

Fiscal Year 2019 ANNUAL REPORT



State of Illinois
Workers' Compensation
Commission

JB Pritzker, Governor
Michael J. Brennan, Chairman

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Illinois Workers' Compensation Commission

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JB Pritzker, Governor

Michael J. Brennan, Chairman

The Honorable JB Pritzker
Governor of Illinois
207 State House
Springfield, IL 62706

Dear Governor Pritzker:

By the requirements of Section 15 of the Illinois Workers' Compensation Act (820 ILCS 305/15), we the undersigned Commissioners hereby submit the Fiscal Year 2019 Annual Report, summarizing the operations and activities of the Commission.

Of note, the Commission proudly launched its CompFile project in August 2019. CompFile will replace outdated, paper-driven technologies and processes with a cloud-based application. The new system can be securely accessed from any web browser – no special equipment is required. Once fully implemented by the end of 2020, all the Commission's judicial functions will be managed online.

We are looking forward to celebrating the 100th Anniversary of the appointment of Harriett Reid (1878-1962), Illinois' first female arbitrator at the Commission. Harriett Reid received the highest score on the arbitrator entrance exam in 1918 and her assignment was championed by the women's suffrage movement. Harriett Reid was appointed an arbitrator in December of 1920 and served the Commission until 1937.

As Commissioners, we are committed to providing injured workers and their employers a timely, just and appropriate resolution of all claims. We thank you for your support and the opportunity to continue our work.

Sincerely,

Michael J. Brennan
Chairman

Thomas J. Tyrrell, Commissioner

Stephen J. Mathis, Commissioner

Deborah L. Simpson, Commissioner

L. Elizabeth Coppoletti, Commissioner

D. Douglas McCarthy, Commissioner

Barbara N. Flores, Commissioner

Marc Parker, Commissioner

Maria E. Portela, Commissioner

Kathryn A. Doerries, Commissioner

OVERVIEW OF WORKERS' COMPENSATION

Workers' compensation laws were early acts of social legislation passed in the United States. At the beginning of the 20th century, employers feared the assumption of liability for work injuries would destroy their businesses, while employees feared permanent disabling conditions that would prevent them from working and cause financial ruin.

Before the advent of workers' compensation laws, an injured worker had to file a common law complaint against the employer and prove the employer had failed to provide a safe workplace, to warn of danger, or to provide enough appropriate fellow workers. The employer then could present a defense that blamed the injured worker's contributory negligence or argued that the employee assumed certain risks in accepting the job. The process was prolonged and uncertain, with large risks to both employee and employer.

The high injury and death rates throughout the Industrial Revolution led to public outcries for solutions which gradually led to the enactment of employer liability acts. Employers were then held more responsible for negligence, but employees still had to file lawsuits for damages. The first workers' compensation laws originated in Germany in 1884. Similar laws passed in other European countries.

In the U.S., workers' compensation laws were passed on a state-by-state basis. Most of the early laws covered only hazardous occupations and were found unconstitutional. Maryland passed the first act in 1902. Wisconsin's law of 1911 was the first that withstood legal challenges. Illinois also passed its first law in 1911, effective May 1, 1912.¹ It took until 1948 for all states to establish a law.

Workers' compensation laws balance competing interests: employees give up their right to sue in civil court and potentially win large awards in exchange for more modest but prompt compensation; employers give up their common law defenses in exchange for limits on their liabilities. Workers' compensation was established as a no-fault system. The theory behind the law is that the cost of work-related injuries or illnesses should be part of the cost of the product or service.

Originally, the courts administered the Act, but the volume overwhelmed the courts. On July 1, 1913, a three-member Industrial Board was created.² In 1917, a five-member Industrial Commission was created within the Illinois Department of Labor.³ In 1957, the Commission separated from the Department of Labor and became a self-standing agency.⁴ On January 1, 2005, the agency officially became the Illinois Workers' Compensation Commission.⁵

Employees hired, injured, or whose employment is in Illinois are protected by the Illinois Workers' Compensation Act. When an injury is sustained at work, the injury may be compensable according to the Act. Benefits may include an award for medical treatment, lost income, and permanent disability.

Illinois employers pay for workers' compensation benefits through insurance policies or by becoming self-insured. Cases are first heard by Arbitrators, whose decisions may be appealed to Commissioners. Cases may proceed on to the Circuit Court, Illinois Appellate Court, and, if leave is granted, the Illinois Supreme Court. Most claims, however, are settled between the parties prior to, or following, the initial arbitration.

