

Insurer Impairments and Insolvencies on the Rise

Workers' comp plays a large role as insurance carrier impairments and insolvencies become more prevalent, even as state regulators move more companies into runoff. New data from rating firm A.M. Best show that insurance company impairments climbed to 28 last year in the property and casualty industry, from 21 in 2010. Workers' comp played a significant role



in 11 of the failures reported over the past two years.

The number of failures has been on the rise ever since the economic downturn hit, according to the rating firm. Overall, the total number is up significantly from 2007, when it hit a 43-year low of just five nationwide in property and casualty.

Historically, private passenger auto is the leading line of business in insurer insolvencies, but A.M. Best researcher John Lafayette says that workers' comp now

heads the list, followed by mortgage guarantee insurance. He notes that workers' comp was the principal line of business in 22% of insolvencies and mortgage guarantee in 16%. (See chart below for the list of 2011 impairments.)

2011 Rehabilitations and Liquidations

Aequicap Insurance Company, Florida

Majestic Insurance Company, California

Southern Eagle Insurance Company, Florida

Source: SNL Financial

NFL Players File Workers' Comp Claims

Dementia Sufferers Throw the Flag Against NFL Teams

An applicant attorney representing National Football League players who developed dementia allegedly due to years spent on the gridiron tells *Workers' Comp Executive* that he expects the cases to go to trial either this summer or early fall. Ron Feenberg, attorney with Klein, Rose & Marias, represents roughly 20 players and their families against several teams, including the Kansas City Chiefs, New York Gi-

ants and New England Patriots, in a series of cases that began nearly two years ago.

Continuing debate over workers' comp injuries in the NFL hinges on the effects of cumulative trauma, and in California, whether California has jurisdiction. Defense attorneys argue that retired players file claims at the Workers' Compensation Appeals Board for physical injuries even if they never played for a California team, let alone played a game in California.

The problem, some say, is that Califor-
 "NFL" continued on page 6

Captives and risk retention groups also accounted for a quarter of impairments recorded in 2010 and 2011. Of these 12 impairments, six of the captives' principal line was workers' comp, he notes.

"Overall, about 80% of the companies impaired in 2010-2011 were highly concentrated in terms of line of business and limited geographic areas," Lafayette says. "The primary cause overwhelmingly was insufficient loss reserves and inadequate pricing. That accounted for about a third of all impairments. And over the recent two-year period, insufficient loss reserves

"A.M. Best" continued on page 2

It is 3,971 days since our last lost-time accident.

INSIDE

4th-Quarter Earning Update page 3

Accident Fund Fights Narcotics page 3

Public-Sector Medical Costs Up page 4

Carve-out Program Update page 4

H-Wave Lawsuit page 5

NAIC Numbers page 5

DWC Drops All-or-Nothing Approach to EAMS

In a bid to encourage more members of the California workers' comp community to file documents electronically with the Workers' Compensation Appeals Board (WCAB), the Division of Workers' Compensation (DWC) is dropping a requirement that e-filers forgo all other avenues of submitting documents to EAMS — the state's electronic case management system. The all-or-nothing approach to e-filing put off many in the community, who now welcome the change, but early adopters are concerned that a crush of novice users will disrupt their operations.

At the core of the issue is DWC's policy change to ease restrictions on who can file documents electronically. "[P]arties are no longer required to file all of their forms electronically as a condition of being in the e-forms trial," DWC announced. "In the past, parties who joined the trial agreed not to file fillable Optical Character Resolution (OCR) paper forms in order to receive a logon and password to file directly into EAMS."

DWC still requires parties to undergo training before issuing passwords and logon
 "DWC" continued on page 7

"A.M. Best"

continued from page 1

and inadequate pricing accounted for close to three-quarters of all impairments."

In California last year, the one notable workers' comp carrier failure was Majestic Insurance Company. The California Department of Insurance (CDI) placed Majestic into conservatorship last April when the department said its finances were \$46 million short of mandated levels. CDI pursued and completed a rehabilitation plan that involved a loss portfolio transfer (LPT) with AmTrust Financial Services Inc. (Nasdaq: AFSI). It should be noted that the proximate cause of Majestic's failure, according to the common industry wisdom, was brought about by its former parent

company, Majestic Capital Holdings (formerly CRM Holdings).

