

FISCAL YEAR 2011
ANNUAL REPORT

ILLINOIS WORKERS' COMPENSATION COMMISSION



PAT QUINN
Governor

MITCH WEISZ
Chairman

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Illinois Workers' Compensation Commission

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Pat Quinn, Governor

Mitch Weisz, Chairman

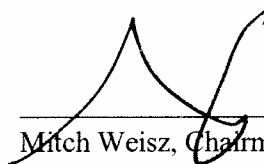
June 30, 2012

The Honorable Pat Quinn
Governor
State of Illinois
Springfield, Illinois

Dear Governor Quinn:

Pursuant to Section 15 of the Workers' Compensation Act, the Illinois Workers' Compensation Commission is pleased to submit its annual report summarizing the activities and operations of the Commission in Fiscal Year 2011.

Fiscal Year 2011 was marked by several months of negotiations with the General Assembly, the Governor's Office, and stakeholders on workers' compensation legislation that was eventually signed into law as Public Act 97-18. This is the most significant piece of legislation affecting the administration of the Workers' Compensation Act since 2006. P.A. 97-18 was signed into law on June 28, 2011, two days before the end of the Fiscal Year. Thus, the implementation of P.A. 97-18 will be documented in our next annual report.



Mitch Weisz, Chairman



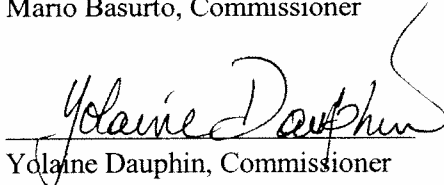
Mario Basurto, Commissioner



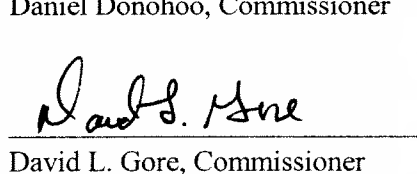
Daniel Donohoo, Commissioner



Michael Latz, Commissioner



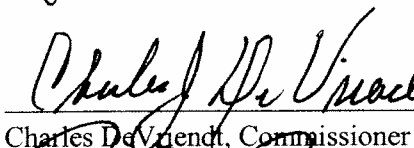
Yolaine Dauphin, Commissioner



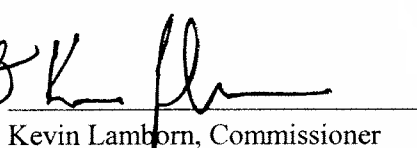
David L. Gore, Commissioner



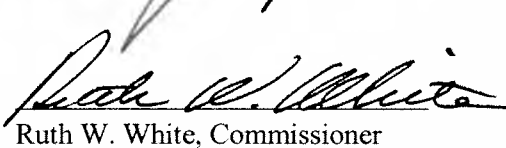
Thomas J. Tyrrell, Commissioner



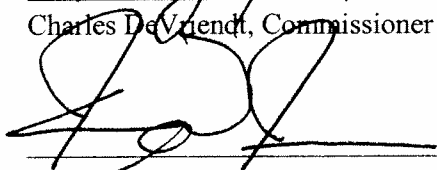
Charles DeVriendt, Commissioner



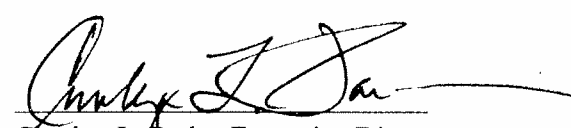
Kevin Lamborn, Commissioner



Ruth W. White, Commissioner



Kimberly B. Janas,
Secretary of the Commission



Carolyn L. Parks, Executive Director
and Judicial Manager

COMMISSION MISSION STATEMENT

The Illinois Workers' Compensation Commission resolves disputes that occur between injured workers and their employers regarding workers' compensation. The Commission strives to assure financial protection to injured workers and their dependents at a reasonable cost to employers.

The Commission performs four main functions:

- 1) *Resolves disputes.* 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.
- 4) *Collects statistics.* The Commission compiles information on work-related injuries and diseases in order to encourage sound risk management and work safety programs.

The Commission strives to accomplish these goals while looking constantly for ways to improve the quality of service and treating the public and co-workers with respect. The success of this organization depends on the commitment and full participation of every member.

SUMMARY OF HOUSE BILL 1698/PUBLIC ACT 97-18

House Bill 1698 (Raoul-Bradley) was signed into law by Governor Quinn on June 28, 2011 as Public Act 97-18. The implementation of this legislation is currently in progress in Fiscal Year 2012 and will be documented in the next Commission Annual Report. However, as this landmark legislation was signed into law in Fiscal Year 2011, the Commission has prepared a summary of its provisions.

Operation of the Commission

Public Act 97-18 makes several changes to the way Arbitrators are appointed to their terms. First, Public Act 97-18 terminates the terms of all serving Arbitrators as of the end of the business day on July 1, 2011. Current Arbitrators continue to serve until they or their successors are appointed. The first round of Arbitrators are to be appointed by the Governor, subject to advice and consent of the Senate. These appointments shall be staggered between one, two, and three year terms. Subsequent terms are set at three years.

The qualifications and training requirements for Arbitrators have also changed. All new Arbitrators not currently serving on the effective date of the Act must be licensed to practice law in Illinois and must keep that status current throughout their term of service. The current substantive training requirements for Arbitrators and Commissioners are expanded to include training on the following topics: professional and ethical standards, detection of fraud, evidence-based medical treatment and Coal Workers' Pneumoconiosis. Arbitrators and Commissioners are to receive at least 20 hours of training every two years while in office.

Arbitrator assignments are specifically mandated by Public Act 97-18. At least three Arbitrators must be assigned to each hearing site and cases must be randomly assigned to them. Arbitrators may not serve more than two years of any three-year term in any single county, other than in Cook.

All claims of current or former employees of the Commission are to be adjudicated by Certified Independent Arbitrators not employed by the Commission. The Certified Independent Arbitrators shall be selected by the Chairman from a list generated by the Commission Review Board. Decisions of the Certified Independent Arbitrator shall become a decision of the Commission, but are subject to judicial review in circuit court.

Finally, the terms of members of the Workers' Compensation Advisory Board serving on June 28, 2011 were terminated immediately and the Governor made new appointments within 30 days.

Indemnity Awards

Public Act 97-18 also makes several changes to the substantive body of workers' compensation law, including several of the benefits that may be awarded to an injured employee. For accidents on or after September 1, 2011, wage differential awards shall be effective only until the Petitioner reaches the age of 67 or 5 years after the date of the award becomes final, whichever occurs later.

For Temporary Partial Disability (TPD) benefits, the amount of this award shall be determined by using the "gross" rather than "net" amount of income earned from the light duty position.

Public Act 97-18 sets a cap on repetitive Carpal Tunnel Syndrome awards to 15% of the loss of the use of a hand unless the Petitioner proves greater disability by clear and convincing evidence, at which time the award is capped at 30% loss of the use of the hand.

The final change to indemnity benefits set forth in the Public Act 97-18 is the method by which the Commission determines Permanent Partial Disability (PPD) for accidents occurring on or after September 1, 2011. These changes to Section 8.1b of the Act provide that a physician submitting an impairment report shall use the most recent version of the American Medical Association's "Guides to the Evaluation of Permanent Impairment." In determining a PPD award, the Commission is required to consider the following factors: the impairment report, the occupation of the Petitioner, the age of the Petitioner, the future earning capacity of the Petitioner, and evidence of disability corroborated in the treating medical records. The relevance and weight of factors in addition to the impairment report shall be included in all decisions relating to PPD.

Preferred Provider Programs

Public Act 97-18 establishes a new concept for the provision of medical care referred to as Preferred Provider Programs (PPP). The PPPs will contain a network of medical providers for the treatment of work-related injuries. The PPP must be approved by the Department of Insurance, which is also charged with promulgating rules in relation to PPPs. The PPP only applies to cases in which the PPP was already approved and in place at the time of the injury. The employee must be notified of the PPP on a form promulgated by the Commission. Employees have two choices of treating providers from within the employer's PPP network. If the Commission finds that the second choice of physician within the network has provided inadequate or improper treatment, the employee may choose a physician from outside the network at the employer's expense. Employees may opt out of the PPP in writing at any time, but such action forfeits one of their two choices of physicians. If an employee chooses non-emergency treatment prior to the report of an injury, that constitutes a choice of physician.