¹ Act of June 10, 1911. 1911 Ill. Laws 315-26.

² Act of June 28, 1913, sec. 1, § 13. 1913 Ill. Laws 346-347.

³ Act of May 31, 1917, sec. 1, § 13(a) and (b). 1917 Ill. Laws 498-99.

⁴ Act of July 11, 1957, sec. 1, § 13(a). 1957 Ill. Laws 2633.

⁵ P.A. 93-721.

MISSION STATEMENT

The Illinois Workers' Compensation Commission resolves claims made by injured workers for injuries arising out of and in the course of employment. The Commission strives to assure financial protection for injured workers and their dependents at a fair cost to employers. The Commission performs three main functions:

- 1) *Resolves claims.* The Commission strives to provide a fair, timely process by which disputed claims may be resolved.
- 2) *Ensures compliance with the law.* The Commission protects the rights of employees and employers under the Illinois Workers' Compensation and Occupational Diseases Acts.
- 3) *Administers self-insurance.* The Commission evaluates and approves eligible employers that wish to insure themselves for their workers' compensation liabilities.

The Commission strives to accomplish these goals while looking constantly for ways to improve the quality of service.

BOARD MEMBERS

The Commission is grateful to all board members, who serve without compensation. Membership listing is as of June 30, 2019.

COMMISSION REVIEW BOARD

The board investigates complaints made against Arbitrators and Commissioners. The Governor appoints two public members, the senior labor and business Commissioners serve by statute, and the Arbitrators elect one Chicago and one Downstate Arbitrator.

Robert Hanaford Governor Appointee	Commissioner Deborah Simpson Senior Business Commissioner	Arbitrator Jeffrey Huebsch Chicago Arbitrator
Velisha Haddox Governor Appointee	Commissioner Thomas Tyrrell Senior Labor Commissioner	Arbitrator Maureen Pulia Downstate Arbitrator

SELF-INSURERS ADVISORY BOARD

The board reviews applications from private companies to self-insure and makes recommendations to the Chairman. The board also ensures the continued payment of benefits to workers of bankrupt self-insurers.

Alex G. Alexandrou City of Aurora	Paul T. Bergmann Property-Casualty Insurance Consulting	Joan Vincenz United Airlines
Gerald F. Cooper, Jr. Scopelitis, Garvin, Light, Hanson & Feary	Michael Castro Insurance Program Managers Group	David Taylor Reyes Holdings

WORKERS' COMPENSATION ADVISORY BOARD

The board assists the Commission in formulating policies, setting priorities, and developing administrative goals. The board also makes recommendations to the Governor regarding Commission appointments.

<u>EMPLOYEES</u>		<u>EMPLOYERS</u>	
Richard Aleksy Corti, Aleksy, and Castenada	Joseph Coli Illinois Advocates, LLC	Mark Grant National Federation of Independent Business	Robert Karr IL Retail Merchants Assoc.
Aaron Anderson Painters Dist. Council #30	Sean Stott Laborers' International Union	Todd Maisch Illinois Chamber of Commerce	Mark Denzler Illinois Manufacturers Assoc.
Michael Carrigan Illinois AFL-CIO		Jay Dee Shattuck Shattuck & Associates	

