payments. Both are calculated by the NCCI for all the carriers writing worker's comp in Alaska.

The expenses, or expense loadings, are the average expenses, based on countrywide data, for stock insurance companies. The data is public, and is submitted as the "Insurance Expense Exhibit" to each State regulatory authority. It does not take an insurance actuary to determine what an average expense loading should be. Further, there is no reason that it need be included as part of the rate filing. It is basically inconceivable that every insurance company has the same overhead costs.

The claim payment portion of the premium, called the "pure premium", is derived from loss data submitted by each carrier to the NCCI. The loss data is submitted via the Unit Statistical Plan, a complex data gathering scheme developed by the rating bureau. It is the "pure premium" data which is so important in developing rates.

SECTION IV - RECOMMENDATIONS

This report has been primarily background for the recommendations set forth in this section. The recommendations are aimed at making the system flexible, and allowing the employers more options. Taken together, they should allow the employer who implements a practical risk management program, the opportunity to reduce costs.

Open Competitive Rating This proposal will end the predominance of the rating bureau in setting uniform rates. Basically, this change would require each company to develop their own expense filings, rather than using the expense allowance currently established by the NCCI. The net result will be competitive pricing. The bill drafted to accomplish this has been modeled after a proposal submitted to the Oregon Legislature, by Govenor Victor Atiyeh's Task Force on Worker's Compensation. The Commission has already heard from Oregon's Insurance Commissioner, W.W. Fritz, an ardent supporter of the concept.

Essentially, the bill limits the role of the rating bureau. The NCCI, under this proposal, would submit only the "Pure Premium" portion of the rate filing -- in other words, only the amount required to cover claim costs. The "Pure Premium" filing would be subject to "Prior Approval". Each

company would then be required to make a seperate filing, which included their own individual expense loadings. Their expenses in essence would be wrapped around the "Pure Premium" filing. Each company's filing would not be subject to "Prior Approval" unless the Director of Insurance makes a determination "Prior Approval" is necessary to protect the solvency of the insurer.

The proposal is intended to make the companies compete. This should give the employer the opportunity to shop around for the best deal.

Deductible Policies This recommendation allows insurers to offer deductible policies. There is currently some question as to whether deductibles are permissable, given the varying interpetations to AS 21.30.070, the statute on deviations.

Deductibles are a limited form of self-insurance. For worker's comp, however, they must be structured in a way to protect the employee. To do this, it is essential that the carrier retain liability for payment of the entire claim. The carrier then has a right of subrogation against the employer to recover the deductible amount. While the carrier must retain liability, they may selectively underwrite. In other words, the carrier chooses which employer qualifies for this type of policy. Obviously, it would not be wise to sell a deductible policy to an employer unable, financially, to absorb the costs.

The advantage of deductibles to employers with good loss experience are obvious. They reduce the cost of insurance. They are also a strong incentive to implement safety programs.

Group Insurance As alluded to in Section 3 of this report, the rate structure for comp favors the large insureds. There are clear economies of scale benefits for large employers. These are in the form of premium discounts, built directly into the rate structure. The Commission has recommended encouraging group insurance as a means of taking advantage of these discounts.

To do this the Commission has recommended amending A.S. 21.36.190, a statute known as the Ficticious Group Law. This statute prohibits the formation of groups for the sole purpose of obtaining a preferred rate. The Commission has recommended this be changed for worker's compensation. Under the Commission's proposed amendment, an association of employers in the same rating classification may obtain a group policy by drawing up a consitution and bylaws, incorporating a safety program, and receiving approval from the Director of Insurance. This should allow smaller employers the opportunity of the same benefits which accrue to the larger employers.

The Commission has also recommended Group Self-Insurance. The proposal involves the creation of a self-insurance fund

managed by a Board of Trustees. Each member of the group is jointly and severably liable for all claims. The group insurance program would be strictly regulated by the Division of Insurance.

MEMORANDUM State of Alaska

TO: Kenneth C. Moore
Director
Division of Insurance

DATE: November 21, 1980

FILE NO:

TELEPHONE NO:

FROM: Donald P. Koch (DPK)
Chief Market Surveillance
Division of Insurance

SUBJECT: Report on Testimony Given to Workers Compensation Study Commission

On Saturday, November 15, 1980, I attended a meeting of the Workers Compensation Study Commission via teleconference. Staff for the commission presented a progress report for the insurance subcommittee and a review of draft legislation. Copies of the draft legislation were available and a discussion of each proposal was presented by staff. I added comment on each proposal, outlining the division's position or attitude to the proposals. In addition to the draft legislation, the subcommittee is considering the feasibility of having Blue Cross write Workers Compensation Insurance.

Taking the Blue Cross proposal first, I indicated that we were not in favor of the concept. While Blue Cross has substantial expertise in the handling of medical claims and in the area of medical cost containment, it is not reasonable to assume that expertise would extend to the wage loss, pension or indemnity aspects of compensation coverage. While medical loss constitutes some 28 to 30% of the compensation loss dollar, the remaining 70% would be beyond the experience of Blue Cross to handle. Further, Blue Cross is not structured to respond to long-term liabilities found in Workers Compensation Insurance. AS 21.87 would have to be substantially restructured. We did not suggest that, with some statute modification, it would be appropriate and even desirable for a self-insurer of even a state fund, if one were formed, to contract with Blue Cross to handle the medical loss only.

The legislative draft labeled Amendment #1, transfers the review and approval of self-insurers from the Workers Compensation Board to the Division of Insurance. The logic argued for such a transfer is that the Division of Workers Compensation and the Workers Compensation Board does not have the financial and insurance expertise available to properly perform the function and the Division of Insurance does. I testified that the Division of Insurance was not in favor of the transfer but was willing to work toward the desired end, namely a realistic review of the propriety of issuing a self-insurance certificate to a particular applicant. I noted that the division, in its review of the solvency of an insurer, was assisted by the financial examiners of other states in the zone examination process. I also noted that our review of an insurer for admission to this state, or for continuation of its Certificate of Authority, is guided by a substantial statutory structure in AS 21. The capital, surplus, treatment of investments, treatment of assets, holding

company actions, corporate actions, solvency issues are all subject to this statutory regulatory structure, and this structure would not be applicable to a self-insurer. I suggested that since the self-insurer was taking on long-term liabilities that some of the provisions of AS 21 ought to be specifically made applicable to self-insurers, such as reserve treatment and examination. I asked that if such a transfer of role is seriously considered, and I sense that it will be, that more specific guidelines be considered for inclusion in the Insurance Code. I did not mention specific locations in the code, but at the very least a reference should be made in AS 21.06.080 listing the self-insurer review function as a duty of the director which has the effect of clearly activating the director's rulemaking authority in AS 21.06.090. There was a negative reaction to our suggestion that we should be able to examine, but I still feel that this ability is needed. It need not be structured the same as insurer financial exams but there has to be some ability to test data submitted to us which does not rely totally on figures and materials supplied by the party wishing to influence the decision alone. Specific language in AS 21 should be included to enable revocation of a self-insurer certification similar to that noted in AS 21.09.140. I suggested that one possible alternative to the present role would be to provide a review body comprised of the Division of Workers Compensation and the Division of Insurance to jointly consider approval or disapproval of self-insurer certificates.

Included in Amendment #1 is a proposal to permit group self-insurance to which we objected. The section does not address or deal with any guidelines for such groups and does not include a cross indemnity requirement. I feel that cross indemnity must be specifically addressed to avoid any argument that the division is being capricious or arbitrary in either its adoption of a rule requiring cross indemnity agreements or in its disapproval of a group self-insurer failing to provide cross indemnity.

The definition of "self-insurer" should be further modified to reflect to include a requirement that it must have a certificate of self-insurance. I would suggest that the following language be considered and also cross referenced in AS 21.06.080:

AS 23.30.265(19) is amended to read:

(19) "self-insurer" means an employer who, instead of insuring his liability under this chapter as it provides, elects to pay directly the compensation provided for, and who [HAS FURNISHED] , after furnishing to the insurance commissioner [BOARD] satisfactory proof of his financial ability to make the direct payments , has been issued a self-insurer certificate;

The self-insurer is not really a self-insurer until the certificate has been issued. The proof of financial ability to make direct payments may be satisfactory but should be meaningless until the certificate is issued.

I think that the provisions of AS 23.30.090 should be transferred to AS 21 if the transfer of role takes place.

The legislative draft labeled Amendment #2 modifies the fictitious group statute which currently allows associations groups for workers compensation removing several of the limiting criteria listed. It would permit a group of employers in the same rating classification to form a group for insurance purposes with the filing of a rating program which is approved by the director. I indicated that the division has no objection as long as the proper data still goes into our statistical agency.

Interestingly enough, something said during the discussion of Amendment #2 provoked a lengthy discussion of the assigned risk pool. I indicated that in our view the rating bureau would, when making a rate filing for the pool, have to include an expense provision. I indicated that all states that I was aware of had an administered rate system for their pools even where open rating prevailed for voluntary business. This area will apparently receive further attention from staff.

The legislative draft labeled Amendment #3 is intended to allow the use of deductibles in Workers Compensation Insurance. I indicated that the Division of Insurance is very much in favor of the concept but that the Compensation Act should not be touched. I feel that, as far as the Workers Compensation Act is concerned, the law should continue to look to the insurer for payments due to a claimant. This would tend to simplify board and Division of Workers Compensation actions regarding claims. I pointed out that we currently have a deductible filing before us where the insurer is responsible for full payment of any valid claim but has, if you will, a "side agreement" with the insured employer for reimbursement of losses paid by the insurer up to an agreed limit. The only conflict at this time is whether such an agreement and its resulting reduction in rate is a deviation under AS 21.39.070. I indicated that we would argue that it is not, as long as the standard rate amounts are reported for statistical purposes and all other rating organization rule are utilized and are not impacted. I would argue that it is an independent filing. I suggested that it would be appropriate to add a modification to AS 21.39.070 by adding a new subsection (c) which would state:

(c) Notwithstanding (a) of this section, a filing by an insurer of an independent deductible or loss reimbursement plan shall not be considered a deviation under this section.

The legislative draft labeled Amendment #4 provides an exception to prior approval for workers compensation rate filings that are not below the pure premium rate filed by the rating organization. Such rates would become effective immediately upon filing. Rates below the pure premium level remain subject to prior approval. The rating organization is barred from filing rates that include allowances for expenses, taxes and profit. This is similar to an approach developed in Oregon which is now under consideration. I indicated that we were in favor of the concept. The approach appears to be workable. I believe that some modification will be necessary to deal with the assigned risk pool which I noted earlier in this memo. Incidentally, Oregon intends to allow full rate filings by the rating organization for pool business. They expect to do it administratively. I did indicate that the proposal might not be going far enough and described what is now occurring in the NAIC with the development of an open competition rating model law expected for action at the December meeting. I indicated that upon receipt of that proposal, I would forward it to the commission for its review. It was noted that no mechanism had been provided whereby the director could reinstitute prior approval if competition was not found to exist. I concur that such a mechanism would be desirable.

The legislative draft labeled Amendment #5 would revise the investment section of the code to require the reporting of investment income on Alaska Workers Compensation Reserves. There are several problems with this section. The draft refers to annual reports required under AS 10.05.699, but AS 21.03.010(b) exempts insurers from AS 10.05. AS 21.21. is an improper location for such a requirement. The requirement, if adopted, should be placed in AS 21.09.200 which is the section requiring annual reports. If we adopt competitive rating, the requirement may be moot. The results would be suspect at any rate since such funds are not separable from the general funds of the company, which means that assumptions and allocations will have to be carefully considered and reviewed for propriety and acceptability.

The legislative draft labeled Amendment #6 would exempt guaranty fund payments for those policies where the rate used is below the pure premium filed by the rating organization. I indicated that the Division of Insurance would be opposed to this modification of law. It has the effect of creating a class of claimants (employees) not entitled to the protection and recoveries otherwise provided by the Alaska Insurance Guaranty Association Act (AS 21.80) based upon an assumption that may or may not be true but which in any case is beyond the ability of the employee to control since he does not purchase or contribute to Workers Compensation Insurance and is beyond the ability of the employer to foresee since he is not likely to have ready access to data to impact his purchase decision. Those rates used which fall below pure premium

rates are not necessarily representative of the entire Workers Compensation Insurance portfolio of a particular insurer. It will likely occur in only a few classifications. Further it is not likely that the Workers Compensation Insurance rates for some classifications in one state will be sufficient to cause an insurer insolvency in and of itself. Insolvency could occur for totally unrelated reasons which would burden certain claimants unfairly. These very rates would be the only rates in Workers Compensation Insurance subject to close scrutiny thus making insolvencies by workers compensation insurers using rates subject to filing, review and approval less likely to be hazardous to the financial health of the company than those used under file and use.

The philosophical and policy argument that the State should bear this entire burden was one that was considered by the Legislature when adopting the Alaska Insurance Guaranty Association Act. That Act places the financial burden of insolvency on other carriers writing the same kind of business in this state, rather than on the state itself. Since that policy exists, I objected to a fragmentation of the policy and offered no comment on the propriety of a change in that policy. By its nature, it has to be an all or nothing situation as to those kinds of insurance covered by the Act or inequities will result.

DPK/cw#25B1

11/21/80 I concur with the basic concept of this report. This review should be supplied to the Study Comm.

Kenneth C. Moore
Director of Ins.

Rec 12/3/80

International Association of **Heat and Frost Insulators & Asbestos Workers**

Local No. 97 City Anchorage State Alaska 99501

Address 407 Denali Street

MEMO

TO: Senator Terry Stimson, Chair
Workmen's Compensation Study Committee
DATE: November 24, 1980
RE.: Workmen's Compensation
FROM: Local 97, Jack Endsley BA ; Alaska Health Care Advocates, S. Johnson, Director

Jack Endsley BA

In order to clarify Local 97's concern regarding workmen's compensation we are submitting copies of the now deceased Bill Anderson case, which came before the WC Board in October of 1974, and again in December of 1975, as a specific example of the concern Local 97 has regarding the decisions made by the WC Board.

We ask that the Committee Chair and other members of the Committee note #1, under Findings and Fact,Conclusions of Law, of the WC Board Decision and Order, case # 73-12-0371:

" The principal contention is that the Board erred when it found that no diagnosis of asbestosis or silicosis had been made by doctors who had examined and/or treated Mr. Anderson...this error was confirmed by the autopsy report which was presented at the April 9, 1975 hearing...we therefore reverse our previous conclusion that applicants illness was not asbestosis..."

The reversal was made subsequent to Mr. Andersons death and obviously of no service to the deceased. He had no surviving dependents, and Mr. Jack Endsley, the BA for Local 97, who paid a substantial amount of his own money to assist Mr. Anderson is/was not eligible for reimbursement.

With this in mind, Local 97 would like to suggest the Committee study workmen's compensation with the following in mind : too little, too late, and keep us informed of any policy decisions being considered regarding this "analysis".

Further, Local 97 strongly supports the concept of freedom of choice of doctors and strongly urgesthe Committee to continue support of that choice, both in terms of the number of doctors and the determination of the location of adequate medical facilities. We do not consider this choice self-indulgent "doctor shopping". Local 97 feels it is important to allow injured workers to utilize the services of doctors out-of-state as the nature of the illness requires. There are a number of high risk occupations and work materials (such as work with asbestos and/or toxic fumes) which may cause rare forms of cancer or such debilitating diseases as asbestosis, and which require specialized medical training in order to secure an accurate diagnosis which may or may not always be available in-state. The injured worker

Local 97, International Association of Heat and Frost Insulators and Asbestos Workers Workmen's Compensation Study Committee considerations:

should have the option of out-of-state diagnosis as it is critical to compensation, and the compensation amy be critical to the survival of the worker, and in the case of death, to surviving dependents. We do not believe the costs incurred for travel, diagnosis, and treatment should be the responsibility of the employee when the illness induced stems from work in high risk occupations in which inducing rare forms of cancer and other atypical occupational diseases is not uncommon. Further, there should be no of compensation to employees who utilize Outside medical services. Also, it is important to note that exposure to asbestos is not exclusive to Local 97 members but includes the vast majority of Building and Trades members. We object to the reduction in compensation imposed when the residency of a worker changes and ask that the Committee consider the fairness of such a policy and alternatives to it.

We suggest Committee members consider compensation for any worker who has been involuntarily transferred from his/her job because their health is in jepordy since that particular person can not continue work ar that job if s/he follows the advice of the physician. The worker should be compensated for partial disability.

Regarding Mike Steffens: At the teleconference held on asbestosis, Mr. Dan Middaugh mentioned Mike Steffens as an example of a member of local 97 who has had a number of problems conerning workers compensation. Mr. Steffens filed in August (from exposure to toxic fumes) and has only just found out that the insurance company controverted; the insurance company actually controverted in August. This information was obtained after a third party intervened and Mr. Steffens will be advised by the Anchorage workers compensation staff to file for readiness to proceed, which he will do. It is still not completely clear as to why Mr. Steffens has had to wait 3 months for the necessary information which would allow him to follow thru on his claim; the insurance adjustor claims it is due to new personnel at the insurance company. Regardless of the reason, it was suggested to Mr. Steffens that he pay the hospital bills himself until his case could be resloved. The Steffens are financially unable to assume those bills and therefore asked the third party to intervene. At this time we know of no medical records which indicate that Mr. Steffens has induced asbestosis. His case should come before the WC Board in the immediate future so that all issues can be clarified. We have included Mr. Steffens in our written testimony to provide some clarification of his particualar case as it was mentioned by Mr. Middaugh at the teleconference.

Although we feel that the interests of labor will be represented by the Committee Chair, Chancy Croft, Dave Rasley and others, we would like to ask that the Committee keep us informed of any relevant policy decisions under consideration. Finally, we ask that the Committee take into consideration the following:

According to the Barth study just published (Workers Compensation and Work Related Illnesses and Diseases) there are great discrepancies between the compensation awarded for average work injuries and for occupational diseases.

a/ the average amount of time a victim waits before receiving benefits for occupational diseases vs. the average amount of time a victim of an average work injury waits. Nationally, it is one year for occupational diseases vs. two months for average work injury compensation.

b/ the percentage of occupational disease awards;nationally, 60% of the claims are denied for occupational diseases and only 10% of the average job injury awards are denied

Local 97 of the International Heat and Frost Insulators and Asbestos Workers Workers Compensation Study Committee considerations:

c/ the number of occupational disease awards that are resolved in compromise and release agreements which involve small lump sum settlements which usually release carriers from further liability for income maintenance and health care costs;nationally, over 50% of occupational disease awards receive such treatment and only 16% of all regular injury awards receive such treatment

d/ the amount of compensation for the worker who has been totally disabled for life by occupational disease; nationally, only one-eighth of the workers income is replaced

e/ the Committee should examine in detail the flow of funds into and out of insurance company reserves; nationally, only 60¢ of every premium dollar is paid out as cash or medical benefits, therefore, 40¢ fo every workers compensation dollar goes to pay expenses which include insurance company reserves, dividends, litigation costs, overhead, etc.

According to a progress report published by Dr. Irving Selikoff of the Mt. Sinai School of Medicine (who was responsible for first detecting the link between asbestos and cancer) and who is conducting a comprehensive study and analysis on workers compensation benefits for asbestos workers who have induced asbestosis, mesothelioma, and/or lung cancer, there are significant problems with workers compensation. His preliminary report discusses 175 workers in 34 states who induced mesothelioma and applied for workers compensation. He also discusses the experience of the surviving dependents who applied for compensation:

a/ only 37% applied prior to death

b/ only one-half received compensation

c/ one-half had claims pending at death

d/ average victim of mesothelioma was disabled less than 6 months prior to death, and worker compensation did not have sufficent time to process all the applications for benefits

e/ 40% of the survivors filed for claims of which the majority recieved a weekly cash award of about $80.00 and other received a lump sum settlement averaging $20,000.00

f/ approximately two-thirds of the claims were contested and 84% required the services of an attorney

g/ three-fourths of the widows did not file for compensation and said they did <u>not</u> know they could file for benefits

h/ tort litigation including third party liability suits were filed by about 22% of the survivors of mesothelioma victims; three fourths of the suits settled at an average amount of $93,000.00 (less $35,000.00 for legal fees).

The conclusions which can and have been inferred thus far are that workers compensation benefits are not easily accessible or adequate for occupational illness victims

Local 97 of the International Association of Heat and Frost Insualtors and Asbestos Worker
Workers Compensation Committee Study considerations:

and/or their surviving dependents. In fact, many are in effect discouraged for even applying for workers compensation and many of the costs due to occupational illnesses are then incurred by social programs such as Medicaid, instead of being incurred by those who have a legal responsibility for compensation.

