

ILLINOIS INDUSTRIAL COMMISSION FY99 ANNUAL REPORT



George H. Ryan, Governor
John W. Hallock, Jr., Chairman

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The cover depicts the Commission's 34 arbitration hearing sites, located throughout Illinois, which provide injured workers and their employers with easy access to the workers' compensation system. Web site: www.state.il.us/agency/iic

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Dear Governor Ryan,
Members of the General Assembly, and
Citizens of Illinois:

On behalf of the entire Industrial Commission, we are pleased to submit this annual report. The workers' compensation program in Illinois is improving: costs are down, our process is more efficient, and our pending caseload is falling.

We will continue to work together to serve the employers and employees of Illinois. We ask for your support and participation in this effort.

Richard Gilgis, Commissioner

Barbara A. Sherman, Commissioner

Jacqueline A. Kinnaman, Commissioner

Diane Dickett Smart, Commissioner

Michael L. Weaver, Commissioner

Douglas F. Stevenson, Commissioner

John W. Hallock, Jr., Chairman

Janice Montoya, Assistant Secretary

A R B I T R A T O R S

Peter Akemann	Tony Erbacci	Kathleen Hagan	Edward Lee	Joseph Reichart
Bernard Barasa	Robert Falcioni	Leo Hennessy	Stephen Mathis	Ray Rybacki
Brian Cronin	Joann Fratianni	Douglas Holland	Neva Neal	Calvin Tansor
John Dibble	Gilberto Galicia	Milton James	Valerie Peiler	Ruth White
Thomas Dillon	James Giordano	David Kane	Joseph Prieto	Robert Williams

HIGHLIGHTS

- After adjusting for inflation, the 2000 advisory rate for workers' compensation insurance in Illinois actually represents a 28% *decrease* since 1989.
- After 12 straight years of increasing backlogs, the Commission has reduced the number of cases pending for four years in a row.
- In Illinois, the workers' compensation insurance business is profitable and highly competitive. Nearly 400 carriers write workers' compensation policies in Illinois, more than any other state. Illinois also has a smaller residual market and a higher profit on premiums than most states.
- Employers can dramatically reduce their workers' compensation costs by taking steps to prevent accidents. Costs vary more within a state than from state to state.
- Proportionately, Illinois spends less on the administration of the workers' compensation program than nearly every other state in the country. Given its limited resources, the Commission does well with little.

MISSION STATEMENT

The Industrial Commission was created to resolve 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) *Resolve disputes.* The Commission strives to provide a fair, timely process by which disputed claims may be resolved.
- 2) *Ensure compliance with the law.* The Commission protects the rights of employees and employers under the Illinois Workers' Compensation and Occupational Diseases Acts.
- 3) *Administer self-insurance.* The Commission evaluates and approves eligible employers that wish to insure themselves for their workers' compensation liabilities.
- 4) *Collect statistics.* The Commission compiles information on work-related injuries and diseases.

The Commission intends 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.

BOARD MEMBERS

We are grateful to the individuals who serve on our boards. All serve without compensation.

COMMISSION REVIEW BOARD

The board investigates complaints made against arbitrators and commissioners. The senior labor and business commissioners serve on the board, while arbitrators elect one Chicago and one Downstate arbitrator.

John W. Hallock, Jr., Chairman of Board
Chairman, Industrial Commission

Joseph Reichart
Chicago Arbitrator

Richard Gilgis
Senior Business Commissioner

Ann Marie Walsh
Attorney, Lord, Bissell & Brook

Robert Hanaford
Attorney, Robert H. Hanaford, Ltd.

Ruth White
Downstate Arbitrator

Jacqueline A. Kinnaman
Senior Labor Commissioner

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.

John W. Hallock, Jr., Chairman of Board
Chairman, Industrial Commission

Donald A. Johnson
President, Illinois State AFL-CIO

Curtis C. Beam
Claims Manager, Archer Daniels Midland Co.

Todd Shivers
Attorney, Law Div., Ameritech Illinois

Gerald F. Cooper
Attorney, Scopelitis, Garvin, Light & Hanson

Denean V. Smith
Process Leader, Illinois Power Company

Peter M. Greco
Asst. Corp. Sec'y., Elmhurst-Chicago Stone

WORKERS' COMPENSATION ADVISORY BOARD

The board assists the Commission in formulating policies, setting priorities, and developing administrative goals.

Mark Isaf, Chairman of Board
Asher Smith and Isaf

Donald A. Johnson
President, Illinois State AFL-CIO

Gregory W. Baise
President, Illinois Manufacturers Assoc.

David F. Vite
President, Illinois Retail Merchants Assoc.

James DeLisa
Intnatl. Union of Operating Engineers #399

Dennis R. Whetstone
President, Illinois State Chamber of Commerce

William M. Dickson
Retired attorney

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 this century, employers feared the assumption of liability for work-related injuries would destroy their businesses, while workers feared financial ruin from disabling injuries.

Before the laws took effect, 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.

In court, 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 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. Great Britain's law in 1897 was the prototype for U.S. laws.

The U.S. was slow to enact laws, which 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 death 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 the states to enact some form of workers' compensation, and the provisions of the laws vary considerably.

Workers' compensation laws represent a deal struck between the employee and employer with two tradeoffs:

1. Employees gave up their right to sue and potentially win large awards in court in exchange for more modest but prompt compensation;
2. 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 Illinois act. The volume overwhelmed the courts, however, and 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.

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.

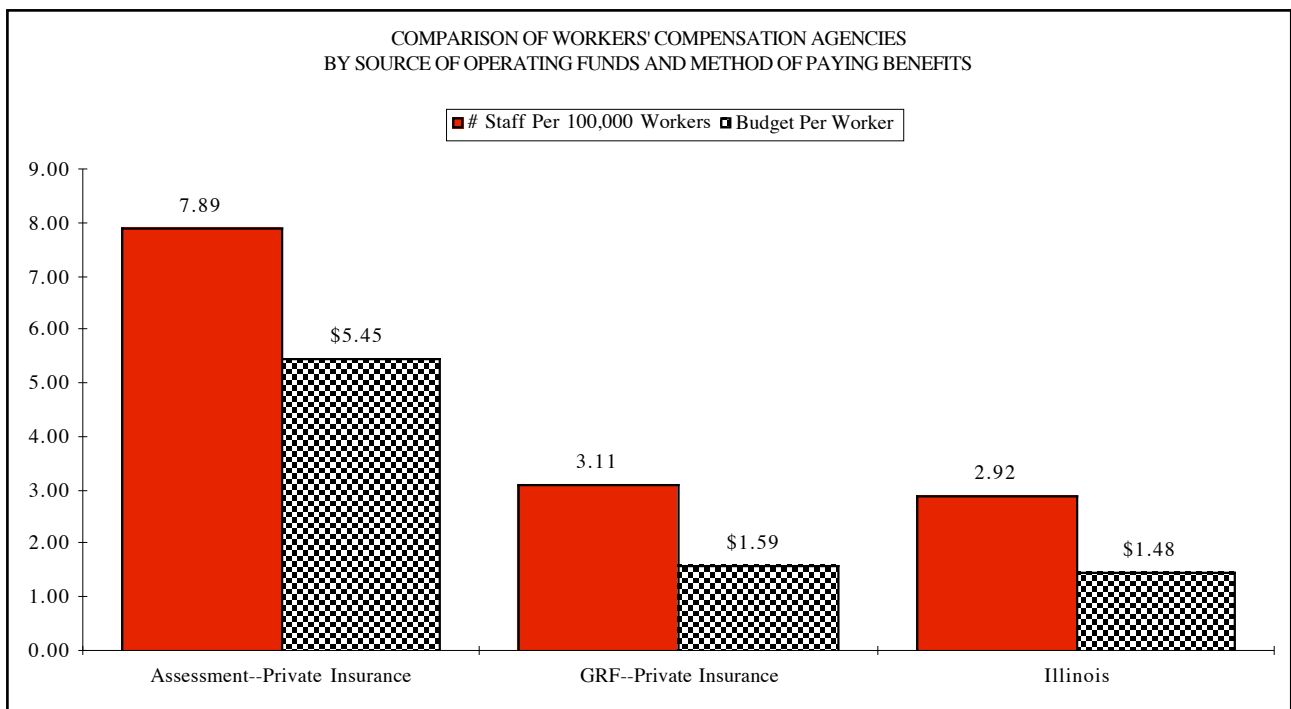
Illinois employers pay for workers' compensation benefits through insurance policies or by self-insurance. Benefits are based on the worker's earnings, subject to certain limits, and are made regardless of need. Cases are first heard by arbitrators, whose decisions may be appealed to commissioners. If warranted, cases may proceed on to the circuit court, Illinois Appellate Court, and the Illinois Supreme Court. Most cases, however, are settled between the parties.