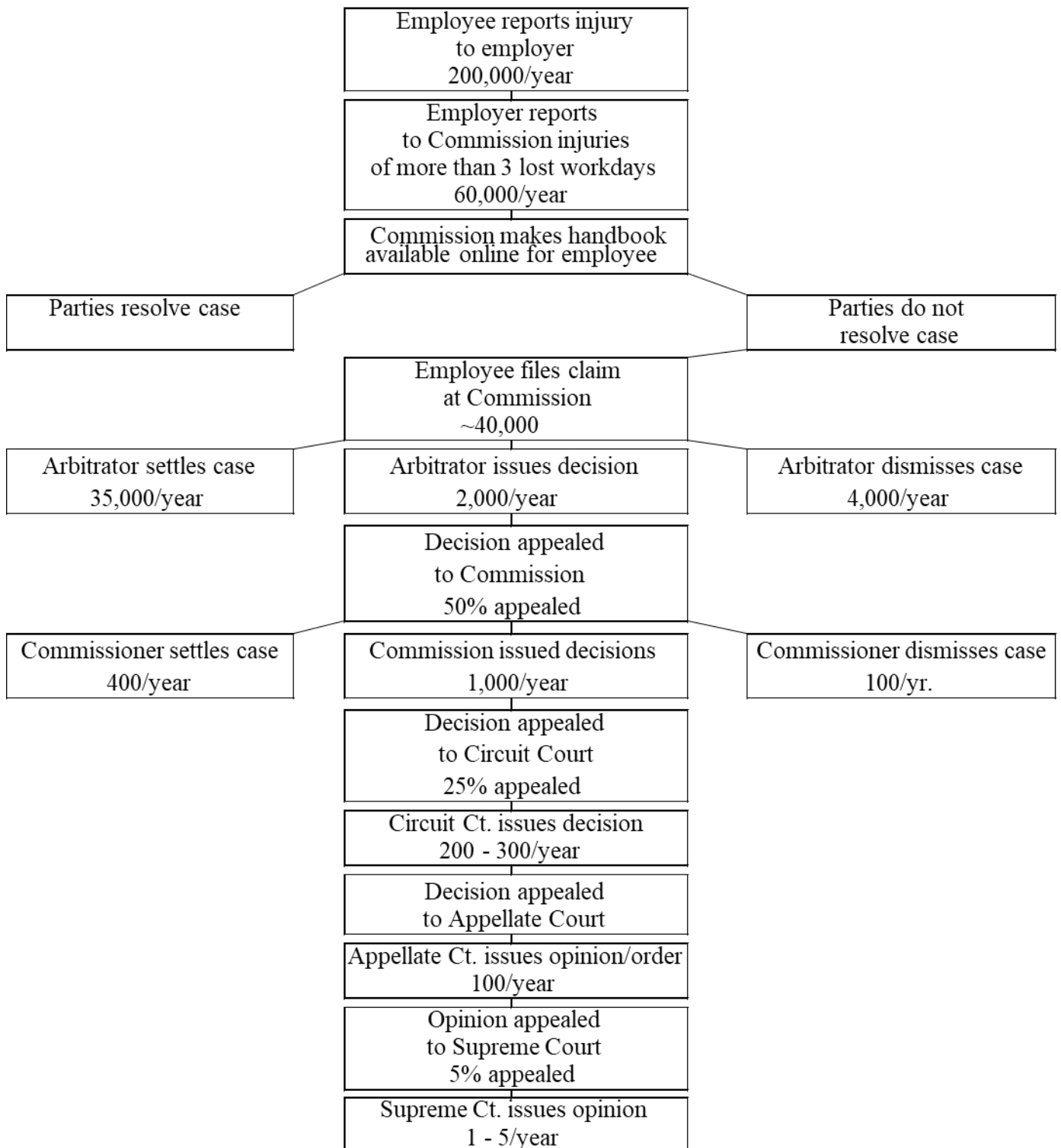
WORKERS' COMPENSATION MEDICAL FEE ADVISORY BOARD

The board advises the IWCC on the establishment of medical fees and the accessibility of treatment.

<u>EMPLOYEES</u>	<u>EMPLOYERS</u>	<u>MEDICAL PROVIDERS</u>
Jason Keller IL AFL-CIO	Barb Molloy Molloy Consulting	Preston Wolin, MD Clinic for Athletic Medicine, Ltd.
Dianne McGuire College of DuPage	Amy Bilton Nyhan, Bambrick, Kinzie & Lowry	
David Menchetti Cullen, Haskins, Nicholson & Menchetti		

STATISTICS

Each year in Illinois, approximately 200,000 work-related accidents occur. In most of these cases, the worker does not lose time from work. Fewer than 40,000 claims are filed with the Commission. The statistics in this section refer only to those cases that are filed with the Commission. The flowchart below illustrates the process.



DETAILED CASE INFORMATION

Cases are assigned to the hearing site nearest the site of the accident. If the accident occurred outside of Illinois, the case is assigned to the hearing site closest to the petitioner's home; if the petitioner lives outside of Illinois, the case is set at the site most convenient to the parties.

