

## Executive Summary

The 2000 edition of the Division of Workers' Compensation annual report spans three separate volumes: the present one, which contains information on the administration of workers' compensation in Florida, a statistical supplement, and policy analyses collected under the title *Trends and Challenges*. This executive summary provides highlights of all three documents.

### **Administration**

The initial success of the Early Intervention Program (EIP) in the Employee Assistance Office (EAO) in deterring disputes and attorney involvement and enhancing assistance to injured workers has prompted expansion of the early intervention philosophy to other services provided by the division. For example, the Bureau of Rehabilitation and Medical Services (BRMS) piloted a re-employment model this year that focused on streamlining efforts to get injured workers back to work; over the next year, this model will be expanded to all areas of the state. BRMS and the Bureau of Compliance aim to coordinate their processes so that penalty assessments on employers who fail to rehire their injured workers will be preceded by rehabilitation services from the division that foster return to work. The EIP's innovative strategy of building partnerships with employers, carriers, and third-party administrators to foster early contact with injured workers is being adopted conceptually by the Bureau of Monitoring and Audit (BMA). Cultivating supportive relationships between BMA specialists and carriers to work on key areas of performance is in the planning stage. Meanwhile, most EAO specialists are charged with working toward the ambitious goal of contacting *every* injured

worker to provide information and assistance within a few weeks of injury by early next year.

Reaching potential industry partners for the EIP is just one of many educational outreach efforts this year. The division developed a new media kit that includes professional television and radio public service announcements (PSAs) for immediate use by employers and carriers in their advertising campaigns. About 673,000 viewers in Tallahassee and Orlando viewed the PSA last spring. The media kit also contains current information about the services available from the division. Since its introduction last May, 22 companies have requested the packet. Partnership with health care providers is also critical to early intervention efforts. A pilot was conducted in April to determine the impact of distributing informational brochures to workers entering a medical facility following injury. While the division awaits follow-up survey results from this pilot, other proactive outreach strategies include joining local Chambers of Commerce around the state, conducting workshops for high school students, and establishing an EAO information line on the division's toll-free hotline. Collectively, these efforts seek to build a positive image of workers' compensation throughout Florida and to bring all parties together to improve the system.

Improved customer accessibility is a result of division's expanded use of the Internet. In response to customer requests, several documents are now available online, including a list of all insurance carriers providing workers' compensation coverage, all research publications, exemption application forms, and the hospital reimbursement manual. Navigation is facilitated by the addition of a search engine of the site's contents. Recently, the division's website was merged with the

Government Services Online website, where information on all facets of Florida government is organized by service and objective, rather than by agency, making it easier for customers to match their needs to the appropriate servicing entity.

Encouraging results have been achieved throughout the division. Efforts by the Bureau of Compliance over the past fiscal year brought new coverage for workplace injury to 13,174 employees and generated nearly \$22 million in additional premium. The Bureau of Operations Support continued to expand electronic payment of supplemental Permanent Total benefits such that 46% of all recipients were receiving their payments in this more efficient manner by January 2000. Re-employment services offered by the division helped to improve the return-to-work outcomes of participating injured workers compared to the previous year. Closure or settlement of 551 cases has reduced the liability of the Special Disability Trust Fund. One thousand and fifty injured workers responded to a national survey implemented in Florida by the Bureau of Research and Education, providing important information about their experiences with service providers and about the work-related and personal impacts of their injuries. Results of a pilot in the Miami-Dade area over the last few years show increased annual earning capacity for 46 injured workers of \$95,707, attributable to employment skills training. This training, provided at an early stage of contact between the worker and the division, avoided costly evaluation and re-employment services.

### ***Trends and Challenges***

In consultation with division management and external process partners, the research section of the Bureau of Research and Education identified five policy issues for empirical and analytic assessment: the division's Early Intervention Program, Florida's Drug-Free Workplace Program, managed care in workers' compensation, the statutory obligation to rehire injured workers,

and Permanent Total disability before and after the 1993 reforms. Findings frequently called prevailing opinion into question, and specific options for better realizing the intent of the workers' compensation law were offered.