That workers' comp is the primary culprit in nearly a quarter of all insolvencies in the P/C industry is not surprising to Tony Diodato, group vice president for A.M.

"The primary cause overwhelmingly was insufficient loss reserves and inadequate pricing."

*—John Lafayette,
A.M. Best*

Best. "Workers' comp is a very difficult line of business. It's a line that is very heavily impacted by the economic conditions," he says. "You have payrolls coming down, you don't have a lot of premium coming in, and it's a very highly regulated line of business in terms of pricing."

Diodato notes some positive developments on the pricing front but says workers' comp is a line of business that is still underpriced. "Right now, with the low interest rate environment, most companies don't have the ability to offset their underwriting from an income point of view to offset their losses. So you're seeing very

high combined ratios, somewhere in the 120s," he adds.

"It's a line of business, because of the tail, that has loss reserves on the books, and when we've done our analysis over the last several years, it is a line of business that is developing adversely, and those are reserves that are going to have to be put up to pay claims in the future," Diodato observes.

Doug Hartz, principal with the Insurance Regulatory Consulting Group, says that this cash flow underwriting is one of the primary indicators of a future insolvency, but he warns that the problems it causes may not be seen for a while. "The lag on this can be fairly extreme," he notes, adding that other signs indicate a company is in more immediate trouble. These include failing to file a financial statement or failing to file an audit or actuarial opinion.

"When you don't see a financial statement, there's usually a reason," he notes. "And that reason usually tends to be that they don't want to file a financial because it shows a trend toward impairment, or it actually shows an impairment or insolvency." ▲

(Filed by Brad Cain in San Francisco)

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CALENDAR OF EVENTS



February 23-24

19th Annual Education Conference, Division of Workers' Compensation, Sheraton Gateway, Los Angeles. For information, call 510-286-7079.

March 5-6

19th Annual Education Conference, Division of Workers' Compensation, Oakland Marriott City Center, Oakland. http://www.dir.ca.gov/dwc/EduConf19/DWC_EducationalConference.html

March 12-13

2012 Annual Meeting and Educational Program, California Self-Insurers Association, Disneyland Hotel, Anaheim. For information, call Phil Millhollon at 925-648-2002.

June 28-July 1

2012 Summer Convention, California Applicants' Attorneys Association, JW Marriott San Francisco Union Square. For information: www.caaa.org

July 11-13

CCWC 10th Annual Conference, California Coalition on Workers' Compensation, Disney Grand Hotel & Spa, Anaheim. For information, call Amy Lai at 916-441-4111.

Workers' Comp Carriers' Financial Results Mixed

Regional and national players in the workers' comp insurance business report fourth-quarter and year-end financials with mixed results. Profits are still being made but not necessarily at the same rate as in past years.

State Compensation Insurance Fund (SCIF) says it lost \$580 million on underwriting last year and that it continues to lose accounts, especially larger ones. As a result, its net earned premium dropped to \$1 billion from \$1.14 billion the prior year.



Losses and loss adjustment expenses also trended down to \$1.18 billion. The carrier once again posted a significant loss in underwriting, including some \$50 million related to its ongoing restructuring.

State Fund's combined ratio is up a point to 158%.

Despite this, it is giving \$50 million back to policyholders in the form of a dividend for the first time in a decade. A controversy developed over the dividend but was later resolved.

The carrier says that despite the added ex-

penditure, it still posted net income in 2011 of \$130 million. Net income is down \$41 million from the prior year after the dividend payment, against a climbing combined ratio.

All of the net income stems from State Fund's return on its sizeable investment portfolio, as it also reported an uptick in its uncollectible premiums to \$98 million for the year. This total is \$18 million more than last year and \$23 million more than budget.

State Fund's board of directors will hear the full story behind these numbers at its meeting later this week.