FINANCES

Illinois is one of only a handful of states in the country that appropriate General Revenue Funds for the administration of their workers' compensation programs. Most states fund their workers' compensation agencies through assessments of various sorts, usually on insurers and self-insured employers.

A joint business and labor panel created by the National Council of State Legislatures has encouraged the remaining states to consider the establishment of independent funding sources, and recommended that states levy assessments against premiums or benefits paid.

In a U.S. Department of Labor study, Illinois' budget per worker ranked 42nd out of 45 states for which information was available. As the graph below shows, assessment-funded state agencies have considerably more resources than GRF-funded states, and most GRF-funded states have more resources than does Illinois.¹



The cost of administering Illinois' workers' compensation program is modest. Since 1975, the number of new cases filed each year has increased 71%, while its headcount increased by 29%, and expenditures (adjusted for inflation) have increased 24%.

ILLINOIS INDUSTRIAL COMMISSION
EXPENDITURES
(In \$millions)

Fiscal Year	Operating Expenditures	Expenditures Adjusted for Inflation	Headcount At End of Year	New Claims Filed
75	\$2,556.7	\$1,622.3	131	40,177
80	3,245.6	1,322.0	160	76,989
85	5,061.9	1,573.0	185	54,247
90	6,556.8	1,666.3	146	65,137
95	8,444.0	1,836.1	164	71,737
99	10,184.3	2,010.8	170	68,891

SPECIAL FUNDS

The Commission manages seven special trust funds that are independent of the General Revenue Fund.

BALANCES OF SPECIAL FUNDS AS OF JUNE 30, 1999

	<u>Starting Balance</u>	<u>Income Received</u>	<u>Expenditures</u>	<u>Adjustments</u>	<u>Ending Balance</u>
GROUP SELF-INSURERS INSOLVENCY FUND	\$473,884	\$106,031	0	0	\$579,915
RATE ADJUSTMENT FUND	(\$5,446,939)	\$8,142,893	\$8,692,547	0	(\$5,996,593)
SECOND INJURY FUND	\$374,842	\$1,021,857	\$1,127,623	0	\$269,076
SELF-INSURERS ADMINISTRATION FUND	\$409,655	\$469,413	\$322,799	(6,821)	\$549,448
SELF-INSURERS SECURITY FUND	\$238,176	\$3,478,422	\$2,069,289	\$83,422	\$1,730,731
TRANSCRIPT DEPOSIT FUND	\$16,626	\$13,720	\$15,365	0	\$14,981
WORKERS' COMPENSATION BENEFIT TRUST FUND	\$1,020,843	\$58,327	\$913,356	(\$1,551)	\$164,263

GROUP SELF-INSURERS INSOLVENCY FUND

The Group Self-Insurers Insolvency Fund was created in 1983 to pay benefits to employees of bankrupt group self-insurers. Employers in the group self-insurance pools pay 0.5% of their workers' compensation payments into the fund on January and July of each year.

If the available balance falls below \$1 million and the fund is unable to pay benefits due, the Director of Insurance may order a special assessment. If the available balance in the fund reaches \$2 million, assessments are waived. The fund has maintained a desirable balance, and no payments have ever been made.

Because the Illinois Department of Insurance regulates group self-insurers (the Commission regulates individual self-insurers), both agencies agree that responsibility for this fund should transfer to DOI. Legislation has been introduced.

See Illinois Compiled Statutes, Chapter 820, Paragraph 305, Section 4a.

RATE ADJUSTMENT FUND

The Rate Adjustment Fund was created in 1975 to pay cost-of-living increases to roughly 1,400 individuals who are either permanently and totally disabled or the survivors of fatally injured workers. Individuals who receive an award or settlement for a permanent and total disability or death are eligible.

Benefits are paid each month, beginning on July 15 of the second year after the award or settlement is entered by the Commission. Recipients are given an amount equal to the percentage increase in the statewide average weekly wage, as calculated by the Department of Employment Security. If there is a decrease in the statewide average weekly wage, there is no change in the compensation rate.

Twice each year, self-insured employers and insurance companies pay an amount up to 3/4 of 1% of all indemnity payments paid in the six-month period preceding the payment date.

The assessment rate was increased in 1996 to offset the fund's growing deficit. As reported elsewhere, there has been a decline in the number and severity of work-related accidents. This is good news, of course, but it has reduced the base on which assessments are made. As a result, income to the RAF has been below projected levels, and the fund has not recovered as expected.

See Illinois Compiled Statutes, Chapter 820, Paragraph 305, Section 7.

SECOND INJURY FUND

The Second Injury Fund provides an incentive to employers to hire disabled workers, but 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 to the extent that he or she is permanently and totally disabled, 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 benefit.

Approximately 120 individuals receive SIF benefits. In January and July each year, insurers and self-insured employers pay assessments up to 1/8 of 1% of all compensation payments made during the previous six months.

See Illinois Compiled Statutes, Chapter 820, Paragraph 305, Sections 7-8.

SELF-INSURERS ADMINISTRATION FUND

The Self-Insurers Administration Fund was created in 1988 to pay the administrative costs of the Commission's self-insurance program. Private self-insured employers pay a fee of \$500 per entity when applying for or renewing the self-insurance privilege.

See Illinois Compiled Statutes, Chapter 820, Paragraph 305, Section 4a-6.1.

SELF-INSURERS SECURITY FUND

The Self-Insurers Security Fund was created in 1986 to pay benefits to employees of private self-insurers who went bankrupt 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.

See Illinois Compiled Statutes, Chapter 820, Paragraph 305, Section 4a-5, 6.