As the Committee takes these observations into consideration, we suggest you discuss ways in which the workers compensation system can better meet the needs of those who have been subjected to occupational health hazards and diseases. One example presented by Barth is to use a substance by substance compensation program similar to the Black Lung Program.

enclosures: 2

REPORT TO
GOVERNOR'S TASK FORCE
ON REHABILITATION

INDUSTRIAL COMMISSION

REHABILITATION DIVISION

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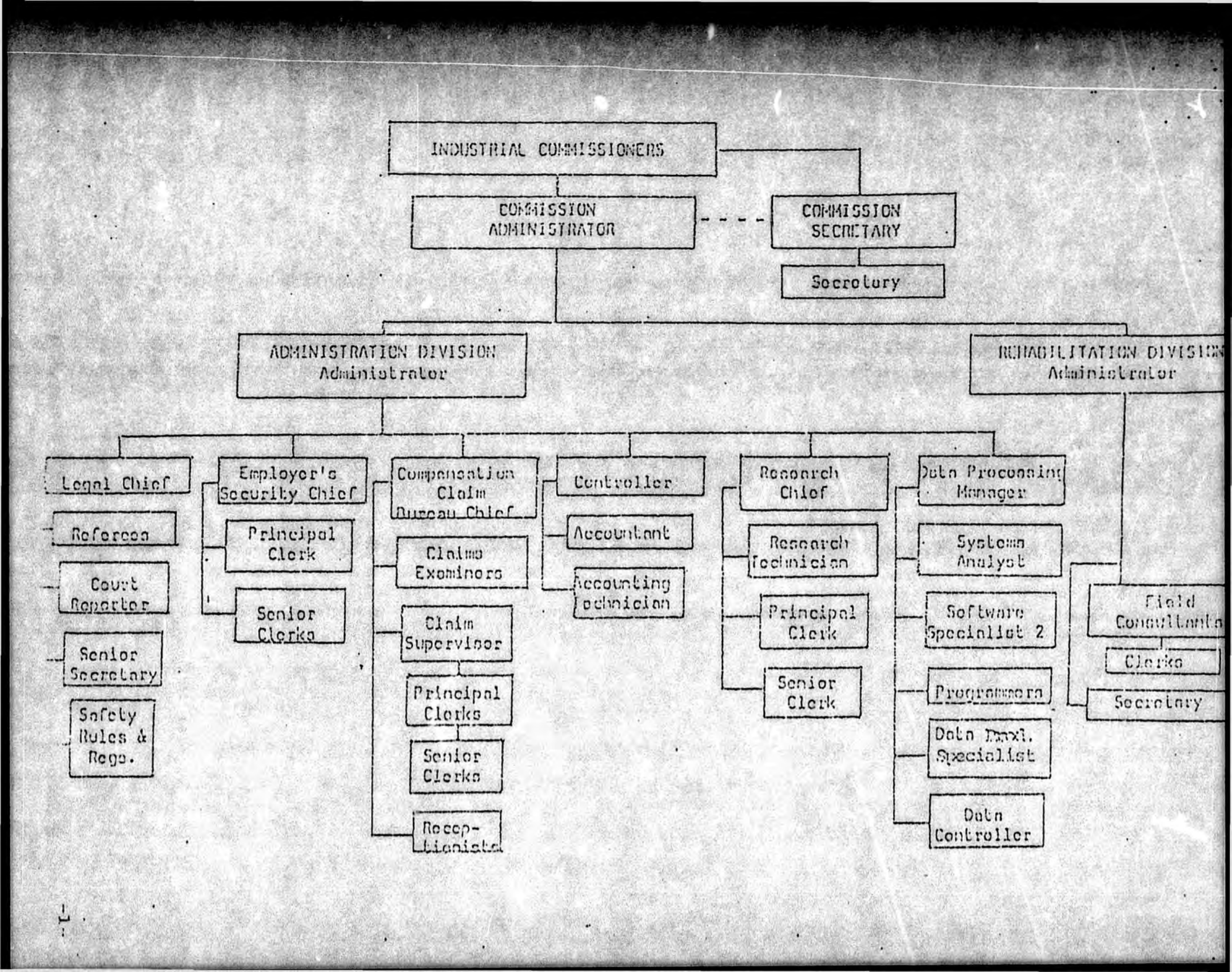
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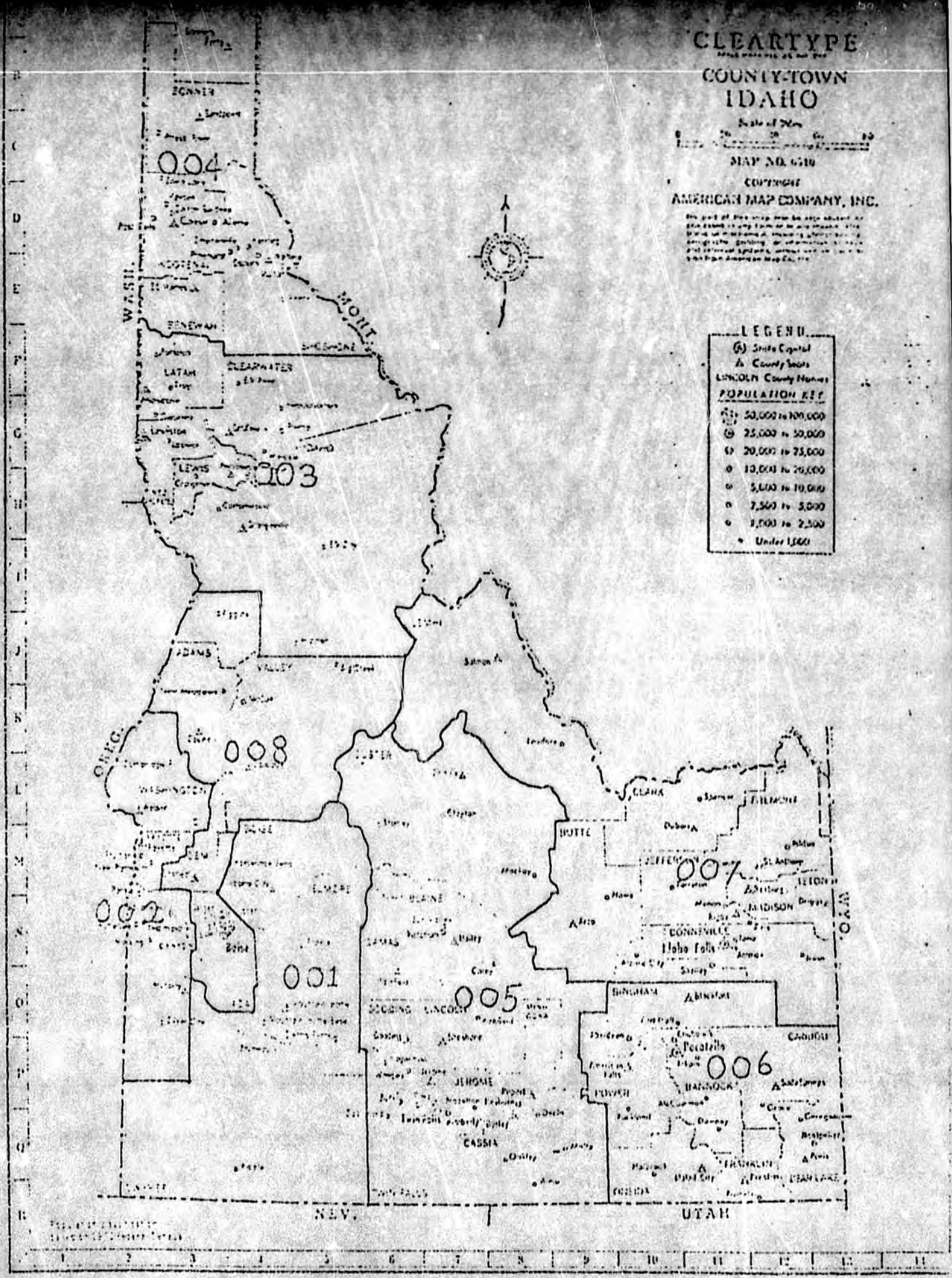
Data Controller
Field Consultants
Clerks
Secretary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Pocatello
BANNOCK
CARIBOU
FRANKLIN
ONEIDA
NEV.
UTAH

FTE'S BY GEOGRAPHICAL AREA

OFFICE CODE	OFFICE LOCATION	CONSULTANTS	SECRETARY/SR. CLERK
001/008	Boise	2	1 (full time)
002	Caldwell**	1	1 (¾ time)
003	Lewiston**	1	1 (¾ time)
004	Coeur d'Alene*	1	1 (½ time)
005	Twin Falls*	1	1 (½ time)
006	Pocatello**	1	1 (¾ time)
007	Idaho Falls**	1	1 (¾ time)

*Effective July 1, 1980, an additional Field Consultant will be placed in these offices and the Sr. Clerk will go to full time.

**Effective July 1, 1980, Sr. Clerks will be placed at 3/4 time in each of these offices.

NEEDS OF POPULATION TO GENERATE SERVICES

Rehabilitation, both physical and vocational, has become a vital part of the total workmen's compensation system. To the worker it provides a way to return to employment, for the employer it provides an opportunity to reduce costs.

1. Human needs resulting in a workmen's compensation rehabilitation program.

   a. Workers do not understand the compensation system. Many times workers with minor impairments become frustrated over the problems of dealing with the insurance company resulting in their seeking out legal assistance. At this point, the adversary situation begins which brings to light the disincentives of this program. Workers are reimbursed based on their inability to become employed. Field Consultants assure that workers are provided benefits they are entitled to under the Workmen's Compensation Law and encouraged a return to employment as early as possible.

   b. Training did not always result in employment. Workers were being placed in training programs, signing compensation agreements to help fund such training, only to find at the end of the training program there were no jobs for which they were qualified. The Rehabilitation Division allows the monitoring of rehabilitation plans to assure the claimant is advised of the potential employment available to him at completion of training. Often we are able to show the worker the advantages of returning to a modified job rather than becoming involved in training programs provided by other agencies.

   c. Workers did not always meet the eligibility criteria of other agencies. With the majority of injured workers having had back injuries, it is not always feasible for the physician to provide an early diagnosis providing permanent limitations required in establishing eligibility for IDVR.

   d. Workers were not receiving assistance with the non-medical factors which may have been the factors which originally caused the accident.

Often, psychological problems, marital problems, or social problems such as alcohol or drug abuse have been a primary factor leading to the accident as well as a detriment to the employee in his return to employment. Prior to the Rehabilitation Division, these individuals were paid for their impairment, with the non-medical factors often overlooked, thus preventing the individual from returning to employment.

2. Economic Needs:

a. Cost of workmen's compensation rose 122% during the period 1972 to 1979. As a result of the findings of the National Commission on Workmen's Compensation Laws, the state workmen's compensation agency's updated their laws to better meet the needs of the injured worker. As a result of this update, the above mentioned increase in workmen's compensation insurance in the state of Idaho developed. Although expensive, these increases were needed as shown in the example of a man who became totally blind as a result of an industrial accident in 1963, based on the law at that time he receives only $12 per week in workmen's compensation benefits.

b. The Odd-Lot Doctrine. As a result of recent Supreme Court decisions, non-medical factors are now to be considered in the determination of whether or not an individual is a totally disabled individual.

c. Rehabilitation Target Group. In the study of back cases closed during 1977 and 1978, it was determined that 72.9 percent of compensation, or 9.8 million dollars was spent on 5 percent of the injured workers, or 592 individuals. Broken down further, the same study showed that 26 percent of compensation, or 3.5 million dollars was spent on .9 percent, or 97 injured workers. This study provides a tremendous target group for a rehabilitation program in providing a cost savings within the workmen's compensation process.

d. Need for Workers Compensation Specialist in Rehabilitation. In the 1976 National Training

Institute Industrial Injured Seminar, sponsored by the Rehabilitation Service Administration, Donald E. Galvin, Director of the Division of Vocational Rehabilitation in the state of Michigan stated, "I think a vocational rehabilitation agency can look to the Workmen's Compensation Specialist not as a laxury, but as delivering a cost beneficial result both for the agency and industry. The worker's compensation recipient has an advocate who understands and is able to convey the worker's rights, knows the language and dynamics of the system, and is able to obtain administrative support from the Workmen's Compensation Bureau to resolve disputes and avoid formal hearings."

IDAHO CODE ESTABLISHES REHABILITATION DIVISION

In 1978, the Legislature ammended Section 72.501A of the Idaho Workmen's Compensation Law to provide for the establishment of a Rehabilitation Division of the Industrial Commission.

The Rehabilitation Division was established in order to assist in reducing the period of temporary disability resulting from an industrial injury and to aid in restoring the injured employee to gainful employment with the least possible physical impairment. It was the intent of the Legislature that this program concern itself with both physical and vocational rehabilitation with a special emphasis in the area of job placement.

MAJOR CHANGES IN PROGRAM AS EXPERIENCED SINCE REORGANIZATION IN 1974

The Rehabilitation Division of the Industrial Commission as it exists today, was established by the 1978 Legislature, Section 72.501A and as a result was not affected by the 1974 reorganization.

WORKING RELATIONSHIPS:

Idaho Division of Vocational Rehabilitation.

a. A written agreement exists between the Industrial Commission and IDVR providing for the efficient referral of individuals from one agency to the other and also provides for the exchange of medical information.

b. We have been very pleased with the cooperation of the Division of Vocational Rehabilitation. Cooperative efforts include:

1. IDVR has been involved in the orientation of new Field Consultants.

2. They have been helpful in providing training materials such as films.

3. The Field Consultants have been involved in IDVR training and IDVR counselors have been involved in Industrial Commission training.

4. The Administrator of the Industrial Commission's Rehabilitation Division has had opportunity to speak to each of the area offices of IDVR explaining the workmen's compensation process.

5. In many areas, the Industrial Commission's Field Consultant attends regular staff meetings with the local IDVR office.

The only point in the process where I feel there may be some duplication would be in the initial contacting of injured workers. I feel it would probably be more efficient if the Industrial Commission's Field Consultant were to be responsible for first contact on all injured workers with referrals of injured workers to IDVR being made through the Industrial Commission's Field Consultant. For both agencies there is a high percentage of injured workers who are screened out in the evaluation process as not needing rehabilitation services. By implementing this procedure, only the Industrial Commission's Rehabilitation Division would assume this evaluative time loss on the high percentage of cases not determined eligible.

IDAHO DEPARTMENT OF EMPLOYMENT

As with IDVR, the Industrial Commission is very pleased with the relationship it has with the Department of Employment. Cooperative efforts include:

1. Written agreement exists for the exchange of General Apptitude Test Battery scores.

2. The Department of Employment has been involved in the orientation of new Field Consultants. Topics covered were:

   a) The General Apptitude Test Battery.
   b) Vocational counseling available at DOE.
   c) CETA Programs.
   d) Job market information available from the Department of Employment.

3. We have received assistance from the Department of Employment in the sharing of training films, books, and audio visual equipment.

4. We are provided monthly with the job market information provided by DOE.

5. We have been involved with on-going training by DOE in the General Apptitude Test Battery.

6. On a local level, the Department of Employment has been very helpful in providing CETA monies to help in the rehabilitation of injured workers, provision of interest tests and the General Apptitude Test Battery, along with vocational counseling.

7. During our start-up period, the Department of Employment was very helpful in evaluating each of their offices to see if there was space available for Industrial Commission Field Consultants. They were able to provide temporary housing in the Pocatello area, however, no other areas had space available.

8. Many field offices have worked with the Field Consultants in sharing job leads available at the Department of Employment.

9. DOE data processing equipment is used in the processing of Rehabilitation Division Reports.

-

COMMISSION FOR THE BLIND

No written agreement exists with the Commission for the Blind, however, we have had very good cooperative relationship.

Initially, the Coeur d'Alene Field Consultant was located in a Commission for the Blind office. On numerous occasions we have been able to work cooperatively with the Commission for the Blind resulting in appropriate placement for injured workers. An example would be the manager of the cafeteria in the State Building at 317 Main Street.

IDAHO ASSOCIATION OF COMMERCE AND INDUSTRY

IACI has been very involved in working with the Industrial Commission's Rehabilitation Division.

1. Jim Fields, attorney for IACI, is a member of the Rehabilitation Division Advisory Committee.

2. IACI has included the Administrator of the Rehabilitation Division on the agenda of seminars they sponsored.

3. The Administrator of the Rehabilitation Division has spoken at IACI's Industrial Relations Committee meetings.

4. IACI has also been very helpful in distributing copies of the Division's newsletter to memebers of the association.

LABOR

Labor has been very helpful not only in the establishment of the Rehabilitation Division, but also in helping assure an effective program for the injured workers. Mr. Bob Kinghorn, President of AFL-CIO, is a member of the Advisory Committee and has been very helpful in distributing the Division's newsletters to union halls around the state. In addition, members of the Meat Cutters Union and the Carpenter's Union have spoken at training programs for the Rehabilitation Division's Field Consultants.

BAR ASSOCIATION

The Rehabilitation Division works closely with attorneys involved in the workmen's compensation process. The Administrator has had the privilege of presenting our program to a recent

seminar on worker's compensation sponsored by the Bar Association.

INSURANCE COMPANIES

The Rehabilitation Division has been involved in contacting many of the larger insurance companies to present our program individually to them. We also carry on a regular communication both by phone and in writing with those companies involved with the cases in which we are dealing. We have found the insurance industry to be very helpful in providing needed services to the injured worker to include extension of benefits, additional medical care, OJT money, purchasing of tools and equipment, transportation money, lump sums to provide for the purchase of small businesses, etc. In some ways I feel that one of the major keys to the success of this program has been the communication and working relationship that has been established with the insurance industry.

MEDICAL PROFESSION

The Industrial Commission's Rehabilitation Division deals directly with the attending physician on cases in which we are involved. We have found that the communication that has been developed has been very helpful in returning the injured worker to employment. It allows the physician an opportunity to talk with a neutral party regarding the Workmen's Compensation Law and how their decisions will affect injured workers.

In addition, the Field Consultant is able to provide additional information (job site evaluations) to the physician allowing him to make a better decision regarding release of the injured worker to employment.

Employers have indicated they are much more confident in the physician's decision since the Rehabilitation Division's Field Consultants have been involved in increasing this communication.

OTHER ORGANIZATIONS

Other organizations with which we have been involved include:

1. The Hospital Administrator's Association.

2. Elk's Rehabilitation Hospital.

3. Information Referral Services of Boise.

4. Boise State University in providing facilities and continuing education credits for training and their counseling program for providing testing services.

5. Other universities and colleges, vocational schools, business and trade schools.

6. Private rehabilitation facilities.

7. Automation Engineering.

8. Small Business Administration.

9. Idaho Association for Physically Handicapped Adults.

10. Orthotic and prosthetic services around the state.

11. Church social service programs.

The above list of organizations and agencies with which we deal should not be considered a complete list of all those with whom we are involved. There are many other agencies and individuals who have been very helpful in the provision of rehabilitation services to injured workers.