Pricing Improving

Hartford Financial Services Group (NYSE: HIG) reported a profit for the year of \$662 million, down 61% from 2010. The decline was driven in part by prior-year reserve development to account for higher losses on its workers' comp business.



The company says it boosted its workers' comp reserves for prior years by \$161 mil-

lion. For the 2011 accident year, it says it strengthened its reserves by \$87 million in the fourth quarter, primarily for workers' comp claims. "These increases, which we

"We did see a decline in retention, but we are willing to shed some renewal business to improve margins."

*—Christopher Swift, Hartford
Financial Services Group*

discussed in early December, reflect higher claim frequency on the 2010 accident year in our workers' compensation book and the roll-forward impact on the 2011 accident year," says Hartford's chief financial officer Christopher Swift. But he says that the company's revised estimates appear to be holding.

On the pricing front, Swift reports a positive development. In particular, he notes that renewal pricing on Hartford's middle-

"Carriers" continued on page 6

Accident Fund Program Engages Docs

Proactive Intervention Nips Narcotics

Accident Fund Holdings Inc., parent company of California workers' comp carrier Compwest Insurance Company, is embarking on a new program to rein in overuse of Schedule II narcotics, or opioids as they're called. But rather than dictate prescribing practices of physicians or simply saying "no," as other carriers have, Accident Fund focuses on working with treating physicians to get them to change their treatment regimens, executives tell *Workers' Comp Executive*.

Working through a utilization review vendor, Accident Fund connects practicing physicians with injured workers' treating physicians to discuss use of narcotics and possible alternatives. "It's doctors talking to each other," says Jeff White, director of medical management practice and strategies at Accident Fund. He emphasizes that it's important to use practicing physicians to have peer-to-peer discussion. It's not simply some UR company denying treat-

ment. "It's all in the approach," he says.

Compwest already has a successful narcotic program in place, which works in tandem with Accident Fund's approach. CompWest "was a little bit further ahead in the game," White says.

"It's doctors talking to each other...It's all in the approach."

*—Jeff White,
Accident Fund*

He says that he's from a group health background and came to Accident Fund to identify cost trends. He says that at first he focused on cost, but after linking actual pharmacy records to claims, he realized it was much more than cost.

"[Opioids] are less than 2% of our medical spend, but scripts are going up

10%. Any claim associated with an opioid is four to eight times more expensive and more likely to exceed \$100,000," White says. "There are a lot of people being affected by opioids."

White says Accident Fund has set up a system to flag medical records with heavy narcotic use and then send them to a UR vendor that initiates communication between the treating physician and other one of its doctors. "That's a difficult issue for us to address because it's between the injured workers and the physician at that point," he says. "As soon as the opiates are prescribed, we communicate with the provider to make sure they're educating the injured worker on the drug."

According to Phillip Campbell, vice president of business development for the UR company that reviews Accident Fund claims, it's had an 89% discussion rate and 60%-70% success rate in getting doctors

"Narcotics" continued on page 7

Medical Costs Up for Public-Sector Employers

Public-sector self-insured employers in California saw their future workers' comp liabilities increase last year by \$373 million to \$6.8 billion overall, according to new data compiled by the Department of Industrial Relations, Office of Self-Insurance Plans (OSIP). The increase is almost entirely driven by higher estimated future medical costs, which climbed 8% to \$4.6 billion. Indemnity liability was up \$33 million at \$2.2 billion. These claims are funded by taxpayers in the affected jurisdiction.

In comparison, private self-insured employers experienced a medical inflation rate of 3% for their future medical expenses in 2010. There is a difference between the reports, as public-sector results are reported on a fiscal-year basis and include six months of experience from calendar year 2011.