Alcohol and Drugs and Workplace Accidents

Public Act 97-18 amends Section 11 of the Act to provide that for accidents on or after September 1, 2011, an injured employee will not be entitled to compensation if the employee's intoxication was the proximate cause of his injury or if the employee's level of intoxication was sufficient to constitute a departure from employment. If at the time of the workplace injury, there is greater than .08% of alcohol

in the employee's blood or breath or if there is any evidence of impairment due to the unlawful or unauthorized use of drugs, the employee must prove that the alcohol or drugs did not cause the workplace accident. In addition, the bill creates another rebuttable presumption if the employee refuses to submit to alcohol or drug testing. An employee may rebut the presumption by proving intoxication was not the proximate or sole cause of the injury by a preponderance of admissible evidence.

Medical Fee Schedule

The Commission's Medical Fee Schedule sets forth the maximum reimbursement rates for medical services provided in accordance with the Act. These rates control unless there is a contractual rate or if the provider's actual charge is less than the amount set forth in the Fee Schedule.

Public Act 97-18 reduces all reimbursements in the Medical Fee Schedule by 30% for all treatment performed on or after September 1, 2011, and reduces the current 76% percent of charge default to 53.2%. Effective January 1, 2012, the current 29 geozips, which divide reimbursement boundaries, are reduced to 14 hospital zones and 4 non-hospital zones. These zones are based on the boundaries of specified counties set forth in Public Act 97-18.

Other changes include a specific reimbursement rate for medical implants at 25% over invoice price plus actual and customary shipping, minus any rebates. Effective June 28, 2011, prescriptions filled and dispensed outside of a licensed pharmacy are to be reimbursed at a Fee Schedule that shall not exceed Average Wholesale Price (AWP) plus a dispensing fee of \$4.18. AWP or its equivalent as registered by the National Drug Code shall be set forth for that drug on that date as published in Medispan. Dental services are also to be added to the Medical Fee Schedule.

Utilization Review

Utilization Review (UR) is a process by which employers can question the necessity or frequency of medical services for injured employees. Public Act 97-18 requires providers to submit to reasonable written UR requests and to make reasonable efforts to submit timely and complete reports to support a request for certification of requested treatment. If such reasonable efforts are not made, the charges may not be compensable or collectable. Written notices of certification and non-certification of requested treatment, including evidence-based guidelines, shall be furnished to the provider and employee. An employer or its agent can only deny requested medical treatment because that the treatment is excessive or unnecessary based on a valid UR report.

If an employer or its agent refuses to pay for services based on a UR report, the Petitioner has the burden of establishing that variance with the guidelines are warranted in the particular situation. Physicians performing UR now must be available for deposition in this state either in person or through telephonic communication. The cost of such depositions shall be borne by the employer/insurer.

Employee Leasing Companies

Public Act 97-18 requires all Employee Leasing Companies provide the Commission with names of all clients that are named under their workers' compensation insurance and copies of the certificates of insurance naming such clients.

Workers' Compensation Citation

Under Public Act 97-18, the Commission's Insurance Compliance Unit may issue citations between \$500 and \$2,500 against employers who are in noncompliance with the requirement to maintain workers' compensation insurance. The employer must pay the fine and provide proof of insurance within 10 days after issuance of the citation.

Provisions Involving Other Agencies

Several changes in Public Act 97-18 are to be implemented by other agencies. The Department of Insurance Fraud Unit is authorized to subpoena medical records pursuant to an investigation of fraud. The current penalty provisions in the Act for workers' compensation fraud (Class 4 felony and restitution for all violations) are replaced with a tiered system of penalties based on the amount of the property obtained or attempted to be obtained, ranging from a Class A Misdemeanor all the way up to a Class 1 Felony. The Director of Insurance is required to direct any workers' compensation advisory rate organization to recalculate their proposed rates based on the provisions of HB 1698 by September 1, 2011.

The Director of Central Management Services (CMS) is authorized to implement a system including purchasing workers' compensation insurance or hiring a third party administrator to administer claims of State employees. The legislation also authorizes the State Workers' Compensation Program Advisory Board within CMS to review, assess, and advise CMS improvements to the workers' compensation program for State employees. The Director of the Department of Labor is required to create a selection process for the designation of two Unions to participate in collectively bargained workers' compensation pilot program. The agreement between the employer and the Union for collectively bargained workers' compensation must be approved by the Chairman of the Commission.

COMMISSION HIGHLIGHTS FROM FISCAL YEAR 2011

Besides the signing of Public Act 97-18, the Commission continued its core mission and operations in FY11. Here is a short summary of highlights from FY11.

- From the FY95 peak of 72,000 cases, only 50,000 were filed in FY11.
- In FY11, the Commission collected \$1.1 million in fines from 91 uninsured employers who were found to be operating without workers' compensation insurance. The fund paid benefits to 31 injured workers whose cases were closed in FY11 and whose uninsured employers failed to pay. Without this program, these workers and their medical providers might have received nothing.
- The Commission continues its efforts to ensure transparency and interaction with stakeholders through its three advisory boards. The website received 8 million hits in FY11, an 80% increase since FY07. The Commission holds regular open house programs, where the public can receive an overview of the judicial process and observe hearings. The Chairman, Commissioners, and Arbitrators often speak at seminars. Information is shared more widely and with more depth than ever before.
- The Chairman of the Commission participated in the Senate Special Committee on Workers' Compensation Reform hearings throughout the state.

BOARD MEMBERS

The Commission is appreciative to the persons who serve on our various boards. Membership listing is for FY11.

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 Attorney, Robert H. Hanaford Ltd Governor Appointment Vacant	Mario Basurto Senior Business Commissioner David L. Gore Senior Labor Commissioner	Arbitrator Robert Lammie Chicago Arbitrator Arbitrator Ruth White Downstate Arbitrator
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SELF-INSURERS ADVISORY BOARD

The board reviews applications from private companies for the self-insurance privilege 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 Brian C. Baer Dominicks	Curtis C. Beam Archer Daniels Midland Co. Gerald F. Cooper Scopelitis, Garvin, Light & Hanson	David Taylor International Truck & Engine Corp. Public Member Vacant
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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>
Frank Cavarretta United Steel Workers	Philip Gruber Int'l. Assoc. of Machinists	David Buckman CORE Construction Group	Kim Maisch Nat'l. Fed. of Ind. Business
Aaron Anderson Painters Dist. Council #30	David Menchetti Cullen, Haskins, Nicholson and Menchetti	Gerald Roper Chgo. Chamber of Commerce	Michael Holewinski Ace Industries
Michael Carrigan Illinois AFL-CIO	Kim Presbrey Presbrey & Assoc.	Mark Flannery Caterpillar, Inc.	David Vite IL Retail Merchants Assoc.

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>
Ronald Powell United Food & Commercial Workers	Maddy Bowling Maddy Bowling & Associates	Jesse Butler, MD Spine Consultants
Eric Dean Int'l Assoc. of Ironworkers	Kim Moreland Rising Medical Solutions	Edward Scramberg, MD
Roger Poole Int'l. Assoc. of Machinists	John Smolk United Airlines	Vacant

OVERVIEW OF WORKERS' COMPENSATION

Workers' compensation laws were the first acts of social legislation passed in the United States, and they have always been controversial. At the beginning of the 20th century, employers feared the assumption of liability for work injuries would destroy their businesses, while workers feared financial ruin from disabling injuries.

Before the advent of workers' compensation laws, an injured worker seeking compensation had to file a lawsuit against his or her employer in court. At the time, the common law held that the employer had a duty to provide a safe place to work and safe tools, to give warnings of dangers, and to provide a sufficient number of appropriate fellow servants to perform the tasks.

To win, the employee had to prove negligence. The employer could present a defense that blamed the injured worker's contributory negligence, or attributed the injury to the negligence of a fellow servant, 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 employer's liability was unlimited.

The high injury and death rates throughout the Industrial Revolution and growing dissatisfaction with the common law gradually led to the enactment of employer liability acts. Employers were held more responsible for negligence, but employees still had to file lawsuits for damages.

The first workers' compensation laws originated in Germany in 1884 with a compulsory system of accident insurance covering all employees in manufacturing, mining, and transportation. Similar laws passed in other European countries.