INDUSTRIAL COMMISSION
REHABILITATION DIVISION
REVENUE & EXPENSE SUMMARY
FOR PERIOD 1 JULY, 1978 THRU 30 JUNE, 1979

Expenditures	Coeur d'Alene	Lewiston	Caldwell	Boise	Twin Falls	Pocatello	Field Office Total	Administration	Total	Budget	Per Cent
Regular Salary	$ 16,137	$ 15,202	$ 12,385	$ 13,320	$ 16,349	$ 16,332	$ 90,723	$ 43,303	$ 134,026	$ 176,000	76.15
Temporary Employees		(18)	1,061				1,843		1,843	4,000	46.08
Fringe	3,561	3,422	2,709	2,649	3,817	3,478	19,636	8,172	27,808	40,200	69.17
Total Personnel	19,698	19,606	16,953	15,969	20,166	19,810	112,202	51,475	163,677	220,200	74.33
Travel	1,285	1,268	759	358	2,569	1,415	7,654	3,312	10,966	30,000	36.55
Professional Services			100				100	2,777	2,877	4,431	64.93
Communication	1,613	1,650	1,521	1,318	1,692	2,261	10,055	3,986	14,041	15,000	93.61
Utilities	263	246			82		591		591	2,000	29.55
Rent		1,884	2,600	672	1,828	2,951	12,135	865	13,000	14,000	92.86
Supplies	192	173	195	640	228	240	1,628	6,735	8,363	8,500	98.39
Other	1,229	1,211	572	4,538	483	275	8,308	16,749	25,057	30,000	93.52
79 Total MER								4,471	4,471		
Total Operating	4,582	8,632	5,747	7,526	6,882	7,142	40,471	41,895	82,366	103,931	79.25
Auto	375	375	375	5,305	5,105	375	11,910		11,910	18,000	66.17
Office Equipment	425	1,866	1,835	1,845	1,762	2,331	9,304	4,242	13,546	14,572	92.96
79 Total MER								2,626	2,626		
Total Capital	800	2,241	2,210	7,150	6,867	2,706	21,214	13,778	35,992	32,572	107.74
Grand Total	25,080	30,479	24,910	30,645	33,915	29,658	173,887	107,248	281,135	356,703	78.81

Receipts

Premium Tax									303,200	306,400	99.00

INDUSTRIAL COMMISSION
REHABILITATION DIVISION
REVENUE & EXPENSE SUMMARY
FOR THE PERIOD 1 JULY, 1979 THRU 31 MAR. 1980

EXPENDITURES	COEUR d'ALENE	LEWISTON	CALDWELL	BOISE #1	BOISE #2	TWIN FALLS	POCATELLO	IDAHO FALLS	FIELD OFFICE TOTAL	BOISE ADMIN	REHABILITATION TOTAL	BUDGET	PER CENT
Salary	$ 14,605	$ 14,605	$ 14,909	$ 11,781	$ 8,720	$ 15,039	$ 15,461	$ 11,887	$ 107,407	$ 37,391	$ 144,798	$ 197,300	73.39
Fringe	3,347	3,347	3,375	2,419	1,652	3,374	3,105	2,666	23,485	7,593	31,078	39,500	78.68
TOTAL PERSONNEL	$ 18,152	$ 18,152	$ 18,284	$ 14,200	$ 10,522	$ 18,413	$ 18,566	$ 14,553	$ 130,892	$ 44,984	$ 175,876	$ 236,800	74.27
Travel	$ 1,094	$ 1,379	$ 967	$ 645	$ 563	$ 1,467	$ 1,154	$ 1,172	$ 8,441	$ 2,885	$ 11,326	$ 20,350	55.66
Prof. Services		15							15	1,850	1,865	1,900	98.16
Other Services	380	357	548	950	550	705	250	448	4,188	7,026	11,194	20,200	55.42
Communication	1,629	1,801	1,697	665	609	1,995	2,172	1,558	12,116	2,489	14,605	19,000	76.87
Utilities	54					483			537		537	4,000	13.43
Rent	2,018	1,717	1,830	196	196	1,498	2,700	2,928	13,053	467	13,520	18,300	78.15
Mat'l & Supplies	239	115	148	92	206	287	192	282	1,561	4,613	6,174	20,500	30.12
Maint. & Repair	35	276	216		15	227	325	187	1,281	145	1,426	10,200	13.98
Other	66	66	66	352	55	66	66	66	803	701	1,504	3,521	42.72
TOTAL OPERATING	$ 5,515	$ 5,726	$ 5,432	$ 2,900	$ 2,174	$ 6,728	$ 6,859	$ 6,641	$ 41,975	$ 20,176	$ 62,151	$ 116,971	53.13
TOTAL CAPITAL	$ 1,387	$ 1,048	$ 1,219	$ 219	$ 851	$ 304	$ 221	$ 7,188	$ 12,437	$ 334	$ 12,771	$ 16,939	75.39
GRAND TOTAL	$ 25,054	$ 24,926	$ 24,935	$ 17,319	$ 13,597	$ 25,445	$ 25,646	$ 28,382	$ 185,304	$ 65,494	$ 250,798	$ 370,710	67.65
RECEIPTS													
Premium Tax									$ 558,419	$ 558,419	$ 586,600	95.20	

CASES SERVED

INDUSTRIAL COMMISSION

REHABILITATION

	FY 79	FY 80*
Cases opened for evaluation	1061	765
Carried over from previous year	--	433
Closed after evaluation as not needing services	496	336
Provided rehabilitation services	565	862
Rehabilitated: Rehabilitation Division provided significant services in returning to employment	58	167
a) Same Job-Same Employer	15	27
b) New Job-Same Employer	15	32
c) New Job - New Employer	28	108
Closed not rehabilitated	68	153
a) Returned to work but not as a result of our services	17	33
b) Didn't return to work, no significant services provided	18	43
c) Didn't return to work, but rehabilitation services were provided	33	77
Provided significant services and claimant returned to work, but services were of a claims or non-rehabilitation in nature	2	41

*Fy 80 data is figured on the period 7-1-79 through 4-31-80.

CASES SERVED BY GEOGRAPHICAL AREA

DESCRIPTION	BOISE		CALDWELL		LEWISTON		COEUR D'ALENE		TWIN FALLS		POCATELLO		IDAHO FAL	
	FY79	FY80*	FY79	FY80*	FY79	FY80*	FY79	FY80*	FY79	FY80*	FY79	FY80*	FY79	FY8
Cases Opened for Evaluation	208	201	204	108	162	95	137	108	175	114	175	53	-	8
Carried Over From Previous Year		62		80		53		77		84		57		2
Closed After Evaluation	121	79	100	40	82	64	52	44	64	56	77	27	-	2
Provided Rehabilitation Services	87	184	104	148	80	84	85	141	111	142	98	83	-	8

*FY 80 data includes 7-1-79 through 4-31-80 only.

CHARACTERISTICS OF INJURED WORKERS
FY 80 *

	MALE	FEMALE
OPEN CASES	395	107
CLOSED AFTER EVALUATION AS NOT NEEDING SERVICES	258	78
PROVIDED SERVICES	660	202
REHABILITATED	122	45
CLOSED AS NOT REHABILITATED	143	51
ALL CASES SERVED	918	280

AGE	NUMBER SERVED
0-15	1
16-20	55
21-25	182
26-30	191
31-35	197
36-40	164
41-45	121
46-50	113
51-55	80
56-up	94

*FY 80 data includes period 7-1-79 through 4-31-80.

HANDICAP TYPE

Cases Opened 7-1-78 through 4-31-80

BODY PART	NUMBER	PERCENTAGE
Head	64	3.5%
Neck	78	4.3%
Arm	213	11.6%
Back	1063	58.3%
Legs	207	11.3%
Multiple Parts	148	8.1%
Body System	42	2.3%
Other	11	.6%
	1494	

BREAKDOWN OF BACK CASES BY NATURE OF INJURY:

INJURY	NUMBER	PERCENTAGE
Burns	1	.1%
Cuts	2	.2%
Strain - Sprains	899	84.6%
Crushing Injuries	5	.5%
Fractures	91	8.5%
Pinched Nerve or Bruises	64	6.0%
Other	1	.1%

AVERAGE NUMBER OF DAYS
BETWEEN REFERRAL AND CLOSURE
FOR CASES SERVED DURING FY 79 & 80*

Cases Closed After Evaluation as Not Needing Rehabilitation Services	56 days
Cases Closed Not Rehabilitated	214 days
Cases Rehabilitated	219 days

*FY 80 data includes period 7-1-79 through 4-31-80

SERVICES PROVIDED BY

CLOSED STATUS FY 80*

CLOSED - REHABILITATED 167

	NUMBER SERVED	AVERAGE TIME
Placement	147	50 days
Training	24	62 days

CASES CLOSED - NOT REHABILITATED FY 80 * 153

	NUMBER SERVED	AVERAGE TIME
Placement	94	74 days
Training	16	42 days

*FY 80 data is figured on the period 7-1-79 through 4-31-80

FY 80* CASES SERVED JOINTLY BY TWO OR MORE AGENCIES

I.C. Rehab and Social Security	41
I.C. Rehab and IDVR, or Blind Commission	244
I.C. Rehab and Department of Employment	324
I.C. Rehab, Department of Employment, IDVR, or Blind Commission	96
I.C. Rehab, Department of Employment, IDVR, or Blind Commission, and Social Security	8

*FY 80 data includes 7-1-79 through 4-31-80 only

In summary, the Industrial Commission's approach to rehabilitation is a business approach. Our goal is to return the injured worker to as close his pre-injury status in the most cost effective and timely manner possible. We are also involved in monitoring the case assuring that the claimant receives those benefits he is entitled to under the Idaho Workmen's Compensation Law.

Services offered by the Industrial Commission's Rehabilitation Division are designed to accomplish the early return to employment with an emphasis in the placement area. The Field Consultant's approach in evaluating the case for needed services would be to attempt:

1. A return to the same job with the same employer.

2. Return to a new job with the same employer.

3. A return to the same job with a new employer.

4. A return to a new job with a new employer

If, as a result of the placement and modification efforts on the part of the Field Consultant the claimant is still unemployable, training is evaluated as an alternative. Priorities for training services provided would be the following:

1. On-the-job training

2. Business or trade training

3. Vocational school

4. Academic training

As you can see from reviewing previous data, less than 25 percent of individuals served receive training services with only 15 percent of those receiving training being placed in a college or university program.

With the emphasis of the Industrial Commission's Rehabilitation Division being on the early return to employment as close to the pre-injury status as possible, you will find that the types of services provided differ greatly from agencies whose programs center more on the provision of services to the individual with a goal of having that individual reach his fullest potential educationally as well as vocationally.

WORKMEN'S COMPENSATION AND REHABILITATION LAW

(Revised)

THE COUNCIL OF STATE GOVERNMENTS
Lexington, Kentucky

Advisory Committee on Workmen's Compensation Law of the Council of State Governments

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Section 19. [*Determination of Average Weekly Wage.*] Except as otherwise provided in this act, the average weekly wage of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation and shall be determined as follows:

(a) If at the time of the injury the wages are fixed by the week, the amount so fixed shall be the average weekly wage;

(b) If at the time of the injury the wages are fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by 12 and divided by 52.

(c) If at the time of the injury the wages are fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by 52;

(d) (1) If at the time of the injury the wages are fixed by the day, hour, or by the output of the employee, the average weekly wage shall be the wage most favorable to the employee computed by dividing by 13 the wages (not including overtime or premium pay) of said employee earned in the employ of the employer in the first, second, third, or fourth period of 13 consecutive calendar weeks in the 52 weeks immediately preceding the injury.

(2) If the employee has been in the employ of the employer less than 13 calendar weeks immediately preceding the injury, his average weekly wage shall be computed under the foregoing paragraph, taking the wages (not including overtime or premium pay) for such purpose to be the amount he would have earned had he been so employed by the employer the full 13 calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation.

(e) If at the time of the injury the hourly wage has not been fixed or can not be ascertained, the wage for the purpose of calculating compensation shall be taken to be the usual wage for similar services where such services are rendered by paid employees.

(f) In occupations which are exclusively seasonal and therefore cannot be carried on throughout the year, the average weekly wage shall be taken to be one fiftieth of the total wages which the employee has earned from all occupations during the 12 calendar months immediately preceding the injury.

(g) In the case of volunteer firemen, police, and civil defense members or trainees, the income benefits shall be based on the average weekly wage in their regular employment.

(h) If the employee was a minor, apprentice or trainee when injured, and it is established that under normal conditions his wages should be expected to increase during the period of disability, that fact may be considered in computing his average weekly wage.

(i) When the employee is working under concurrent contracts with two or more employers and the defendant employer has knowledge of such employment prior to the injury, his wages from all such employers shall be considered as if earned from the employer liable for compensation.

11/20 W Comp Rehab subcommittee

Bob Williams out of town. Report on 191 benefits

Licia → Memo 10/26 - brief outline of Idaho

→ Recommendations

O'Keefe ideas

~~to~~ what direction - research areas (backup)

Licia explain]

Look @ Idaho, Calif Rehab Bureau

Review/monitoring system under W Comp?

Jackie - 191 benefits

Testifying - Billy E. Jones benefit problems, rehab. [Licia Questions

Billy - tomorrow am.

Rasley, Rogers, O'Keefe, Maloney, Picano (Stimson?)

BILLY JONES - ACC since spring quarter 1980.

Referred 10/12/79 to Voc Rehab while in Swedish Pain Clinic

Went to 11/79. No tests by DUR. May 81 back in job market. Talked w/counselor 3x - grades for semesters.

Electronic Tech. Was union electrician from Georgia

Injured Valdez May 10 76 - Flour. Recg $670/2 wks.

Joe Dino's decision - 30% injury(?). Sep 77 Jan 79 operations

local union help? (improper medical advice)

(2)

Coffee
Lock doors
Set

MALONEY → SPEED
→ STANDARD RULES/INSTRUCTIONS
→ LETTER OUTLINING TESTS
what can they expect?
Analysis/report after counseling

What if individual doesn't follow rehab program?
Incentive — relocation outside state

JACK Thompson: as an employer (Air Van Lines) not WCCA
Not much thought by DVR as to what the individual will do. Talk w/ person's prior employer → part of procedures.
Time limit?
Keefe → time limit
Maloney — NAB → Rehab approach
- Balanced board
- 90 day when likely not return w/i 30 days
- Carrier/Employer responsibility
- 120 day from accident → employer-ins co files vocrehab Questionnaire
- Employer responsibilities

Provided ② Anc meet.
Coordinated effort - training present job/reentry
Let employer know he can save $ by helping out
Consider disincentives from union

Alaska State Legislature

CO-CHAIRMEN
SENATOR
TERRY STIMSON
REPRESENTATIVE
BRIAN ROGERS

MAILING ADDRESS

1024 WEST 6TH AVENUE
ANCHORAGE, ALASKA 99501

Worker's Compensation Study Commission

TO ALL MEMBERS: PROPOSED AGENDA

1) November 8, 1980 Council's Rate Filing

2) Alternative Insurance Mechanisms - Bob Williams
   A. Alaska Timber Exchange
   B. Proposed Insurance Legislation
      a. Factious grouping
      b. Comp. Rating and Deductibles

3) Draft Legislation Proposed by the Division of Workers' Compensation:
   A. Provisions
      a. Additional Statewide Panel
      b. Second Injury Fund
      c. Placement of disabled employees
      d. Section 191 benefits

4) Summary of interviews in other States: Services and Rates - Richard Fineberg

5) Procedural Amendments desired by the Division of Workers' Compensation - Tom Sofo

6) Public Testimony

ALASKA WORKMEN'S COMPENSATION BOARD

P. O. Box 1149

Juneau, Alaska
99801

BILL C. ANDERSON

Applicant

vs.

BLANAS INSULATION

Defendant

and

NATIONAL AUTO & CASUALTY

Carrier

DECISION AND ORDER

Case No. 73-12-0371

This matter originally came before the Alaska Workmen's Compensation Board for hearing on October 9, 1974. At that time the applicant had been diagnosed as having lung cancer. The principal question before the Board was whether it was related to his occupation as an insulator; an occupation which involves the use of asbestos and other insulating materials. In a decision dated December 16, 1974, the Board found that, although Mr. Anderson did have lung cancer, a diagnosis of asbestosis or silicosis had not been made. It therefore denied his claim.

In a December 26, 1974 letter to the Board applicant's counsel made application for review pursuant to the provisions of AS 23.30.125(b). The matter again came before the Board for hearing on April 9, 1975. At both hearings the applicant, who is now deceased, was represented by Attorney Albert Maffei. The defendant and its insurance carrier were represented by Attorney Richard J. Willoughby.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The principal contention is that the Board erred when it found that no diagnosis of asbestosis or silicosis had been made by doctors who had examined and/or treated Mr. Anderson.

This contention is set forth in Attorney Maffei's December 26, 1974 letter to which was attached the June 17, 1974 operative report of Dr. Dietz. In it the doctor stated:

> . . . the right thorax revealed multiple evidence of pleural disease, it seemed like old calcific pleuritis, with a studding hard white plaque throughout the thorax and the parietal pleura and diaphragm and mediastinum. . . .

Our understanding of "plueral disease" is that it was related to pleurisy and not to asbestosis. Nor were we able to interpret Dr. Dietz's October 15, 1974 report as a diagnosis of asbestosis. It was not until we received a subsequent report from the doctor dated December 24, 1974 in which he said, ". . . It was what you would call a classic text book finding for asbestosis. . . ." that we were convinced we had erred.

This error was confirmed by the autopsy report which was presented at the April 9, 1975 hearing. The report states in part:

> Lungs: There is a poorly differentiated malignant enoplasm involving the apical portion of both right and left upper lobes, more predominant on the left side. This is associated with the presence of numerous asbestos bodies. . . . (emphasis ours)

We therefore reverse our previous conclusion that applicant's illness was not asbestosis and find that, although he may have contracted the disease as a result of exposure to asbestos over a period of years, it was the "last injurious exposure" during his employment for the defendant that aggravated and accelerated the disease.

2. As stated in our previous decision, at the time of applicant's illness he was living in the home of Mr. Jack M. Endsley, who is the business agent for the Insulation Workers Union and who had, unknown to Anderson, arranged for the two of them to go to two clinics for examination and/or treatment. One is in Berkeley, California; the other in Tijuana, Mexico. When claim was made for travel expense and living expense connected with the trip, the carrier refused to pay it, although it did not, as we understood at the time of the original hearing, refuse to pay the costs of medical treatment at the clinics.

Bills totalling $14,377.53 covering the costs of medical treatment, hospitalization, and funeral expenses are presented for payment. Some expense was incurred in California, some in Mexico and some in Alaska.

Sec. 23.03.095 contains provisions which require the employer to furnish medical, surgical, and other necessary treatment which may be necessary. One provision is that:

> . . . When medical care is required, the injured employee may designate a licensed physician inside the state to render the care except in cases where, in the judgement of the board, care or treatment or both can best be administered by the selection of another physician. . . .

It is well known that in some areas of Alaska adequate facilities are not available for treatment. In those cases the attending physician will often refer a patient to some place, usually Seattle, Washington, where facilities are available. In such a case, the Board has consistently required the insurance carrier to pay transportation costs as well as the costs of treatment. In cases in which the attending physician has not referred the patient to an outside facility, the practice has been for the patient to pay the cost of transportation; however, the carrier pays for the treatment.

In the present case, Mr. Anderson was terminally ill and was living in Anchorage where the medical facilities and the number of doctors available are greater than in any other part of Alaska. If adequate facilities exist anyplace in Alaska, it must be Anchorage.

In this case Mr. Anderson wasn't referred outside Alaska by his physician nor was it his idea to leave Anchorage. Out of concern for his friend and a desire to seek out any source of available help, Mr. Endsley, unknown to Mr. Anderson, made the arrangement and accompanied him to California and Mexico. We therefore conclude that the costs of transportation to the outside facilities and the treatment rendered there should not be assessed against the employer or its insurance carrier. The costs of treatment in Alaska shall be paid by the carrier. As provided by AS 23.30.215, funeral expenses, not to exceed $1,000, shall be paid by the carrier.

3. From the time the carrier ceased payment on this claim, Mr. Anderson, had he lived, would have been entitled to compensation for temporary total disability. He left no surviving dependents. The question naturally arises as to whether or not this sum is heritable. Based upon the following quotations from Larson, we find they are not:

The recipient of installment payments does not ordinarily "own" the unpaid balance of the award so as to entitle his heirs as such to any interest in it.

Not only is the award trimmed on all sides--as to kind of injury, elements of damage, and maximum dollar amount--to ensure that it can never exceed the amount necessary to prevent want during disability; the award itself is completely cut off in most jurisdictions when, through the death of the worker without dependents, for example, there is no further need to worry about anyone's becoming destitute. Thus, if a claimant has been awarded $20 a week for 300 weeks, and dies without dependents after 100 weeks, his heirs usually have no claim upon the unpaid $4000. So the making of an award for disability, far from being an adversary recovery of damages by an injured plaintiff from a defendant guilty of some kind of constructive responsibility for the accident, is rather the signal for the setting in motion of a scheme of social protection which goes no further in nature, amount, or duration than the necessities of that protection require. (See Larson Vol. 1 § 2.60.)

In the opening portion of the book, it was pointed out that one of the features distinguishing a compensation award from a tort recovery is the absence of any property right in an award which can survive in favor of heirs. The problem most frequently arises in connection with schedule or other permanent partial awards, when an employee who has been awarded, say 312 weeks' benefits for loss of an arm dies at the end of 12 weeks. The question is whether his heirs have a claim upon the unaccrued 300 weeks' payments.

Accrued but unpaid installments are, of course, an asset of the estate, like any other debt. This is equally true of the widow's death benefits, accrued but unpaid installments of which go on her death to her heirs. When the award takes the form of a lump sum, the amount due as accrued payments is the entire amount of the lump sum.

When, however, the award, although for a fixed number of weeks, is paid weekly or periodically, most jurisdictions in the absence of a special statute to the contrary have held that the heirs have no claim upon the unaccrued payments, since the award is a personal one, based upon the employee's need for a substitute for his lost wages and earning capacity. There is, however, some contra authority.