NEW CASES FILED IN FY19

Chicago (1 hearing site) 16,733
Downstate (18 sites) 20,974

Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
Collinsville 2,084	Quincy 280	Bloomington 647	Kankakee 356	Rockford 1,496	Elgin 540
Herrin 865	Springfield 1,218	Peoria 1,236	Joliet 2,392	Waukegan 1,615	Geneva 1,336
Mt. Vernon 958	Urbana 1,112	Rock Island 889	Ottawa 744	Woodstock 663	Wheaton 2,543

DECISIONS ISSUED

DECISIONS AND APPEALS

	Arbitration Decisions	% Appealed	Commission Decisions	% Appealed	Circuit Ct. Decisions	Appellate Opinions	Supreme Ct. Opinions
2015	2,450	55%	1,183	33%	282	94	0
2016	2,280	57%	977	28%	218	113	0
2017	2,099	53%	864	18%	206	79	2
2018	2,095	51%	860	25%	208	80	0
2019	1,815	53%	726	23%	206	45	0

CASES OPENED

CASES OPENED

	FY15	FY16	FY17	FY18	FY19
New claims filed	42,758	41,777	38,357	38,392	37,707
Reinstated	1,258	1,188	1,145	1,087	990
Remanded to Arbitrator	402	315	301	249	217
Remanded to Commissioner	40	40	37	24	18
Total cases returned to caseload	1,700	1,535	1,483	1,360	1,225
Total additions to the caseload	44,458	43,312	39,840	39,752	38,932
Change from previous year	(2%)	(3%)	(8%)	(1%)	(2%)

CASES CLOSED

As in other court systems, most cases filed at the Commission are settled. Please note that the figures below report only the final action on a case. If a case had more than one action (e.g., a case was decided at arbitration, then decided on the Commission level, then settled), only the final action is reported here. An arbitration case is counted as closed if it was dismissed, settled, or if a decision was issued and no appeal was filed.⁶

CASES CLOSED BY ARBITRATORS

FINAL ACTION	FY15	FY16	FY17	FY18	FY19
Voluntary dismissals	767	567	677	563	648
DWP	<u>3,757</u>	<u>3,873</u>	<u>3,298</u>	<u>3,144</u>	<u>3,050</u>
Total dismissals	4,628	4,751	3,975	3,862	3,698
Original settlements	4,278	5,527	4,233	4,578	4,403
SC before arb. dec.	32,258	34,824	34,095	32,765	27,644
SC after arb. decision	<u>643</u>	<u>528</u>	<u>584</u>	<u>567</u>	<u>542</u>
Total settlements	41,220	39,300	39,300	37,126	30,797
Arbitration decisions	<u>941</u>	<u>861</u>	<u>811</u>	<u>871</u>	<u>705</u>
Total	42,644	46,270	43,698	41,704	35,200

⁶ “DWP” refers to cases that were Dismissed for Want of Prosecution. “Original settlements” are settlements that were filed without a prior application. “SC” refers to settlement contracts.

CASES CLOSED BY COMMISSIONERS

	FY15	FY16	FY17	FY18	FY19
Dismissals at review	104	221	167	155	64
SC before arb. decision	184	134	144	180	144
SC before review dec.	118	133	137	209	97
SC after review dec.	<u>115</u>	<u>74</u>	<u>105</u>	<u>126</u>	<u>42</u>
Total settlements	417	341	388	515	283
Review decisions	<u>922</u>	<u>789</u>	<u>675</u>	<u>699</u>	<u>1,283*</u>
Total	1,443	1,351	1,230	1,369	1,630

*FY 2019 Total Review Decisions is an estimated average number that includes Medical Set Aside Orders and issued Orders.

TOTAL CASES CLOSED

	FY15		FY16		FY17		FY18		FY19	
Dismissals	4,732	10%	4,972	10%	4,142	9%	3,862	9%	3,762	10%
Settlements	37,596	85%	41,561	86%	39,300	87%	37,126	88%	31,080	86%
Decisions	<u>1,863</u>	4%	<u>1,650</u>	3%	<u>1,486</u>	3%	<u>1,570</u>	3%	<u>1,295</u>	4%
Total	44,191		48,183		44,928		42,558		36,137	

GENDER

Women constitute 58.9% of the Illinois labor force.⁷

EMPLOYMENT STATUS OF CIVILIAN NON-INSTITUTIONAL POPULATION BY SEX

(NUMBERS IN THOUSANDS)

Population Group	Civilian Non-institutional Population	Number	Percentage of Population
Total	10,001	6,171	61.8
Men	4,797	3,110	70.1
Women	5,204	3,061	58.9

AVERAGE FUNERAL BENEFIT IN DEATH CASES

Section 7(f) of the Illinois Workers' Compensation Act states employers are required to pay the sum of \$8,000 to the widow or widower, other dependent, next of kin or the person or persons incurring the expense of burial. This fee is assessed to fatal cases in the State of Illinois.