Workers' compensation laws were passed on a state-by-state basis. Most of the early laws covered only hazardous occupations and were frequently challenged as unconstitutional. Maryland passed the first act in 1902, which was restricted to fatal cases. The first law of general application that withstood legal challenges was Wisconsin's act of 1911. Illinois passed its law in 1911, effective May 1, 1912. It took until 1948 for all states to establish a workers' compensation law.

Workers' compensation laws contain two tradeoffs: employees gave up their right to sue in civil court and potentially win large awards in exchange for more modest but prompt compensation; employers gave up their common law defenses in exchange for limits on their liabilities.

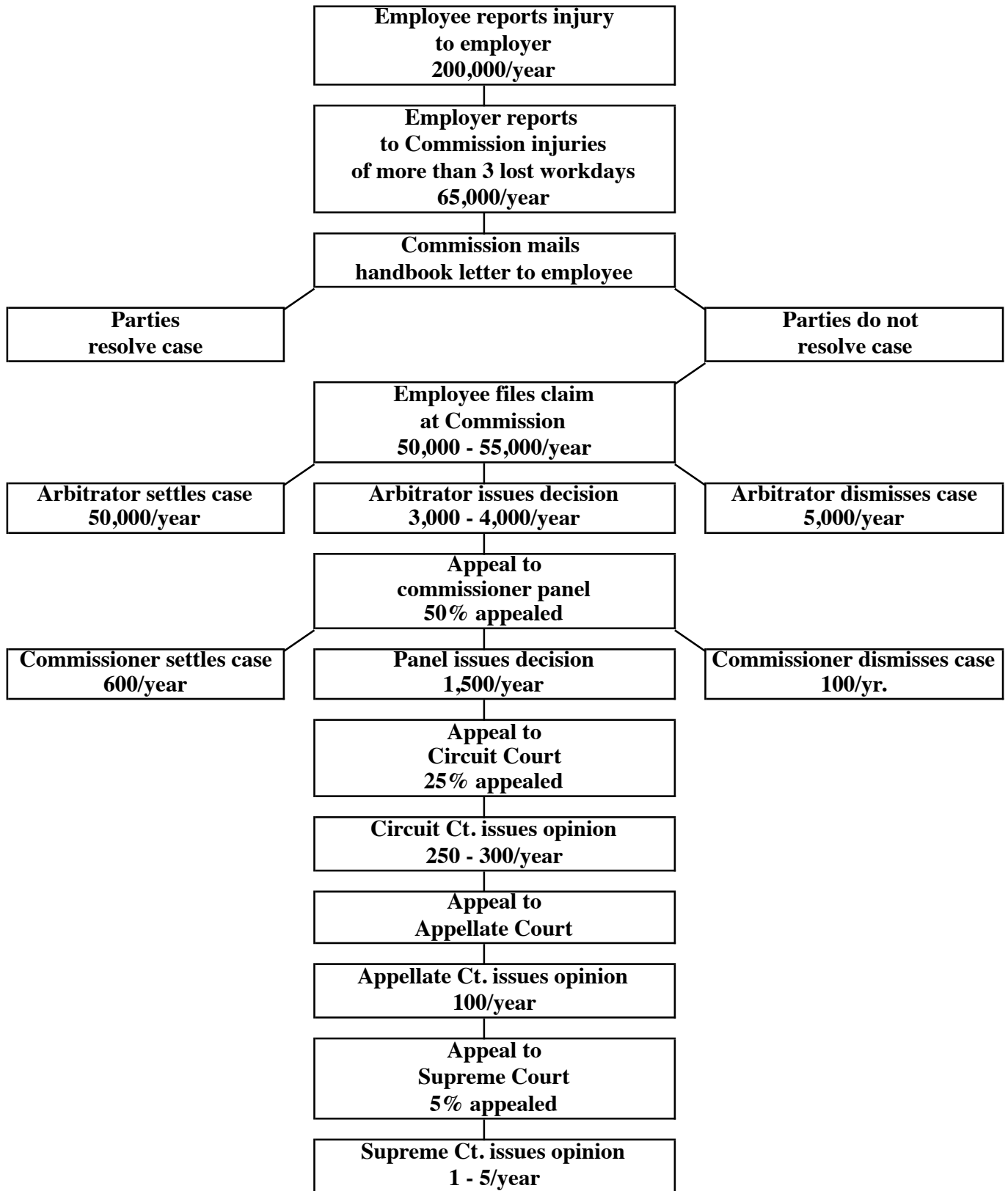
Workers' compensation was established as a no-fault system. The theory behind the law is that the cost of work-related injuries or illnesses should be part of the cost of the product or service.

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

Almost every employee who is hired, injured, or whose employment is localized in Illinois is covered by workers' compensation. For the most part, benefits are paid for accidental injuries that are caused, in whole or in part, by the employee's work. This includes the aggravation of a pre-existing condition and injuries brought on by the repetitive use of a part of the body.

Illinois employers pay for workers' compensation benefits through insurance policies or by self-insurance. Benefits are based on the worker's earnings, subject to certain limits. 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 Illinois Supreme Court. Most cases, however, are settled between the parties.

FLOW CHART OF DISPUTE RESOLUTION PROCESS



Note: Cases can go back and forth. There are also many other processes to hear various motions, insurance compliance cases, etc.

FINANCIAL INFORMATION

The Commission operates eight funds that are independent of the General Revenue Fund. Two of the funds (IWCC Operations Fund and Self-Insurers Administration Fund) pay for Commission administration, while four of the remaining funds (Injured Workers' Benefit Fund, Rate Adjustment Fund, Second Injury Fund, and Self-Insurers Security Fund) pay for benefits.

In FY11, State borrowing and litigation settlement had major impacts on the Commission's fund balances: under the provisions of P.A. 96-0958, the Governor's Office of Management and Budget (GOMB) borrowed a total of \$21.9 million from the Commission. This borrowing reduced fund balances in the IWCC Operations Fund, Injured Workers' Benefit Fund, and Self-Insurers Security Fund by \$11.1 million, \$0.8 million, and \$10.0 million, respectively. GOMB repaid the total borrowed from the Injured Worker Benefit Fund by the end of FY11 to ensure that benefits would be paid in full. Borrowed amounts from the IWCC Operations Fund and the Self-Insurers Security Fund were repaid in FY12.

The following table summarizes the Commission's starting and ending fund balances for FY11:

Fund Name	SPECIAL FUNDS				6/30/11 Balance
	6/30/10 Balance	plus Income	minus Expenditures	plus/minus Adjustments	
IWCC Operations Fund	\$19,853,690	\$28,617,836	\$21,135,613	(\$7,685,523)	\$19,650,390
Injured Workers' Benefit Fund	\$2,019,854	\$1,080,749	\$2,474,879	\$0	\$625,724
Rate Adjustment Fund	\$5,711,356	\$23,290,471	\$12,888,435	\$607,403	\$16,720,795
Second Injury Fund	\$432,778	\$1,546,140	\$1,249,186	\$0	\$729,732
Self-Insurers Administration Fund	\$146,915	\$357,121	\$449,074	\$0	\$54,961
Self-Insurers Security Fund	\$11,052,495	\$1,973,631	\$1,019,255	\$0	\$12,006,870
Transcript Fund	\$47,997	\$12,075	\$11,795	\$358	\$48,635
Workers' Compensation Benefit Trust Fund	\$1,583	\$0	\$1,583	\$0	\$0

Each of the Commission's funds, their specific statutory authorization, and purposes are described in greater detail below.

ILLINOIS WORKERS' COMPENSATION COMMISSION OPERATIONS FUND (IWCCOF)

820 ILCS 305/4d; 215 ILCS 5/416

The IWCC Operations Fund was created in 2003 to pay for the administrative costs of the Commission, making Illinois the 46th state in the country to pay for its workers' compensation agency through an independent source of funds. Each year, employers pay a 1.01% surcharge on workers' compensation insurance premiums, while self-insured employers pay an assessment of 0.0075% of payroll.

In FY11, the State reached an agreement in the case Chamber of Commerce v. Filan, et al, Case #04CH6750. This case challenged the constitutionality of the IWCC Operating Fund surcharge. Under the terms of the settlement, \$18.8 million was transferred into the fund, while \$26.1 million was transferred out of the fund into an escrow account. The resulting net \$7.3 million accounts for most of the balance reflected in the adjustments column of the table (i.e., the adjustment value shown as \$7,685,523). Pursuant to the settlement terms, the Commission will begin reporting on the Settlement Fund in the FY12 annual report.