This rule has been modified by statute in some states, but it is significant that the modification often takes the form, not of giving the unaccrued balance to heirs indiscriminately, but of giving it in fixed proportions to dependent heirs. Accordingly, if there are no dependents in the statutory sense, the award abates. (See Larson, Vol. 2, p. 10-244 through 10-252.)

4. We find the carrier has resisted payment of applicant's claim and that he employed an attorney who furnished valuable and bona fide legal services reasonably worth $500 and that said amount should be paid by the carrier to applicant's attorney.

ORDER

1. The costs of medical treatment and hospitalization incurred in Alaska, as well as funeral expenses not to exceed $1,000, shall be paid by the employer's insurance carrier.

2. Sums which Mr. Anderson would have been entitled to receive as compensation, had he lived, shall abate.

3. The carrier shall pay $500 to applicant's attorney as attorney's fees.

Dated at Juneau, Alaska, this 15th day of December, 1975.

ALASKA WORKMEN'S COMPENSATION BOARD

s/ Earl J. Turner

Earl J. Turner, Chairman

Chipper L. Parr, Member

s/ Thomas Chandler

Thomas Chandler, Member

Compensation payments, if required to be paid in this decision, are payable within 14 days of its date unless a stay of payment is obtained from Superior Court.

APPEAL PROCEDURES

A compensation order may be appealed through proceedings in the Superior Court brought by a party in interest against the Board and all other parties to the proceedings before the Board, as provided in the Rules of Appellant Procedure of the State of Alaska.

A compensation order becomes effective when filed in the office of the Board, and unless proceedings to appeal it are instituted, it becomes final on the 31st day after it has been mailed or delivered to the party seeking to appeal it.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the Decision and Order in the matter of Bill C. Anderson, applicant, vs. Blanas Insulation, defendant, and National Auto & Casualty, insurance carrier, Case No. 73-12-0371, dated and filed in the office of the Alaska Workmen's Compensation Board at Juneau, Alaska, this 15th day of December, 1975.

s/ Elaine L. Ferguson

Secretary

PARRISH LAW OFFICE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
536 FOURTH AVENUE
FAIRBANKS, ALASKA 99701

O. NELSON PARRISH
JAMES A. PARRISH
LANCE C. PARRISH
ROBERT A. PARRISH
OF COUNSEL

TELEPHONE
(907) 456-4070

December 16, 1980

Brian Rogers
Alaska State House
P. O. Box K, College Station
Fairbanks, Alaska 99708

Dear Brian:

I am an attorney who practices workers' compensation law. Over the past few years we have handled many hundreds of cases. Our firm represents only the interests of claimants.

The workers' compensation task force has been given the tremendous obligation of reviewing the Alaska Workmen's Compensation Act. Although I know that many members of the commission are intimately familiar with the terms of the act, there may be others who are not so familiar. As a practicing attorney I am concerned that there will be major changes in the law. Although there are areas of the law which need work, I don't believe a wholesale revision is in order. Any changes that need to be made should come slowly.

If the commission would review the amount of litigation generated by the frequent changes to Sections 172 and 175 of the Act, my point would be well supported. It is only now that the Supreme Court is addressing many of those changes. The lag time between a change in the law and a judicial interpretation of that change can take three or more years. During the interim many workers receive inconsistent treatment under varying interpretations of the law.

In addition to urging you to proceed with care, I also stand ready to provide whatever help, input, or background information I can provide. I'm happy to answer questions or review material. Although I only practice from the claimant's side, I am interested in seeing a fair and workable system developed. I urge you to contact me if there are questions I can help you with.

Thank you.

Sincerely,

Lance C. Parrish

LCP:mgs
cc: Jackie McClintock

12/16 WC Comp Procedures

#7-15 (13)

Swalling
Stimson
Soto
Rogers
Jackson

#7 45(d) City hdq/State Non-contractual. Proof of comp coverage. Single persons (non-employees) don't need. Danger concerned-employees exposed. If employer, contained.

#8 response to Brian. Gap → sanctions against employers for failure to get Comp. allow DIR WC to get involved earlier. Allows employers to be approached w/ warning & injunction. Civil penalty.

#9 Sec 105(a) technical

#10 [redacted] cashier's check Swalling - Cashiers

#11 funeral expense ok — add definition

#12 half of HB 705 95(a) ok

Shall
Employee problem Medical reports

95(e) — TABLED

95(g) repealer

~~95(j)~~ 110(b) notice 20 days order hearing 3 days

ok but w/o hearing

(155/175 held off) 125(b) repeal

191 66⅔% unless ordered otherwise by Board. Never less than 50%

215(h)

Alaska State Legislature

CO-CHAIRMEN
SENATOR
TERRY STIMSON
REPRESENTATIVE
BRIAN ROGERS

MAILING ADDRESS
1024 WEST 6TH AVENUE
ANCHORAGE, ALASKA 99501

Worker's Compensation Study Commission

September 25, 1980

Hank Edmiston
National Council on
Compensation Insurance
One Tamarac Square Suite 500
7555 East Hampden Avenue
Denver, Colorado 80231

Dear Mr. Edmiston,

Pursuant to the Workers Compensation Study Commission meeting of September 20, 1980, it has been requested by the members, that a representative from the National Council on Compensation Insurance attend our next meeting on October 16, 1980, commencing at 2:30 p.m. located at the Legislative Information Office, 1024 West 6th Avenue, Anchorage, Alaska.

At that time, the members would like to have you give a presentation on the specific areas of concern, which I have enclosed for your review.

This meeting will be teleconferenced throughout the State of Alaska. Members of the Commission will be in attendance at the various sites. Therefore, if you will be using charts, graphs etc., please forward to our office copies of this material, for distribution to those members at the sites prior to the meeting date.

If October 16, 1980 is not feasible, please let me know at your earliest convenience, in order to reschedule a more compatible date.

Thank you for your assistance in this matter.

Sincerely,

Worker's Compensation Study Commission

Licia

Licia Piceno
Administrative Assistant
(907) 272-7555

LP:ber
enclosure

cc: Senator Stimson
Representative Rogers
Tom O'Keefe - Commission Member

CASE #	TYPE OF DISABILITY	CARRIER, UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HELD	CASE OPEN
1	Temp Total	ALPAC	9-7-78	9-21-78	2-1-79	10 w. 4d.	91.16	1062.76	no		
2	Temp Total	ALPAC	4-14-78	5-2-78	6-26-78	8 w. 1d.	298.55	3112.36	no		
4	Temp Total	Prov. Wash.	11-02-78	11-13-78	12-28-78	7 w. 3 d.	80.77	1982.70	no		
3	Temp Total	Insurance of North America	11-6-78	3-4	3-4	2d	unk 65.00	18.58	no		
5	Temp Total	Industrial Indemnity	4-02-78	4-14-78	←	1d	65.33	9.33	no		
6	Temp Total	ALPAC	2-10-78	3-6-78		2w 4d.	607.85	1563.06	no		
7	Temp Partial	Zurich	7-04-78	NONE claimed 7/4-7/11		carrier controverted adj for claim	8-27-78	7-13-78 NO FURTHER ACTION			
8	Temp Total	Rosenmayer & Co Inc.	10-18-78	11-3-78	←	1 w 2d	222.86	286.57	no		
9	TT Perm Partial	Industrial Indemnity	10-18-78	12-15-78	case open	12 w 5d	169.20	PPD 3000 TT 2481	yes 3-3-79	yes 5-14-79	attorneys Both ✓
10	Perm Partial	Wausau	3-78		no payments for 78	injury to date			yes 2-21-79	yes 4-30-79	attorneys - Both ✓
11	Temp Total	Prov. Wash.	12-27-78	1-15-79	←	1 w 1 d.	393.86	1726.00	no		
12	Temp Total	Prov. Wash.	4-25-78	5-8-78	5-16	1 w.	141.14	181.46	no		
13	Temp Total	Prov. Wash	6-15-78	7-24-78	10-3	6 w	281.35	3757.20	no		
14	TT Perm Partial	Prov Wash	9-8-78	10-11-78	4-23-80	78 w	307.76	PPD - 15,000 TT 39 005 MED 10,193 64,198.73	C+R approved 4-18-80		

CASE #	TYPE OF DISABILITY	Carrier UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	MCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HELD	CASE OPEN
15	Temp Total	ALPAC	1-25-78	claimant moved - did not provide				medical or other reports			
16	Temp Total	American Mutual	1-15-78	1-30-78	5-4-78	7 w.	383.21	5520.79	no		
17	Temp Total	Wausau	11-16-78	1-10-79	10-22-79	4w 2d	497.32	2845.47	no		
18	Temp Total	Prov. Wash	9-05-78	10-5-78	←	4d	UNK 65.00	142.16	no		
19	Temp Total	Home Insurance	7-26-78	8-3	9-1	6w	Calif rate 173.03	1197.18	no		
20 add info	TT Perm Partial	Wausau	5-15-78	5-25-78	4-4-79	dummy file ?	?	to Date 18,300.00	yes 2-28-80	yes 3-24-80	
21	Temp Total	Self-Insured	2-10-78	5-3	←	5d	456.82	1022.56	no		
22	Temp Total	ALPAC	09-09-78	9-19	10-3	1w 4d	UNK 65	102.19	no		
23	Temp Total	ALPAC	6-02-78	7-14	8-1	6w 2d	209.35	1518.90	no		
24	Temp Total	ALPAC	12-24-78	1-5-79	1-24-79	4w 1d	386.62	1817.96	no		
25	Temp Total	Fireman's Fund	7-19-78	4-18-79	←	1w 2d	UNK 65.00	720.06	no		
26	Temp Total	Aetna Life & Casualty	3-15-78	4-10-78	←	2w	UNK 65.00	491.39	no		
27	Temp Total	Prov. Wash.	11-19-78	12-5-78	2-9-79	14w 3d	607.84	9146.25	no		
28	Temp Total	ALPAC	1-2-78 & 3-4-78	1-6 3-20	5-8-78	3w 1d	422.94	1496.37	no		
						360					

WORKER'S COMPENSATION STUDY COMMISSION

AREAS OF CONCERN

RATE MAKING FOR ALASKA

1) Expenses in Rates
   a) How are they determined and do they reflect the experience for Alaska carriers?

2) Claim experience used in rates
   a) Is the Alaska experience only used?

3) Explanation of the Experience Modification Plan used in Alaska.
   a) What is the National Council's position on rate deviations in Alaska?

ASSIGNED RISK POOL PLANS

1) Alaska's experience for the last four years?
2) Servicing carriers fees
3) Surcharges
4) How does the pool compare to other State plans?
5) Number of accounts and dollar amounts?
6) Assigned Risk Pool Plan results?

INVESTMENT INCOME ON RESERVES

1) General discussion of Investment return on funds held in Reserves.

CASE #	TYPE OF DISABILITY	Carrier UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HEARING HELD	CAS OPEN
29	temp total	Allstate	11-02-78	2-1-79	←	4d	unk 65.00	139.62	no		
30	temp total	Self-Insured	5-08-78	5-23	←	5d	415.51	361.35	no		
31	TT Perm Partial	Firemans Fund	7-1-78	8-30-78	1-25-79	9w 3d	95.43	PD 3568.05 5,463.30	C&R approved 1-19-79		
32	temp total	Wausau	9-23-78	10-06	10-17	2w 6d	255.92	836.23	no		
33	temp total	Wausau	8-19-78	10-09	←	4d	543.41	414.77	no		
34	temp total	Prov. Wash.	11-25-78	12-06	12-13	1w 4d	358.07	875.67			
35	temp total	Wausau	6-14-78	6-27	7-05	1w 1d	607.84	899.17	no		
36	temp total	Self-Insured	9-26-78	10-6-78	6-13-79	37w	376.92	19,213.15	no		
37	temp total	ALPAC	3-1-78	4-25	5-5	2w 1d	387.49	1,104.63	no		
38	temp total	Uninsured	2-14-78	1-11-79	←	1w 5d	337.33	1,273.20	yes withdrawn 3-2	yes 4-19-78	D+O 6-1-78
39	temp total	Fireman Fund	7-06-78	7-21-78	←	1w 2d	197.69	254.17	no		
40	temp total	Wausau	10-08-78	11-06	12-21	11w 1d	186.99	2,234.44	no		
41	temp total	Wausau	6-30-78	11-13	←	1w 1d	87.50	1,558.24			
42	temp total	ALPAC	11-23-78	12-18	2-12-79	3w 3d	424.21	787.98	no		

CASE #	TYPE OF DISABILITY	Carrier UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HEARING HELD	CASE OPEN
43	temp total	ALPAC	12-28-78	2-2-79	2-23-79	1w 5d	568.79	1,039.94	no		
44	temp total	ALPAC	9-29-78	11-07-78	11-17	2d	423.61	306.54	no		
45	temp total	Fireman's Fund	3-20-78	4-4	4-27	3w 3d	409.39	1,615.86	no		
46	temp total	Self Insured	8-02-78	8-22	9-20	6w 2d	90.27	1,008.85	no		
47	temp total		12-18-78	1-23-79	2-16-79	9w 6d	185.03	2,160.77	no		
48	TT Perm Partial	ALPAC	7-05-78	7-24-78	12-18-78	19w 5d	358.93	PP 6,000 14,368.22	C+R approved 12-14-78		
49	Perm Partial	Wausau	9-30-78	12-21-79 ←		0	?	PPD 6000 6790	C+R approved 12-14-79		A++ yes
50	temp total	Prov. Wash.	6-09-78	7-06 ←		3d	UNR 65.00	27.84	no		
51	temp total	ALPAC	8-19-78	9-12	10-03	7w	65.00	635.50			
52	temp total	Zurich	5-28-78	6-9	7-6	3w 2d	Texas PAIC 150.28	4511.96	no		
53	temp total	Prov. Wash.	11-24-78	12-06-78	1-10-79	5w 3d	490.24	2856.02	no		
54	TT Perm Partial	Uninsured	2-17-78	0		0 to date	244.00	0	yes 10-25-78	yes 12-11-78 & 2-16-79	✓ employer goes to Supreme Court
55	Perm Partial	ALPAC	6-26-78	1-12-79	1-12-79	No Time Loss		Lump Payment of 574.00			
56	Temp Total	Bellafonte	5-6-78	6-14-78	2-19-79	20w 5d	401.38	9937.84	yes D+O decrease medical charges	yes 7-18-79	NO A++

CASE #	TYPE OF DISABILITY	Carrier UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HELD	CAS OPEN
57	Temp Total	ALPAC	12-28-78	10-30-78	10-31-79	11w 2d	65.09	11,262.52	yes 7-23-79	9-21-79	D+O 10-31-79 ← DHO
58	temp total	ALPAC	12-30-78 & 4-5-79	1-11-79	6-21-79	10w 4d	607.85	6,827.53	no		
59	temp total	ALPAC	5-26-78	6-7	7-27	5w 5d	UNK 65.00	639.95	no		
60	temp total	Prov. Wash	4-6-78	5-01	7-19	3w 1d	488.85	2,242.38	no		
61	temp total	Fremans Fund	10-03-78	10-18	10-27	1w 3d	adv rate 65.00	290.44	no		
62	temp total Perm Partial	ALPAC	8-4-78	9-8-78	8-7-79	32w 4d	186.51	PPD 8,500 22,250.23	C+R approved 7-30-79		
63	temp total	ALPAC	1-26-78	2-24	4-17	9w 3d	607.85	2,966.43	no		
64	temp total	Prov. Wash.	11-20-78	1-16-79	2-2-79	2w 2d	243.93	713.13	no		
65	temp total	Wausau	12-21-78	1-11-79 ←		1w	207.29	353.79			
66	temp total	ALPAC	2-3-78	2-14	2-23	1w 6d	490.34	414.41	no		
67	temp total	Prov. Wash.	8-31-78	9-22-78	5-10-79	24w 6d	186.50	10,681.50			
68	temp total	Prov. Wash	1-11-78	1-31-78 ←		2d	unk 65	27.87	no		
69	temp total	ALPAC	3-6-78	7-17-78	10-24-78	7w 3d	313.04	5,920.60	no		
70	temp total	Prov. Wash.	10-12-78	10-26	11-28	1w 3d	248.20	475.29	no		

CASE #	TYPE OF DISABILITY	Carrier UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HEARING HELD	CAS OPEN
71	temp total	Zurich	3-30-78	4-21	←	8 1w 1d	163 52	312.88	no		
72	temp total	Self-insured	8-7-78	8-14	←	2 2d	326 15	93.18	no		
73	++ Perm Partial	Zurich	11-9-78	12-1-78	10-16-79	113 16w 1d	550 55	PPD $10,920 25,131.03	C+R approved 8-20-79		
74	temp total	Industrial Indemnity	10-10-78	11-2-78	11-10-78	14 2w	223 54 unk.	642.44	no		
75	temp total	Zurich	9-9-78	10-6	←	2 3w 1d	65 00	360.44	no		
76	temp total	Fidelity & Casualty	2-4-78	2-8	2-20	Pd for 1w 6d. 13	493 47	1,079.49 further injury resulted controverted 9-7-79	no	NO Attorneys both sides	Sent action 10-12-79 ✓
77	temp total	ALPAC	12-19-78	1-10-79	←	4 4d	UNK 65 00	37.16	no		
78	temp total	Prov. Wash	4-22-78	8-14-78	9-28-78	50 7w 1d	89 44	642.00	no		
79	temp total	Prov. Wash	3-15-78	4-5	4-20	15 3w 4d	145 28	1080.61	no		
80	temp total	Wausau	4-4-78	6-28-78	7-5-78	45 6w 3d	unk 65 00	751.44	yes	no	Att'y fee
81	temp total	Northwestern National	3-22-78	4-10	←	2 2d	114 23	269.11	no		
82	temp total	ALPAC	12-01-78	12-18-78	1-10-79	37 5w 2d	464 90	2,780.96	no		
83	temp total	F. B. Beattie & Co	11-06-78	1-24-79	←	81 12w 2d	304 01	4,343.12	no		
84	temp total	Travelers Ins.	9-5-78	9-26-78		14 2w 4d	254 42	1,260.74	no		

CASE #	TYPE OF DISABILITY	Carrier, UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HELD	CASE OPEN
85	temp total	ALPAC	5-4-78	6-1-78	12-14-78	6w 3d (15)	Wa 132.92 AK 278.12	1045.91	no		
86	temp total	Industrial Indemnity	8-29-78	9-18-78 ←		1w 6d (13)	unk 65.00	182.68	no		
87	temp total	ALPAC	6-23-78	7-14-78	7-28	6d (6)	523.52	448.68	no		
88	temp total	ALPAC	2-15-78	3-07	3-24	3d (3)	307.90	481.94	no		
89	++ Perm Partial	Wausau	11-14-78	1-13-79	2-6-80	50w (350)	523.71	PPD 9000 Med 523 total 35,708	yes 1-9-79 cancelled C+R approved	no 1-26-79	12-14-79
90	++-+P Perm Partial	ALPAC	10-4-78	~~3-20-7~~ 10-17-78	3-20-79	30w 4d (214)	235.70	TT 7,206 TP 3,192 PP 12,096 25,083.84	C+R approved 3-16-79		
91	temp total	Wausau	1-27-78	2-14	3-01	2w 1d (15)	311.02	852.50	no		
92	temp total	Self-insured	12-7-78	12-20 ←		3d (3)	347.41	222.69	no		
93	temp total	ALAAC	6-9-78	6-28 ←		1d (1)	unk 65.00	151.19	no		
94	temp total	ALPAC	5-24-78	5-28 ←		1d (1)	65.00	41.94	no		
95	temp total	Fremans Fund	4-18-78	5-15	12-19	30w (210)	608.30	20,276.23	no		
96	temp total	Wausau	3-10-78	4-3-78	6-22-78	4w 3d (31)	308.96	2,308.86	no		
97	temp total	Fremans Fund	12-18-78	1-10-79 ←		4d (2)	unk 65.00	37.12	no		
98	TT Perm Partial	ALPAC	11-8-78	12-01-78	7-17-79	32w 1d (225) 1121d	607.85	PPD 7,200 TT 19 613 43,197.51	yes/cancelled 5-24-79	C+R approved	7-16