The annual report on public-sector employers' claims experience shows an overall decrease in the number of cases reported last year — the third year in a row that claim totals declined. Overall, the claims count totaled 119,007 for the 2010-2011 fiscal year as employment totals also dipped below 2 million to 1.9 million statewide. The report

<i>Fiscal Year</i>	<i>Claim Totals at 1st Report</i>	<i>Indemnity Paid at 1st Report</i>	<i>Medical Paid at 1st Report</i>	<i>Average Paid per Claim at 1st Report</i>
2006/2007	116,228	\$135,352,876	\$128,618,664	\$2,271
2007/2008	128,402	\$145,965,626	\$153,476,151	\$2,332
2008/2009	126,029	\$149,097,281	\$161,917,089	\$2,468
2009/2010	121,353	\$150,815,081	\$167,299,744	\$2,621
2010/2011	119,007	\$167,375,696	\$175,412,666	\$2,880

covers public-sector entities such as cities, counties, local fire districts, school systems and joint powers authorities. But the figures do not include workers' comp data for state agencies.

Of claims filed last year, 61,806 are deemed to be medical-only, while 57,201 indemnity cases were reported last year. On these claims, agencies have already paid out \$175 million for medical services and \$167 million on indemnity (see chart above for comparisons to prior years). Estimated future costs for these claims are \$470 million and \$268 million, respectively.

Claims closure rate improved slightly last year, with 47% of the claims closed by the time the public entities filed their annual report. In the prior year the closure rate was 46%.

But overall, these entities have 173,585 indemnity cases from all years that are still

open — an increase of 2,141 open indemnity claims from the prior year.

That these claims are staying open longer may be tied to the increase in attorney involvement, which has been a developing trend. Last year, claims administrators were notified that an attorney was involved in 6,991 of the claims opened in 2011. That is, 5.9% of the claims filed last year by public-sector employees involve legal representation. Last year the representation rate on newly opened claims was 5.3% and the year prior it was 4.5%.

Attorneys also are becoming involved in older claims that are still open. In the latest report, 5,543 claimants reported that they are now represented. This is up slightly from the 5,510 that reported representation in 2010 on the older open claims. ▲

(Filed by Brad Cain in San Francisco)

Workers' Comp Carve-Outs Expand Despite Recession

California's alternative dispute resolution (ADR) carve-out programs for workers' comp show the impact of the state's recession, which hit the construction industry especially hard, according to data in two recently released reports. But despite the economic downturn, the number of employers covered by these programs increased in 2010 even as the amount of covered payroll dropped by 42% from 2009. Overall cost of claims did not mirror this decline.

In light of poor economic conditions in the United States, these programs demonstrate much worth — with most claims resolved at remediation.

Initially created for the unionized construction industry through legislation passed in 1993 and later expanded to non-construction employers in 2003, carve-outs allow employers and labor to create alternatives to the traditional workers' comp dispute resolution process. That is, they can create avenues to

resolve disputes through mandatory mediation and arbitration before the claims become mired in the Workers' Compensation Appeals Board process. No lawyers are involved.

These programs are limited through politics to employers with unionized labor forces. So small businesses and groups have been forbidden by the legislature from participating.

Data from a Division of Workers' Compensation (DWC) report on the experience of carve-outs from 2004 through 2009 show that 3,282 claims were filed in 2009 from 23 reporting carve-outs. A 24th program did not report in 2009, as it launched at the end of the year after the data collection period.

Total incurred costs in 2009 came to \$32.5 million, while member employers actually paid out \$16.3 million that year. Both of these totals were down dramatically from 2008, when the respective totals were \$35.1 million and \$62.8 million.

And new data from the Commission on

Health and Safety and Workers' Compensation (CHSWC) show that these incurred and paid costs declined further in 2010 even as more unionized employers became covered by the programs.

CHSWC's report shows 2,723 claims were filed under 24 carve-outs in 2010. While the number of carve-out programs was steady, the number of employers covered increased from 876 to 1,177. Both reports count 20 construction industry carve-outs and four non-construction programs.

Carve-out programs incurred \$29.3 million in costs in 2010 and paid out \$13.1 million on claims that year.

For all programs, the average paid per claim in 2010 was \$4,819, down from \$4,978 in 2009. Breaking these costs down, the average paid for medical services was \$1,934 in 2010 compared to \$2,160 in 2009. But paid costs for temporary and permanent dis-

"Carve-Out" continued on page 8

Utilization Review Dispute Leads to Defamation Claim

Was it effective utilization review or unfair restraint of trade? That's a central question in a lawsuit now pending between the maker of an electronic medical device used for treating pain and one of the California workers' comp system's largest providers of utilization review services.