INJURED WORKERS' BENEFIT FUND (IWBF)

820 ILCS 305/4(d)

The IWBF was created in 2005 to pay workers' compensation benefits to injured employees when the employer has failed to provide workers' compensation insurance and failed to pay benefits to the injured employee. The IWBF is funded solely through the penalties and fines collected by the Insurance Compliance Division from uninsured employers.

The IWBF paid approximately \$1 million to 31 injured employees whose cases were closed in FY11 and whose uninsured employers failed to pay them. Since its inception, the IWBF has paid out \$5.5 million in benefits to 131 injured employees. FY11 expenditures of \$2,474,879 included benefit payments for FY10 and FY11 claims.

RATE ADJUSTMENT FUND (RAF)

820 ILCS 305/7-8

The RAF was created in 1975 to pay cost-of-living increases to individuals who are either permanently and totally disabled or the survivors of fatally-injured workers. Payments are made each month, beginning on July 15 of the second year after the award is final. Recipients are given an amount equal to the percentage increase in the statewide average weekly wage, as calculated by the Illinois Department of Employment Security.

Twice a year in February and August, self-insured employers and insurance companies pay an assessment to fund this program. The assessment is based on: 1) indemnity benefits paid in the preceding six-month period; and 2) the RAF fund balance. Because of the healthy fund balance, the August 2011 assessment was waived. This waiver represented a substantial savings to employers.

In FY11, adjustments increased the balance by \$607,403. This adjustment reflects changes in estimated liabilities related to benefit claims that were more than five years old. These estimates may be affected by ongoing legal analysis.

As of June 2011, RAF had 1,359 recipients. The monthly benefits for this period totaled \$858,000.

SECOND INJURY FUND (SIF)

820 ILCS 305/7-8

The SIF provides an incentive to employers to hire disabled workers. The Illinois SIF is more narrowly constructed than most other states. If a worker who had previously incurred the complete loss of a member or the use of a member (one hand, arm, foot, leg, or eye) is injured on the job and suffers the complete loss of another member so that he or she is permanently and totally disabled (PTD), the employer is liable only for the injury due to the second accident. The fund pays the amount necessary to provide the worker with a PTD indemnity benefit.

Twice a year in January and July, insurers and self-insured employers pay an assessment to fund this program. The assessment rate is up to 1/8 of 1% of compensation paid by insurers and self-insured employers during the previous six months.

As of June 2011, SIF had 88 recipients. The monthly benefits for this period totaled \$95,000.

SELF-INSURERS ADMINISTRATION FUND (SIAF)

820 ILCS 305/4a-6.1

The SIAF was created in 1988 to pay the administrative costs of the Commission's self-insurance program. Revenues from the fund come from a \$500 fee paid by private self-insured employers. This fee is paid when applying for or renewing the privilege to self-insurer.

SELF-INSURERS SECURITY FUND (SISF)

820 ILCS 305/4a-5, 7

The SISF was created in 1986 to pay benefits to employees of private self-insurers that became insolvent after 1986. Self-insured employers pay assessments based on their indemnity payments, up to a maximum of 1.2% of indemnity benefits paid during the preceding year. The "income received" column also reflects the collection of security instruments during the year from security provided by self-insured employers. The "adjustments" column reflects changes in the unpaid liability of the fund.

As of June 2011, SISF had 75 claimants. The average monthly benefits paid during FY11 totaled \$113,432.

TRANSCRIPT DEPOSIT FUND (TDF)

820 ILCS 305/19a

The TDF was created to cover the costs of transcripts copies and related document production. When a case is appealed to the circuit court, the appealing party pays a \$35 fee for the preparation of the file.

WORKERS' COMPENSATION BENEFIT TRUST FUND (WCBTF)

820 ILCS 305/7

The WCBTF was created to pay benefits to employees of private self-insurers that became insolvent before 1986. Benefits are paid from securities posted by the self-insurers. Any unused funds are then returned to the insolvent estate.

In FY11, the Commission dissolved the Workers' Compensation Benefit Trust Fund due to inactivity. The fund balance of \$1,583 was transferred to the General Revenue Fund per the State Comptroller. This fund will not be included in subsequent annual reports.

WORKERS' COMPENSATION INSURANCE

Employers are responsible for the payment of benefits to injured workers. They must either purchase insurance or obtain permission to self-insure. More insurance companies sell workers' compensation policies in Illinois than in 48 other states.¹ In the last five years, the number of carriers in Illinois has jumped 10%.²

The National Council on Compensation Insurance (NCCI), a private organization, issues advisory insurance rates. Illinois carriers use the advisory rate in their calculations but are free to set their own premium rates. The advisory rates indicate a premium of \$100 in 1990 would cost only \$114 in 2012.³

Illinois employers are able to obtain workers' compensation insurance with relative ease. Employers that are unable to buy insurance in the open market turn to the residual market. The residual market in Illinois is roughly half the national average. And whereas 12% of Illinois premiums were in the residual market in 2003, less than 3% were in 2010.⁴

See "Interstate Comparisons" for more information on workers' compensation insurance costs.

INSURANCE COMPLIANCE PROGRAM

Illinois law requires employers to insure themselves for their workers' compensation liabilities, but some employers fail to comply. These employers enjoy an unfair competitive advantage over law-abiding companies, while leaving their employees vulnerable if accidents should occur.

If the Commission finds that an employer knowingly and willfully failed to obtain insurance, it may be fined up to \$500 for every day of noncompliance, with a minimum fine of \$10,000. 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 workers' compensation insurance.

In FY11, the unit collected \$1.1 million in fines from 91 uninsured employers that were found to be operating without workers' compensation insurance. Since FY06, the first full year with more stringent laws, the Commission collected over \$6 million from over 500 uninsured employers.

These fines are deposited into the Injured Workers' Benefit Fund. The IWBF paid \$1 million to 31 injured workers whose cases were closed in FY11 and whose uninsured employers failed to pay them.

To date, the IWBF has paid \$5.5 million in benefits to 131 injured workers. Without this program, these claimants and their medical providers might have received nothing.

¹ For years, Illinois had more companies writing workers' compensation insurance than any other state. A.M. Best now reports there are more insurers in Indiana than in Illinois.

² See *Market Share Report* 129-130.

³ Figures were taken from the NCCI rate filings with the Illinois Department of Insurance.

⁴ See NCCI *Annual Statistical Bulletin*, 2008 edition 399, and 2011 edition 445; also *Illinois State Advisory Forum 2011* 91.

INSURANCE FRAUD

The Illinois Department of Insurance investigates workers' compensation fraud through its Fraud Unit, which is funded by the Commission. The Fraud Unit annual reports are available at <http://www.insurance.illinois.gov/wcfu/report-data.asp/>.

It is illegal for anyone—a worker, employer, insurance carrier, medical provider—to intentionally make a false statement in order 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 <http://www.insurance.illinois.gov/wcfu/>.

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 pools. Public employers may self-insure without obtaining approval. Self-insured employers pay roughly 24% of benefits.⁵