TRANSCRIPT DEPOSIT FUND

The Transcript Deposit Fund was created under the State Finance Act. When a case is appealed to the circuit court, the fund receives \$35 from the appealing party and pays this fee to Commission court reporters for preparing the files.

WORKERS' COMPENSATION BENEFIT TRUST FUND

Created under the State Finance Act, the Workers' Compensation Benefit Trust Fund pays benefits to employees of private self-insurers who went bankrupt before 1986. Benefits are paid from securities posted by the self-insurers; any unused funds are then returned to the bankrupt estate.

INSURANCE

The 290,457 private and public employers in Illinois are responsible for the payment of benefits to injured workers; employers must either purchase insurance or obtain the Commission's approval to self-insure.

INSURANCE

The workers' compensation insurance business in Illinois is healthy and highly competitive. In 1997, 396 carriers wrote workers' compensation policies in Illinois' diversified market, more than any other state.² Illinois insurers writing workers' compensation policies in 1997 experienced a 25% profit on premiums, or \$386 million in profits.³

Since 1983, Illinois has allowed insurance companies to set their own premium rates. This is often credited as a factor in keeping Illinois' costs below the national average. While Illinois carriers are free to set their own rates, the National Council on Compensation Insurance, a private organization, issues advisory rates.

After years of increases, the advisory rates have dropped significantly, despite continuing inflation and a growing workforce. Both the number and the severity of work-related accidents have declined. As the following chart shows, a premium of \$100 in 1989 would cost only \$101.57 in 2000. After adjusting for inflation, the 2000 rate actually represents a 28% decrease since 1989.⁴

NCCI ADVISORY INSURANCE RATES
FOR ILLINOIS
COMPARED TO THE CONSUMER PRICE INDEX

CPI 1967=100

Effective Date	-----ILLINOIS RATES-----		-----CONSUMER PRICE INDEX-----	
	Percentage Change From Previous Year	Scale	Percentage Change From Previous Year	Scale
1/1/89		\$100.00		\$100.00
1/1/90	10.0%	110.00	4.6%	104.60
1/1/91	8.5%	119.35	6.2%	111.09
1/1/92	9.1%	130.21	3.0%	114.42
1/1/93	5.7%	137.63	3.0%	117.85
1/1/94	9.6%	150.85	2.7%	121.03
1/1/95	-6.8%	140.59	2.7%	124.30
1/1/96	-13.6%	121.47	2.6%	127.53
1/1/97	-10.1%	109.20	3.3%	131.74
1/1/98	-7.9%	100.57	1.7%	133.98
1/1/99	-0.2%	100.37	1.9%	136.53
1/1/00	1.2%	101.57	2.9%	140.46

Employers that are unable to purchase workers' compensation insurance on the open market may buy it through the residual market. As conditions in workers' compensation have improved, the assigned risk pools have shrunk significantly, indicating the ease with which employers may obtain workers' compensation insurance. In 1997, only 4.3% of Illinois premiums were in the residual market, down from 12.6% in 1993. The proportion in the rest of the country is over six times higher.⁵

INSURANCE COMPLIANCE PROGRAM

Illinois law requires employers to insure themselves for their workers' compensation liabilities, but a small percentage of 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 an employer knowingly and willfully fails to obtain insurance, it may be fined up to \$500 for every day of noncompliance. Since the insurance compliance program began in 1996, the Commission has levied roughly \$1 million in fines while providing workers the proper legal protection and other employers a more fair competitive arena.

BALANCE BILLING

By law, employers are responsible for the payment of all medical services reasonably necessary to cure or relieve the injured worker from the effects of the injury. In some cases, however, the medical provider or insurer will try to get the injured worker to pay any unpaid balances of medical bills.

The Illinois Department of Insurance prohibits insurance companies from this practice, called balance billing. A IDOI publication stated, "It is our position that disagreements between the workers' compensation carrier and the health care provider should be settled without interjecting the injured worker into the dispute...Insurance companies that make a practice of allowing injured employees to pay the cost of disputed claims will therefore be cited for an unfair claims practice and be asked to reimburse the injured employee for out-of-pocket expenses." ⁶

SELF-INSURANCE

Employers may insure themselves for their workers' compensation liabilities. Private employers may insure themselves individually or join a pool with other employers. Public employers may self-insure without obtaining approval. The Industrial Commission evaluates individual self-insurers, while the Illinois Department of Insurance evaluates groups. Self-insurers pay roughly one-fourth of benefits paid in Illinois.

As the cost of conventional workers' compensation insurance has fallen, employers have chosen to purchase traditional insurance plans, and the number of applications for self-insurance has fallen.

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

<u>Date</u>	<u># Parent Companies</u>
6/30/95	496
6/30/96	449
6/30/97	439
6/30/98	394
6/30/99	382

ADMINISTRATION

At the end of FY99, the Industrial Commission consisted of the chairman, six commissioners, 170 Commission employees, and seven employees in the Self-Insurance Division.

CHAIRMAN'S OFFICE

John W. Hallock, Jr., Chairman Headcount: 4

Working in the Chairman's Office are Linda Freeman, administrative assistant; Gary Gale, executive director; Kathryn Kelley, legal counsel; and Dirk May, legislative liaison.

FISCAL OFFICE

Charles Kusar, Manager Headcount: 9

The unit maintains the Commission's budget, manages the appropriations process, administers the Commission's seven trust funds, and handles payroll and purchasing.

HUMAN RESOURCES

Rebecca Loredoz Paz, Manager Headcount: 2

This office handles all personnel transactions and benefit programs.

INSURANCE COMPLIANCE

Robert M. Harris, Manager Headcount: 4

This unit enforces the law that requires employers to have workers' compensation insurance.

JUDICIAL DIVISION

Mary Ann Rohrback, Judicial Coordinator Headcount: 84

Arbitration Bertha Parker, Coordinator

Arbitrators conduct hearings, issue decisions, and approve settlements of cases. Thirteen arbitrators work in the Chicago office, while another 15 arbitrators travel to 33 downstate hearing sites. The support staff set schedules, conduct legal research, and provide clerical support.

Commission Greg Dollison, Coordinator

Two 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.

The staff attorneys analyze and summarize cases, and draft decisions and orders; the administrative assistants schedule cases, manage cases pending oral argument, and provide clerical support.

Court Reporting Marvin Goins, Supervisor

Court reporters record hearings and produce typewritten transcripts of Commission hearings.

MANAGEMENT INFORMATION SYSTEMS

Terry W. Spurlin, Manager

Headcount: 11

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

OPERATIONS DIVISION

Janice Montoya, Operations Manager/Assistant Secretary

Headcount: 53

Central Files

Walter Bennett, Supervisor

Employees maintain the case files, coordinate correspondence with the downstate arbitrators, and provide copies of case records to the public.

Data Entry

Lether Scott and Sharon Clarke, Supervisors

This unit enters data relating to cases, and types the decisions of arbitrators and commissioners.

Docket

Henriett Smith, Supervisor

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

Emergency Hearings (19(b-1)) Supervisor position is currently vacant.

This unit manages cases filed under Section 19(b-1) of the Act, which outlines the process by which emergency cases are to be handled within 180 days.