Disputes over proposed treatments for injured workers have been on the rise since the reforms adopted evidence-based medical treatment guidelines and handed employers new tools to enforce them. But this case allegedly rises above normal questions about medical appropriateness.

Electronic Waveform Lab, Inc., the Huntington Beach-based manufacturer of the H-Wave electronic stimulation machine, is suing EK Health Services and several of its UR doctors for routinely denying coverage for the treatment when prescribed for treating injured workers. They also claim that several of the UR doctors have gone beyond their UR responsibilities and made defamatory remarks about the product to physicians prescribing the treatment.

A Los Angeles-area judge recently allowed the case to proceed after denying a motion by EK to strike the complaint. The case was originally filed late last summer and the plaintiff seeks a jury trial along with un-

specified damages.

While the case is limited to the dispute between the manufacturer and the reviewer, it could have wide-ranging implications for injured workers around the state. Among EK's workers' comp carrier clients is State Compensation Insurance Fund (SCIF), still the state's largest workers' comp carrier with approximately 16% of the market.

"EK and its reviewers have conspired to deny requests for H-Wave treatment in almost every instance, to prevent Plaintiff from engaging in commerce and to injure its business," attorney Nick Roxborough argues in the complaint. "Since at least late 2009, EK's Reviewers have continuously engaged in a pattern and practice of denying H-Wave, and continue to deny it by approving less than five percent (5%) of the requests. This is alarming when compared with an average approval rate of more than fifty five percent from four other known UR companies."

It is unclear at this time if these denials on behalf of State Fund are being made at its direct request or if EK is acting unilaterally in its interpretation and application of the medical treatment utilization schedule. EK did not respond to requests for comment and State Fund declined to answer the question. "This is active litigation involving one of our

vendors, so we are unable to comment further," says SCIF spokeswoman Jennifer Vargen.

"More than one doctor has been berated for prescribing H-Wave and told that they can expect their reputation to suffer."

*—complaint against
EK Health Systems*

The case allegedly expanded from a mere coverage dispute to one of defamation when at least six of the reviewing physicians contacted the prescribing physicians. "More than one prescribing doctor has been told that H-Wave will never be approved. More than one doctor has been berated for prescribing H-Wave and told that they can expect their reputation to suffer," the complaint alleges. "Defendants have also resorted to defaming both the H-Wave device and Plaintiff's fitness as a business."

Electronic Waveform seeks unspecified general and punitive damages in the case. No trial date has been set. ▲

(Filed by Brad Cain in San Francisco)

California Comp Returns Higher Than National Average

Workers' comp carriers in California turned the corner in 2010 and posted a 5.2% return on their overall net worth, according to a new review of data reported to the National Association of Insurance Commissioners (NAIC). The return extended the state's run to six straight years for exceeding the national average return on net worth for workers' comp carriers.

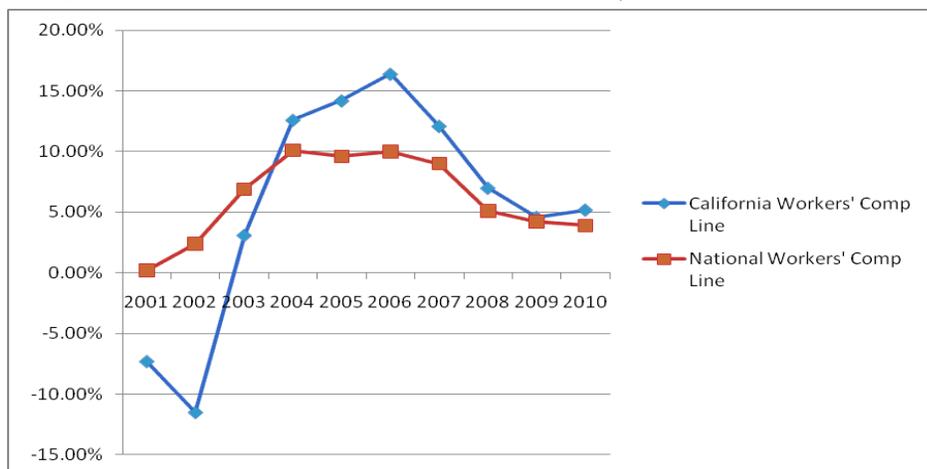
In a new analysis of the data, the California Workers' Compensation Institute (CWCI) notes that the state's workers' comp industry is now tied for 18th out of 46 states that operate without a monopolistic state fund. In 2009, California ranked 25th with a 4.6% return on net worth. California's industry peaked in 2006 with a return of 16.4%.