PARENT COMPANIES PARTICIPATING IN THE COMMISSION'S SELF-INSURANCE PROGRAM

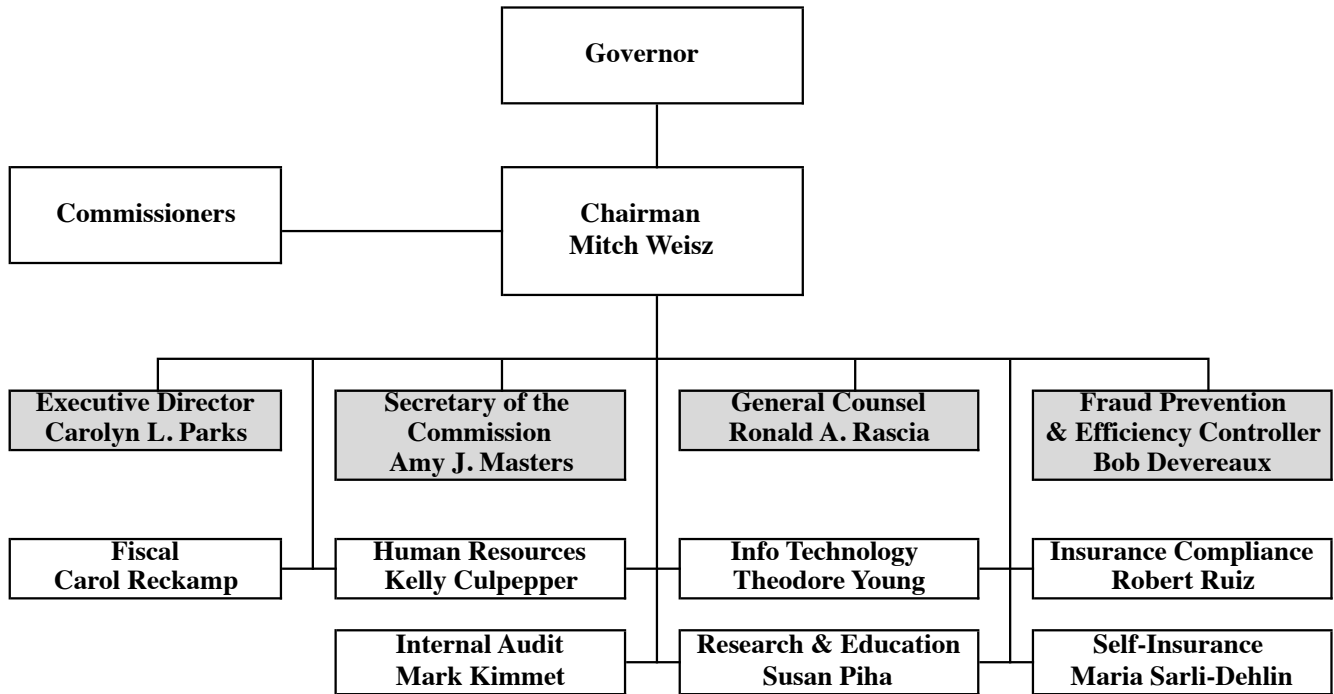
Date	# Parent Companies
6/30/00	361
6/30/05	319
6/30/10	268
6/30/11	249

⁵ See *Workers' Compensation: Benefits, Coverage, and Costs*, 2009 24-25.

ADMINISTRATION

At the end of FY11, the Commission consisted of the Chairman, nine Commissioners, 157 employees, and six employees in the separately funded Self-Insurance Division, for a total of 173 people.⁶

ORGANIZATIONAL CHART



CHAIRMAN'S OFFICE

Headcount: 5

Mitch Weisz, Chairman

The Chairman's Office consists of Bob Devereaux, Fraud Prevention and Efficiency Controller; Mark Kimmert, Chief Internal Auditor; Ronald A. Rascia, General Counsel; Nick Velazquez, Chairman's Assistant; and Darrell Widen, Deputy Counsel. (Note: As of 6/30/11, Katherine Melford, labor relations officer, was on leave and was not counted.)

FISCAL OFFICE

Headcount: 8

Carol Reckamp, Manager

This unit manages the budget, processes payroll, pays bills, tracks inventory, issues benefit payments, collects assessments, and reports on financials. The fiscal staff also helps administer the special fund programs (RAF, SIF, and TDF).

⁶ Temporary employees, student workers, and people on leave were not included. The Commission reports the headcount as of the end of the fiscal year.

HUMAN RESOURCES

Headcount: 2

Kelly Culpepper, Manager

This office handles personnel transactions and benefit programs.

INFORMATION TECHNOLOGY

Headcount: 9

Theodore Young, Manager

This unit maintains the computer systems, and produces notices, call sheets, and other documents.

INSURANCE COMPLIANCE

Headcount: 6

Robert Ruiz, Manager

This unit enforces the law that requires employers to have workers' compensation insurance. See the Insurance chapter of this report for details on this unit's accomplishments.

JUDICIAL DIVISION

Headcount: 59

Carolyn L. Parks, Executive Director/Judicial Manager

Arbitration

Bertha Parker, Coordinator

Arbitrators conduct hearings, issue decisions, and approve settlements of cases. At the end of FY11, 14 Arbitrators worked in the Chicago office and 15 Arbitrators traveled to downstate hearing sites. Two support staff set schedules and provide clerical support.

Commission

Dora Shabazz, Coordinator

Three panels of three Commissioners conduct hearings, issue decisions, and approve settlements of cases that have been appealed from the arbitration level. On each panel, one member represents business, one represents labor, and one is a public member.

Each Commissioner has two staff attorneys who analyze and summarize cases, and draft decisions and orders; each Commissioner also has an administrative assistant who manages the caseload and provides clerical support.

OPERATIONS DIVISION

Headcount: 67

Amy J. Masters, Secretary of Commission/Operations Manager

Central Files

James Gentry, Supervisor

Employees maintain the case files and provide copies of case records to the public.

Court Reporting

Linda Freeman, Supervisor

Court reporters record hearings and produce typewritten transcripts of hearings.

Data Entry

Enrique Cabrera, Supervisor

This unit enters case information into the mainframe computer system.

Docket

Yvonna Castronova, Supervisor

Employees process all incoming claims, motions, and other case documents.

Information

Yvonna Castronova, Supervisor

Employees in four locations handle roughly 100,000 telephone calls and thousands of emails each year. They explain procedures, distribute informational materials, and prepare summons for the circuit courts.

Mail Room

Marva Williams, Lead Worker

The Mail Room handles nearly one-half million pieces of mail each year.

Review and Emergency Hearings (19(b) and 19(b-1))

Yvonna Castronova, Supervisor

The unit maintains files for cases on review and schedules oral arguments. It also manages cases filed under Sections 19(b) and 19(b-1) of the Act, which outlines the process by which emergency cases are to be handled.

RESEARCH AND EDUCATION

Headcount: 1

Susan Piha, Manager

This unit conducts operations research, manages communications, and manages training programs.

SELF-INSURANCE DIVISION

Headcount: 6

Maria Sarli-Dehlin, Manager

This division administers the self-insurance privilege and handles insolvencies of individual bankrupt self-insurers.

STATISTICS

Each year in Illinois, roughly 200,000 work-related accidents occur. In most of these cases, the worker does not lose time from work. Approximately 50,000 claims are filed with the Commission. The statistics in this section refer only to those cases that are filed with the Commission.

ACCIDENT

Location of accident. 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.

The following table groups the 1,200 cities and towns in Illinois by the 17 hearing sites to which the claims are assigned, and indicates where accidents occur.

Effective January 1, 2012, pursuant to the provisions of House Bill 1698/Public Act 97-18, Downstate hearing sites are arranged in zones with three hearing sites per zone. Cases are randomly assigned among three Arbitrators at each Downstate site.

NEW CASES FILED IN FY11
BY CURRENT HEARING SITE AND ZONE

Zone	Hearing Site	Cases Filed	Percent of Total
Zone 1	Collinsville	2,741	
	Mt. Vernon	1,437	
	Herrin	<u>2,158</u>	
	Total Zone 1	6,336	13%
Zone 2	Quincy	860	
	Springfield	2,054	
	Urbana	<u>1,981</u>	
	Total Zone 2	4,895	10%
Zone 3	Bloomington	1,652	
	Kewanee	1,469	
	Peoria	<u>2,199</u>	
	Total Zone 3	5,320	11%
Zone 4	Geneva	2,294	
	Joliet	3,102	
	Ottawa	<u>742</u>	
	Total Zone 4	6,138	12%
Zone 5	Rockford	1,995	
	Waukegan	1,801	
	Woodstock	<u>794</u>	
	Total Zone 5	4,590	9%
Zone 6 ⁷	Wheaton	2,881	6%
Chicago	Chicago	<u>20,221</u>	<u>40%</u>
Total new cases filed		50,381	101%

⁷ Zone 6 arbitrators hear Chicago cases during the two months they are not in Wheaton.

AVERAGE WEEKLY WAGE

Claimants' wages generally are lower than the statewide average weekly wage. The wages of workers who experienced accidents in FY11 averaged 14% lower than the statewide average.

AVERAGE WEEKLY WAGE BY YEAR OF ACCIDENT

	FY11	FY10	FY09	FY08	FY07
Claimants' Average Weekly Wage	\$796.37	\$772.86	\$771.31	\$754.15	\$739.89
Statewide Average Weekly Wage as of 6/30	\$930.38	\$922.45	\$923.56	\$883.86	\$861.38

CASES OPENED

Filings peaked in FY95 at 72,000 cases, and they continue to decline.