Information

Jeanie Thompson, Supervisor

Employees in four locations handle nearly 90,000 telephone calls each year. They explain procedures, distribute informational materials, and prepare summons for the circuit courts.

Mail Room

Velma Ephriam, Supervisor

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

Reception

Alice Thompson

The receptionist directs visitors and telephone calls to their proper destinations.

Review

Bessie Mims, Supervisor

The unit maintains files for cases on review and schedules oral arguments.

Transcript

Annis McMorris, Supervisor

This section tracks transcripts throughout the hearing process.

RESEARCH AND EDUCATION

Susan Piha, Manager

Headcount: 2

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

SELF-INSURANCE DIVISION

Maria Sarli-Dehlin, Manager

Headcount: 7

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

STATISTICS

Illinois law directs the Industrial Commission to compile information from employers' reports of accidents and publish the data each year. Due to a lack of resources, however, the Commission is unable to do so. After the legislature made a special appropriation in 1989, we designed an accident reporting system, but subsequent statewide financial problems prevented the Commission from receiving the funds to fully operate the system.

In response, we invited insurance companies and self-insured employers to send us the accident reports electronically. Electronic transmission is considerably less expensive than the labor-intensive data entry of paper forms. The International Association of Industrial Accident Boards and Commissions gave Illinois an award for being the first state to operate an electronic reporting system.

At present, we receive the *First Report of Injury* electronically for roughly one-tenth of accidents. We encourage more insurance companies and self-insurers to participate in the program.

Until reliable accident information is available, the Commission will continue to report information that is available from the case management system. There are approximately 400,000 work-related accidents in Illinois each year, while roughly 70,000 claims are filed with the Commission; the statistics in this section refer only to those cases that are filed with the Commission.

ACCIDENT

Part of body injured. Relying on a random sample of 25,000 cases that were filed with the Commission, the following chart gives a general sense of the parts of the body that were injured.

	PART OF BODY INJURED BY FISCAL YEAR OF ACCIDENT			
	<u>FY99</u>	<u>FY98</u>	<u>FY97</u>	<u>FY96</u>
Head and neck				
Eyes	1%	1%	1%	1%
Head--other parts	3%	2%	3%	3%
Neck	4%	4%	4%	4%
Trunk				
Back	20%	20%	19%	20%
Shoulder	5%	5%	5%	5%
Not specified	2%	2%	2%	2%
Upper extremities				
Arm	8%	8%	9%	9%
Finger	6%	6%	7%	7%
Hand	12%	12%	14%	14%
Not specified	3%	2%	2%	2%
Lower extremities				
Foot	6%	5%	6%	5%
Knee	5%	5%	6%	6%
Leg	7%	7%	7%	7%
Toe	<1%	<1%	<1%	<1%
Not specified	1%	1%	2%	1%
Body systems	<1%	<1%	<1%	<1%
Multiple parts	18%	19%	16%	15%

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.

Relying on a sample of 25,000 cases that were filed with the Commission, the following table groups the 1,200 cities and towns in Illinois by the hearing sites to which the claims were assigned, and gives a sense of where accidents occur.

LOCATION BY FISCAL YEAR OF ACCIDENT				
	<u>FY99</u>	<u>FY98</u>	<u>FY97</u>	<u>FY96</u>
Chicago	46%	44%	44%	43%
Downstate	54%	56%	56%	57%
Alton	1%	2%	1%	1%
Belleville	2%	3%	2%	3%
Benton	1%	1%	1%	2%
Bloomington	3%	2%	2%	2%
Carlinville	<1%	1%	<1%	<1%
Carlyle	1%	1%	1%	1%
Clinton	<1%	<1%	<1%	1%
Danville	1%	1%	1%	1%
Decatur	2%	2%	2%	2%
De Kalb	1%	1%	1%	1%
Galesburg	1%	1%	1%	1%
Galva	<1%	<1%	<1%	<1%
Geneva	3%	4%	4%	4%
Granite City	1%	1%	1%	1%
Jacksonville	1%	1%	1%	1%
Joliet	4%	3%	3%	4%
Kankakee	1%	1%	1%	1%
Lawrenceville	<1%	1%	1%	1%
Marion	1%	1%	1%	1%
Mattoon	2%	2%	2%	2%
Mt. Vernon	<1%	1%	1%	1%
Ottawa	1%	1%	1%	1%
Peoria	3%	4%	4%	3%
Quincy	1%	1%	1%	1%
Rock Falls	1%	1%	1%	1%
Rock Island	1%	1%	1%	1%
Rockford	4%	4%	4%	4%
Springfield	2%	2%	2%	2%
Taylorville	<1%	<1%	<1%	<1%
Urbana	1%	1%	1%	1%
Waukegan	4%	4%	4%	3%
Wheaton	6%	6%	6%	5%
Woodstock	1%	2%	1%	1%

Note: Given that this table uses the date of accident, the higher figure for Chicago in FY99 may reflect the greater ease of filing claims in Chicago, rather than an increase in accidents.

APPEAL RATES

As in most court systems, most of the cases filed with the Industrial Commission are settled. As would be expected, the more difficult cases tend to be the ones that go to trial. Fewer and fewer cases proceed on to the next level, as shown below.

APPEAL RATES

2,907 arbitration decisions issued in FY99
47% are appealed to the Commission

1,376 Commission decisions issued in FY99
28% are appealed to the circuit courts

350 circuit court opinions issued in CY98 (est.)
45% are appealed to the Appellate Court

99 Appellate Court opinions/orders issued in CY98
5% cases are appealed to the Supreme Court

1-2 Supreme Court opinions issued/year

Parties are free to appeal decisions, but they may want to weigh the following information against the time involved in waiting for a review. On review, the Commission supports the arbitrator's decision more often than not. The results are particularly instructive when analyzed by the appealing party.

The petitioner appeals arbitration decisions hoping for an increase in benefits, but of those cases appealed by the petitioner, the commissioners let the benefits stand or decreased the benefits in 82% of these cases. Similarly, the respondent appeals in the hope of a decreased benefit, but of the cases appealed by the respondent, the commissioners did not decrease benefits 68% of the time.

OUTCOME OF APPEALS REVIEW DECISIONS ISSUED IN FY99

Arbitration decision was appealed by:	Petitioner (Worker)	Respondent (Employer)	Both	Total
Affirmed	77%	61%	61%	69%
Reversed	7%	5%	3%	6%
Modified, no change in benefits	1%	1%	2%	1%
Benefits increased	11%	6%	15%	9%
Benefits decreased	4%	27%	19%	15%

ATTORNEY INVOLVEMENT

Most employees and employers who have workers' compensation cases on file with the Industrial Commission retain legal counsel. In FY99, 83% of workers had attorneys when they filed their cases. While only 8% of the original settlement contracts approved had attorneys on file, attorneys were listed in 91% of arbitration decisions and 99% of review decisions.

If the employee obtains a lawyer, Illinois law governs the relationship. Generally, the attorney's fee is limited to 20% of the amount recovered, unless additional fees are allowed by the Commission after a hearing. For more details, please refer to the *Handbook on Workers' Compensation and Occupational Diseases*.