*The Early Intervention Program.* Initiated as a pilot in July 1998, the Early Intervention Program (EIP) within the division's Employee Assistance and Ombudsman Office (EAO) is a proactive approach to curbing litigation and improving service to injured workers by contacting them as soon as possible after a workplace injury. Preliminary analysis shows significant reductions in attorney involvement at the Request for Assistance (RFA) phase, submission of Petitions for Benefits (PFBs), and adjudication among intervened cases. In mid-1999, industry partners (carriers, employers, third-party administrators) became directly involved in the process by faxing the First Report of Injury or Illness (DWC-1) to the division as soon as possible after a workplace injury. As a result, EAO specialists were able to contact injured workers within two and one-half weeks of injury, or three weeks earlier than intervened cases in which partners were not involved. It is likely that this early contact prompted the even more dramatic reductions in submission rates and time lags for both RFAs and PFBs observed for those cases in which partners were involved. Efforts are underway to include additional partners and to contact every worker within two weeks of injury by early next year. In recognition of the EIP's innovative development of industry partnerships in fostering the self-executing nature of the workers' compensation law, the program received the Sterling Quality Achievement Award at the Governor's Sterling Conference in Orlando in May 2000.

*Florida's Drug-Free Workplace Program.* Florida is one of a dozen states offering workers' compensation premium reductions to employers who implement and maintain a drug-free workplace program. A comparative study was done of Florida employers having a new or renewed certified drug-free workplace policy with an effective date from 1996 through 1999,

based on data provided by the National Council on Compensation Insurance (NCCI). The data showed conclusively that drug-free workplace policyholders are not typical of other Florida employers: They are larger than average (even after adjusting for workers' compensation coverage), and have higher-than-average lost-time injury rates and per-claim costs. However, drug-free workplace employers are more likely to be in high-risk industries such as construction and manufacturing, which accounts for most of the difference in claims costs. It is particularly noteworthy that relatively few of Florida's employers have elected to establish a drug-free workplace program.

A comparison of the claims experience from 1996 to 1999 of drug-free workplace employers to others did not yield results substantiating the effectiveness of the program. There was a slight narrowing of the gap in lost-time injury rates, but the data on per-claim costs did not reflect a relative improvement for drug-free workplace employers. Data on employer participation were also troubling, showing high drop-out rates with respect to drug-free workplace policy renewal. Overall, there appears to be little impact on aggregate workplace safety specifically attributable to Florida's Drug-Free Workplace Program. It is recommended that additional analysis of claims and employer interest be conducted prior to any legislative initiatives to expand the program.

*Managed care in Florida's workers' compensation system.* At the beginning of 1997, managed care became mandatory for treatment of injuries under Florida's workers' compensation provision, but the debate surrounding managed care has not subsided. Though some aggregate measures of benefit costs and worker satisfaction have shown encouraging signs, it is unclear whether managed care or other factors account for these outcomes. Data collected by the division are insufficient to settle the issue; absent is critical information on treatment under managed care, the impact on medical only cases, and variations in actual practices of managed care arrangements. It is suggested that policymakers would be well-served by ini-

tiating substantial research on managed care before significantly altering the current law.

*The obligation to rehire.* A common theme across all state workers' compensation systems is the importance of returning the injured employee to work as soon as medically feasible. Among the variety of provisions designed to encourage return to work in Florida's comprehensive 1993 workers' compensation reform legislation is a brief section known as the obligation to rehire (OTR). Essentially, this provision attempts to facilitate return to work by penalizing employers with over 50 employees who fail to reinstate or rehire their injured employees. Steeped in controversy for nearly seven years, there is still no division rule in effect for administering the OTR, and no penalty has ever been assessed against an employer for violating the mandate. Renewed attempts this year to formulate a rule upon which consensus could be reached among parties both confirmed and supplemented earlier controversies surrounding intent, interpretation, and implementation of this terse portion of the statute.

Employment and return-to-work data for the first post-reform year were scrutinized to determine if there is sound evidence of a return-to-work problem in Florida and, if so, if there is an objective basis for targeting only larger employers in order to resolve it. Analysis shows that nearly nine of every ten workers injured in Florida in 1994 returned to work within one year of injury. Return rates for large employers subject to the OTR were significantly higher than rates for employers with less than 51 employees. Even when adding a wage adequacy criterion for returnees, which the OTR does *not* stipulate, the return-to-work rate for workers injured in 1994 rose as the size of the employer increased. In the local government sector, there is no evidence of a return-to-work problem. The area in which rehiring *does* influence a positive outcome, regardless of the size of the employer, is in expanding the pool of returning workers who reach an adequate wage level. Since the goal of the OTR in its current format is simply return to work, not wage adequacy, suggestions are offered for re-examining the provision in order to formulate policy

to better address areas of genuine need.