CASES OPENED

	FY11	FY10	FY09	FY08	FY07
New claims filed	42,883	42,701	46,752	48,193	47,461
Original settlements filed ⁸	<u>7,498</u>	<u>8,153</u>	<u>8,745</u>	<u>9,322</u>	<u>9,231</u>
Total new cases filed	50,381	50,854	55,497	57,515	56,692
Returned for further action ⁹	0	0	39	0	0
Reinstated	1,659	1,511	1,644	1,657	1,609
Remanded to Arbitrator	486	396	49	49	54
Remanded to Commissioner	<u>21</u>	<u>22</u>	<u>93</u>	<u>87</u>	<u>81</u>
Total cases returned to caseload	<u>2,166</u>	<u>1,929</u>	<u>1,786</u>	<u>1,793</u>	<u>1,744</u>
Total additions to the caseload	52,547	52,783	57,283	59,308	58,436

A new claim is usually opened when a worker files an application with the Commission; in 99% of those cases, the worker has an attorney. When a settlement contract is filed without a prior application, it is referred to as an original settlement; in 95% of those cases, the worker *does not* have an attorney. In total, injured workers are unrepresented in 15% of cases.

CASES PENDING

Arbitration. At the end of FY11, there were roughly 93,000 cases pending at arbitration. In most cases, the parties to these pending cases are *not waiting* for the Commission to act. During much of this time, the worker is recovering from the injury. Roughly 99% of these cases are being automatically continued, waiting for the parties to act. The majority of cases at arbitration are settled, and parties are free to settle at any time.

Review. At the end of FY11, there were roughly 2,200 cases pending before Commissioners in which parties had appealed an Arbitrator's decision. Another 1,000 cases involving additional attorneys' fees, insurance compliance, medical care, penalties, and other issues were also pending.

⁸ "Original settlement" refers to a settlement contract filed without a prior application.

⁹ This category was created to make the caseload numbers balance, accounting for those cases that were counted closed more than once (e.g., a case was decided in one fiscal year and counted as closed, but then a settlement contract was approved in the next fiscal year).

CASES CLOSED

As in other court systems, most cases at the Commission are settled. Please note that these figures 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 by the Commission, 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.

TOTAL CASES CLOSED¹⁰

FINAL ACTION	FY11	%	FY10	%	FY09	%	FY08	%	FY07	%
Dismissals	5,616	11%	5,172	9%	5,271	9%	5,434	9%	5,747	9%
Settlements	43,324	85%	47,946	86%	51,230	87%	51,549	87%	52,521	87%
Decisions	<u>2,196</u>	<u>4%</u>	<u>2,802</u>	<u>5%</u>	<u>2,402</u>	<u>4%</u>	<u>2,550</u>	<u>4%</u>	<u>2,413</u>	<u>4%</u>
Total	51,136	100%	55,920	100%	58,903	100%	59,533	100%	60,681	100%

CASES CLOSED
BY ARBITRATORS

FINAL ACTION	FY11	%	FY10	%	FY09	%	FY08	%	FY07	%
Voluntary dismissals	569		606		595		604		589	
DWP	<u>4,930</u>		<u>4,390</u>		<u>4,593</u>		<u>4,724</u>		<u>5,053</u>	
Total dismissals	5,499	11%	4,996	9%	5,188	9%	5,328	9%	5,642	10%
Original settlements	6,786		7,853		9,016		9,041		9,168	
SC before Arb. dec.	35,322		38,691		40,750		41,005		41,958	
SC after Arb. decision	<u>973</u>		<u>985</u>		<u>844</u>		<u>843</u>		<u>777</u>	
Total settlements	43,081	87%	47,529	88%	50,610	88%	50,889	88%	51,903	88%
Arbitration decisions	<u>1,066</u>	<u>2%</u>	<u>1,601</u>	<u>3%</u>	<u>1,394</u>	<u>2%</u>	<u>1,355</u>	<u>2%</u>	<u>1,363</u>	<u>2%</u>
Total closed	49,646	100%	54,126	100%	57,192	100%	57,572	100%	58,908	100%

CASES CLOSED
BY COMMISSIONERS

FINAL ACTION	FY11	%	FY10	%	FY09	%	FY08	%	FY07	%
Dismissals at review	117	8%	176	10%	83	5%	106	5%	105	6%
SC before Arb. decision	43		109		140		174		126	
SC before Review dec.	117		200		306		328		354	
SC after Review dec.	<u>83</u>		<u>108</u>		<u>174</u>		<u>158</u>		<u>138</u>	
Total settlements	243	16%	417	23%	620	36%	660	34%	618	35%
Review decisions	<u>1,130</u>	<u>76%</u>	<u>1,201</u>	<u>67%</u>	<u>1,008</u>	<u>59%</u>	<u>1,195</u>	<u>61%</u>	<u>1,050</u>	<u>59%</u>
Total cases closed	1,490	100%	1,794	100%	1,711	100%	1,961	100%	1,773	100%

¹⁰ “DWP” refers to cases that were Dismissed for Want of Prosecution; “Original settlements” refer to settlements that were filed without a prior application; “SC” refers to settlement contracts.

DECISIONS ISSUED

Most of the cases filed with the Commission are settled. The cases that go to trial are usually more complex, and over the years the level of complexity has increased, as new benefit categories and legal issues have emerged. Cases with new or more difficult issues are often appealed. Fewer and fewer cases proceed on to the next level, as shown below. Out of the 200,000 work-related injuries that occur each year, fewer than 400 remain unresolved when they leave the Commission and go into the circuit court systems.

During FY11, as the General Assembly discussed eliminating the Commission and/or all Arbitrators, attorneys were reluctant to start trials, and fewer were held. We expect to return to previous productivity levels now that the uncertainty has been removed.

DECISIONS AND APPEALS¹¹

	Arbitration Decisions Issued	% Appealed	Commission Decisions Issued	% Appealed	Circuit Ct. Decisions Issued	Appellate Ct. Opinions/Orders Issued	Supreme Ct. Opinions Issued
2007	3,644	49%	1,613	25%	250-300	108	1-5
2008	3,594	48%	1,777	25%	250-300	120	1-5
2009	3,541	48%	1,470	25%	250-300	127	1-5
2010	3,581	49%	1,503	26%	250-300	119	1-5
2011	3,171	55%	1,405	25%	250-300	140	1-5

Outcome of appeals. Parties have the right to appeal Arbitrators' decisions, however, history has shown that Commissioners often uphold the decisions of the Arbitrators. Petitioners appeal in hopes of higher benefits but our most recent study indicated that those cases do not result in higher benefits 84% of the time. Similarly, 74% of cases appealed to the Commission by Respondents do not result in lower benefits.

Trends. Under Section 19(b-1), an injured worker who is not receiving temporary total disability or medical benefits may petition for an emergency hearing. Alternately, the worker may choose to file under 19(b) if he or she is not receiving TTD or medical benefits.

Over the years, there has been a clear shift from 19(b-1) petitions, which involve statutorily set deadlines, to 19(b) petitions. Each year, Arbitrators issue fewer than a dozen 19(b-1) decisions and roughly 1,000 19(b) decisions.

GENDER

Women constitute 48% of the Illinois workforce¹², but they file a smaller share of claims. This is partially due to the fact that the most dangerous industries—construction, agriculture, transportation—are still male-dominated. Over the years, the proportion of female claimants has increased, however, from 22% of claimants in FY85 to 36% in FY11.

¹¹ Commission figures are for the fiscal year. Data for courts are for the calendar year.

¹² See U.S. Bureau of Labor Statistics: bls.gov/lau/table14full10.pdf

INJURY RATES

The statistics in this section come from the National Council on Compensation Insurance (NCCI) and the U.S. Bureau of Labor Statistics (BLS), which use different methods. There are limitations to both methods. NCCI excludes self-insurers, while BLS nonfatal survey is prone to sampling error. Despite these limitations, these two sources produce the best data now available.

Both data sets indicate that roughly 4% of Illinois workers experience an injury each year; the overall injury rate in Illinois is lower than most other states; and the injury rate has declined dramatically over the years. The 2008 Injury Rate in Illinois is 60% lower than in 1990. Illinois injury rates had been declining steadily since 1990, but increased 15% in 2007, then fell 6% in 2008. Each section contains the most recent data available.