AVERAGE WEEKLY WAGE

Claimants' wages generally lag behind the statewide average weekly wage. The wages of workers who filed claims in FY99 averaged \$29,641 per year, 10% lower than the statewide average of \$32,895 per year. Paid at 66 2/3% of wages, the average Temporary Total Disability benefit would be \$380 per week.⁷

	AVERAGE WEEKLY WAGE BY YEAR CLAIM FILED			
	<u>FY99</u>	<u>FY98</u>	<u>FY97</u>	<u>FY96</u>
Claimants' Average Weekly Wage	\$570.02	\$538.24	\$512.92	\$492.41
Statewide Average Weekly Wage as of 6/30	\$632.60	\$611.31	\$585.88	\$570.38

BENEFIT RATES

Unless otherwise noted, benefits are paid at 66 2/3% of the injured worker's gross average weekly wage (AWW) during the year preceding the accident or last exposure. Benefits are limited by the statewide average weekly wage (SAWW) in effect at the time of the injury or exposure. The Illinois Department of Employment Security publishes the SAWW every six months.

	WEEKLY BENEFIT LIMITS AS OF JUNE 30, 1999	
	<u>Minimum</u>	<u>Maximum</u>
TEMPORARY TOTAL DISABILITY		
Single	\$100.90	\$862.80
Married, no children	\$105.50	\$862.80
1 child under 18	\$108.30	\$862.80
2 children	\$113.40	\$862.80
3 children	\$117.40	\$862.80
4+ children	\$124.30	\$862.80

The minimum benefit is the worker's AWW or the amounts listed above, whichever is lower. The maximum benefit can be no more than 133 1/3% of the SAWW. Less than 10% of claimants are affected by either the minimum or maximum benefit levels.

PERMANENT PARTIAL DISABILITY		
Single	\$80.90	\$465.67
Married, no children	\$83.20	\$465.67
1 child under 18	\$86.10	\$465.67
2 children	\$88.90	\$465.67
3 children	\$91.80	\$465.67
4+ children	\$96.90	\$465.67

Benefits are paid at 60% of the worker's AWW. The minimum benefit is the worker's AWW or the amounts listed, whichever is lower. The maximum benefit can be no more than the published maximum rate. In cases of amputation or enucleation of an eye, the maximum is \$862.80.

PERMANENT TOTAL DISABILITY	\$323.55	\$862.80
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The minimum benefit cannot be less than 50% of the SAWW. The maximum benefit can be no more than 133 1/3% of the SAWW.

FATALITY	\$323.55	\$862.80
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The minimum benefit cannot be less than 50% of the SAWW. The maximum benefit can be no more than 133 1/3% of the SAWW. Benefits are paid for up to 20 years or \$250,000, whichever is greater.

CASES CLOSED

TOTAL CASES CLOSED
ARBITRATION AND REVIEW LEVELS

	<u>FY99</u>	<u>%</u>	<u>FY98</u>	<u>%</u>	<u>FY97</u>	<u>%</u>	<u>FY96</u>	<u>%</u>
Dismissals	6,888	10%	8,316	11%	7,650	11%	6,707	10%
Settlements	62,787	87%	64,589	86%	62,711	86%	61,712	87%
Decisions	<u>2,374</u>	3%	<u>2,307</u>	3%	<u>2,213</u>	3%	<u>2,437</u>	3%
Total	<u>72,049</u>		<u>75,212</u>		<u>72,574</u>		<u>70,856</u>	
Percentage change	(4%)		4%		2%		2%	

Arbitration. As in other court systems, most cases at the Commission are settled. Arbitrators often hold pretrials to narrow the issues in dispute and help the parties to reach agreement. At arbitration, a case is counted as closed if it was settled or dismissed, or if a decision was issued and no appeal was filed.⁸

CASES CLOSED
AT ARBITRATION

	<u>FY99</u>	<u>%</u>	<u>FY98</u>	<u>%</u>	<u>FY97</u>	<u>%</u>	<u>FY96</u>	<u>%</u>
Dismissals:								
Voluntary	755		884		887		1,032	
Want of prosecution	<u>6,011</u>		<u>7,363</u>		<u>6,514</u>		<u>5,470</u>	
Total dismissals	6,766	10%	8,247	11%	7,401	11%	6,502	10%
Settlements:								
Original settlements	11,366		11,035		10,570		10,212	
Before arbitration dec.	49,912		51,399		50,536		49,999	
After arbitration dec.	<u>807</u>		<u>777</u>		<u>304</u>		<u>214</u>	
Total settlements	62,085	88%	63,211	87%	61,410	88%	60,425	88%
Decisions	1,318	2%	1,193	2%	1,254	2%	1,368	2%
Total closed	70,169		72,651		70,065		68,295	
Percentage change	(3%)		4%		3%		1%	

Review. Commissioners closed more cases than they received. Fewer cases are going to the review level, because fewer arbitration decisions are being appealed. In FY99, there was a decrease in the number of pre-arbitration settlements submitted to commissioners.

CASES CLOSED
AT REVIEW

	<u>FY99</u>	<u>%</u>	<u>FY98</u>	<u>%</u>	<u>FY97</u>	<u>%</u>	<u>FY96</u>	<u>%</u>
Dismissals at review	122	6%	69	3%	249	10%	205	8%
Settlements:								
Before arbitration decision	334		930		903		755	
After arbitration decision	188		265		269		309	
After review decision	<u>180</u>		<u>183</u>		<u>129</u>		<u>223</u>	
Total settlements	702	37%	1,378	54%	1,301	52%	1,287	50%
Review decisions	1,056	56%	1,114	43%	959	38%	1,069	42%
Total cases closed	1,880		2,561		2,509		2,561	
Percentage change	(27%)		2%		(2%)		17%	

CASES OPENED

Like other states, Illinois has experienced a decline in the number of accidents, workers' compensation insurance rates, and the amount of benefits paid. This phenomenon is still being studied, but some experts attribute the changes to greater safety efforts, as well as an expanding service-oriented economy.

	CASES OPENED			
	<u>FY99</u>	<u>FY98</u>	<u>FY97</u>	<u>FY96</u>
New claims filed	57,301	57,724	57,525	58,315
Original settlements ⁹	<u>11,390</u>	<u>11,149</u>	<u>10,694</u>	<u>10,319</u>
Total new cases filed	68,691	68,873	68,219	68,634
Percentage change	0%	1%	(1%)	(4%)
Reinstated	1,773	1,896	1,682	1,736
Remanded to arbitrator	41	39	41	102
Remanded to commissioner	<u>51</u>	<u>53</u>	<u>91</u>	<u>71</u>
Total cases returned to caseload	1,865	1,988	1,814	1,909
Total additions to the caseload	70,556	70,861	70,033	70,543
Illinois employment ¹⁰	5,844,908	5,733,392	5,628,658	5,532,492
Percentage change	2%	2%	2%	2%

CASES PENDING

After 12 years in which the Commission's caseload grew by an average of 4,000 cases each year, the caseload has declined for the past four years. After reaching a peak of nearly 119,000 cases in FY95, the pending caseload is now roughly 111,000.

