

Louisiana Property and Casualty Insurance Commission Full Commission Meeting

**Thursday, December 8, 2011
Louisiana Department of Insurance
Plaza Hearing Room
1:30 p.m.**

Minutes

Commission Members Present: Senator Dan Morrish, Representative Page Cortez, Raymond Aleman, Sr., Hank Childs (representing Lee Ann Alexander), Paul Buffone, Manuel DePascual, Michael Guy, Wes Hataway, Jamie Ainsworth (representing LTC John LeBlanc), Ann Metrailler, Robert Moorman, Representative Chris Roy, JE Brignac (representing Stephen Schrempp) and Earl Taylor

Commission Members Absent: Commissioner Donelon, Ted Haik, Jeff Albright, Senator Eric LaFleur, Representative Chuck Kleckley, Sheriff Greg Champagne, Nick Gautreaux and Rina Thomas

Commission Staff Present: Terrell Moss, David Evans and Katie Walsh

DOI Staff Present: Ed O'Brien, Trent Beach, Linda Gonzales and Lori Cherry

The Louisiana Property and Casualty Insurance Commission (LPCIC) meeting was called to order at 1:45 p.m. Wes Hataway, chairman of the Worker's Compensation ad hoc committee, acted as chair for this meeting. He welcomed commission members, guest speakers and all others in attendance.

Ms. Walsh recorded attendance.

Mr. Hataway, Director of the Office of Workers' Compensation, Louisiana Workforce Commission, gave an overview of workers' comp, a summary of recent changes in the system, and plans for the future.

A medical treatment schedule was implemented this past July. The schedule sets specific guidelines for treating injured workers, which will eliminate outliers – the over- and under-treatment of patients and essentially provide the best health care available. Disputes about medical treatment can now be resolved by appeal to an appointed medical director. So far, this process has reduced the average time it takes to resolve a medical treatment dispute from 15 months to 5 days and eliminated the associated average \$25,000 litigation expense of the past. As a result of these new medical treatment guidelines, the Office of Workers' Compensation anticipates a reduction in litigation rates, a decrease in indemnity rates and injured workers returning to work in a more timely manner.

The Office of Workers' Compensation has also joined with several other state agencies to crack down on fraud. Another accomplishment of the office this past year was the passage of a bill to receive federal matching funds for rehabilitative services by an allocation within the Second Injury Fund. The Office of Workers' Compensation has ongoing plans to continue to improve the medical guidelines system, update the medical reimbursement schedule and reform the pharmacy reimbursement schedule.

Mr. Paul Buffone, Senior Vice President of Risk Management Service at Louisiana Workers' Compensation Corporation (LWCC) discussed the industry side of workers' comp and LWCC's experience in it. Mr. Buffone explained that the soft market that workers' comp has been in for the last 20 years reflects competition and decreasing prices, but is really more of a reflection of the national trend of decreasing frequency of accidents which resulted in fewer claims. However, the decreasing premium that employers have been enjoying has been masking the fact that Louisiana is a high cost state. Average claims cost more here than in most other states.

As a result, since LWCC was established in 1992, its workers' compensation rates have dropped 55 percent overall, although each year, the *cost* of claims has risen faster than the inflationary increases in the medical Consumer Price Index. According to one study, Louisiana's average medical claim is 61% higher than the average of 4 of our neighboring states. According to Mr. Buffone, between 2007 and 2009 Louisiana claims costs increased 26% in medical and 21% in indemnity. He cautioned that an increase in frequency of claims, as occurred in 2010, coupled with the continuing increase in the cost of claims will lead to higher premiums.

Mr. Buffone praised the medical treatment guidelines discussed by Mr. Hataway as the single most important change in workers' comp in Louisiana in his 20 year experience. It will take two or three years before the savings brought by the guidelines can be measured. Mr. Buffone also praised the cooperative effort that is being led by the Office of Workers' Compensation in constructing a new fee schedule. He warned that class action lawsuits continue to "drain and strain" the workers' compensation system and expressed the hope that the recent changes in Louisiana would change the atmosphere that promotes these lawsuits with health care providers.

Mr. Dennis Kokulak, State Relations Executive, National Council on Compensation Insurance, Inc. (NCCI) explained the role of NCCI in workers' compensation and also gave an overview on workers' compensation trends both statewide and nationally.

NCCI is an organization that has been selected by the insurance departments of 38 states to collect workers' compensation data from insurance companies that write workers' comp policies in the state. Based on the data collected, NCCI annually files with the insurance departments "loss cost" filings to increase or decrease rates. NCCI also analyzes the data to produce employer experience "mod" factors, which grade employers on workers' comp safety. Another function of the council is to evaluate legislation that impacts the workers' compensation system.

Mr. Kokulak presented charts and graphs that defined national and Louisiana trends in terms of declining premium, profitability as measured by combined ratio, "loss cost" filings, and claim frequency and severity for both the indemnity/lost-time and medical elements. These confirmed Mr. Buffone's assessments of declining premium and increasing severity for both indemnity and medical claims. Louisiana ranks near the middle nationally for combined ratio and average

premium rates. Regionally Louisiana has a better or comparable claim frequency but higher claim cost for both indemnity and medical claims than neighboring states that are tracked by NCCI.

Mr. Kokulak cautioned that claim frequency and severity are inexact comparisons in that these are directly affected by a state's workers' comp system. For example, Louisiana has a "7-day waiting period" as opposed to a "3-day waiting period" in neighboring states. This would tend to exclude smaller claims in Louisiana which would reduce overall frequency and increase severity.

Mr. Kokulak offered other insights and explanations. Among these was that there was a national increase in claim frequency in 2010. This was counter to the general decreasing trend of the prior 20 years and contrary to historical data during and for a few years following a recession. NCCI will monitor this closely to determine whether it was an aberration or is the beginning of a trend.

Commission members raised various questions and discussed areas of interest throughout the presentations.

When the Chair called for public comments, Mr. Curt Eysink, Executive Director of the Louisiana Workforce Commission, remarked that the information presented was valuable and necessary to manage Louisiana's workers' compensation system. State-by-state information is valuable in meeting the twin goals of lowering costs in general and in relation to competing states. As well, Mr. Eysink appreciated where it was pointed out that the state comparisons were inexact because of differences between the various states' workers' comp systems and laws.

In regard to the upcoming session, Mr. Eysink urged restraint and very careful evaluation of any proposed workers' comp legislation. He noted that much of the data presented during the meeting was from 2008 through 2010 – prior to the workers' comp reforms that were implemented earlier this year, especially the important medical treatment guidelines and the alternate dispute resolution process. Therefore, it is equally important that these reforms be allowed to produce results within the industry and that data accumulated and assessed after two or three years to determine to what extent further cost control measures are warranted.

With no further discussion, a motion to adjourn this meeting of the Commission was made by Mr. Childs with second by Mr. Moorman at 2:50 p.m.