NCCI DATA

PERCENTAGE OF WORKERS EXPERIENCING WORK-RELATED INJURIES
IN ILLINOIS EACH YEAR BY INJURY TYPE¹³

Policy Year	Medical Only	Temporary Total	Permanent Partial	Permanent Total	Fatal	Total
1990	6.9%	1.66%	0.92%	.004%	.007%	9.5%
1995	4.9%	1.23%	0.68%	.004%	.004%	6.8%
2000	3.9%	0.84%	0.69%	.007%	.005%	5.4%
2005	2.6%	0.60%	0.54%	.013%	.002%	3.7%
2006	2.5%	0.57%	0.53%	.016%	.002%	3.6%
2007	2.8%	0.64%	0.63%	.003%	.003%	4.1%
2008	2.6%	0.60%	0.63%	.003%	.002%	3.9%

BLS DATA

RATE OF NONFATAL WORK-RELATED INJURIES AND ILLNESSES
IN ILLINOIS IN 2009¹⁴

Workers' Nonfatal Injury Rate by Industry		Workers' Nonfatal Injury Rate by Event	
Government	5%	Overexertion	28%
Natural resources and mining	5%	Contact w. objects/equip.	27%
Manufacturing	5%	Fall	20%
Construction	3%	Slip or trip (no fall)	5%
Services	3%	Exposure to harmful substances	4%
		Transportation accident	4%
Incidence rate for all workers	4%	Repetitive motion	4%
		Assault or violent act	2%

¹³ See *Annual Statistical Bulletin*, 1994 – 2011 editions, Exhibit XII First Report data. Figures for fatalities and PTDs come from a small number of cases and should be viewed with caution. This information refers only to the experience of employers with insurance, not self-insurers. Information is not available for the states with exclusive state insurance funds: ND, OH, WA, WV, and WY. The NCCI updated figures from those published in earlier reports.

¹⁴ Since 1992, the Illinois Department of Public Health has participated in the U.S. Bureau of Labor Statistics' Survey of Occupational Injuries and Illnesses. Each year IDPH surveys a sample of employers in the private and nonfederal public sectors. Federal employees and farms with fewer than 11 employees are excluded from the survey.

FATAL WORK-RELATED INJURIES IN ILLINOIS IN 2010¹⁵

Total number of fatalities: 203

Distribution of Fatal Injuries Among Industries

Transportation	18%
Construction	13%
Trade, wholesale & retail	12%
Manufacturing	11%
Agriculture	10%
Government	8%
Other	28%

Distribution of Fatal Injuries by Event

Transportation incident	36%
Contact with objects/equip.	19%
Assault or violent act	19%
Fall	15%
Exposure to harmful substances	7%
Fires and explosions	3%

MEDICAL CARE

By law, the employer is required to pay for medical care that is reasonably required to cure or relieve the employee from the effects of a work-related injury or disease. The employer shall pay for all necessary first aid and emergency services, two treating physicians, surgeons, or hospitals of the employee’s choice, and any additional medical care providers to whom the employee is referred by the two physicians, surgeons, or hospitals.

Illinois’ first medical fee schedule for workers’ compensation took effect for services on or after February 1, 2006. Illinois was the first state in the country to publish its fee schedule online at no charge to users. Each year, fees are adjusted by the percentage change in the general Consumer Price Index-U. Overall, since 2006, fees have grown at a 5% slower rate than medical inflation.

NCCI, a private organization that issues advisory insurance rates for Illinois, reported a sharp decline in the growth of medical costs in the first two years after the fee schedule was implemented, but an increase in the third year.¹⁶

AVERAGE MEDICAL COST PER CASE IN ILLINOIS

Policy Year	All Injuries	% Change
2000	\$3,538	16.4%
2005	\$7,735	15.5%
2006	\$8,234	6.5%
2007	\$8,604	4.5%
2008	\$9,468	10.0%

The Workers’ Compensation Research Institute (WCRI) used a different method. It analyzed only those cases involving more than seven lost workdays. It found that the growth rate of Illinois workers’ compensation medical payments per claim increased before the fee schedule, then sharply declined afterwards, then changed direction again.¹⁷

¹⁵ The Commission provides fatal claim information to the Illinois Department of Public Health, which participates in the U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries (CFOI). The CFOI methodology does not correspond exactly to workers’ compensation criteria, but it provides a standard measure for the country. See *Census of Fatal Occupational Injuries and Illnesses in Illinois, 2010* 12, 14.

¹⁶ See NCCI *Annual Statistical Bulletin*, 1996-2011 editions, Exhibit XI “First Report” data.

¹⁷ For Policy Year 2003-2004 data, see *Monitoring the Impact of Illinois Regulatory Changes: CompScope™ Medical Benchmarks, 10th edition* 83. For PY 2004-2005 data, see *CompScope™ Medical Benchmarks for Illinois, 11th edition* 83. For

GROWTH IN AVERAGE MEDICAL PAYMENT PER CLAIM
WITH MORE THAN 7 DAYS OF LOST WORK TIME
AT 12 MONTHS MATURITY

Policy Year	Study Median	Illinois
2003 – 2004	6.9%	11.7%
2004 – 2005	7.1%	7.3%
2005 – 2006	7.4%	16.0%
2006 – 2007	5.6%	2.2%
2007 – 2008	5.2%	6.6%
2008 – 2009	8.1%	8.8%
2009 – 2010	8.2%	11.7%

The WCRI had found that nonfacility fees had been increasing 4.5% – 8% per year from 2001 – 2005, but fell 2% in the first year after implementation (2006). In total, this indicates nonfacility savings of 6.5% - 10% in the first year.¹⁸

PENALTIES

Under Section 19(k), the Commission may award the petitioner additional compensation equal to 50% of the amount of compensation payable at the time of the award if there was an unreasonable or vexatious delay of payment, or an intentional underpayment of compensation. Based on case law, medical expenses are considered compensation under Section 19(k). When awarding 19(k) penalties, the Commission shall consider whether an Arbitrator has determined that the claim is not compensable or whether the employer has made payments under a group health plan (Section 8(j)).

Under Section 19(l), the Commission may award the petitioner additional compensation of \$30 per day for every day that a cash or medical benefit has been withheld without good and just cause, up to \$10,000.

Under Section 16 of the Act, the Commission may order the respondent to pay the petitioner’s attorneys’ fees if the respondent or its agent has unreasonably delayed benefits to an employee, intentionally underpaid an employee, engaged in frivolous defenses, or has otherwise treated an employee unfairly.

Over the last several years, Arbitrators have awarded penalties in roughly 10% of expedited decisions and 2% of regular decisions. Commissioners have awarded penalties in roughly 5% of expedited decisions and 2% of regular decisions. This represents less than 1% of all cases closed.

POST-AWARD PETITIONS

Cases that were closed by decisions or some settlements may return to the Commission for additional hearings. Under Section 8(a) of the Act, an injured worker may petition the Commission to order payment for additional medical treatment. Under Section 19(h), either party may petition if the injured worker’s physical condition changes significantly within 30-60 months of the decision or settlement. Each year, roughly 300 post-award petitions are filed.

later years, see *Baseline for Monitoring the Impact of 2011 Reforms in Illinois: CompScope™ Benchmarks, 12th edition* 72. Note the WCRI changes figures for prior years in subsequent reports, sometimes significantly. The most recent data are reported here.

¹⁸ See *Monitoring the Impact of 2005 Reforms in Illinois: CompScope™ Medical Benchmarks, 9th edition* 3, 14.

INTERSTATE COMPARISONS

Illinois has consistently ranked in the top 10 states for the highest wages paid to workers. Yet for years, Illinois fell in the middle of all states for workers' compensation costs. Since 2004, however, Illinois has become a more expensive state for workers' compensation. The 2006 and 2011 legislation made several significant changes to the substantive body of workers' compensation law, and the Commission awaits future studies to gauge the long-term effects of the legislation.

All figures are the most recent available.

Illinois wages are 6% higher than the median: \$49,504 v. \$46,748¹⁹

Illinois indemnity costs per claim are 63% higher than the median: \$31,648 v. \$19,370²⁰

Illinois workers' compensation insurance rates are 50% higher than the median: \$3.05 v. \$2.04²¹

Illinois medical costs per claim are 29% higher than the median: \$8,604 v. \$6,692²²

From 2005-2009, Illinois benefits grew at over 11 times the national total: 23% v. 2%²³

Illinois benefit cost rate (benefits/payroll) is 14% higher than the national total: 1.14% v. 1.00%²⁴

Illinois injury rate is 17% lower than the median: 4.1% v. 4.9%²⁵

¹⁹ See U.S. Bureau of Labor Statistics website: <http://www.bls.gov/cew/cewbultn10.htm> Table 5.