*Permanent Total disability before and after the 1993 reforms.* Florida has long had an unusually high rate of injuries resulting in Permanent Total disability. Alarmed at the high cost of these cases, policymakers in 1993 attempted to make statutory eligibility for Permanent Total benefits more restrictive by limiting award to instances of catastrophic injury. Analysis of pre- and post-reform data at 54-month maturity, however, fail to disclose any evidence of greater restrictiveness. Careful analysis of the reform statute reveals a number of probable deficiencies impeding the realization of a desired intent; these include lack of clarity, lack of effective emphasis on, and options for, effective disability determination, and lack of attention to the broader systemic constraints on decisionmaking of claims adjusters and judges. Reflection on these issues may suggest new options for policymakers to consider.

### ***Statistical Highlights***

Conversion to a new division data system prompted an early closure of files used to compile information contained in the Statistical Supplement to the 2000 Annual Report. As a result, comparable vintage data previously reported for the end of the fiscal year (June 30) have not been included.

Lost-time claims have generally shown a pattern of decline since the late 1980s. For injury years with mature data during the decade of the 1990s, the number of reported lost-time claims dropped almost 18%, from 96,533 in 1990 to 79,568 in 1996. Injuries for preliminary year 1997, however, rose slightly with this report, which includes data submitted to the division and entered into the database as of March 20, 2000. This is the first break in the consistent trend of decline in nine years of publication.

Temporary Total remains the largest disability type, though declining as a percentage of all lost-time

claims, even as Temporary Partial shows the opposite trend. As a composite, temporary disability cases numbered 502,718 over the decade, or 61.5% of all 817,136 lost-time cases. The post-reform Impairment Income category is on the verge of ranking second in both the number and percentage of cases. Pre- and post-reform permanent partial cases numbered 154,413, or 18.9% of all lost-time claims over the ten-year period. There have been no significant changes in the proportions of Permanent Total and Death claims, which collectively comprised less than 2% of lost-time claims between 1990 and 1999. Close to another 18% of cases had either settled prior to receiving indemnity payments or had not yet received payments in any indemnity category.

Injury rates by county are similar to previous years, ranging from a low of .4% in Wakulla County to a high of 2.21% in DeSoto County. Differences in the composition of industrial employment by county may account for the relatively consistent rankings of injury rates by county from year to year. Except for Mining, volatile due to a small employment base, injury rates by major industry division have dropped since the early 1990s. Construction has maintained the highest injury rate, despite dropping to a level roughly half that of the early 1990s by 1999; Finance, Insurance, and Real Estate, whose 1999 rate was just one-third the 1990 rate, continues to register the lowest rate across all industry groups. Other relatively hazardous industries include Agriculture, Forestry, and Fishing, and Transportation and Public Utilities.

Women have accounted for approximately one-third of lost-time claims each year, while the age of injured workers has risen gradually by about six months per year, reaching a median of 39 for the two most recent injury years. With respect to both cause and nature of injury, sprains and strains have accounted for the largest portion of any individual category. Injuries to the back, lower extremities, and upper extremities have each represented 23-24%, and collectively comprised over 70%, of all injuries between 1990 and 1999. Among injured workers with a permanent disability, the

majority had a permanent impairment rating of less than 10%.

Cumulative indemnity benefits have declined for each mature injury year since the ten-year peak of \$636.5 million paid for 1990 injuries as of March 20, 2000. The \$322.1 million cumulatively paid for injuries sustained in the latest year with mature data, 1996, is about half that of 1990 but just 4% below the \$335.8 million paid for 1995 injuries, possibly signaling a slowing in the trend of decline over the last decade. Factors accounting for this overall decline include the steadily diminishing number of reported lost-time cases and indemnity benefit reductions stemming from the 1990 and 1993 legislative reforms in Florida's workers' compensation law.