⁷ See http://www.ides.illinois.gov/IDES%20Forms%20and%20Publications/Women_and_minorities_2018.pdf

INJURY DATA

The statistics in this section come from the U.S. Bureau of Labor Statistics' (BLS) 2018 report and the Illinois Department of Public Health's (IDPH) Survey of Occupational Injuries and Illnesses in Illinois' 2017 report. The IDPH estimates a total of 132,400 non-fatal injury cases. The overall incidence rate for nonfatal occupational injuries and illnesses in Illinois was 2.9 per 100 full-time workers.⁸

RATE OF NON-FATAL WORK-RELATED INJURIES AND ILLNESSES IN ILLINOIS IN 2017⁸

Workers' Nonfatal Injury Rate by Industry		Number of Private Sector Workers' Injuries	
Government	4.5%	Overexertion and bodily reaction	5,230
Manufacturing	3.1%	Contact w. object, equipment	9,300
Natural resources and mining	5.6%	Fall, slip, trip	9,100
Construction	2.7%	Transportation incidents	3,230
Services	2.5%	Exposure to harmful substance/envIRON.	1,200
		Violence—intentional injury	1,480
Incidence rate for all workers	2.9%	Fire or explosion	20

DISTRIBUTION OF 184 FATAL WORK-RELATED INJURIES IN ILLINOIS IN 2018⁹

Distribution by Industry		Distribution by Event	
Goods-producing	32%	Transportation incident	41%
Agriculture	14%	Violence/injuries	14%
Construction	14%	Falls, slips, trips	14%
Manufacturing	4%	Contact with objects/equip.	18%
Service-providing	57%	All other	13%
Trade	30%		
Transportation and Warehousing	21%		
Government (state and local)	11%		

AVERAGE WEEKLY WAGE BY YEAR OF ACCIDENT¹⁰

	FY15	FY16	FY17	FY18	FY19
Claimants' Average Weekly Wage	\$833.10	\$877.14	\$876.41	\$849.93	\$879.83
SAWW as of end of FY	\$1,021.34	\$1,048.67	\$1,076.38	\$1,097.85	\$1,130.11
Claimants' wages as % of SAWW	82%	82%	81%	77%	78%

⁸ See <http://www.dph.illinois.gov/sites/default/files/publications/oppsoccupational-injuries2017.pdf>

⁹ See https://www.bls.gov/regions/midwest/news-release/fatalworkinjuries_illinois.htm

¹⁰ The average maximum rate for Temporary Total Disability (TTD) in FY '19 was \$1,506.81. The average maximum rate for Permanent Partial Disability (PPD) in FY '19 was \$813.87.

AGGREGATE BENEFIT PAYMENTS

TOTAL WORKERS' COMPENSATION BENEFIT PAYMENTS¹¹

\$ in thousands	2013	2014	2015	2016	2017
Illinois	\$2,637,292	\$2,722,536	\$2,399,163	\$2,354,119	\$2,313,784
% change from prior year		3.2%	(11.9%)	(1.9%)	(1.7%)
U.S. nonfederal total	\$59,524,411	\$59,184,429	\$59,335,268	\$58,355,672	\$58,382,320
% change from prior year		(0.6%)	(1.4%)	(0.0%)	0.0%

TOTAL WORKERS' COMPENSATION MEDICAL BENEFIT PAYMENTS

\$ in thousands	2013	2014	2015	2016	2017
Illinois	\$1,186,782	\$1,227,864	\$1,086,821	\$1,059,354	\$1,027,320
% change from prior year		3.5%	(11.5%)	(2.5%)	(3.1%)
U.S. nonfederal total	\$30,839,458	\$30,762,878	\$30,003,807	\$29,938,819	\$29,693,129
% change from prior year		(0.2%)	(2.5%)	(0.2%)	(0.8%)

COST TO EMPLOYERS

OREGON ESTIMATE OF PREMIUM RATES¹²

Per \$100 of payroll/	2000	2006	2010	2012	2014	2016	2018
Illinois	\$2.74	\$2.69	\$3.05	\$2.83	\$2.35	\$2.23	\$1.80
Median	\$2.26	\$2.48	\$2.04	\$1.88	\$1.85	\$1.84	\$1.70
IL rank among 51	15	20	3	4	7	8	22
(1= most expensive)							