Arbitration. Most parties to these pending cases are *not waiting* for the Commission to act. Nearly 90% of cases at arbitration are settled, and parties are free to settle a case at any time. On average, cases that don't go to trial are settled 1.7 years after they were filed. This indicates the time it takes for a worker to become medically stationary so that the extent of the disability can be assessed, and for the parties to negotiate a settlement.

A survey conducted by the Illinois State Bar Association supports this assertion. The study found that, on average, it takes roughly one year for an employer's attorney to obtain the necessary files, medical records, depositions, etc., necessary to present a case to an arbitrator. The survey concluded, "the amount of time between injury and award is not prolonged by delays at the arbitration level."¹¹ The Commission strives to move cases as quickly as possible and to see that parties are able to get a trial within one month of a request.

Review. Years ago, the backlog of cases at the review level attracted concern. Since FY89, when 5,300 cases were pending at the review level, the caseload has declined to roughly 1,400 at the end of FY99. The backlog has been eliminated; decisions are issued within one year of receipt.

DURATION OF DISABILITY

After years of steady increases, the average duration of temporary total disability has declined since FY94.

Year Case Closed	AVERAGE NUMBER OF WEEKS OF TTD			
	<u>FY99</u>	<u>FY98</u>	<u>FY97</u>	<u>FY96</u>
Female	20.1	20.5	21.8	22.2
Male	21.6	22.2	23.0	23.7
40 years or under	19.1	19.8	20.7	21.4
Over 40 years old	23.9	24.3	25.5	26.1
Total	21.2	21.7	22.6	23.2

EXPEDITED CASES

In 1984, the legislature created a special process under Section 19(b-1) of the Act to expedite cases. If the injured worker is not receiving temporary total disability benefits or medical benefits, he or she may petition for an emergency hearing. Alternately, the worker may choose to file under 19(b) of the Act if he or she is not receiving temporary total disability benefits.

In recent years, there has been a clear shift from 19(b-1) petitions, which involve statutorily set deadlines, to 19(b) petitions, where the deadlines are not defined but expedited hearings are set.

PETITIONS FOR EXPEDITED HEARINGS BY YEAR MOTION FILED

	<u>FY99</u>	<u>FY98</u>	<u>FY97</u>	<u>FY96</u>
19(b) petition	7,888	7,785	7,507	7,735
19(b-1) petition	580	782	1,011	1,401

By law, the Commission is required to resolve 19(b-1) cases through both the arbitration and review levels within 180 days, or 6 months. In FY99, on average, 19(b-1) cases were resolved in 71 days at the arbitration level and 90 days at the review level, for a total of 161 days. Statistics on individual turnaround times are provided to each arbitrator and commissioner.

FATAL INJURIES

The rate of work-related fatal injuries in the United States has dropped steadily and significantly. The fatal injury rate per 100,000 workers in 1998 was *one-tenth* the rate in 1938.¹²

Bureau of Labor Statistics study. The Industrial Commission provides information on fatal workers' compensation claims to the Illinois Department of Public Health, which has participated in the U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries since 1992. The CFOI methodology does not correspond exactly to workers' compensation criteria, but the figures provide a standard measure of fatal injuries (not illnesses) for the country.¹³

WORK-RELATED DEATHS IN ILLINOIS

LEADING CAUSES	<u>1998</u>		<u>1997</u>		<u>1996</u>		<u>1995</u>	
	#	%	#	%	#	%	#	%
Assault or violent act	38	18%	51	21%	50	19%	43	17%
Contact with objects/equip.	36	17%	34	14%	46	18%	38	15%
Exposure to harmful subst.	24	11%	20	8%	30	11%	33	13%
Fall	34	16%	36	15%	34	13%	44	18%
Fire or explosion	5	2%	4	2%	7	3%	12	5%
Transportation accident	79	37%	93	39%	95	36%	78	31%
Other	<u>0</u>	0%	<u>2</u>	1%	<u>0</u>	0%	<u>1</u>	0%
Total	216		240		262		249	

BY INDUSTRY	<u>1998</u>		<u>1997</u>		<u>1996</u>		<u>1995</u>	
	#	%	#	%	#	%	#	%
Agriculture	28	13%	33	14%	28	11%	30	12%
Construction	34	16%	42	18%	56	21%	63	25%
Government	15	7%	28	12%	14	5%	19	8%
Manufacturing	28	13%	19	8%	32	12%	35	14%
Mining	4	2%	5	2%	3	1%	0	0%
Services (incl. Finance)	30	13%	37	15%	35	13%	28	11%
Transportation	49	23%	44	18%	52	20%	38	15%
Wholesale and retail trade	28	13%	30	12%	42	16%	32	12%
Other	<u>0</u>	0%	<u>2</u>	1%	<u>0</u>	0%	<u>4</u>	2%
Total	216		240		262		249	

GENDER

Women constitute roughly 46% of the work force in Illinois, but they file a smaller share of workers' compensation claims. The most dangerous industries--agriculture, construction, etc.--are still male-dominated. Over the last decade, the proportion of female claimants has increased steadily, however, from 22% of claimants in FY85 to 32% in FY99.

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.

The employer shall also pay for necessary physical, mental, and vocational rehabilitation of the employee. The employee must cooperate in reasonable programs to assist in his or her recovery and return to work.

Balance billing is a practice by which medical providers try to get the injured worker to pay any unpaid balances of medical bills. Workers may be pursued by collection agencies, and their credit records may be damaged, for bills that were never their responsibility.

Reliable information on medical benefits is not available from the Commission's current computer system. Some medical data from external sources appears in the chapter on interstate comparisons.

PENALTIES

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.

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.

Under Section 19(l), the Commission may award the petitioner additional compensation of \$10 per day for every day that a weekly compensation benefit has been withheld without good and just cause, up to \$2,500.

CASES WITH PENALTIES AWARDED BY YEAR AWARDED

	<u>FY99</u>	<u>FY98</u>	<u>FY97</u>	<u>FY96</u>
19(k)	9	4	6	8
16 and 19(k)	26	26	31	35
19(l)	25	29	44	58
16 and 19(l)	0	3	2	2
19(k) and 19(l)	10	6	10	10
16, 19(k), and 19(l)	<u>58</u>	<u>64</u>	<u>41</u>	<u>73</u>
Total	128	132	134	186

POST-AWARD PETITIONS

Cases that were closed by awards 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) of the Act, either party may petition if the injured worker's physical condition changes significantly within 30 months of the award or settlement.

CASES WITH POST-AWARD PETITIONS FILED BY YEAR PETITION FILED

	<u>FY99</u>	<u>FY98</u>	<u>FY97</u>	<u>FY96</u>
8(a)	107	94	101	114
19(h)	52	12	20	31
8(a) and 19(h)	<u>115</u>	<u>87</u>	<u>63</u>	<u>68</u>
Total	274	193	184	213

REHABILITATION

If an injury substantially impairs an employee's earning capacity, the employer may be required to pay for the physical, mental, and/or vocational rehabilitation of the employee. Before the Commission will order rehabilitation, there must be a reasonable and cost-effective plan that will likely lead to a job, increase the employee's earning capacity, and improve his or her job security.