CASE #	TYPE OF DISABILITY	UNINSURED OR SELF-INSURED (Carrier)	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HELD	CR OPE
99	temp total	ALPAC	9-22-78	10-13	10-27	12 w 4 d (89)	544.13	7489.74	no		
100	temp total	Prov. Wash	3-10-78	3-27	5-5	6 w 2 d (44)	139.65	1062.80	no		
101	temp total	Industrial Indemnity	12-22-78	1-10-79 ←		2 d (2)	unk. 65.00	18.56	no		
102	temp total	Self-insured	8-11-78	8-25-78 ←		2 d (2)	unk 65.00	18.57	no		
103	Perm Partial & temp total	ALPAC	5-19-78	6-8-78	9-19-78	18 w 1 d (127)	146.30	14,577.20	no		
104	temp total	Wausau	11-19-78	12-13 ←		2 d (2)	unk 65.00	18.58	no		
105	temp total	Wausau	6-21-78	7-19-78	1-3-79	27 w 5 d (194)	431.37	13,420.64	no		
106	Temp total	Home Indimnity	5-25-78	6-12-78	8-4-78	10 w 4 d (74)	470.38	5,002.52	no		
107	temp total	Wausau	10-31-78	11-29-78 ←		1 w (7)	unk. 65.00	3,279.80	no		
108	TT Perm Partial	ALPAC	2-23-78	3-09-78	8-01-79	10 w 3 d (73)	415.26	PPD 1800 TT 4332 10,296.56	C+R approved no	7-19-79	
109	temp total	Alaska Ins. Co	11-2-78	11-14-78	12-12-78	3 w 3 d (24)	128.92	834.49	no		
110	temp total	Prov. Wash.	4-3-78	4-7-78	4-13-78	no final report	unk 65.00	?			
111	temp total	Kemper Ins.	4-27-78	1-15-79	2-13-79	2 w 4 d (18)	284.80	732.36	no		
112	temp total	ALPAC	4-20-78	11-30-78	4-30-79	4 w 2 d (30) 685 d	178.52	3,814.90	no		

CASE #	TYPE OF DISABILITY	Carrier UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HELD	CASE OPEN
113	temp total	Prov. Wash	10-4-78	10-26	←	1 1w	unk 65.00	65.00	no		
114	temp total	Fremano Fund Sewer Construction	8-07-78	10-19	←	5 5d	65.00	46.43	no		
115	temp total Perm Partial	ALPAC	5-9-78	5-23	11-1-78	5 5d	471.53	PPD 525.00 H 1,363.89	no		
116	temp total	Prov. Wash.	7-19-78	8-11-78	9-6-78	16 6w 4d	299.01	1,922.22	no		
117	temp total	Industrial Indemnity	9-14-78	11-10-78	11-27-78	31 4w 3d	534.00	2,506.84	no		
118	temp total	Alaska Insurance	11-29-78	12-18-78	3-30-79	31 5w 2d	434.89	2,802.89			Att. yes
117	temp total	Wausau	2-17-78	3-23	←	21 3w	unk 65.00	500.50	no		
120	temp total	Industrial Indemnity	7-24-78	9-6	←	3 3d	unk 65.00	87.84	no		
121	temp total	ALPAC	6-19-78	6-27	←	2 2d	unk 65.00	184.70	no		
122	temp total	Prov. Wash.	4-18-78	5-5	5-24	26 3w 5d	430.00	3,733.45	no		
123	temp total	Prov. Wash	2-1-78	2-27	3-8	5 5d	175.00	164.28	no		
124	Perm Partial temp Total	Rosemurgey & Co Inc	5-02-78	6-8	12-1-78	40 7w 5d	359.75	PPD 1,050 tot 6,339.75	no		
125	temp total	ALPAC	2-8-78	3-16	3-27	9 1w 2d	224.06	416.06	no		
126	temp total	Travelers	3-9-78	3-21	3-29	15 2w 1d	387.88	1,034.77	no		
						252					

CASE #	TYPE OF DISABILITY	Carrier UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HELD	CASE OPEN
127	temp total	Wausau	10-29-78	11-10	11-24	1w 5d (12)	197.17	338.02	no		
128	temp total	Aetna Casualty	2-28-78	3-20	4-13	7w 3d (52)	170.92	1,326.67	no		
129	temp total	ALPAC	1-12-78	1-31	3-15	4d (21)	241.43	411.11	no		
130	temp total	ALPAC	12-17-78	1-24-79	5-23-79	3w 1d (22)	607.85	1,309.83	no		
131	temp total	Aetna	11-20-78	12-06	1-10-79	1w 4d (11)	313.54	658.70	no		
132	temp total	Prov. Wash	8-2-78	9-6	←	1w (7)	unk 65.	169.00	no		
133	temp total Perm Partial	Insurance Co of N. America	10-26-78	11-28-78	7-24-80		211.20		8-1-80 yes	not yet	Att: yes ✓
134	temp total	ALPAC	10-11-78	10-18	2-27-79	11w 4d (81)	547.87	5,815.04	no		
135	temp total	Home Insurance Co	4-18-78	5-4	5-19	1w 2d (9)	555.72	774.42	no		
136	temp total	Great American Insurance	12-7-78	12-21	1-11-79	4w (28)	76.80	604.77	no		
137	temp total	Home Insurance	7-8-78	8-4	←	1w (7)	100.00	305.00	no		
138	temp total	Prov. Wash	3-10-78	3-22	4-27	7w 2d (51)	183.42	3,036.78	no		
139	temp total Perm Partial	ALPAC	9-19-78	9-26	8-31-79	3d (3)	unk 65.00	PPD 700.00 tot. 944.62	no		
140	temp total	ALPAC	1-18-78	2-3	3-13	6w 5d (47) 334 d	155.90	1,451.95	no		

CASE #	TYPE OF DISABILITY	Carrier UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HEARING HELD	CM OPEN
141	temp total	Argonaut Lakeview Co	5-8-78	6-14	←	3 3 d	unk 65.00	61.84	no		
142	temp total	Prov. Wash	11-27-78	12-27	←	18 2w 4d	unk 65.00	167.16	no		
143	temp total	Self-insured	12-14-78	12-27	1-10-79	20 2w 6d	312.41	1,144.67	no		
144	temp total Perm Partial	Chandler-Hargrave Whitehall Aviation	5-25-78	6-28-78	4-06-79	89 12w 5d	139.77	PPD 6,000 16,495.49	C+R	approved 3-28-79	
145	temp total	U.S. Fidelity & Guarantee Co	8-21-78	no payment unrelated to employment		/	/	/	no		
146	temp total	ALPAC	1-27-78	8-17	10-26	250 35 w 5 d	585.66	8,031.88	no		
147	temp total	Self-insured	12-4-78	1-3-79	2-1-79	45 6w 3d	250.38	1,797.69	no		
148	temp total	Self-insured	4-5-78	4-27	←	8 1w 1d	166.44	317.85	no		
149	temp total	Home Indemnity	3-24-78	4-7	6-12	42 6w	268.18	5,033.25	no		
150	temp total	Self-insured	6-20-78	7-12	←	10 2w	unk 65.	130.00	no		
151	temp total	ALPAC	4-13-78	4-25	5-24	32 4w 4d	197.62	944.40	no		CLOSED
152	temp total	Aetna Casualty & Surety	3-14-78	4-7	←	7 1w	416.28	1,088.88	no		
153	temp total	ALPAC	5-17-78	5-22-78	7-13-79	102 57w 3d	258.63	22,537.07	yes	attorney claim no	✓
154	temp total	ALPAC	4-15-78	4-25	6-21	18 2w 4d	607.85	3,076.35	no		
						948					

CASE #	TYPE OF DISABILITY	CARRIER, UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HEARING HELD	CR OPE
155	temp total	Self-insured	7-26-78	8-9	←	1w 4d 11	323.80	508.84	no		
156	temp total	ALPAC	12-28-78	1-11	←	1w 7	unk 65.00	65.00			
157	temp total	Uninsured	7-24-78	—	—	—	/	—	11-27-78 yes	dismissed 3-20-79 no	
158	temp total temp Partial	Prov. Wash.	11-17-78		undetermined		457.46	?	yes 2-19-80	D106-9-80 3-25-80	✓
159	temp total	ALPAC	6-20-78	7-7-78	7-21-78	1w 2d 9	78.44	388.70	no		
160	++ Perm Partial	ALPAC	3-31-78	4-27-78	6-1-79	45w 315	65.00	PPD 10,500 ++ 2,925.03 18,117.52	C+R approved 5-17-79		
161	Temp Total	Self-insured	1-17-78	3-6	←	2d 2	UNK 65.00	486.58	no		
162	temp total	Prov. Wash.	7-20-78	—	—	claiming 7 days 7	no	payment contravened	no		
163	temp total	Aetna Casualty & Surety	8-22-78	9-19	←	2d 2	142.01	270.08	no		
164	temp total	ALPAC	11-28-78	12-14	←	1w 2d 9	UNK 65.00	83.58	no		
165	temp total	ALPAC	6-8-78	7-18	←	1w 7	206.38	206.38	no		
166	temp total	ALPAC	7-21-78	8-18	←	2w 14	UNK 65.00	130.00	no		
167	temp total	Home Insurance	4-12-78	5-03	7-19	5w 6d 41	400.12	2528.64	no		
168	++ Perm Partial	ALPAC	9-14-78	9-28-78	1-12-79	16w 4d 116 540	65.00	PPD 5512 T+ 1077 9,265.47	C+R approved no	8-31-79	Att. yes

CASE #	TYPE OF DISABILITY	Carrier, UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HELD	CASE OPEN
169	temp total	Home Insurance	8-31-78	9-21	10-20	2 w (14)	503.72	959.73	no		
170	Perm Partial	Prov Wash.	8-03-78	not recorded		No Time loss (0)		One lump payment - finger 2,100.00	no		
171	temp total	Safe Co	5-16-78	6-20 ←		3 w 2 d (23)	Wash. rate 190.12	864.55	no		
172	Perm Partial	Zurich	6-8-78	1-31-79 ←		No time loss (0)	/	lump payment 4011.76	no		
173	temp total	Wausau	3-19-78	4-28 ←		1 w 2 d (9)	175.00	503.80	no		
174	temp total	Unisured	9-11-78	—		— (0)	/	Claim denied —	12-13-78 yes	2-5-79 D+O 4-26-79 yes	A# yes
175	temp total	ALPAC	7-28-78	8-25 ←		1 d (1)	UNK 65.00	37.29	no		
176	temp total	Fremano Fund	9-5-78	10-19 ←		4 d (4)	unk 65.00	246.84	no		
177	Perm Partial Temp Total	ALPAC	12-28-78	2-13-79	1-25-80	8 w (56)	323.37	PPD - 2870 total 9,829.02			
178	temp total	Prov Wash & Industrial Indemnity	12-12-78	9-10-80 ←		no final report to date		494.83 (?)	C+R approved 9-8-80		
179	temp total	ALPAC	3-21-78	5-10 ←		2 w 4 d (18)	128.19	329.67	no		
180	Perm Partial temp total	Insurance Co of North America	4-05-78	7-14-78 ←		no final report		PPD 1,406.05	C+R approved 7-14-78		
181	Perm Partial Temp Total	Northwestern Nat'l Insurance	11-5-78	11-12-79	7-14-80	2 w 2 d (16)	384.24	PPD 644.00 total 4324.88	no		
182	temp total	Fremano Fund	8-30-78	9-19 ←		1 w 1 d (7)	65.00	83.56	no		

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CASE #	TYPE OF DISABILITY	UNINSURED OR SELF-INSURED (Carrier)	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HEARING HELD	CASE OPEN
183	temp total	Self-insured	1-29-78	4-14	4-19	1w 5d (12)	305.63	1,082.48	no		
184	temp total Perm Partial	ALPAC	8-28-78	9-11-78	7-16-79		65.00	PPD 1,189.62	yes 9-11-80		Att. yes
185	temp total	Washington State Industrial	6-26-78	7-19	8-18-78	4w (28)	/	708.00 (pd by Wash.)	~~no~~		
186	temp total	Prov. Wash.	4-10-78	4-12	←	1w (7)	unk 65	65.00	no		
187	temp total Perm Partial	ALPAC	12-01-78	12-21-78	1-29-80	60 w. (120)	300.74	PPD 10,920 32,582.84	no		
188	temp total	Prov. Wash.	4-20-78	5-4	5-31	5w 4d (39)	unk 65	665.41	no		
189	temp total	Industrial Indemnity	6-29-78	8-16	←	5w (35)	unk. 65	325.00	no		
190	Perm Partial temp total	ALPAC	2-18-78	6-21-78	←	no final report			C+R approved 6-21-78		
191	temp total	Prov. Wash	1-9-78	10-18-79	1-30-80	16w 5d (117)	unk 65.00	2,260.70	7-23-79 yes	7-25-79 yes	O+O 11-7-79 All-yes
192	temp total	ALPAC	6-6-78	7-18	10-18	4d (11)	283.94	189.29	no		
193	temp total	Industrial Indemnity	10-28-78	no payments		—	—	—	no hearing	attorney withdrew 7-10-79	✓
194	temp total	Insur. Co of North America	12-31-78	1-30-79	←	3w (21)	132.00	421.00	no		
195	temp total	Industrial Indemnity	12-04-78	1-12-79	5-03-79	19w 3d (133)	363.02	6,430.64	no		
196	temp total	ALPAC	2-17-78	3-3	3-7	1w 2d (9)	168.79	217.01	no		
						828					

CASE #	TYPE OF DISABILITY	Carrier, UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HEARING HELD	CASE OPEN
197	++ Perm Partial	Fidelity & Casualty	2-29-78	3-15-78	11-8-78	23 w (16.1)	65.00	PP 6,600. TT 1,513. 13,406.28	C+R approved 11-8-78		
198	temp total	Wausau	3-12-78	3-30	4-20	5 w 3 d (38)	301.31	1,978.41	no		
199	temp total	Industrial Indemnity	5-3-78	no payments		—	/	0	yes	claimant did not show	
200	temp total	ALPAC	2-2-78	2-15	2-17	1 w 2 d (9)	427.82	550.04	no		
201	temp total	ALPAC	1-19-78	1-23	3-2	5 w 4 d (34)	67.60	1,555.90	no		
202	temp total	Fremans Fund	9-15-78	10-9	10-23	5 w 2 d (37)	356.44	1,947.04	no		
203	temp total	Self-insured	10-29-78	12-7	←	1 w 6 d (13)	65.00 unk.	120.74	no		
204	++ Perm Partial	Home Indemnity	11-18-78	12-20-78	6-23-80	83 w 5 d (586)	294.32	PPD 30,000 TT 20,375 57,282.24	C+R approved 6-22-80		
205	temp total	ALPAC	10-31-78	11-13	1-03-79	4 w 5 d (33)	127.43	804.67	no		
206	temp total	Prov. Wash.	10-22-78	11-6-78	11-30-79	18 w 2 d (128)	136.30	10,388.15	no		
207	Perm Partial	Self-insured	progressive (hearing loss)	1-04-79	←	0	0	PPD 873.60	no		
208	Perm Partial	Self-insured	10/25/78	3-14-79	←	0	0	PPD 1,470.00	no		
209	temp total	Self-insured	5-16-78	5-20	5-24	4 d (11)	564.68	425.68	no		
210	temp total	ALPAC	12-1-78	1-8-79	←	2 w (14)	65.00 unk.	251.11	no		
						1062					

CASE #	TYPE OF DISABILITY	Carrier, UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HEARING HELD	CWC OPEN
211	temp total	self-insured	11-20-78	2-6-79	2-14-79	6 6d	320.28	560.96	no		
212	temp total	ALPAC	1-21-78	2-28-78	11-29-78	294 42w	607.85	25,981.00 to date	yes	Cancelled yet to be	++ yes
213	temp total	ALPAC	2-19-78	3-2	6-2?	119 17w	528.85	9,854.45	no		
214	temp total	Prov. Wash	3-15-78	4-5	←	1 1d	UNK 65.00	9.28	no		
215	temp total	ALPAC	7-28-78	8-8	8-17	13 1w 6d	236.99	440.18	no		
216	temp total	Prov. Wash.	1-9-78	2-6	←	2 2d	UNK 65.00	27.87	no		
217	++ Perm Partial	Prov. Wash.	6-17-78	6-29	9-13-79	451 64w 3d	471.00	PP 13,500 TT 30,386 60,321.84	C+R approved 9-13-79		
218	Temp total	ALPAC	2-4-78	3-2	←	7 1w	233.69	233.66	no		
219	temp total	Prov. Wash	10-30-78	11-13	←	3 3d	UNK 65.00	27.87	no		
220	temp total	Industrial Indemnity	7-27-78	8-10	8-22	15 2w 1d	295.84	843.92	no		
221	temp total	Industrial Indemnity	4-21-78	5-24	←	7 1w	UNK 65.00	124.80	no		
222	temp total	ALPAC	12-07-78	2-04-79	←	1 1d	UNK 65.00	9.29	no		
223	temp total	Industrial Indemnity	8-14-78	2-08-79	←	1 1d	UNK 65.00	9.29	no		
224	temp total	Self-insured	9-21-78	8-24-79	←	9 1w 2d 927	254.01	1,063.94	Petitioned by Board 12-8-78	1-9-79	O+O 7-30-79

CASE #	TYPE OF DISABILITY	UNINSURED OR SELF-INSURED (Carrier)	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HEARING HELD	CASE OPEN
225	temp total	ALPAC	6-19-78	6-27	←	1w 2d 9	217.90	280.17	no		
226	temp total	ALPAC	2-13-78	2-22	←	1w 7	297.94	494.94	no		
227	temp total	Zurich	11-29-78	2-22-80	4-25-80	N/A	188.95	2,662.45	yes	11-29-79 adj to 12-13-79 yes	✓
228	temp total	Rosemurgy & Co. Inc	10-08-78	11-21	←	1w 4d 11	173.16	272.12	no		
229	Perm Partial temp total	U.S. Fidelity & Guaranty-Freemans Fund	7-29-78	10-23-78	10-3-79	11w 6d 83	124.95	PPD 1435.00 3566.85	no		
230	temp total	ALPAC	11-16-78	12-01	←	1d 1	unk 65.00	9.29	no		
231	temp total	Industrial Indemnity	6-14-78	7-6	←	3w 2d 30	266.07	876.21	no		
232	temp total	ALPAC	5-06-78	6-2	←	5d 5	unk 65.00	46.45	no		
233	Perm Partial	Uninsured	4-27-78	~~0~~		/	/	~~0~~ to date	yes	cancelled	✓
234	temp total	Atlas Assurance	12-8-78	5-14-79	←	1w 4d 11	unk. 65.00	102.16	no		
235	temp total	Prov. Wash.	6-14-78	7-6-78	9-22-78	1w 3d 10	122.37	122.37	no		
236	temp total	Industrial Indemnity	9-1-78	9-20	10-2-78	6d 6	149.72	128.31	no		
237	temp total	Raven, Dargoon & Co.	3-3-78	3-3	4-13	5w 5d 40	236.63	1,453.35	no		
238	TT Perm Partial	Industrial Indemnity	10-30-78	11-22-78	12-14-79	15w 6d 318	229.08	PP 3000 TT 3632 11,224.18	C+R approved 12-7-79		

CASE #	TYPE OF DISABILITY	Carrier, UNINSURED OR SELF-INSURED	DATE OF INJURY	PAYMENTS 1st	PAYMENTS final	TOTAL TIME COMPENSATED FOR	WCR	TOTAL AMOUNT OF BENEFITS (med & comp)	HEARING REQUESTED	HELD	CASE OPEN
239	temp total	Wausau	6-7-78	6-22	10-6	16 w 6 d 118	510.36	9,500.42	no		
240	temp-total	ALPAC	12-07-78	2-26-79	4-20-79	14 w 98	607.83	9,113.50	no		
241	temp total	ALPAC	3-05-78	3-29-79	5-02-79	7 w 5 d 54	607.85	5,190.45	no		
242	temp total	Glenn Falls/UAC	8-03-78	9-18	←	4 d 4	under 65.00	37.16	no		
243	temp total	AK. Insur. Co.	4-1-78	7-12	7-25	6 d 6	106.39	91.20	no		
244	temp-total	Self insured	10-31-78	12-8	←	1 w 3 d 10	280.42	985.60	no		
245	temp-total	St. Paul Insurance	11-28-78	12-22	4-11-79	15 w 6 d 111	206.64	4,149.12	yes	no	attorney - bot ✓
246	temp total Perm Partial	Prov. Wash	5-19-78	5-28-78	7-3-80	1 w 7	436.68	PPD $7056 28,571.34	yes	att -	yes ✓
247	temp total	ALPAC	9-5-78	9-20	←	1 d 1	424.74	60.68	no		
248	temp total	Wausau	5-27-78	6-20	8-22	10 w 2 d 72	185.62	3,500.61	no		
249	temp total	Home Ins. Co	4-7-78	4-25	←	1 w 7	under 65.00	65.00	no		
250	temp total	Prov. Wash.	1-18-78	1-27-78	3-23-78	7 w 4 d 53	67.68	3,204.83			
						541					

by Albert J. Millus *
Albert J. Millus & Associates, New York

We are witnessing history being made in the recent trends toward substituting market place competition for state regulation of rates for Workers' Compensation premium. The movement is really much broader in that its supporters advocate open competitive rates for all personal and commercial property and casualty insurance coverage, and the arguments advanced for and against it exemplify the historic differences in approach by certain elements in the industry to a problem that has gone full circle over the past century.

