

WCB Assembled Workers' Compensation Claims

Overview

General Description

The vision of the Workers' Compensation Board includes seven goals for an improved workers' compensation system:

- Ensure Benefits Delivery • Improve Access to Quality Medical Care • Support Return to Work Programs • Promote Workplace Safety • Foster a Cost Effective Market • Re-enforce Dignified Customer Service • Increase Adaptability and Responsiveness

The Workers' Compensation Board is charged with administering two mandatory insurance systems: workers' compensation and disability benefits. The WCB's core mission is to protect the rights of employees and employers by ensuring the proper delivery of benefits to those who are injured or ill, and by promoting compliance with the law. The New York Workers' Compensation Board (WCB) administers and regulates workers' compensation benefits, disability benefits, volunteer firefighters' benefits, volunteer ambulance workers' benefits, and volunteer civil defense workers' benefits. The WCB processes and adjudicates claims for benefits; ensures employer compliance with the requirement to maintain appropriate insurance coverage; and regulates the various system stakeholders, including self-insured employers, medical providers, third party administrators, insurance carriers and legal representatives.

The WCB maintains ten district offices and workers' compensation benefits provide weekly cash payments and the cost of full medical treatment for covered employees who become disabled as a result of a disease or injury connected with their employment. Benefits may also be paid to qualified dependents of workers who died as a result of a compensable injury or illness. Disability benefits are paid when covered employees become disabled as a result of a disease or injury that is not connected to their employment. Most payments are made directly to the injured workers by their employer's insurance company. Claim assembly occurs when the WCB learns of a workplace injury and assigns the claim a WCB claim number. The WCB "assembles" a claim in which an injured worker has lost more than one week of work, has a serious injury that may result in a permanent disability, is disputed by the carrier or employer, or receives a claim form from the injured worker (Form C-3). Until the implementation of eClaims, the WCB kept no record of injuries that did not become claims or of claims that were established. A reopened claim is one that has been reactivated to resolve new issues following a finding that no further action was necessary.

Workers' Compensation Reform

The year 2007 brought the largest reform to the workers' compensation system in its almost 100 year history. In 2011 and early 2012 the Board worked with our stakeholders and completed those important elements of the reform that had been hindered by complexity and disagreement. Specifically, the Board:

- Implemented Medical Treatment Guidelines to greatly improve the quality of medical care for the most common work related injuries;
- Released Guidelines for Determining Permanent Impairment and Loss of Wage Earning Capacity, along with important process changes so employers will realize the savings associated with permanent partial disability benefit caps while ensuring those benefit caps are applied to injured workers in a fair way; and
- Adopted Diagnostic Testing Network regulations to help curb the high cost of diagnostic testing in workers' compensation.

Today, the impact of the reform has resulted in increased benefit rates, increased employer compliance, sped up dispute resolution, improved medical care with medical treatment guidelines, and controlled system costs through a combination of capped permanent partial disability benefits (PPD), new health care fee schedules, pharmacy benefit and diagnostic testing networks.

Claims Overview

Generally, when certain injuries occur in the workplace there employer has an obligation to report those injuries to the WCB and the carrier, if applicable. The injured worker may also submit an account of the incident and injury to the WCB.

The injured worker is entitled to medical treatment payable by the responsible party, self-insured employer or insurance carrier.

If the injured worker is unable to work for more than 7 days, he or she becomes eligible for wage replacement benefits, commonly called wage replacement benefits. The carrier upon receiving notice of the claim may determine that it is not liable for the resulting liabilities and contest its liability, which is referred to as the act of controversion which results in a controverted claim. The carrier expresses its intent to controvert a claim to the WCB on specified forms and electronic formats. The WCB then adjudicates the matter of liability. Whether or not the carrier controverts the claim, certain other matters come before the WCB and are decided in the adjudication process, establishing an average weekly wage, establishing the existence of a workplace injury, the appropriateness of medical care and treatment, the degree or disability. The extent and timing of hearing and administrative time for much of this can be examined through use of this data set.

After a claim is established and as a consequence of the healing of the injured worker, eventually the WCB will determine the type of injury (legal) that the claimant has suffered, either permanent partial disability (schedule or non-schedule, permanent total disability, temporary total disability or death.

Based on the full extent of the carrier liability for indemnity payments can be determined and results in an Award. Any award will account for payments made before the time of the WCB determination of type of injury.

In any event, the injured worker is always entitled to medical care and treatment for the workplace injury, subject only to the WCB rules that establish appropriate medical treatment for injured workers.

EDI (Electronic Data Interchange)

In 2013, the Board began conversion of administrative filings to the Electronic Data Interchange (EDI) format, adopting the data standard promulgated by the International Association of Industrial Accident

Boards and Commissions (IAIABC). Enabling regulations (12 NYCRR 300.22) set the mandatory electronic standard, mandatory for all carriers and administrators as of April 23, 2014.

Assembly Claim

Assembly occurs when the Board learns of a workplace injury and assigns the claim a Board claim number. The Board assembles a claim when an injured worker has lost more than one week of work, has a serious injury that may result in a permanent disability, is disputed by the carrier or employer, or receives a claim form from the injured worker (Form C-3) or a notice of claim action from the carrier. The number of assembled claims increased approximately 35% to 165,304 (A-3).