According to Industrial Commission Rules (Section 7110.10), the employer, in consultation with the employee, must prepare a rehabilitation plan when it becomes clear that an injured worker will be unable to resume his or her previous duties, or when the period of temporary and total disability exceeds 120 continuous days, whichever comes first. The document must include a written assessment of the employee's medical condition and treatment, and an assessment of the rehabilitation that will be necessary to physically and economically restore the worker.

The plan should identify an occupation for which there is a stable job market in the employee's area and which the employee may reasonably train for and obtain. Although the employer is required to prepare a rehabilitation plan, either party may submit a plan for approval.

The employee must cooperate with the rehabilitation or risk termination of compensation benefits. If the employee has sufficient skills to obtain satisfactory employment without further training, or so lacks skills and educational abilities as to make employment unlikely, the Commission may find rehabilitation inappropriate. For more information, see National Tea Company v. Industrial Commission, 97 Ill.2d 424 (1983).

TURNAROUND TIME

In 1989, the legislature prohibited the introduction of new evidence at the review level. Since then, cases at arbitration have taken longer and cases at review have moved more quickly. On average, in FY99 arbitration decisions were issued 2.7 years from the date a claim was filed; review decisions were issued 0.9 years from the date the petition for review was filed.

In FY99, 87% of all resolutions occurred by settlement. In most of these cases, the parties reach a settlement without ever going to trial. The time involved in these prearbitration cases is almost wholly dependent on the parties, because they decide when they are ready to settle. On average, these cases were settled 1.7 years after the claims were filed.

This time period may represent the time necessary for an injured worker to become medically stationary and the parties to reach agreement. This is important to remember when considering the timeliness of the Commission's actions.

INTERSTATE COMPARISONS

BENEFITS

Workers' compensation costs in Illinois rank below the national average and the average for large industrial states. Illinois used to be higher than most of its neighbors, but it has moved to the middle of the pack. In addition, Illinois' costs are growing at a slower rate than most states. These figures refer to 1996, the latest year for which information is available.¹⁴

AVERAGE BENEFITS PAID PER COVERED EMPLOYEE

	National average	\$318		
	Illinois	\$295		
Neighboring States			Large Industrial States	
Indiana	\$149		California	\$520
Iowa	\$194		Florida	\$438
Kentucky	\$313		New York	\$328
Michigan	\$364		Ohio	\$468
Missouri	\$248		Pennsylvania	\$490
Wisconsin	\$257		Texas	\$284
<i>Median</i>	\$253		<i>Median</i>	\$453

BENEFITS AS PERCENTAGE OF WAGES

	National average	1.21%		
	Illinois	0.94%		
Neighboring States			Large Industrial States	
Indiana	0.56%		California	1.64%
Iowa	0.81%		Florida	1.71%
Kentucky	1.28%		New York	0.89%
Michigan	1.16%		Ohio	1.69%
Missouri	0.93%		Pennsylvania	1.69%
Wisconsin	0.99%		Texas	0.80%
<i>Median</i>	0.96%		<i>Median</i>	1.67%

INCREASE IN TOTAL INDEMNITY (CASH) AND MEDICAL BENEFITS, 1987-1996

	National average	57%		
	Illinois	54%		
Neighboring States			Large Industrial States	
Indiana	103%		California	61%
Iowa	85%		Florida	130%
Kentucky	85%		New York	112%
Michigan	76%		Ohio	56%
Missouri	93%		Pennsylvania	99%
Wisconsin	76%		Texas	-12%
<i>Median</i>	85%		<i>Median</i>	80%

TOTAL WORKERS' COMPENSATION BENEFIT PAYMENTS

In \$Billions	<u>1996</u>	<u>1995</u>	<u>1994</u>	<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>	<u>1989</u>	<u>1988</u>
Illinois	\$1.643	\$1.605	\$1.721	\$1.668	\$1.750	\$1.745	\$1.607	\$1.432	\$1.277
% Change	2%	(7%)	3%	(5%)	0%	9%	12%	12%	20%
U.S.	\$39.296	\$40.113	\$41.461	\$41.743	\$42.752	\$39.171	\$35.344	\$31.556	\$27.973
% Change	(2%)	(3%)	(1%)	(2%)	9%	11%	12%	13%	13%

Wage-replacement benefits in Illinois are generally higher than neighboring states, but lower than other large industrial states.¹⁵

AVERAGE INDEMNITY COST PER CASE
BY INJURY TYPE

Policy Year 1995	Temporary <u>Total</u>	Permanent <u>Partial</u>	Permanent <u>Total</u>	<u>Fatal</u>
Illinois	\$3,812	\$20,710	\$218,050	\$177,866
Neighboring States				
Indiana	\$2,121	\$10,258	\$131,530	\$139,677
Iowa	\$1,831	\$17,810	\$140,496	\$168,896
Kentucky	\$2,756	\$25,435	\$227,257	\$185,128
Michigan	\$3,916	\$57,885	\$209,307	\$119,985
Missouri	\$2,370	\$14,446	\$172,121	\$176,107
Wisconsin	\$1,701	\$18,095	\$134,894	\$59,338
<i>Median</i>	\$2,245	\$17,953	\$156,309	\$154,287
Large Industrial States				
California	\$1,338	\$23,714	\$245,155	\$87,993
Florida	\$4,184	\$39,705	\$208,640	\$63,633
New York	\$3,444	\$52,404	\$223,822	\$264,278
Texas	\$4,283	\$15,633	\$69,702	\$279,941
<i>Median</i>	\$3,814	\$31,710	\$216,231	\$176,136

Generally, benefits are based on 66 2/3% of a worker's gross income. Because of tax brackets, limits on benefits, and other factors, states replace different amounts of after-tax income.

If benefits fall below 80% of the net wages earned before the injury, workers are shorted; if benefits exceed previous wages, however, the program has created a disincentive to return to work. Among the states studied, Illinois has one of the higher rates of excess income replacement and one of the lower rates of low replacement.¹⁶

PERCENTAGE OF WORKERS
AT DIFFERENT NET INCOME REPLACEMENT RATES

	<u>Below 80%</u>	<u>80-100%</u>	<u>Over 100%</u>
Illinois	5%	78%	17%
Neighboring States			
Indiana	21%	78%	1%
Michigan	3%	92%	5%
Missouri	19%	76%	5%
Wisconsin	12%	83%	6%
Large Industrial States			
California	19%	74%	7%
Florida	21%	78%	1%
New York	16%	78%	6%
Ohio	6%	78%	16%
Pennsylvania	8%	59%	33%
Texas	3%	91%	6%

COMPLIANCE WITH 1972 RECOMMENDATIONS

Illinois has one of the higher rates of compliance with the recommendations issued by the 1972 National Commission on State Workmen's Compensation Laws.¹⁷

NUMBER OF 19 ESSENTIAL RECOMMENDATIONS MET

	National average	12.70		
	Illinois	15.00		
Neighboring States			Large Industrial States	
Indiana	11.50		California	11.00
Iowa	15.50		Florida	12.00
Kentucky	14.25		New York	10.75
Michigan	9.75		Ohio	15.50
Missouri	14.75		Pennsylvania	13.75
Wisconsin	15.00		Texas	12.50
<i>Median</i>	14.50		<i>Median</i>	12.25