A Bit of History

As long ago as 1869, the United States Supreme Court in the case of Paul v. Virginia(1) held that insurance was not commerce under the commerce clause of the Constitution. As a result of that decision, states were left free to regulate insurance and if states did not do so, the insurance industry was free to set up its own mechanisms to control the business. Fire insurance was an important line of coverage and the competition for this business became very widespread. At the same time the agency system for procuring business was developing rapidly and before long insurance carriers began to devote more time and energy to building up a strong agency system than to direct competition for the fire insurance business. Soon rate wars began to threaten the solvency of some of the insurance companies. As a means of protecting their interests the companies began to "fix" rates by agreement among themselves. Many insurers refused to adhere to such practices and some states began to enact anti-trust laws. States realized that insurance required regulation and their laws began to recognize the need for rating bureaus where the insurers could collectively submit their loss experience and where an objective base could be found for fair rates. By the early 1940's most states had authorized rate bureaus and in effect the business of rate fixing was largely in the control of the insurance industry,

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(1) 8 Wall. 168, 19L. 6Ed. 357.

although "regulated" by the Insurance Commissioners in the several states. The situation that brought about the McCarran-Ferguson Act - Public Law 15 - developed when one of the groups of fire rating organizations - the Southeastern Underwriters Association - promulgated rates for fire coverage and the United States brought suit against the Association and its members. The United States Supreme Court (1944)(2) held such activity subject to federal anti-trust laws. Congress thereafter passed Public Law 15, which, in substance, declared that historically states had the right to regulate insurance and that the federal law would be applied only if the states failed to do so. However, agreements to boycott, coerce or intimidate would continue to be subject to the federal law. This law gave the states the incentive to pass regulatory laws and most did so, using a model law proposed by the National Association of Insurance Commissioners (NAIC). Each state varied its laws to some extent from the model law to suit its own situations but most provided for rate organizations to collect loss data by classification and promulgate rates for the approval of the State Industrial Commissioner. Practically all state laws required that rates so calculated may not be excessive, inadequate or unfairly discriminatory. With the development of multiperil policies the historic gap between fire insurance companies and other personal lines began to narrow. Now there is hardly any distinction and as many of the independent, non-bureau insurance companies grew into national operations the tendency toward reliance on open market competition to regulate rates became more widespread. State laws were changed to make bureaus advisory only and various forms of file & use and other forms of non prior approval changes became prevalent. Thus we see a full circle from the position of the insurance industry demanding the right to fix rates by agreement to one where many are advocating complete open competition with the market place determining the rate. This latter position is most strongly advocated by the large, national

(2) 322 U.S. 533

direct writers, although the old line bureau companies are reluctantly joining the demand even though they may have some serious reservations about the ultimate effect on themselves and the public.

Workers' Compensation

While this trend to open competitive rates is directed at all property and casualty lines, large segments of the industry do not agree that it should apply to Workers' Compensation. The author claims no expertise in the area of rate making in property and casualty insurance generally and so will limit this article to the area of Workers' Compensation rate making, where he does claim knowledge and understanding of the subject.

NAIC - Report of the Advisory Committee on Competitive Rating

The National Association of Insurance Commissioners appointed a subcommittee to consider competitive rating as the primary means of regulating rates in the personal and commercial property and casualty markets. In August, 1979, the subcommittee appointed a widely based Advisory Committee to assist the subcommittee. This Advisory Committee submitted its Report at the 109th Annual Meeting of the NAIC held in June, 1980. The report is comprehensive, clear and reasonably concise. However, the divergence of opinions as expressed by particular members of the Advisory Committee shows that there is little basic agreement in what should be done or how it should be done. In the area of Workers' Compensation the report of the Advisory Committee made three recommendations:

1. "that workers' compensation be included in the competitive rating law and not be separately regulated in a law which requires mandatory rating organization membership and/or permits members or subscribers to depart from bureau rates only by a 'deviation';

2." workers' compensation insurance rates be subject to a prior filing pro-

cedure before they become effective, but not subject to specific prior approval; and

3." statistical data for workers' compensation insurance be collected on a uniform basis."(3)

The report alleges that workers' compensation does not now qualify for open competitive pricing and precisely because of the laws which now regulate rates in the several states, plus the requirement that insurers must belong to and adhere to bureau rates. The report further points out that workers' compensation is not currently regulated by a competitive rating law in any state;(4) that six states have exclusive State Funds, and that fifteen other states have special laws regulating workers' compensation exclusive of other more general laws regulating property and casualty rates. The other states subject workers' compensation to some form of prior approval or to a waiting period of some kind.

The report states "[t]he present system works well in terms of availability, affordability and the quality of services."(5)

While the Advisory Committee was composed of the heads of the largest nationwide insurance companies as well as representatives of agents, bureaus, consumers and academia, their varied special interests were such that several felt the need to file their own "minority" reports. They were not, of course, called that, but that is what they are. Several of them are worthy of noting both as an indication of the difficulty of obtaining agreement on this subject and as an example of the wide range of thought that leaders in the industry hold on this basic problem of regulation. Let us take a closer look at a few of them.

"Minority" Reports

John S. Trees, Group Vice President Personal Lines, represented Mr. Archie R. Boe, Chairman of the Board of Allstate Insurance Company, who was appointed as a Committee member. In its separate comments(6) Allstate pointed out:

(3) Report of the Advisory Committee on Competitive Rating (NAIC) page 44-45

(4) This statement is questionable in view of the rating laws of Illinois and California (discussed below).

(5) Id. page 43

(6) Id. page 124 et seq.

"While the Advisory Committee seems clearly to endorse the goal of enhanced competition in insurance markets - a goal we ardently share - it is our view that implementation of certain specific recommendations of the report could, in practical application, tend to frustrate rather than further that goal. It is for this reason that we felt it necessary to submit these separate views.

"Initially, we regret that the Committee chose to adopt a regulatory approach more restrictive even than that which has existed for more than 20 years in the State of California - a state frequently cited as a model for competitive improvements. In this connection, we note that we have also reviewed the views of the State Farm Insurance Companies, and, while we cannot endorse at this time any of the technical details of the State Farm proposal, we believe such is in concept more faithful to the goal of advancing competition than is the Advisory Committee report."

A group of Advisory Committee members filed a separate paper specifically directed to Workers' Compensation(7). The group consisted of:

Melvin B. Bradshaw, President, Liberty Mutual Insurance Company

Samuel Fortunato, President, Metropolitan Property and Liability Insurance Company

John W. Joanis, Chairman, Sentry Insurance, A Mutual Company

Robb B. Kelley, President, Employers Mutual Casualty Company

Paul S. Wise, President, Alliance of American Insurers

In their comments they say:(8) "The system of Administered Pricing for workers' compensation has a proven track record of success and service to the public.... The public policy considerations appropriate to workers' compensation insurance differ substantially from those applicable to other property/casualty lines, and warrant broader study and consideration....

"In order to maintain the integrity of the data base, the administered pricing system encourages the use of rating bureau services by insurers, subject in most states to statutory right of deviation. Without the volume of quality statistical

(7) Id. page 128 et seq.
(8) Id. page 129 et seq.

detail now required by rating bureaus and obtained from all insurers, sound actuarial analysis of benefit changes and the determination of creditable rate levels would not be possible. Without uniform input of statistical data to the bureaus, the data base would be diluted and eroded. As the quality of the data deteriorates, there will be a declining incentive for larger insurers with their own sophisticated data processing equipment to submit data. This, in turn, will accelerate the detriment to smaller insurance carriers, which are absolutely dependant on broadly based statistical support. Thus, we believe that in addition to the steps recommended by the committee, it is also necessary to preserve manual rules, rating plans and the classification system, in application; this will require some degree of adherence, now rejected in the committee report.

"Further, we take issue with the committee's decision to eliminate rate service organization adherence requirements. We do not think this is appropriate for workers' compensation. We believe a workers' compensation rate service organization should be able to require adherence to manual rules, classifications, and rating plans."

Perhaps the most incisive "minority" viewpoint was filed by State Farm Insurance Companies, represented on the Advisory Committee by Edward R. Rust, President, State Farm Mutual Automobile Insurance Company. State Farm's comments were thoughtful, extensive, of deep probative value and marked with an objectivity born of conviction in the merit of the viewpoint expressed. While the author does not necessarily agree with the concept that open competitive pricing is desirable for workers' compensation rate making, he recognizes a worthy adversary in State Farm's presentation of the case for market pl[illegible]te making. State Farm places maximum reliance on competitive forces and presents convincing arguments for that viewpoint. State Farm went so far as to draft a model competitive rating law embodying their concepts of what such a law should contain. Their model

law excludes workers' compensation with the note: "Workers' Compensation insurance is excluded.... primarily because it may be regulated in a separate Article. It is possible that many of the provisions of this Article would be appropriately applied to Workers' Compensation insurance."(9) Since this article is primarily concerned with Workers' Compensation no further comment will be made on State Farm's presentation but the author earnestly recommends a thorough perusal of it by anyone interested in open competitive pricing as a general approach to property and casualty insurance rate regulation.

Several other Advisory Committee members filed papers expressing their views. The consumer advocates, Robert Sable, Executive Director, National Consumer Law Center, Inc., and Sandra L. Willett, Executive Vice President, National Consumers League, generally felt the report did not go far enough in favor of the consumer; Berry L. Griffin, Jr., President, Risk and Insurance Management Society, representing some 3300 corporate members, disagreed with the Advisory Committee's conclusions on Workers' Compensation and argues for even broader open competitive activity in all lines including Workers' Compensation' and Arthur C. Mertz, President, National Association of Independent Insurers also argued that the Advisory Committee's position on Workers' Compensation was too restrictive and that Workers' Compensation should be subject to the same rules as all other insurance lines.

Comments on Advisory Committee Report

As one can see from the above summary of the many viewpoints expressed in the report and in the comments by several Committee members, there is a wide divergence of opinion on the role for market pricing especially as it applies to Workers' Compensation. Historically the large independent carriers are in favor of free and open competition and the old line bureau members generally want to hold onto what they are accustomed to and feel comfortable with. It will not be easy for these two powerful and divergent groups to find a common ground on

(9) Id. Page 176.

which they can agree. The present trend in federal circles to repeal McCarran-Ferguson and substitute a mandatory open competitive law makes a resolution of these basic conflicts not only desirable but as a practical matter, almost imperative if the insurance industry is to present a united front on what to many appears to be a life and death matter. This necessity focuses on the solutions reached in at least two states - California and Illinois. Allstate referred to the California system in its comments on the Advisory Committee report, and State Farm mentioned the Illinois statute as a rebuttal to the Advisory Committee's position that there is no experience available in Workers' Compensation outside the rating bureau experience. What then can we learn from the experience in these two states.

California Workers' Compensation Law

Over 20 years ago California adopted what can be described as a minimum rate law for Workers' Compensation. Under that law, as amended to date, "[t]he ... Commissioner shall approve or issue, as adequate for all workers' compensation insurers, a classification of risks and premium rates relating to California workers' compensation insurance. He may also approve or issue a system of merit rating,"(10) which must be adhered to by all California workers' compensation insurance carriers, including the State Fund. Merit rating is restricted to California experience and may not be combined with the risks experience in any other state. Any expense provisions included in the classification of risks and premium rates approved by the Commissioner shall be uniform as to all insurers and insured affected thereby. "An insurer shall not issue, renew or continue in force any workers' compensation insurance.... at premium rates which are less than the rates approved or issued by the Commissioner"(11)

The law recognizes and approves rating organizations to collect data helpful in making adequate minimum rates for workers' compensation and employer's liability

(10) Workers' Compensation Law of the State of California, Sec. 11732
(11) Id. Sec. 11736.

coverage and to submit such rates to the Commissioner for issuance or approval. The law authorizes the existence and cooperation of qualified rating organizations and requires every insurer to belong to one such rating organization. Under the law, a [r]ating organization means any organization which has as its primary object or purpose, the collecting of rating information, the making of rates, rating plans and rating systems for workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith and presenting them to the Commissioner for issuance or approval."(12)

Rating organizations are given authority to inspect risks to determine proper classification, to make test audits of employer's payrolls and generally to do all the things rating organizations have historically been permitted to do.

In view of the foregoing it is difficult to understand how Allstate would seem to be saying that the California system is closer to an open competitive pricing plan than that proposed by the Advisory Committee. In any event, the California plan has been working for over twenty years so it is at least a workable plan and appears to enjoy the reputation of being, as Allstate says: "a model for competitive improvements."(13)

Illinois Workers' Compensation Law

Illinois has an Article in its law covering Workers' Compensation and Employers' Liability Rates, separate from its rules and regulations applying to Property and Casualty Rates other than Workers' Compensation. A comprehensive policy statement as to Workers' Compensation rates is found in the law under the title - "Purpose of Article":(14)

"The purpose of this Article is to promote the public welfare by regulating workers' compensation and employer's liability insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate co-operative action among companies in rate making and in other

(12) Id. Sec. 11750. 1b
(13) Advisory Committee Report (NAIC) page 124
(14) Illinois Workers' Compensation Law - Sec. 1065.1

matters within the scope of this Article. Nothing in this Article is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This Article shall be liberally interpreted to carry into effect the provisions of this Section."

The law spells out the factors that shall be used in making rates and provides that:

"(1) Every company shall file with the Director every manual of classifications, every manual of rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use."(15)

"(2) A company may satisfy its obligation to make such filings either by making an individual filing or by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the Director to accept such filings on its behalf; provided, that nothing contained in this Article shall be construed as requiring any company to become a member of or a subscriber to any rating organization."(16)

"(6) Upon the written application of the insured, stating his reasons therefor, filed with and approved by the Director, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

"(7) No company shall make or issue a contract or policy except in accordance with filings which are in effect for said company as provided in this Article or in accordance with Subsection (6) of this Section."(17)

"Deviations. Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such company may make written application to the Director for permission to file a

(15) Id. Sec. 1065.4
(16) Id. Sec. 1065.4
(17) Id. Sec. 1064.4

deviation from the class rates, schedules, rating plans or rules thereof."(18)

Thus the Illinois law breaks with the past at least by recognizing competition as a means of rate regulation and by its provision for filing by individual companies of their rates and by providing specifically that premium rates need not be uniform. This was a substantial variance from any other State law enacted at the time(19) and the reasons for the development of the law along these lines offers an interesting bit of history. For many years the concerted action on rates sanctioned by the approval of mandatory membership in a rating organization by the insurance companies bothered regulators and some members of the insurance industry as being tainted with anti-trust implications. Efforts to make rating organizations advisory only had not really removed the stigma. Further, under open competitive rate laws the insurance industry agrees that certain anti-competitive actions of rating bureaus, especially the right to make rates and file them with regulatory authorities for approval, could not be reconciled with the concept of free and open competition. The NAIC Advisory Committee recognized this conflict but apparently was unable to solve the dilemma. This brings us to the Illinois situation in 1971 and 1972. When the Illinois law that was in effect in 1970 expired, the insurance industry were operating without any rate regulation and were thereby open to anti-trust action under the Illinois equivalent of the Sherman Act. Fearful of the situation it faced the industry prevailed upon the Insurance Commissioner to issue regulations permitting concerted action by the industry. Before doing so, the discussions focused on what essential concerted action was essential and what other areas of concerted action, which had been permitted to authorized rating bureaus, were not essential. Thereupon the Commissioner issued regulations which were later reinforced by the statute passed in 1972 and the reissue of regulations under that statute.

(18) Id. Sec. 1065.7
(19) 1972

As a result of several years' experience under the Illinois "open competitive" rating system, those industry members who advocate this approach claim there is ample proof of benefits to the public without a need for concerted action by the industry regarding rate filing data. Others do not feel there is a sufficiently broad base from the experience of one state to claim success over a long period of time. Those not convinced by the Illinois situation point out that insurance companies have the experience of other large industrial states to use in formulating rates for Illinois and that regardless, the smaller insurance carriers could not operate successfully without the benefit of reliable statistical data that is only available under the present rating organization system of concerted action.

There is no apparent or obvious solution to this fundamental difference in approach and none is likely to be found unless and until some extraneous situation developes, as it did in Illinois, to force an agreement with which neither group would be entirely satisfied. Such an extraneous situation could well be the repeal of McCarran-Ferguson with a distinct possibility of a law requiring open competition. Because of all these uncertainties the efforts of the NAIC to reach some sort of accomodation among insurers is both understandable and praiseworthy. It is this author's private opinion that short of the happening of some compelling event, the liklihood of agreement among the industry giants is quite remote.

Typical of the relevancy of this topic in the minds of the insurance industry leaders, were the remarks of John A. Schoneman, President, Wausau Insurance Companies, at the 4th Annual National symposium on Workers' Compensation held in July 1980 at the University of Maine. He discussed the problem generally and made several points regarding the specific problems involving Workers' Compensation coverage which sum up the position of those who advocate a continuance of the present rating bureau system as far as Workers' Compensation is concerned. Mr. Schoneman pointed

out that as far as competition is concerned that the good and desirable large risks (over $100,000. annual premium) are very competitive, pricewise, and will continue to be so under any rate system.(20) However, this cannot be said for the smaller risks which comprise by far the larger number of risks (perhaps as much as 75% of all risks in number) but account together for only a small percentage of total premium, (perhaps only 10% of total premium). He pointed out further that there are many competitive factors built into the present rate structure such as premium discount, dividends, retrospective rating, loss limit and excess loss factors and others. It was also Mr. Schoneman's opinion that the basis for the continued success of the present system over such a long period of time was the sound statistical base used to project losses and expenses. This has resulted in a stability not found in other lines of insurance and this stability encourages new insurance companies to enter the market and thus makes coverage more accessable. Since workers' compensation is a government mandated social program with definite goals, great care must be exercised to make certain any changes made will not adversely affect those goals. Mr. Schoneman does not believe we can say that open competitive pricing will do as good a job as the tried and proven system we presently have. Again since we are dealing with long term loss payments involving human beings we dare not experiment with the rights of injured workers or their dependents without assurance that what we change will result in a better situation - legislators will demand assurances on this point as well as upon the cost effectiveness of any proposed changes. Mr. Schoneman repeats the argument so often made that any dilution of the data base will adversely affect smaller carriers and once lost the reliability of the data base cannot be reestablished. The discussion by Mr. Schoneman was equally as effective in favor of the present system of administered rate making or pricing as was State Farm's "minority" views as expressed in the Advisory Committee (NAIC) Report, in favor of open competitive pricing.

(20) Risks subject to the Longshoremen's and Harbor Workers' Compensation Act are excluded. Generally such risks are not "competitive" except as to how much the charge will be over and above standard rates through various insurance plans.

New York and New Jersey

Amid all the discussion that is going on throughout the country on the question of open competitive rating for Workers' Compensation, it is interesting to note that New York and New Jersey, which are both heavy industrial and manufacturing States, have thus far elected to stay with regulated rating bureau rates for this important line of insurance.

A bill was introduced in the New York legislature (1980 session) (S.4240-A.6210) to amend Section 184 of the Insurance Law which would eliminate the need for approval of the Superintendant of Insurance prior to making effective rates filed by a rating organization or an insurer and which provided that insurers could establish rating schedules which would allow for a reduction of not to exceed fifty percent or a surcharge not to exceed one hundred percent of the rates recommended by the workers' compensation rating board. While neither bill passed this year, their introduction indicates the trend toward unregulated rates that is gaining ground all over the country. However, the idea of a discount and differential limit, while still using rating bureau rates, would be novel were it not for the fact that it is the way the New York State Insurance Fund has operated for over sixty years.

In New York the law established the State Insurance Fund as a competitive carrier to which employers could turn to insure their liability under the law. Since the private insurance industry demanded and retained their right to refuse to insure any risk it did not want, the legislation provided for a State Fund rather than an assigned risk pool or some such other technique. So that the State Fund would not need to be subsidized, the law permitted the fund to establish its own rates which were not under the supervision of the Superintendant of Insurance. It is interesting to note that during the first few years of its existence the State Insurance Fund (New York) did establish its own rates which were different

from those used by the private insurance companies. However, the Fund's representatives soon discovered that the employers were too confused by the different rates being quoted to be able to decide where their coverage could be had at the lowest cost. The Fund then joined the rating board and used the identical rates the private carriers were using but established a fixed advance discount from these rates which averaged 20% and were thus able to quote on identical rates with a definite discount over the private industry. The 20% was arrived at by taking the agents' commission (at that time 15%) and adding the profit allowance built into the rate - 2½% (since by law the Fund had to operate without profit) and 2½% less than the expense allowance in the rates, since the fund was operating in one State with one line of insurance. On the other side of the coin, the Fund established a range of "differentials" or higher rates which it applied to risks with bad experience, generally on a retrospective basis, so that by close attention to accident prevention thereby establishing an average or better experience, the specific risk could "earn" back the extra charge the differential rate created. This system of advance discounts and differentials has been maintained for the sixty odd years the Fund has operated in New York State. In retrospect you might say that the New York State Fund has operated on an open competitive basis for all these years.