By disability type, the greatest single portion of indemnity benefits paid for injuries sustained between 1990 and 1999 went to Temporary Total cases. These injured workers received over \$1 billion in indemnity benefits, 28.7% of all indemnity payments for the ten-year period. The second most expensive disability type was Wage Loss Only, with over \$908 million, or one of every four dollars in indemnity benefits, despite its discontinuation for 1994 and later injuries. Though proximate in indemnity payments, Temporary Total cases outnumbered Wage Loss Only cases by over 9 to one. Impairment Income benefits, at \$816.6 million and covering only injuries since 1994, surpassed Permanent Total benefits of \$620.2 billion for the first time since the reforms. For average indemnity payments per case, Permanent Total's ten-year average of \$58,731 and median of \$47,637 led all other disability types. For mature injury years, overall median and average benefits had opposing trends: increases in median benefits coupled with decreases in average benefits, with 1994 showing the most significant change in each measure. This signals a reduction in high-end cases of indemnity benefits coupled with gradually rising payments among the remaining cases.

Back injuries accounted for the largest share of indemnity payments for injuries sustained between 1990

and 1999: over \$967 million. Since back injuries ranked third in frequency among injury types behind injuries to the upper and lower extremities, they apparently result in greater loss of work time. Injuries to multiple body parts consumed the second largest share of indemnity payments, at \$957 million. Combined with \$722.9 million paid for injuries to the lower extremities and \$643 million for upper-extremity injuries, the four most expensive body part categories accounted for nine of every ten dollars of indemnity benefits over the decade. Though infrequent, neck injuries were the second most expensive over the decade on a median-per-case basis, at \$2,033, just slightly below the \$2,146 median for injuries to multiple body parts.

Over 662,000 (81%) lost-time claims for injuries from 1990 through 1999 reported some type of medical benefits. Among these, 98% reported physician services, 64% hospital services, and 79% all other medical services, which includes medication and rehabilitation. If cases with fatal injuries or with no indemnity reported are excluded, the percentage of injured workers receiving medical treatment ranged from 94% to nearly 100%. Conversely, less than half of Death cases, one-third of settled cases with no recorded indemnity payments, and under 2% of lost-time cases with neither a washout nor indemnity payments received medical benefits over the ten-year period. Of every ten dollars in medical payments, four were paid to the physician or health care provider, between three and four were paid to a hospital, and a little over two dollars paid for medical services. More severe disability categories deviated from this pattern in having the highest share of their medical expenses paid to hospitals. Permanent Total cases were unique in having greater costs for other medical expenses than for payments to physicians, highlighting the long-term care often required by workers with severe injuries.

Over the ten-year period, four disability types predominated in terms of total medical benefits paid: Temporary Total (36.2%), Impairment Income (24.4%), Wage Loss Only (19%), and Permanent Total (15.2%). The predominance of Impairment Income

and Wage Loss Only is particularly notable in that each was in effect for only six and four of the ten years, respectively. Although average medical benefits have declined for each injury year since 1991, median medical benefits have remained fairly stable from 1992 through 1996, indicating that the reforms did have some success in holding down growth in medical benefit costs. Over the decade, Permanent Total injuries predictably had the highest average (\$81,067) and median (\$45,322) medical benefits.

Among the five most common injuries according to the nature of injury, laceration had the lowest average medical cost (\$5,109) and fracture the highest (\$12,304). In terms of body part affected, injuries involving multiple body parts resulted in the highest cumulative medical benefits, at more than \$1.5 billion, and the highest average and median cost per case of \$12,693 and \$3,691, respectively. Injuries to the back and to lower and upper extremity categories each had \$1.1 billion or more in medical benefits and well over 150,000 cases.

Since the implementation of the current workers' compensation law in 1994, settlements of medical benefits have increased substantially. This would be expected in that the law authorized settlement of medical benefits with no restriction as to year of injury. Most of the post-reform settlements involve lump-sum payments of medical benefits for cases whose indemnity benefits were previously settled. For post-reform injuries, settlements entail concurrent lump-sum payment of both indemnity and medical benefits. During the decade of the 1990s, almost one of every four lost-time cases included a settlement order, and the awards for these 197,822 cases exceeded \$5.3 billion. Overall, there is a trend of increasing settlement for pre-reform injury years, rising from 27% of 1990 cases to 31% of 1993 cases, followed by a drop to 28% for 1994 cases. Between mature injury years 1990 and 1996, cumulative settlement awards fell over 44%, from \$884 million to \$494 million. For pre-reform injury years, the steeper decline in the median than in the average underscores the trend toward less costly settlements. The percent-

age of settlements occurring within two years of the injury year grew from 54.3% for 1990 injuries to 75% for 1996 injuries, indicating a tendency toward earlier settlements with successive mature injury years.