Nationwide, the average return on net worth for workers' comp in 2010 was 3.9%.

Overall, the 10-year average return in California was 5.6% for the workers' comp line and 9.2% for all lines. Nationally, the averages were 6.1% and 7.1%, respectively.

The 10-year chart below illustrates the volatility of the market from the pre- and post-reform periods. ▲

(Filed by Brad Cain in San Francisco)



“NFL”

continued from page 1

nia is one of a handful of states where an injured worker can file a cumulative-trauma case. The battering they took during their careers, it’s argued, causes cognitive dysfunction, including dementia and encephalopathy suffered by former NFL players.

“My argument is that teams are saying we signed this compromise and release for X number of dollars. But how can you release from a condition you didn’t know about [and] how can you release from a condition medical science didn’t know about?”

—Ron Feenberg,
Rose, Klein & Marias

10,000 Hits a Year: Is It Work-Related?

Feenberg says that what’s taken these cases so long to get to this stage is that dementia has a long latency period. Many players who played in the 1970s, 1980s and 1990s only now show signs of dementia. The challenge for his clients is to prove that high-velocity impacts can cause dementia, and not just hits to the head but to the body, too.

“I have to plead based on the exposure. I have to identify the team and the insur-

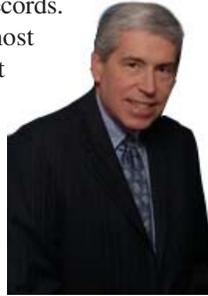
ance company in the 1970s and then get the medical records.

That has been the most time-consuming part of this,” Feenberg says. According to him, two of those companies are Argonaut and Travelers Insurance.

He notes that there have been procedural challenges on jurisdiction but says that he has intentionally avoided taking any cases where there is no California jurisdiction. One of his clients who played for a non-California team also played three and a half years with the San Diego Chargers. “If they haven’t played here, I think I’d take the side of the defense,” Feenberg says.

Dementia among NFL players is also rearing its head at a federal level in a series of lawsuits filed by players earlier this month and consolidated in Pennsylvania. The suits allege that the NFL, among other things, concealing the true risks of repeated traumatic brain and head impacts and did nothing to prevent them.

Feenberg says that he wants a finding that these conditions are work-related but that no one to date has come forward to admit it’s work-related or come forward with a settlement. No one, he says, has denied it, either: “[The defense] hasn’t disputed the de-



Ron Feenberg

mentia, [and] nobody has said [this player] got this because of an automobile accident.”

Many Signed Compromise and Release

Feenberg does expect a challenge on any compromise and release these players might have signed years ago. “I more than expect it. My argument is that teams are saying we signed this compromise and release for X number of dollars. But how can you release from a condition you didn’t know about [and] how can you release from a condition medical science didn’t know about?”

Feenberg says some of his clients have died from their conditions and those who are living are in such an advanced state of dementia they are not even aware of who they are: “They don’t even know they played football. You could hold up a card or a photo of the player and he wouldn’t know what you were doing, let alone that that he’s the one on the card.”

Defense attorneys tell *Workers’ Comp Executive* that, like any workers’ comp claim, the applicant has to prove that it was work-related.

“Just like any other workers’ comp case, they have to prove causation,” says Tim Peterson, attorney with Peterson, Colontani, Collins & Davis. “When a C&R can bar them, those are all arguments that will be made.” ▲

(Filed by Bess Shapiro in Sacramento)

“Carriers”

continued from page 3

market workers’ comp business was up 10% in the final quarter of 2011. “We did see a decline in retention, but we are willing to shed some renewal business to improve margins,” he told investors during a conference call.