SAFETY

Illinois has fewer total injuries per 100,000 workers than both neighbors and other large industrial states. For years, however, permanent partial disabilities have been significantly more frequent than in most other states.¹⁸

FREQUENCY OF INJURY BY TYPE PER 100,000 WORKERS

Policy Year	Temporary	Medical	Permanent	Fatal	Permanent	Total
1995	<u>Total</u>	<u>Only</u>	<u>Partial</u>		<u>Total</u>	<u>Injuries</u>
Illinois	1,226	4,877	675	4	4	6,786
Neighboring States						
Indiana	1,226	8,133	305	4	1	9,668
Iowa	1,594	6,009	451	3	2	8,059
Kentucky	1,373	7,597	387	4	3	9,365
Michigan	1,693	7,949	219	4	3	9,868
Missouri	1,128	5,212	904	7	3	7,253
Wisconsin	2,175	8,039	406	3	3	10,626
<i>Median</i>	1,484	7,773	397	4	3	9,517
Large Industrial States						
California	1,394	5,273	946	6	7	7,626
Florida	1,180	5,009	268	5	23	6,484
New York	976	3,355	668	5	5	5,009
Texas	821	3,848	606	7	7	5,289
<i>Median</i>	1,078	4,429	637	6	7	5,887

Employers' safety efforts may affect their workers' compensation costs more than a state's public policy. A well-known study found a six-fold variation in costs among states; i.e., the state with the highest costs (Maine) spent six times that of the lowest-cost state (Indiana). Yet researchers found that within each of 29 different industries within one state (Michigan), some employers had 10 times the number of claims per 100 employees than others.

The researchers concluded that employers that engage in safety efforts, maintain an open management style, and take steps to prevent and manage disability are most likely to have low workers' compensation claims.¹⁹

¹ U.S. Department of Labor, *State Workers' Compensation Administrative Profiles*, October 1998; U.S. Chamber of Commerce, *1998 Analysis of Workers' Compensation Laws*. Averages were calculated from the 45 states for which information was available. Five states run exclusive funds, in which the state manages all liabilities for workers' compensation; in the 12 competitive fund states, employers may purchase insurance either through the state or on the private market; in the 28 private insurance states (of which six are GRF-funded), the state does not operate an insurance fund.

² *Best's Review P/C*, September 1998, page 96.

³ National Association of Insurance Commissioners, *Report on Profitability by Line by State, 1997*, page 50, November 1998.

⁴ NCCI filings with the Illinois Department of Insurance. Note that, in the past, the differential between the assigned risk plan and the voluntary market fluctuated. Since 1/1/90, the assigned risk plan has been set at 20% higher than the voluntary market. The assigned risk plan consists of approximately 300 high-risk companies that cannot obtain workers' compensation insurance on the open market, and represents about 10% of the Illinois w.c. insurance market. For more information, call the Illinois Department of Insurance (217/524-8361). For information about the assigned risk pool, see National Council on Compensation Insurance, *Annual Statistical Bulletin, 1996 edition*, Exhibit XIII.

⁵ National Council on Compensation Insurance, *Annual Statistical Bulletin*, 1999 edition, Exhibit XIII, page 329.

⁶ "Utilization Review in Workers' Compensation Claims," *Illinois Insurance*, Illinois Department of Insurance, August 1991, page 2.

⁷ When filing a claim, the worker lists his or her average weekly wage. The arbitrator or commissioner may decide the wage is different than the amount originally reported. In the past, our data entry staff entered the wage off the claim form, and did not correct the amount if it was changed. The staff now replaces the wage if appropriate. The figures in this report reflect the new practice, and are more accurate.

⁸ In FY95, a change was made in the way dismissals are counted. All dismissals are now counted as closing a case; if a case is reopened, it is counted in the number of cases added to the caseload (see Cases Opened).

⁹ In FY95, we changed our method of counting original settlement contracts. Most new cases are filed with the Commission on a claim form, and these cases are set on a three-month cycle of continuances. An original settlement is filed directly, without a claim form. If this settlement is given a case number but is never approved, it falls into limbo. Previously, we counted the total number of original contracts *filed* during a fiscal year, but if the parties do not bring in the contract, we cannot close the case, and the pending caseload is then overstated. To correct this problem, we now count only the number of original contracts *approved* during a fiscal year.

¹⁰ Illinois Department of Employment Security. These figures represent the average annual nonagricultural nonfederal employment. (DES was unable to estimate agricultural employment; federal workers are covered under a federal workers' compensation program.)

¹¹ "The Interval between Injury and Award: Is the Industrial Commission Dragging Its Feet?" Workers' Compensation Section of the Illinois State Bar Association, May 1996.

¹² National Safety Council, *Accident Facts: 1999 Edition*, page 49. The NSC changed its methods significantly in 1970 and again in 1992, making comparisons difficult. In 1992, the NSC started using data from the U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries.

¹³ *Census of Fatal Occupational Injuries: Illinois, 1997*, Illinois Department of Public Health. Those interested in more details may contact the Division of Epidemiologic Studies at IDPH at 217/785-1873.

¹⁴ "Fiscal Data for State Workers' Compensation Systems, 1987-1996," *Research Bulletin: A Publication of the National Foundation for Unemployment Compensation and Workers' Compensation*, August 1999, Tables 1, 6, and 7, and "Workers' Compensation: Benefits, Coverage, and Costs," National Academy of Social Insurance, 1999, pp. 3 and 14 (for revised 1992-1995 data).

¹⁵ National Council on Compensation Insurance, *Annual Statistical Bulletin*, 1997-9 editions, Exhibit XI. This information refers only to the experience of employers with insurance, not self-insurers. Ohio has an exclusive state fund and is therefore not included. The last year available for Pennsylvania was PY90, and it was excluded because the data is so old. The data for fatalities and PTDs come from small numbers of cases and should be viewed with caution.

¹⁶ Workers' Compensation Research Institute, "Income Replacement in Maine," December 1996, and "Income Replacement in Indiana," December 1995. The WCRI indicates that most of the replacements over 100% in Illinois are due to high maximum benefits.

¹⁷ *John Burton's Workers' Compensation Monitor*, November/December 1992, page 6. The group issued 84 recommendations concerning the coverage of employees and diseases, income protection, medical care, worker safety, and program administration. They identified 19 of the 84 recommendations as essential to ensuring a minimum level of protection. Today, compliance levels range from 7.25 in Mississippi to 18.75 in New Hampshire. Illinois does not comply with the National Commission's recommendations 2.4 (Illinois exempts farm workers below a certain number of hours), 2.5 (Illinois exempts household workers and casual workers below a certain number of days), 2.6 (Illinois exempts some governmental employees (Chicago police and fire fighters)) and 2.7 (Illinois exempts certain classes of employees, such as those noted above).

¹⁸ National Council on Compensation Insurance, *Annual Statistical Bulletin*, 1996-9 editions, Exhibit XII. This information refers only to the experience of employers with insurance, not self-insurers. Ohio has a monopolistic state fund and is therefore not included.

¹⁹ Edward M. Welch, *Why Some Employers Have a Better Workers' Compensation Experience Than Others*, 1991, pp. 3-7.