The experience of the author as Executive Director of The State Insurance Fund (New York) for over six years (1972-1978) convinces him that regardless of what form regulation of rates takes, as far as the large risks are concerned (21) whether in manufacturing, retailing, construction or whatever, the competition to write these risks is always intense, innovative (e.g. paid loss retros) and often times self-destructive in its intensity. The State Fund over the years was involved in this competition and witnessed first hand the lengths to which one or more of the large carriers would go to cover some of these risks. Typical examples were the several water tunnel

(21) Risks subject to the Longshoremen's and Harbor Workers' Act excepted

jobs carrying water from upstate New York to New York City, the Brooklyn-Battery tunnel, the World Trade Center buildings, the subway tunnel jobs to name but a few. Without a doubt this type of work could not be more competitive no matter what sort of law the carriers operate under.

But of course these jobs represent only a drop in the bucket as far as the number of businesses which need coverage is concerned. At the other end of the scale there are literally thousands of risks whose annual premium is less than $750. These risks designated as small risks are the type the large carriers do not want. The State Fund has over 70,000 such small risks and because it has such a volume of them it was able to computerize this segment of its business so as to minimize the expense factor in handling them and control the loss factor as far as that was possible. While the Fund wrote most of these risks at Board rates, or the rates the private industry used, as their experience justified it they were extended the discount offered to larger risks.

These examples are mentioned to demonstrate that there is a great deal more competition in fact even under regulated bureau rates, or administrated pricing, as some proponents of the present system describe it, than a casual reading of the rules would indicate. True there is concerted action among carriers in membership in and adherence to rating bureau calculated rates, but offsetting this, to a degree not generally admitted by regulators, is the review, delay and often the arbitrary reduction in the request for rate increases that the Superintendants' office makes in the proposals of the rating bureaus.

New Jersey does not have a State Fund but it does have a really independant rate bureau.

Most states use the National Council on Compensation Insurance to collect loss and expense data and file rates for approval by the State Insurance Department. Not so in New Jersey. Its rating bureau under the direction of a Deputy Insurance

Commissioner collects its own data and compiles its own statistics using them to establish rates for use within the State. Among all the discussion about rating bureaus and the need to have reliable statistics little reference is ever made to the detailed and complicated system followed by the bureaus, and which individual companies would have to follow for each company to establish rates independently of rating bureaus. It is not the purpose of this article to get into the details of how workers' compensation rates are established.(22) Suffice it to say it is a technical and special business requiring not only acturial expertise but also sophisticated equipment, a knowledge of underwriting principles and the ability to make judgmental decisions - skills not possessed by the average man on the street, and surely not generally available to small insurance carriers. Businesses in both New York and New Jersey are fortunate to have workers' compensation available from a number of large and small insurance carriers with flexible plans of insurance, suited to a variety of situations and conditions, whose presence is encouraged by an alert, forward looking administration of the State Workers' Compensation laws in these two States. The administration of the law is as good or better than that found in many States and the regulation of rates has produced a stable, steady, strong and growing insurance industry that is fully capable of discharging its responsibilities to its policyholders, their injured employees and their dependents.

Conclusions

The report of the NAIC Advisory Committee has been filed and the Subcommittee expects to make its recommendations on the draft model open competitive rating bill before the end of 1980. The industry is faced with a decision that will give direction to the development of workers' compensation coverage over the next several

(22) The author published an article "How Workers' Compensation Rates are Formulated," which appeared in Risk Management, January 1979, and which outlines the various elements involved in this very specialized work.

years. There is a substantial segment of the insurance industry as well as others outside the industry that want a change toward more free and open competition. This uneasiness with the present system is evident even in a monopolistic State Fu State like Ohio. There a Committee has been formed to amend the Ohio law to permit the private insurance companies to compete with the State Fund and also to permit self-insurance. This will require an amendment to the Constitution of Ohio but the Committee feels it has a good chance of success. Since New York State started over 60 years ago with justwhat the Ohio Committee now seeks, their approach seems mild in the light of other demands for open competition.

Whichever way the NAIC's decision goes, whether to take the moderate way included in the Advisory Committee's model law, or go all the way to open, unregulated rates for workers' compensation as State Farm and Illinois Insurance Director Philip R. O'Connor, Chairman of the Subcommittee charged with drafting the model law, prefer, it is the author's opinion that regardless of the type of rating laws that are enacted the good, large and desirable risks will be intensely competed for and the small, less desirable risks will be avoided as far as possible. The medium size risk will be sought after or avoided depending on how near average or better its experience is. In the last analysis the insurer's underwriting judgment, whether it can make a profit on the risk or not, will determine how competitive its bid will be. One thing is fairly certain - the lack of reliable loss statistics will drive business to the large carriers and to the State Fund in New York and will have a tendency to push rates for the undesirable risk with less than average experience to a point that may well adversely affect such a risk's ability to stay in business. This same effect will probably result in other jurisdictions since the same competitive factors exist in all states. Such a result would be a repetition of the experience which followed the general adoption of the multiperil policy. The better business was packaged and the whole bundle was priced as competitively as possible. But the poorer business continued in single

policy coverage and rates increased because the experience of the better business multiperil policies did not get into the data on which the rates for the single line policies were based. Without reliable, complete and extensive data to produce quality statistics, a similar deterioration can be expected in the area of Workers' Compensation rates with a similar result to the less than average and poor risks, especially smaller risks.

For certain, it will take many years to see the full effect of any major change in regulation of rates - just as it will probably take many years for any kind of a model law to be acted upon by a majority of the States. The proposals for changes in rating techniques has started something that will be around for a long time - for the simple but unassailable reason that the topic has no single or correct answer.

Edited Version approved in 11/80
Best's Review

FORM I-57

1979

WORKERS' COMPENSATION EXPERIENCE EXHIBIT

_____ Insurance Company

ADDRESS (City, State and Zip Code) _____

REPORT TO THE INSURANCE COMMISSIONER OF THE STATE OF MINNESOTA (I-57)

FOR THE YEAR ENDING DECEMBER 31, 1979

ONE COPY TO BE FILED NOT LATER THAN MARCH 1, 1980
AT THE OFFICE OF THE INSURANCE DIVISION
500 METRO SQUARE BUILDING, ST. PAUL, MINNESOTA 55101

Groups or associations may file a combined report for all companies included in the group. If so done, all companies included must be identified below.

ATIONAL COUNCIL
ARRIER CODE NO. _____

(1) POLICY YEAR BEING VALUED	(2) ACCUMULATED EARNED PREMIUM		(3) CLOSED CLAIMS		
	(a) Accumulated Standard	(b) Accumulated Net	(a) Claim Count	(b) Paid Medical	(c) Paid Indemnity
A. Prior to 1971					
B. 1971					
C. 1972					
D. 1973					
E. 1974					
F. 1975					
G. 1976					
H. 1977					
I. 1978					
J. 1979					
K. Total Pol. Yrs. 1971-79; Sum Valuations (B) to (J) above					
L. Total Pol. Yrs. 1970-78 as filed 12-31-78 (Line K last year)	XXXXXXX		XXXXXXX	XXXXXXX	XXXXXXX
M. 1970 Pol. Yr. as filed 12-31-78 (Line B last year)	XXXXXXX		XXXXXXX	XXXXXXX	XXXXXXX
N. Full 1979 Cal. Yr. Exp. 1-1-79 to 12-31-79			XXXXXXX	XXXXXXX	XXXXXXX
O. (N) – (K) + (L) – (M) = Change in Prem. or Losses for Pol. Yrs. Prior to 1971	XXXXXXX		XXXXXXX	XXXXXXX	XXXXXXX
P. Total to Dec. 31, 1979 Sum of (A) + (K)					
Q. Total to Dec. 31, 1978 From Line P, Form I-57 as reported last year.	**				
R. Calendar Year Results (P) – (Q)		*			
S. Calendar Year 1979 DIRECT PREMIUM WRITTEN	*				

PLEASE TYPE!!

GENERAL INSTRUCTIONS

1. All amounts should be rounded off to the nearest dollar. Please show negative amounts enclosed within parentheses.
2. All premiums are gross prior to any reflection of dividends or reinsurance assumed or ceded.
3. Policy year premiums and losses should be accumulations of all transactions for the specific policy year regardless of the calendar yea occurred, and are assigned to that policy year, regardless of when the transaction is entered on the Company's books.
4. This report must exclude data for the following experience:
   a) Underground Coal Mine Experience***
   b) Excess policies***
   c) National Defense Projects Rating Plan Experience
   d) "F" Classification Experience***
   e) Coverage B – in Excess of Basic Limits (for policies effective on and after 1-1-78).
   (***only for policies effective on and after 1-1-74)
5. Columns 2(a) and (b) Accumulated Earned Premium – Report the Accumulated Earned Premium for each of the indicated policy years given policy year you are to report the entire standard and net earned premium since policy inception through December 31, 1979 for th effective during the policy year being reported.
6. Column 2(a) – Accumulated Standard Earned Premium – for each policy year indicated the Accumulated Standard Earned Premiums sha earned premium for that particular Policy Year resulting from standard rating procedures, prior to the application of premium discount retrospective rating adjustment on risks written under any restrospective rating plan.
7. Column 2(b) – Accumulated Net Earned Premium – For each Policy Year indicated the Accumulated Net Earned Premium shall be th earned premium on all risks after application of any restrospective rating plan adjustment which may be applicable, and after the ap discounts in accordance with Manual rules, but prior to the payments of policy-holder dividends. (See Reconciliation Report on back)
8. Columns (3) – (5) – Accumulated Incurred Losses. Report accumulated incurred losses (i.e. from date of inception through December 31 following components:
   3 (a)–(c) Closed Claims – Paid Medical and Paid Indemnity.
   4(a) –(e) Open Claims – Paid Medical and Indemnity, and Outstanding Medical and Indemnity.
   Please note that the amounts in the sub-columns of (5) are totals of the "Open" and "Closed" claim amounts as indicated. The entire across as well as to the total lines at the bottom.

CALENDAR YEAR AS OF DECEMBER 31, 1979

DIRECT BUSINESS ONLY

(4) OPEN CLAIMS					ACCU	
(a) Claim Count	(b) Paid Medical	(c) Paid Indemnity	(d) Case Outstd. Medical	(e) Case Outstd. Indemnity	(a) Total Claim Count 3a + 4a	(b) Total Paid Losses 3b + 3c + 4b + 4c
XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	
XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	
XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX
XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX	XXXXXXX

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d excluding any

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79) split into the

it must balance

SPECIFIC INSTRUCTIONS

1. Except as noted below, losses outstanding should be the total loss reserves as of the date column.
   a) INCLUDE assessments paid or payable into the Special Compensation Fund on permane
   b) INCLUDE payments into the Special Compensation Fund of specific amounts under the
   c) EXCLUDE any reimbursements authorized from the Special Compensation Fund in con
   d) EXCLUDE assessments paid or payable into the Special Compensation Fund on indemn
2. *These columns must be reconciled with the figures shown on Page 14, Line 16, of the Ann
   a) Line S – Direct Premium Written
   b) Line R – Column (2b) – Net Earned
   c) Line R – Column (5b) – Total Loss
   d) Line R – Column (5e) – Total Incur
3. **Line Q – Total to 12-31-78 as reported last year – must be brought forward from last ye

CLAIM INSTRUCTIONS

IBNR: Report the amount of Minnesota IBNR reserves carried for each policy year as of 12-31

For those carriers who maintain lump sums case reserves, or average case reserves, these should among the IBNR, even though they are "formula" type reserves.

For those carriers who maintain a "fast-track" reserving system for small claims, the reserves lump sum figure, or as a figure derived by multiplication of claim counts by an average va reserves in columns 4(d) and (e).

CLOSED AND OPEN CLAIM SPLIT:

A closed claim is a claim on which both medical and indemnity portions have been settled; r For purposes of this report, these claims shall be reported as closed, even though they may ha

An open claim is a claim where additional indemnity or medical payments are expected to be r

If a re-opened claim is expected to have a substantial period of payments, that claim and all its the open category. This procedure is recommended to insure that a claim will receive only one

Any deviations from the above procedure shall be reported in an explantory comment.

(5) CUMULATED INCURRED LOSSES			(6) LOSS RATIO
(c) Total Outstd. Losses 4d + 4e	(d) IBNR (as of 12-31-79)	(e) Total Incurred 5b + 5c + 5d	(5e ÷ 2e)
	XXXXXXX		XXXXXXX
	XXXXXXX		XXXXXXX
XXXXXXX	XXXXXXX		
XXXXXXX	XXXXXXX		XXXXXXX

ONS

ate of this report, with IBNR reserves listed separately in the appropriate

anent partial claims which occurred prior to June 1, 1971.
the law on no dependent or partial dependent death claims.
conjunction with second injury claims, and Supplemental Benefits Payments.
mnity claims which occurred on or after June 1, 1971.
Annual Statement: (See Reconciliation Report on back)
osses Paid
curred Losses
r year's Exhibit as of 12/31/78.

NS

-31-79 in Column 5(d).
uld be reported as case reserves in Columns 4(d) and (e) and not included

rves for these reported but not specifically reserved claims (carried as a value) should not be included in the IBNR column, but rather as case

d; no additional payments are expected on either portion as of 12-31-79.
y have subsequent loss adjustment expense or are subsequently reopened.

e made as of 12-31-79.

its prior history shall be removed from the closed category and placed in
one count, either in the closed or open category.

1979 MINNESOTA CALENDAR YEAR RECONCILIATION REPORT

The Calendar Year Data reported on the Minnesota Workers' Compensation Experience Exhibit, and on Page 14, Line 16, of our Annual Statement, are as reconciled below:

	Direct Written Premiums	Net Earned Premium	Total Losses Paid	Total Incurred Losses
1. DATA REPORTED ON W.C. EXPERIENCE EXHIBIT (LINES R AND S)				
2. Reconciliation Items:				
a) Underground Coal Mine Experience				
b) Excess Policies				
c) National Defense Projects Experience				
d) "F" Classification Experience				
e) Coverage B-Excess of Basic Limits				
f) Special Compensation Assessments (See Item 1 of the Specific Instructions)	XX	XX		
g) Other (See Note 1)				
3. DATA REPORTED ON PAGE 14, LINE 16, ANNUAL STATEMENT				

Note 1: If figures are shown for (g), explain the reason for the reconciliation in detail in the space below:

AFFIDAVIT

STATE OF _____)

COUNTY OF_____)

_____, President and _____,

Secretary of the _____,
being duly sworn, each for himself deposes and says that they are the above described officers of the said insurer, and each for himself declares: That he is familiar with the matters to which the within exhibits, the answers, and the information, if any, refer; that he is duly authorized to make the following declaration on behalf of the Insurer; and that the within exhibits, the answers, and the information, if any, are full and true statements of the matter respectively described herein, according to his best knowledge, information and belief.

_____, President

_____, Secretary

Subscribed and sworn to before me, this

_____ day of _____, _____

_____

INTER-OFFICE MAIL
BILL CAMPBELL
LARSON

Bill Gunter
STATE TREASURER
INSURANCE COMMISSIONER
FIRE MARSHAL

Insurance Commissioner
STATE OF FLORIDA
TALLAHASSEE 32301

August 8, 1980

DIVISION OF INSURANCE RATING

INFORMATIONAL BULLETIN 80-224

TO: ALL INSURER GROUPS AUTHORIZED TO WRITE WORKERS' COMPENSATION INSURANCE IN FLORIDA

FROM: BILL GUNTER, INSURANCE COMMISSIONER AND TREASURER

SUBJECT: CHAPTER 80-236, LAWS OF FLORIDA
(HB 1677)
EXCESS PROFITS TEST
FLORIDA RATES IN THE SUNSHINE LAW

The above captioned legislation became effective July 1, 1980.

Subsection (6) of Section 627.091, Florida Statutes, has been amended to clarify that a committee of a rating organization need meet in Florida only when the committee will be discussing matters relate to Florida rates.

Subsection (2)(a) of Section 627.215, Florida Statutes, changes the definition of excessive profits for workers' compensation insurance. When submitting this information, you should use Form F which has been submitted previously and was attached to Informational Bulletin 79-12.

It is necessary that you review these changes, copy of which is attached, and be guided accordingly.

Please direct all submissions and inquiries to:

Bureau of Workers' Compensation
Florida Department of Insurance
Larson Building
Tallahassee, Florida 32301

BG:Vs

(11) The .ivision shall furnish to any employer or carrier, upon quest, its individual experience. The division shall furnish to the artment of Insurance, upon request, the Florida experience as veloped under accident policy year or calendar year.

Section 20. Subsection (6) of section 627.091, Florida Statutes, is nded to read:

627.091 Rate filings; workers' compensation and employer's liability surances.--

(6) Whenever the committee of a recognized rating organization with sponsibility for workers' compensation and employer's liability surance rates in Florida meets to discuss the necessity for, or a quest for, Florida rate increases or decreases, the determination of rida rates, the rates to be requested, and any other matters taining specifically and directly to such Florida rates, such meetings all be held in Florida and shall be subject to s. 286.011, the Florida vernment in the Sunshine Law. The committee of such a rating ganization shall provide 6 weeks' notice to the department. The artment shall provide at least 3 weeks' notice to the public of such etings.

Section 21. Subsections (2), (6), (7), (8) and (9) of section .215, Florida Statutes, are amended to read:

627.215 Excessive profits for workers' compensation and employer's bility insurance prohibited.--

(2)(a) Excessive profit has been realized if underwriting gain plus resement--income--generated--by--loss--reserves is greater than the icipated underwriting profit plus 5 percent of earned premiums for the ost recent calendar years.

(b) As used in this section with respect to any 3-year period, ..icipated underwriting profit" means the sum of the dollar amounts ained by multiplying, for each rate filing of the insurer group in fect during such period, the earned premiums applicable to such rate ing during such period by the percentage factor included in such rate ing for profit and contingencies, such percentage factor having been ermined with due recognition to investment income from funds generated Florida business. Separate calculations need not be made for secutive rate filings containing the same percentage factor for fits and contingencies.

(6) If the insurer group has realized an excessive profit, the artment shall may order a return of the excessive amounts to seyholders. after affording the insurer group an opportunity for ring and otherwise complying with the requirements of Chapter 120, rida Statutes. Such excessive amounts shall be refunded in all tances unless the insurer group affirmatively demonstrates to the artment that said refund of the excessive amounts will render a member the insurer group insolvent under the provisions of the Florida .rance Code.

(7)--In--determining--what--action-should-be-taken-if-excessive-profits -realized,-the-department-shall-consider-the-following,-as-they-relate Florida-workers'-compensation-and-employer's-liability-insurance:

(a)--The--underwriting--profit--or--loss-of-the-insurer-group-in-prior ars.

(b)--The-financial-strength-and-stability-of-the-insurer-group.

CODING: Words in struck-through type are deletions from existing law; words in underscored type are additions.

(8)--The--department--may--excuse-an-insurer-from-complying-with-these reporting-requirements-if-the-volume-of-business-written-by--the--insurer would-not-justify-the-expense-of-the-reporting-requirements.

(7)(9) Any excess profit of an insurance company offering workers compensation or employer's liability insurance shall be returned t policyholders in the form of a cash refund or rather-than a credit towar the future purchase of insurance. The excessive amount shall be refunde on a pro rata basis in relation to the final compilation year earne premiums to the workers' compensation policyholders of record of th insurer group on December 31 of the final compilation year.

(8)(a) Cash refunds to policyholders may be rounded to the neares dollar.

(b) Data in required reports to the department may be rounded to th nearest dollar.

(c) Rounding, if elected by the insurer, shall be applie consistently.

(9) Refunds shall be completed in one of the following ways:

(a) If the insurer group elects to make a cash refund, said refun shall be completed within 60 days of a final order indicating excessiv profits have been realized.

(b) If the insurer group elects to make refunds in the form of credit to renewal policies such credits shall be applied to polic renewal premium notices which are forwarded to insureds more than c calendar days after a final order indicating excessive profits have bee realized. If an insurer group has made this election but an insur thereafter cancels or otherwise allows his policy to terminate, th insurer group shall make a cash refund not later than 60 days afte termination of such coverage.