ESTIMATE OF EMPLOYERS COST PER \$100 OF PAYROLL¹³

	2013	2014	2015	2016	2017
Illinois	\$1.31	\$1.29	\$1.21	\$1.15	\$1.07
% change from prior year		(1.5%)	(6.2%)	(5.3%)	(7.4%)
U.S. nonfederal total	\$1.34	\$1.33	\$1.29	\$1.27	\$1.21
% change from prior year		(0.6%)	(2.9%)	(1.9%)	(4.9%)

¹¹ See NASI *Workers' Compensation: Benefits, Cost, and Coverage October 2019*

¹² See <https://www.oregon.gov/dcbs/reports/Documents/general/prem-sum/18-2082.pdf>

¹³ See NASI *Workers' Compensation: Benefits, Cost, and Coverage October 2019*

INSURANCE

COVERAGE OF EMPLOYEES

Employers are responsible for the payment of benefits to injured workers. Employers are required to either purchase workers' compensation insurance or obtain permission to self-insure. More workers are covered under the law in Illinois than in most other states.¹⁴

PERCENTAGE OF EMPLOYEES COVERED BY WORKERS' COMP 2017

Illinois U.S. nonfederal average		99.7% 97.5%		
NEIGHBORING STATES			LARGE INDUSTRIAL STATES	
Indiana	99.5%		California	100.0%
Iowa	98.9%		New York	99.7%
Wisconsin	99.1%		Pennsylvania	99.6%
Michigan	99.4%		Florida	95.8%
Missouri	95.4%		Texas	81.6%

DURATION OF DISABILITY

The duration of temporary total disability charted below is for claims with more than seven days of lost time at 36 months average maturity.¹⁵

TTD DURATION IN WEEKS

Illinois	18
18-state Median	13

NEIGHBORING STATES		LARGE INDUSTRIAL STATES	
Michigan	15	Pennsylvania	21
Indiana	12	California	20
Wisconsin	10	Texas	16
Iowa	11	Florida	12

¹⁴ See NASI *Workers' Compensation: Benefits, Cost, and Coverage* October 2019.

¹⁵ See WCRI *Compscope Benchmarks for Illinois, 20th Edition*.

INJURY RATES

FREQUENCY OF INJURY PER 100,000 WORKERS

Illinois	2,771
Countrywide	3,392

NEIGHBORING STATES		LARGE INDUSTRIAL STATES	
Wisconsin	4,091	Pennsylvania	4,196
Iowa	4,070	California	4,010
Indiana	3,678	Florida	3,264
Michigan	3,459	Texas	2,211

INSURANCE FRAUD

The Illinois Department of Insurance investigates workers' compensation fraud through its Fraud Unit, which is funded by the Commission. It is illegal for anyone—a worker, employer, insurance carrier, or medical provider—to intentionally make a false statement to obtain or deny workers' compensation benefits, obtain workers' compensation insurance at less than the proper rate, obtain approval to self-insure, etc. A "statement" includes any writing, notice, proof of injury, medical bill, record, report, or test result. More information is available at <https://insurance.illinois.gov/Fraud/ContactFraudUnit.html>

INSURANCE COMPLIANCE PROGRAM

Illinois law requires employers to provide workers' compensation insurance for all their employees and to cover their entire liability. Employers who fail to comply leave their employees vulnerable to medical expenses if should occur. These employers also enjoy an unfair competitive advantage over employers who comply with the law.

If the Commission finds that an employer has knowingly and willfully failed to obtain insurance, the employer may be fined up to \$500 for every day of noncompliance, with a minimum fine of \$10,000.00. Corporate officers may be held personally liable if the company fails to pay the fine. An employer may also face criminal charges, and/or a work-stop order for failing to obtain insurance. If an employer is found to be in non-compliance more than once, all the minimum penalties will double. The civil penalty for non-compliance may go up to \$1,000.00 for each day of non-compliance and the minimum penalty shall be \$20,000.00.

SELF-INSURANCE

Private employers may obtain approval to insure themselves for their workers' compensation liabilities, or they may join a pool of other employers. The Commission evaluates individual self-insurers, while the Illinois Department of Insurance evaluates insurance pools. Public employers may self-insure without obtaining approval.

PARENT COMPANIES IN THE COMMISSION'S SELF-INSURANCE PROGRAM

FISCAL YEAR	PARENT COMPANIES	SUBSIDIARIES	TOTAL SELF-INSURED ENTITIES
2019	196	351	547
2018	210	359	569
2017	217	371	588
2016	225	377	602
2015	226	378	604

REFERENCES

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