American Financial Group (NYSE: AFG), parent of Republic Indemnity, also saw pricing improve last year, but more is still needed, say its executives.



American co-CEO Carl Lindner says the company achieved roughly an 8% increase in pricing last year between new-business pricing and renewal pricing.

“I think we need another 10% in price in order to get to 104 combined ratio or a 12% to 14% return on equity range,” he told investors, noting that Republic is running a combined ratio of around 114. “It continues to be more of a competitive market than I would have thought, with industry results at 130 in 2010, and probably I would think the industry might still be 125 if I were to put a guess on 2011 accident year.”

In American’s claims experience in California, Lindner noted that over the past several years, frequency is up slightly, in the range of 3% to 4%. But severity is largely flat during the same period. “There’s noth-

ing there that really concerns us. We feel our reserves are adequate on our California workers’ comp business,” he says.

Lindner offered these comments as American announced that it recorded full-year net operating earnings of \$364 million. This is down 16% from the prior year as low interest rates continue to hamper returns. For the fourth quarter, the drop-off was less. It reported core net operating earnings of \$106 million compared to \$111 million at the end of 2010 — only a 5% decline. ▲

(Filed by Brad Cain in San Francisco)

“DWC”

continued from page 1

IDs, but afterward they will have access to all of the filing forms — electronic, OCR or the new Jet file system. The latter system was developed to allow high-volume filers to batch-file six of the most commonly used forms through a new electronic portal.

[P]arties are no longer required to file all of their forms electronically as a condition of being in the e-forms trial.”

— DWC

When EAMS was being designed and developed in 2008, the system was billed as a way to streamline the process for handling case files, setting hearings and serving deci-

sions and awards. The system — designed and built by Deloitte Consulting — also promised to increase access for parties while saving time and money for all involved. It was a major debacle and created a bigger boondoggle in the court system and had failures, including ill-considered licensing issues.

That hasn't exactly been the reality, as restrictions on e-filers severely hampered participation. DWC says there are only 800 participants in the e-filing trial, but that number is likely to increase with this move, and that leaves some optimistic and others worried.

“We are not EAMS participants, and one of the main reasons is the EAMS-or-nothing approach,” says Richard Jacobsmeyer, partner with defense firm Shaw, Jacobsmeyer, Crain & Claffey. “We

might very well become EAMS filers if we have more flexibility.”

But others warn that this flexibility could prove troublesome for the administration and e-filers alike.

“Gut reaction? This is going to create a disaster for the administration, as the EAMS system is very poorly designed, inflexible and not user-friendly,” says Gary Lee, EAMS coordinator for the law firm of Boxer Gerson, a participant in the e-filing trial. “If they are going to do this, they will need to vastly revamp their training for new users and modify the system to be more user-friendly. I foresee the administrative offices getting swamped with errors, which could bog down the system.”

Stay tuned.▲

(Filed by Brad Cain in San Francisco)

“Narcotics”

continued from page 3

to change the therapy.

“We don't approach it as this is the right treatment. We just try to get some sense of what's being prescribed and make sure the injured worker understands the long-term effects of the medicine,” Campbell says. “Sometimes the treating physician is looking for help. Maybe they inherited this patient. It might make sense to try some short-acting drugs instead of long-acting drugs.”

White notes that because the program is so new, it's too soon to tell if it's having an impact on opioid prescriptions, but he says it's more about getting injured workers back to work. The program avoids the heavy-handed approach to limiting opioids, keeping in mind that a narcotic may be the best form of treatment in some cases.

“You'd like to see opioids reduced over time, [but] it's just really about having controls in place. It's being addressed with new providers every time. The question is when do you actually step in with those injured workers and start doing detox programs.”

Prium's Campbell says that he estimates the program will save \$200,000 from Accident Fund over 24 months.

CompWest's Program

CompWest has been practicing this kind of medicine since 2009 through its pharmacy benefit manager. Any medication that uses a particular formulary is not automatically approved, says Rob Shatsnider, claims officer for CompWest.