(c) Upon completion of the renewal credits or refund payments, the insurer group shall immediately certify to the department that th refunds have been made.

(10) Any refund or renewal credit made pursuant to this section shal be treated as a policyholder dividend applicable to the year in which i is incurred for purposes of reporting under this section for subsequen years.

Section 22. If chapter 627, Florida Statutes, is repealed i accordance with the intent expressed in the Regulatory Reform Act o 1976, as amended by chapter 77-457, Laws of Florida, or as subsequentl amended, it is the intent of the Legislature that sections 20 and 21 o this act shall also be repealed on the same date as therein provided.

Section 23. Section 629.401, Florida Statutes, is amended to read:

629.401 Florida Insurance exchange.--

(1) There may shall be created one or more insurance exchanges, wit one or more offices each, a Florida Insurance Exchange, subject to su rules as may be promulgated by the commissioner. For the purposes o this section, the term "exchange" shall apply to any such insuran exchange proposed or created under this section. The purposes of th exchange are:

(a) To provide a facility for the underwriting of:

CODING: Words in struck-through type are deletions from existing law; words in

114 . 0310 00

INTER-OFFICE MAIL
CHARLES GRAY
LARSON BUILDING

Bill Gunter
STATE TREASURER
INSURANCE COMMISSIONER
FIRE MARSHAL

Insurance Commissioner
STATE OF FLORIDA
TALLAHASSEE 32304

August 17, 1979

F & C INFORMATIONAL BULLETIN 79-12

TO: *All Insurer Groups Authorized to Write Workers' Compensation Insurance in Florida*

FROM: *Bill Gunter, Insurance Commissioner and Treasurer*

SUBJECT: *Chapter 79-40, Laws of Florida (CS/SB 188) Excess Profits Test*

The subject legislation, effective August 1, 1979, requires insurer groups to submit certain information to the Department of Insurance each year.

Such information is detailed on the attached reporting form and its accompanying set of instructions.

Please direct all submissions and inquiries to:

Actuarial
Florida Insurance Department
Larson Building
Tallahassee, Florida 32301

MT/ps
Attachments

This public document was promulgated at a cost of 18¢ per copy or a total cost of $140 to inform companies of changes in the law.

FLORIDA DEPARTMENT OF INSURANCE

INSTRUCTION SHEET FOR REPORTING FORM F ACCOMPANYING F & C INFORMATIONAL BULLETIN 79-12

1. Data is on an insurer group basis and entered in whole dollars. Negative amounts are to be placed in parentheses.

2. Data is direct with respect to reinsurance.

3. Data is for Florida experience only.

4. Administrative and Selling Expense refers to commission, brokerage, other acquisition, field supervision, collection and general expenses, as well as taxes, licenses and fees.

5. Loss development factors are to be based on Florida historical data.

6. The submission of July 1, 1979, requires completion of Items (1) through (4) inclusive for calendar/accident year 1978. The submission of July 1, 1980, requires completion of the entire Form F for the First Report of accident year 1979. The July 1, 1981 submission requires completion of the entire Form F for First Report of accident year 1980 as well as completion of the entire Form F for Second

Report of accident year 1979. The July 1, 1982 submission requires First Report of 1981, Second Report of 1980 and Third Report of 1979. This sequence of annual submissions will continue so that each accident year, beginning with 1979, will be reported at three stages of development and developed appropriately as detailed in the form.

FLORIDA DEPARTMENT OF INSURANCE

WORKERS' COMPENSATION EXCESS PROFITS TEST REPORTING FORM

SUBMISSION OF JULY 1, 19 [ ][ ]

COMPANY/GROUP CODE [ ][ ][ ][ ][ ] (Leading Company Fla. Certificate of Authority Number)

CALENDAR/ACCIDENT YEAR 19 [ ][ ] AS OF 12/31/ [ ][ ]

FCC [W][C][4] IAC [3]

COMPANY OR GROUP NAME _____

ADDRESS _____ ZIP _____

FORM SUBMITTED BY (Name, Title) _____

_____ PHONE _____

1. Calendar Year Earned Premium.....$_____

2. Calendar Year Policyholder Dividends Incurred.....$_____

3. Calendar Year Administrative and Selling Expenses Incurred.....$_____

4. Accident Year Loss and Loss Adjustment Expense Incurred.....$_____

5* Loss and Loss Adjustment Expense Development Factor (1st to Ultimate [ ], 2nd to Ultimate [ ], 3rd to Ultimate [ ]).....

6. Control Total (Sum of items 1, 2, 3 and 4) (Do Not Include Item 5 in Control Total).....

*EXAMPLE: 1.200 or .950

Bill Gunter
STATE TREASURER
INSURANCE COMMISSIONER
FIRE MARSHAL

Office of Treasurer
Insurance Commissioner
STATE OF FLORIDA
TALLAHASSEE 32304

August 17, 1979

F & C INFORMATIONAL BULLETIN 79-11

TO: All Insurers Authorized to Write Workers' Compensation Insurance in Florida

FROM: Bill Gunter, Insurance Commissioner and Treasurer

SUBJECT: Chapter 79-40, Laws of Florida
(CS/SB 188 and SB 669)
Revised Reporting Form

The subject legislation, effective August 1, 1979, requires insurers authorized to write workers' compensation insurance in Florida to transmit certain information to the Department of Insurance each year with the Annual Report of such insurer.

Such information is detailed on the attached reporting form and its accompanying set of instructions.

The requirements of Chapter 79-40, Laws of Florida, reflected in this bulletin replace F & C Informational Bulletin 78-10 and render it obsolete.

Please direct all submissions and inquiries to:

Actuarial
Florida Department of Insurance
Larson Building
Tallahassee, Florida 32301

MT/ps
Attachments

FLORIDA DEPARTMENT OF INSURANCE

INSTRUCTION SHEET FOR REPORTING FORM D

ACCOMPANYING F & C INFORMATIONAL BULLETIN 79-11

1. *Data is to be separate by company and entered in whole dollars. All coding boxes are to be filled in. Negative amounts are to be placed in parentheses.*

2. *Data is direct (with respect to reinsurance) for Florida experience and net (with respect to reinsurance) for countrywide experience.*

3. *The first report is due on or before August 1, 1979, and is for calendar/accident year 1978 as of 12/31/78.*

4. *On or before April 1, 1980, a second report for calendar/accident year 1978 as of 12/31/79 will be due in addition to a first report for calendar/accident year 1979 as of 12/31/79.*

5. *Subsequent reports (due April 1, of subsequent years) will be required so that each year will be reported eight times at eight stages of development.*

This public document was promulgated at a total cost of $120 or 18¢ per copy to inform companies of the changes in the law.

FLORIDA CERTIFICATE OF AUTHORITY NUMBER -- COMPANY CODE [| | | | |]

CALENDAR/ACCIDENT YEAR [| |] VALUED AS OF 12/31/ [| |]

FORM CONTROL CODE [W | C | 1] INPUT ACTION CODE [3]

COMPANY NAME _____

ADDRESS _____ _____ ZIP _____

FORM SUBMITTED BY (Name, Title) _____

_____ PHONE _____

		Florida (Direct)	Countrywide (Net)
(1)	Premium Written	$_____	$_____
(2)	Premium Earned	$_____	$_____
(3)	Dividends Paid or Credited to Policyholders	$_____	$_____
(4)	Losses Paid	$_____	$_____
(5)	Allocated Loss Adjustment Expense Paid	$_____	$_____
(6)	Unallocated Loss Adjustment Expense Paid	$_____	$_____
(7)	Number of Claims Outstanding as of 12/31	_____	_____
(8)	Losses Unpaid as of 12/31	$_____	$_____
(9)	Allocated and Unallocated Loss Adjustment Expense Unpaid as of 12/31	$_____	$_____
(10)	Control Totals (Sum of Items (1) through (9))	_____	_____

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INTER-OFFICE MAIL
BILL CAMPBELL
LARSON

Bill Gunter
STATE TREASURER
INSURANCE COMMISSIONER
FIRE MARSHAL

Insurance Commissioner
STATE OF FLORIDA
TALLAHASSEE 32301

August 8, 1980

DIVISION OF INSURANCE RATING

INFORMATIONAL BULLETIN 80-224

TO: ALL INSURER GROUPS AUTHORIZED TO WRITE WORKERS' COMPENSATION INSURANCE IN FLORIDA

FROM: BILL GUNTER, INSURANCE COMMISSIONER AND TREASURER

SUBJECT: CHAPTER 80-236, LAWS OF FLORIDA
(HB 1677)
EXCESS PROFITS TEST
FLORIDA RATES IN THE SUNSHINE LAW

The above captioned legislation became effective July 1, 1980.

Subsection (6) of Section 627.091, Florida Statutes, has been amended to clarify that a committee of a rating organization need meet in Florida only when the committee will be discussing matters related to Florida rates.

Subsection (2)(a) of Section 627.215, Florida Statutes, changes the definition of excessive profits for workers' compensation insurance. When submitting this information, you should use Form F which has been submitted previously and was attached to Informational Bulletin 79-12.

It is necessary that you review these changes, copy of which is attached, and be guided accordingly.

Please direct all submissions and inquiries to:

Bureau of Workers' Compensation
Florida Department of Insurance
Larson Building
Tallahassee, Florida 32301

BG:Vs

(11) The division shall furnish to any employer or carrier, upon request, its individual experience. The division shall furnish to the Department of Insurance, upon request, the Florida experience as developed under accident policy year or calendar year.

Section 20. Subsection (6) of section 627.091, Florida Statutes, is amended to read:

627.091 Rate filings; workers' compensation and employer's liability insurances.--

(6) Whenever the committee of a recognized rating organization with responsibility for workers' compensation and employer's liability insurance rates in Florida meets to discuss the necessity for, or a request for, Florida rate increases or decreases, the determination of Florida rates, the rates to be requested, and any other matters pertaining specifically and directly to such Florida rates, such meetings shall be held in Florida and shall be subject to s. 286.011, the Florida Government in the Sunshine Law. The committee of such a rating organization shall provide 6 weeks' notice to the department. The department shall provide at least 3 weeks' notice to the public of such meetings.

Section 21. Subsections (2), (6), (7), (8) and (9) of section 627.215, Florida Statutes, are amended to read:

627.215 Excessive profits for workers' compensation and employer's liability insurance prohibited.--

(2)(a) Excessive profit has been realized if underwriting gain plus ~~investment income generated by loss reserves~~ is greater than the anticipated underwriting profit plus 5 percent of earned premiums for the 3 most recent calendar years.

(b) As used in this section with respect to any 3-year period, "anticipated underwriting profit" means the sum of the dollar amounts obtained by multiplying, for each rate filing of the insurer group in effect during such period, the earned premiums applicable to such rate filing during such period by the percentage factor included in such rate filing for profit and contingencies, such percentage factor having been determined with due recognition to investment income from funds generated by Florida business. Separate calculations need not be made for successive rate filings containing the same percentage factor for profits and contingencies.

(6) If the insurer group has realized an excessive profit, the department shall may order a return of the excessive amounts to policyholders, after affording the insurer group an opportunity for hearing and otherwise complying with the requirements of Chapter 120, Florida Statutes. Such excessive amounts shall be refunded in all instances unless the insurer group affirmatively demonstrates to the department that said refund of the excessive amounts will render a member of the insurer group insolvent under the provisions of the Florida Insurance Code.

~~(7) In determining what action should be taken if excessive profits are realized, the department shall consider the following, as they relate to Florida workers' compensation and employer's liability insurance:~~

~~(a) The underwriting profit or loss of the insurer group in prior years.~~

~~(b) The financial strength and stability of the insurer group.~~

CODING: Words in ~~struck-through~~ type are deletions from existing law; words in underscored type are additions.

~~(8) The department may excuse an insurer from complying with these reporting requirements if the volume of business written by the insurer would not justify the expense of the reporting requirements.~~

(7)(9) Any excess profit of an insurance company offering workers' compensation or employer's liability insurance shall be returned to policyholders in the form of a cash refund or ~~rather than~~ a credit toward the future purchase of insurance. The excessive amount shall be refunded on a pro rata basis in relation to the final compilation year earned premiums to the workers' compensation policyholders of record of the insurer group on December 31 of the final compilation year.

(8)(a) Cash refunds to policyholders may be rounded to the nearest dollar.

(b) Data in required reports to the department may be rounded to the nearest dollar.

(c) Rounding, if elected by the insurer, shall be applied consistently.

(9) Refunds shall be completed in one of the following ways:

(a) If the insurer group elects to make a cash refund, said refund shall be completed within 60 days of a final order indicating excessive profits have been realized.

(b) If the insurer group elects to make refunds in the form of a credit to renewal policies such credits shall be applied to policy renewal premium notices which are forwarded to insureds more than 60 calendar days after a final order indicating excessive profits have been realized. If an insurer group has made this election but an insurer thereafter cancels or otherwise allows his policy to terminate, the insurer group shall make a cash refund not later than 60 days after termination of such coverage.

(c) Upon completion of the renewal credits or refund payments, the insurer group shall immediately certify to the department that the refunds have been made.

(10) Any refund or renewal credit made pursuant to this section shall be treated as a policyholder dividend applicable to the year in which it is incurred for purposes of reporting under this section for subsequent years.

Section 22. If chapter 627, Florida Statutes, is repealed in accordance with the intent expressed in the Regulatory Reform Act of 1976, as amended by chapter 77-457, Laws of Florida, or as subsequently amended, it is the intent of the Legislature that sections 20 and 21 of this act shall also be repealed on the same date as therein provided.

Section 23. Section 629.401, Florida Statutes, is amended to read:

629.401 Florida Insurance exchange.--

(1) There may shall be created one or more insurance exchanges, with one or more offices each, a Florida Insurance Exchange, subject to such rules as may be promulgated by the commissioner. For the purposes of this section, the term "exchange" shall apply to any such insurance exchange proposed or created under this section. The purposes of the exchange are:

(a) To provide a facility for the underwriting of:

CODING: Words in ~~struck-through~~ type are deletions from existing law; words in underscored type are additions.

114 ..0310 00

INTER-OFFICE MAIL
CHARLES GRAY
LARSON BUILDING

Bill Gunter
STATE TREASURER
INSURANCE COMMISSIONER
FIRE MARSHAL

Insurance Commissioner
STATE OF FLORIDA
TALLAHASSEE 32304

August 17, 1979

F & C INFORMATIONAL BULLETIN 79-12

TO: All Insurer Groups Authorized to Write Workers' Compensation Insurance in Florida

FROM: Bill Gunter, Insurance Commissioner and Treasurer

SUBJECT: Chapter 79-40, Laws of Florida
(CS/SB 188)
Excess Profits Test

The subject legislation, effective August 1, 1979, requires insurer groups to submit certain information to the Department of Insurance each year.

Such information is detailed on the attached reporting form and its accompanying set of instructions.

Please direct all submissions and inquiries to:

Actuarial
Florida Insurance Department
Larson Building
Tallahassee, Florida 32301

MT/ps
Attachments

This public document was promulgated at a cost of 18¢ per copy or a total cost of $140 to inform companies of changes in the law.

FLORIDA DEPARTMENT OF INSURANCE

INSTRUCTION SHEET FOR REPORTING FORM F
ACCOMPANYING F & C INFORMATIONAL BULLETIN 79-12

1. Data is on an insurer group basis and entered in whole dollars. Negative amounts are to be placed in parentheses.

2. Data is direct with respect to reinsurance.

3. Data is for Florida experience only.

4. Administrative and Selling Expense refers to commission, brokerage, other acquisition, field supervision, collection and general expenses, as well as taxes, licenses and fees.

5. Loss development factors are to be based on Florida historical data.

6. The submission of July 1, 1979, requires completion of Items (1) through (4) inclusive for calendar/accident year 1978. The submission of July 1, 1980, requires completion of the entire Form F for the First Report of accident year 1979. The July 1, 1981 submission requires completion of the entire Form F for First Report of accident year 1980 as well as completion of the entire Form F for Second

Report of accident year 1979. The July 1, 1982 submission requires First Report of 1981, Second Report of 1980 and Third Report of 1979. This sequence of annual submissions will continue so that each accident year, beginning with 1979, will be reported at three stages of development and developed appropriately as detailed in the form.

FLORIDA DEPARTMENT OF INSURANCE

WORKERS' COMPENSATION EXCESS PROFITS TEST REPORTING FORM

SUBMISSION OF JULY 1, 19 [ ][ ]

COMPANY/GROUP CODE [ ][ ][ ][ ][ ] (Leading Company Fla. Certificate of Authority Number)

CALENDAR/ACCIDENT YEAR 19 [ ][ ] AS OF 12/31/ [ ][ ]

FCC [W][C][4] IAC [3]

COMPANY OR GROUP NAME _____

ADDRESS _____ ZIP _____

FORM SUBMITTED BY (Name, Title) _____

_____ PHONE _____

1. Calendar Year Earned Premium.....$_____

2. Calendar Year Policyholder Dividends Incurred.....$_____

3. Calendar Year Administrative and Selling Expenses Incurred.....$_____

4. Accident Year Loss and Loss Adjustment Expense Incurred.....$_____

5* Loss and Loss Adjustment Expense Development Factor (1st to Ultimate [ ], 2nd to Ultimate [ ], 3rd to Ultimate [ ]).....

6. Control Total (Sum of items 1, 2, 3 and 4) (Do Not Include Item 5 in Control Total).....

*EXAMPLE: 1.200 or .950

Bill Gunter
STATE TREASURER
INSURANCE COMMISSIONER
FIRE MARSHAL

Office of Treasurer

Insurance Commissioner

STATE OF FLORIDA
TALLAHASSEE 32304

August 17, 1979

F & C INFORMATIONAL BULLETIN 79-11

TO: All Insurers Authorized to Write Workers' Compensation Insurance in Florida

FROM: Bill Gunter, Insurance Commissioner and Treasurer

SUBJECT: Chapter 79-40, Laws of Florida
(CS/SB 188 and SB 669)
Revised Reporting Form

The subject legislation, effective August 1, 1979, requires insurers authorized to write workers' compensation insurance in Florida to transmit certain information to the Department of Insurance each year with the Annual Report of such insurer.

Such information is detailed on the attached reporting form and its accompanying set of instructions.

The requirements of Chapter 79-40, Laws of Florida, reflected in this bulletin replace F & C Informational Bulletin 78-10 and render it obsolete.

Please direct all submissions and inquiries to:

Actuarial
Florida Department of Insurance
Larson Building
Tallahassee, Florida 32301

MT/ps
Attachments

FLORIDA DEPARTMENT OF INSURANCE

INSTRUCTION SHEET FOR REPORTING FORM D

ACCOMPANYING F & C INFORMATIONAL BULLETIN 79-11

1. *Data is to be separate by company and entered in whole dollars. All coding boxes are to be filled in. Negative amounts are to be placed in parentheses.*

2. *Data is direct (with respect to reinsurance) for Florida experience and net (with respect to reinsurance) for countrywide experience.*

3. *The first report is due on or before August 1, 1979, and is for calendar/accident year 1978 as of 12/31/78.*

4. *On or before April 1, 1980, a second report for calendar/accident year 1978 as of 12/31/79 will be due in addition to a first report for calendar/accident year 1979 as of 12/31/79.*

5. *Subsequent reports (due April 1, of subsequent years) will be required so that each year will be reported eight times at eight stages of development.*

This public document was promulgated at a total cost of $120 or 18¢ per copy to inform companies of the changes in the law.

FORM D

FLORIDA CERTIFICATE OF AUTHORITY NUMBER -- COMPANY CODE [ ][ ][ ][ ][ ]

CALENDAR/ACCIDENT YEAR [ ][ ] VALUED AS OF 12/31/ [ ][ ]

FORM CONTROL CODE [W][C][1] INPUT ACTION CODE [3]

COMPANY NAME _____

ADDRESS _____ ZIP _____

FORM SUBMITTED BY (Name, Title) _____

_____ PHONE _____

		Florida (Direct)	Countrywide (Net)
(1)	Premium Written	$_____	$_____
(2)	Premium Earned	$_____	$_____
(3)	Dividends Paid or Credited to Policyholders	$_____	$_____
(4)	Losses Paid	$_____	$_____
(5)	Allocated Loss Adjustment Expense Paid	$_____	$_____
(6)	Unallocated Loss Adjustment Expense Paid	$_____	$_____
(7)	Number of Claims Outstanding as of 12/31	_____	_____
(8)	Losses Unpaid as of 12/31	$_____	$_____
(9)	Allocated and Unallocated Loss Adjustment Expense Unpaid as of 12/31	$_____	$_____
(10)	Control Totals (Sum of Items (1) through (9))	_____	_____