Among disability types, it is apparent that the pre-reform wage-loss categories are related to case settlement. An astounding 86% of all Wage Loss Only cases were settled, accounting for 27.1% of all awards, or \$1.4 billion, and the third highest number of settled cases overall, at 41,020, during the full decade. The latter two measures are especially notable, considering this category pertained to only the first four of the ten years reviewed. Eighty-three per cent of Wage Loss and Permanent Impairment cases were settled, as well. By comparison, 56% of cases in the most severe disability category, Permanent Total, were settled. This category predictably had the most expensive average (\$123,001) and median (\$100,000) awards, yet it represented just 3% of all washouts and 13.6% of settlement awards. Further evidence of earlier settlement activity is shown by the growth in the percentage of settled cases with no indemnity money recorded at the time of the settlement order, ranging from 18.6% for 1990 to 35.9% for 1999. This trend resulted in the highest number of settled cases (43,778) for this category over the ten-year period.

Six of every ten settlement dollars were awarded to workers incurring injuries to multiple body parts (30%) or to the back (28.6%). Over half (53.3%) of all cases with settlements pertained to injuries in these two categories, as well. Injuries to the lower and upper extremities accounted for another three of every ten settlement dollars and 35.4% of all washouts. While the number of settled cases for injuries to multiple body parts, the back, and lower extremities has declined for all post-reform years, case counts of washouts involving injury to the upper extremities were higher for post-reform mature injury years than in every pre-reform year except 1993.

Total benefits—the combined data for indemnity payments, medical payments, and settlement

awards—have declined steadily with each injury year since 1990, dropping most notably for 1991 (14.8%) and 1994 (16.6%) injuries. Settlement awards comprised the largest component of total benefits for all four pre-reform years, yielding to medical benefits in the three mature years post-reform. Indemnity benefits accounted for the smallest share for each of those years—about \$1 of every \$4 in total benefits. All three components have decreased with each successive injury year over the 1990-1999 decade.

Among disability types, Wage Loss Only cases have proven to be very expensive, claiming the second highest portion of total benefits (23.5%) across the full decade, at \$3.4 billion, but representing just 13.4% of all cases during pre-reform years and only about

5.8% of cases over the full decade. By contrast, the most expensive category, Temporary Total, at \$4.3 billion, represented 54.4% of all lost-time cases. Permanent Total cases, with the highest per-case median (\$161,053) and average (\$208,179) total benefits, com-

prised just 1.3% of all lost-time cases.

Analyzed by body part, the most costly cases, on average, have involved injury to multiply body parts (\$30,322), the neck (\$24,872), the head (\$23,215), and the back (\$22,397). Disaggregated by nature of injury, most workplace injuries over the 1990-1999

decade involved Sprains/Strains, Other Leading Injuries, Contusion, Fracture, or Laceration. Of these five categories, the most expensive cases were Other Leading Injuries and Fractures, with median costs of \$6,097 and \$5,713, respectively, and average costs exceeding \$25,000 in both categories.

For the first time, return-to-work rates

are available for five years prior to and five years subsequent to the 1993 reforms. These rates indicate the percentage of all injured workers who both return to work during the four-quarter period after the injury quarter and reach a level of earnings equal to 80% or more



<http://www2.myflorida.com/les/wc/>

of their pre-injury wages. Pre-reform rates ranged from a low of 58.7% to a high of 61.2%. Beginning in 1994, rates rose about 1.5 percentage points, stabilizing between 62.3% and 62.7%. Although the post-reform rates do not show the dramatic outcomes intended by the reforms, they have remained at a consistently higher level since 1994. Over the decade of the 1990s, about nine of every ten injured workers returned to work and had *some* earned income during the four quarters post-injury. The real problem in return to work is that close to 70% of returnees fail to reach an adequate wage level during the year following the injury quarter.

The cost of providing workers' compensation benefits to Florida workers can be measured in part by

comparing the relative cost of insurance for Florida employers who purchase commercial insurance to a national benchmark, using 1978 as the base year. Florida's 1978 insurance rates were about 76.2% above the national average, making it the third most costly state among 47 jurisdictions reporting that year. By 1999, Florida's rates were 65% above their 1978 level, compared to national rates 77% higher than their 1978 level. Despite its slower growth rate over the last two decades, Florida remains among the most expensive jurisdictions in the cost of workers' compensation insurance.