“It's usually the same docs over and over again. We may authorize that first fill, but then we immediately jump on the doctor.”

—Rob Shatsnider,
CompWest

“It allows us to talk to the physician to see if there are other drugs that can be prescribed,” he says, adding that CompWest might allow the first fill because an injured worker is in pain, but after that efforts are made to try alternatives.

“We'll ask, ‘What are you doing? Have you thought of doing it this way?’” Shatsnider says.

Thanks to its program, he says that CompWest has compiled a list of physicians who frequently prescribe narcotics. The company tries to take a proactive

approach and talks to some of these doctors when they're not treating an injured worker. “This way we're not preventing the use of a narcotic because the doctor didn't prescribe it,” Shatsnider says. “It's usually the same docs over and over again. We may authorize that first fill, but then we immediately jump on the doctor.”

Shatsnider notes that it's usually physicians outside of CompWest's medical provider network who prescribe the most opioids. The problem with letting injured workers go too long on narcotics is the distinct possibility of having to wean them off narcotics. “You can't have them performing a job function on that narcotic. Sometimes you can't even let them drive,” Shatsnider says.

As for savings, Shatsnider says that's not really the focus of the program. Like its parent company, CompWest is really more concerned about getting injured workers back to work. The total cost of medical charges hovers near 70% of a file. “Elimination of unnecessary medical care is a result of return to work. However, cutting back on the use of narcotics helps in getting the injured worker back to work faster,” he says. ▲

(Filed by Bess Shapiro in Sacramento)

“Carve-Out”

continued from page 4

ability increased slightly in 2010. Average temporary disability payments climbed from \$2,610 to \$2,623, while the average permanent disability payment increased to \$134 from \$125.

Incurred costs also declined in total in 2010, but CHSWC’s data show that the average incurred per claim actually increased due to higher incurred medical expenses. Overall, the average incurred in 2010 was \$10,778 per claim, compared to \$9,916 in 2009. Incurred medical averaged \$6,191 in 2010, up significantly from an average of \$4,869 the prior year. Incurred temporary

	2004	2005	2006	2007	2008	2009	2010
Reporting Programs (total)	13	16	20	20	23	23	24
Claims Resolved at Mediation	20	29	71	71	118	59	54
At Arbitration	7	6	26	15	19	12	3
At WCAB	5	5	7	12	1	5	4
At Court of Appeal	0	2	0	0	0	0	0

disability costs decreased slightly from \$3,813 to \$3,716, and permanent disability did the same — dropping to \$614 from \$1,057 in 2009.

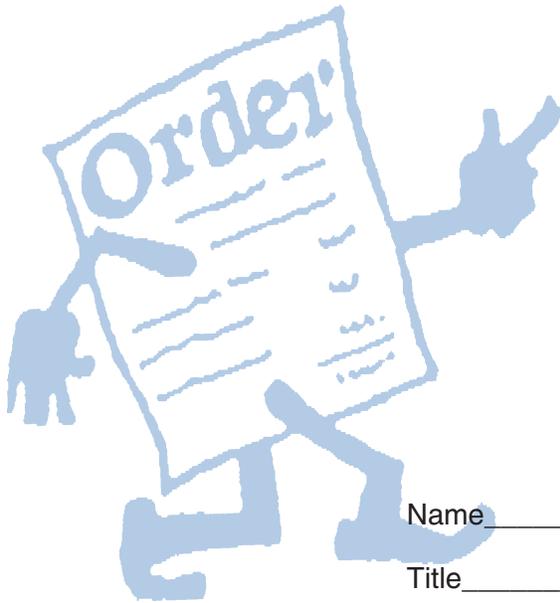
Beyond the cost data, the reports shed light on the relative success of the programs at resolving disputes quickly before they end up before WCAB, which is their raison

d’être. The chart below illustrates carve-out performance in this area since eligibility was expanded to non-construction industry employers.

 [Click here](#) for a copy of DWC’s report, also available in our resources sections.▲

(Filed by Brad Cain in San Francisco)

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