²⁰ See *Annual Statistical Bulletin* 401-402.

²¹ The estimated premiums are per \$100 of payroll. This report is produced every two years; the 2012 report is due later in 2012. The report compares employers' w.c. insurance costs in 50 different class codes. Note that discounts are not included, and Illinois reportedly gives more discounts than most states, so Illinois rates look higher here than they really are. A review of the results over the years is instructive.

Workers' Compensation Premium Rate Rankings

Report year	1994	1996	1998	2000	2002	2004	2006	2008	2010	% Change 1994-2010
IL est. premium	\$5.48	\$3.77	\$2.96	\$2.74	\$2.65	\$2.65	\$2.69	\$2.79	\$3.05	(44%)
Median est. premium	\$4.35	\$3.54	\$2.69	\$2.26	\$2.42	\$2.58	\$2.48	\$2.26	\$2.04	(53%)
IL as % over median	26%	7%	10%	21%	10%	3%	8%	23%	49%	
IL rank (50 states + DC)	9	19	18	15	20	23	20	11	3	<i>1 = most expensive</i>

²² See *Annual Statistical Bulletin* 403-404.

²³ See *Workers' Compensation: Benefits, Coverage, and Costs, 2009* 22-23.

²⁴ See *Workers' Compensation: Benefits, Coverage, and Costs, 2009* 28-29.

²⁵ See *Annual Statistical Bulletin* 432-433.

TOTAL BENEFITS PAID

Illinois costs had been growing more slowly than other states, but in recent years they have been growing at a faster rate than the nation as a whole.

TOTAL WORKERS' COMPENSATION BENEFIT PAYMENTS²⁶

\$ in billions	2009	2008	2007	2006	2005
Illinois	\$3.0	\$2.9	\$2.7	\$2.4	\$2.4
% change from prior year	2%	7%	12%	1%	8%
U.S. nonfederal total	\$54.8	\$54.7	\$52.7	\$51.8	\$53.8
% change from prior year	<1%	4%	2%	(4%)	2%

COMPLIANCE WITH 1972 RECOMMENDATIONS

In 1972, the National Commission on State Workmen's Compensation Laws, appointed by President Nixon, unanimously listed 19 items as essential to an adequate system. Decades later, no state in the country meets all the requirements; Illinois meets more than most states.

NUMBER OF 19 ESSENTIAL RECOMMENDATIONS MET

	National average	12.83		
	Illinois	15.00		
NEIGHBORING STATES			LARGE INDUSTRIAL STATES	
Iowa	15.50		Ohio	15.50
Illinois	15.00		Illinois	15.00
Wisconsin	15.00		Pennsylvania	13.75
Kentucky	14.25		Texas	12.50
Missouri	13.75		California	12.00
Indiana	11.50		New York	10.75
Michigan	9.75		Florida	9.75

COVERAGE OF EMPLOYEES

More workers are covered under the law in Illinois than in most other states.

PERCENTAGE OF EMPLOYEES COVERED, 2009²⁷

	National average	97.0%		
	Illinois	99.8%		
NEIGHBORING STATES			LARGE INDUSTRIAL STATES	
Illinois	99.8%		California	100.0%
Kentucky	99.8%		Ohio	100.0%
Indiana	99.6%		Illinois	99.8%
Iowa	99.1%		New York	99.8%
Wisconsin	97.1%		Pennsylvania	99.6%
Michigan	97.0%		Florida	94.9%
Missouri	95.5%		Texas	78.6%

²⁶ See *Workers' Compensation: Benefits, Coverage, and Costs, 2009* 22-23.

²⁷ See *Workers' Compensation: Benefits, Coverage, and Costs, 2009* 54-55. States with the same figure are listed alphabetically.

DURATION OF DISABILITY

Figures on duration of disability are not available for all states with which Illinois is usually compared. The information that is available appears below.

		TTD DURATION IN WEEKS ²⁸			
		Median	17.8		
		Illinois	20.9		
NEIGHBORING STATES			LARGE INDUSTRIAL STATES		
Illinois	20.9	Pennsylvania	25.8		
Michigan	18.1	California	22.3		
Indiana	12.0	Illinois	20.9		
Iowa	11.5	Texas	17.4		
Wisconsin	10.8	Florida	15.3		

PROMPTNESS OF FIRST TTD PAYMENT

Figures on the promptness of the first TTD payment are not available for all states with which Illinois is usually compared. The information that is available appears below.

		PERCENTAGE OF CLAIMS WITH FIRST INDEMNITY PAYMENT WITHIN 21 DAYS OF INJURY ²⁹			
		Median	44.4%		
		Illinois	39.0%		
NEIGHBORING STATES			LARGE INDUSTRIAL STATES		
Wisconsin	51.6%	Texas	49.0%		
Iowa	44.4%	Pennsylvania	45.0%		
Michigan	41.4%	Florida	44.9%		
Indiana	39.3%	California	44.2%		
Illinois	39.0%	Illinois	39.0%		

²⁸ Figures reflect 2006 claims involving more than seven lost work days, assessed as of 2009. See *CompScope Benchmarks for Illinois, 11th edition* 49.

²⁹ See *CompScope Benchmarks for Illinois, 11th edition* 59.

WORKS CITED

- A.M. Best. "Best's Market Share Reports—One Year Premiums and Loss, Workers' Compensation, 2008." *A.M. Best*. n.d. Web. 2010.
- "Employment status of the civilian noninstitutional population by sex, race, Hispanic or Latino ethnicity, marital status, and detailed age, 2010 annual averages." United States Bureau of Labor Statistics. n.d. Web. June 27, 2010.
- National Council on Compensation Insurance. *Annual Statistical Bulletin*, 1996-2011 editions. Boca Raton: NCCI, 1996-2011. Print.
- . *Illinois State Advisory Forum 2011*. Boca Raton: NCCI, 2011. Print.
- Radeva, Evelina. *Baseline for Monitoring the Impact of Illinois Regulatory Reforms: CompScope™ Benchmarks, 12th edition*. Workers' Compensation Research Institute. Boston: 2011. Web. December 20, 2011.
- Radeva, Evelina, et al. *Monitoring the Impact of 2005 Reforms in Illinois: CompScope™ Medical Benchmarks, 10th edition*. Workers' Compensation Research Institute. Boston: WCRI, 2010. Web. July 16, 2010.
- . *CompScope™ Medical Benchmarks for Illinois, 11th edition*. Workers' Compensation Research Institute. Boston: WCRI, 2011. Web. May 24, 2011.
- Sengupta, Ishita, Virginia Reno, and John F. Burton, Jr. *Workers' Compensation: Benefits, Coverage, and Costs, 2009*. Washington, D.C.: National Academy of Social Insurance, August 2011. Print.
- State of Illinois. Department of Insurance. "Premium Written in Illinois by Illinois Licensed Companies: Workers' Compensation." *Market Share Report*, 1999-2010 editions. Springfield: IDOI, 2000-2011. Print.
- State of Illinois. Department of Public Health. *Census of Fatal Occupational Injuries and Illnesses in Illinois, 2010*. Springfield: IDPH, 2011. Print.
- . *Survey of Occupational Injuries and Illnesses in Illinois, 2009*. Springfield: IDPH, 2011. Print.
- State of Oregon. Department of Consumer and Business Services, "2010 Oregon Workers' Compensation Premium Rate Ranking Summary." Salem: ODCBS, 2010. Print.
- "State Workers' Compensation Laws in Effect January 1, 2004 Compared with the 19 Essential Recommendations of the National Commission on State Workmen's Compensation Laws." United States Department of Labor Employment Standards Administration. n.d. Web. June 27, 2010.
- Telles, Carol A., et al. *Monitoring the Impact of 2005 Reforms in Illinois: CompScope™ Medical Benchmarks, 9th edition*. Workers' Compensation Research Institute. Boston: WCRI, 2009. Web. July 6, 2009.
- "Total coverage (UI and UCFE) by State, 2010 annual averages." United States Bureau of Labor Statistics. n.d. Web. November 7, 2011.