Controverted Claims

In a controverted claim, the insurance carrier or self-insured employer challenges the injured worker's eligibility for workers' compensation benefits. When this happens, a pre-hearing conference is held.¹ The expedited hearing process sets a goal of holding a pre-hearing conference within 30 days and resolving controverted claims within 90 days. The rate of controversy is measured at 90, 180, and 360 days.

Established Claims

Regulations require the Board to issue a decision determining employer liability in all claims involving more than one week of lost time, even if the carrier has accepted the claim and is making payment. The Board also issues such determinations in claims that are assembled where there is no compensatory lost time. To find liability, the Board must determine that there was (1) an accident or occupational disease arising out of and in the course of employment, (2) timely notice given to the employer, and (3) a causal relationship between the work injury or illness and the consequential disability. This is known as ANCR² or ODNCR.³

Claim Resolution

By statute, the Board resolves issues in workers' compensation claims through both formal and informal means. Formal resolution refers to the formal hearing process, in which a workers' compensation law judge receives evidence, hears testimony, decides disputed legal and factual questions, and awards benefits. Informal resolutions do not involve hearings. Decisions are made based on information collected in the electronic case file of the injured worker. Informal resolutions, which include administrative determinations and conciliation, memorialize certain events in a claim that require a Board to make or to propose a decision when there is no significant dispute between the parties. Informal resolutions are proposed by the Board and are not effective if either party objects within 30 days.

¹ Carriers file a Notices That Right To Compensation Is Controverted (includes C-7, FROI-04 and SROI-04) to challenge a claim, but the Board's business rules do not treat a claim as controverted unless a qualifying medical form is filed by an authorized health care provider. In many claims, the carrier withdraws the C-7, FROI-04 and SROI-04 or the claimant does not pursue the claim.

² Accident, Notice, and Causal Relationship.

³ Occupational Disease, Notice, and Causal Relationship.

Average Weekly Wage

Indemnity benefits are based on the injured worker's average weekly wage (AWW) in the year prior to the accident, subject to statutory maximum benefit rates. Since July 1, 2010, the maximum benefit rate has been 2/3 of the prior year's statewide average weekly wage (SAWW), as determined by the Department of Labor.

Descriptions of Filtered Views associated with the dataset

In addition to the main tabular dataset, three filtered views were created as examples of the type of sorting that is possible with the raw data:

- **Assembled Claims** - The WCB "assembles" a claim in which an injured worker has lost more than one week of work, has a serious injury that may result in a permanent disability, is disputed by the carrier or employer, or receives a claim form from the injured worker (Form C-3). The Assembled Claims filtered view contains information to answer commonly asked questions about claims assembled by the WCB, such as: How many claims filed with the WCB in a given year were the liability of a certain carrier? What is the average age of injured workers injured in a certain county?
- **Injury/Exposure** - This filtered view provides insight into the nature and cause of injury to New York State employees. Claims from past years are manually reviewed and coded for injury and exposure. More recent claims are coded electronically. This filtered view contains information to answer commonly asked questions about worker injuries, such as: How many injuries of a certain type occurred in a given year? How often are injuries resulting from certain causes controverted by carriers of a certain kind?
- **Claim Process/Resolution** - This filtered view provides insights into the function of the adjudication process of the Workers' Compensation Board. This filtered view contains information to answer commonly asked questions about worker injuries, such as: How many hearings were held for claims of a certain case type in a given year? How often are decisions involving carriers of a certain kind appealed?

Data Collection Methodology

Most of the data is derived from the WCB's electronic data warehouse (EDW) which houses certain key operational data after it has been cleansed and transformed to increase its reliability.

This data set provides information useful in understanding the WCB's contact points through the state.

This data set provides a number of data points that are useful in evaluating workplace injuries in New York and the administration of the Workers' Compensation system. There are [3] main types of data in this dataset.

- First there is demographic data for injured workers, such as age, average weekly wage, and occupation of the injured worker.
- Second, there is information about the nature of the injury, such as accident date, nature of the injury, and cause of the injury.

- Finally, there is information about the results of the claims adjudication process, such as the district the claim was adjudicated in, claim injury type, assembly date.

When a workplace injury occurs there are statutory guidelines that dictate when the employer must report the injury. When the injury is reported to the WCB, since the full implementation of the eClaims system in 2014, the claim will be auto-assembled, a claim is created and unless evidence of sufficient lost time provided closed after a period of time. This is in contrast with the historical paper process within which only claims that had lost time sufficient to trigger indemnity benefits were assembled. Consequently, there is a large increase in assembled claims since 2014, but this has to advantage of now having information about injuries overall and not just injuries with compensable lost time.

Statistical and Analytic Issues

Some stakeholders may only be concerned about one type of data, but rich analysis will be had by combining the various types of data to understand the New York State workers' compensation experience.

The count of claims assembled post WCB reform (after September 28, 2008) excludes claims that were assigned a WCB claim number but for which the Board did not receive sufficient information, despite requests, to take further action. Under the Medical Treatment Guidelines and the eClaims projects, the WCB receives forms on more claims than in years prior to the reform. Claims that have a WCB claim number but are not considered complete by the WCB have been excluded from these counts.

The implementation of Electronic Data Interchange (EDI) by all carriers in April 2014 enables the Board to auto-assemble claims upon receipt of the First Report of Injury (FROI). Now, 94% of assembled claims are auto-assembled. When the carrier learns of the disability event (workplace injury), it must file a FROI with the Board. The higher number of assembled cases beginning in 2014 reflects the effectiveness of EDI, which in turn supports the Board's efforts to monitor and ensure compliance with filing and payment obligations.