

Columbus Office
30 West Spring St., L-4
Columbus, OH 43215-2256
800-335-0996
Fax 614-644-1998



Cleveland Office
615 W Superior Avenue, L-6
Cleveland, OH 44113-1889
800-335-0996
Fax 216-787-4454

Industrial Commission
Nominating Council

Council Members:

The Ombudsperson Office (Ombuds) for Ohio's workers' compensation system is pleased to present their 2005 annual report. In accordance with section 4121.45 of the Ohio Revised Code, the report provides statistical information on the office's activities for the year and makes recommendations for improving Ohio's workers' compensation system.

In 2005 the Ombuds staff fielded approximately 9,700 inquiries from customers of the workers' compensation system. Thirty percent of these inquiries were classified as complaints due to the customer expressing dissatisfaction with either the Bureau of Workers' Compensation (BWC) or the Industrial Commission (IC). The Ombuds Office analyzes these complaints to assist us in making recommendations for improving the system.

Sincerely,

A handwritten signature in black ink that reads "David M. Bush". The signature is written in a cursive style.

David M. Bush
Chief Ombudsperson

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Executive Summary

Background

Ohio law (ORC 4121.45) creates a workers' compensation ombudsperson system. It is the responsibility of the Ombuds Office to assist employers, injured workers, and their representatives in dealings with the Ohio workers' compensation system. The Ombuds Office answers inquiries and investigates complaints about the Ohio workers' compensation system, mainly as it relates to specific injured workers' claims and employers' policies, facilitating resolution of issues when possible. All inquiry and complaint data is captured and categorized. The data is then analyzed in order to identify potential opportunities for improvement in the workers' compensation system. Both the inquiry/complaint data and those areas identified as opportunities for improvement are published annually in the attached report.

2005 Statistical Information

Total inquiries received in 2005 totaled 9,670. The table below segregates these inquiries between general inquiries and complaints, and compares the statistics to the prior year. Inquiries are classified as complaints when dissatisfaction is expressed with the Ohio workers' compensation system.

The office incurred a twenty-one percent increase in the number of complaints over the prior year. This increase appears directly related to an increase in employer complaints regarding policy issues, mainly BWC's 50/50 payment program, and the number of complaints from injured workers regarding processing delays almost doubling.

	2004	2005	% Change
Complaints	2,419	2,924	21% Increase
General Inquiries	8,012	6,746	-16% Decrease
Total	10,431	9,670	-7% Decrease

The top complaint continues to revolve around delays in the payments of indemnity benefits.

Opportunities for Improvement

- BWC could provide better customer service by monitoring the service provided by claims representatives and holding them accountable for providing timely, accurate service.
- BWC could improve the accuracy of the premium rate calculations at the NCCI manual classification level by assignment of the correct NCCI manual classification code to claims.

- BWC could have a fairer employer appeals process by not empowering the individuals responsible for employer programs with adjudicatory decisions.
- BWC could provide better customer service to injured workers receiving Non-Working Wage Loss if they were clearer on the expectations of a job search and better monitor the results.
- BWC could improve customer service to employers by allowing all interested in utilizing the 50/50 program the ability to participate by means other than exclusively filing payroll and submitting payment through the BWC website.
-
- The IC could provide better customer service to injured workers if they took a more broad-minded approach to “telephone hearings”, especially for those residing out of state.

Status of recommendations from prior years worth noting

- In the area of properly advising employers of their appeal rights:
 - BWC has appropriately revised the respective employer correspondence.
- In the area of reducing the number of IC hearings by BWC only referring necessary disputes to the IC:
 - Based on the lack of complaints resulting from this issue an improvement has been seen.
- In the area of BWC’s erroneous allowance of claims for certain business owners whose claims are not compensable because they have not elected supplemental coverage on themselves:
 - A review of 100 claims filed in 2005, wherein business owners’ supplemental coverage applied, indicated 25% were allowed in error. **The Ombuds Office will continue to monitor this concern and urge BWC to take corrective action.**
- In the area of BWC inappropriately disallowing injured workers claims when a policy number could not be identified:
 - BWC continued this practice throughout the year of 2005 even though they advised the Ombuds Office they had taken preventative measures. A review of 100 claims that were disallowed without a policy number being assigned indicated thirty-five percent were disallowed because the employer did not get back to BWC with a policy number. This practice inappropriately places the burden of employer compliance upon an injured worker. **The Ombuds Office will continue to monitor this concern and urge BWC to take corrective action.**

- BWC could improve on the accuracy of claims determination wherein the question of interstate jurisdiction arises:
 - BWC did not take any action on this item in 2005. Confusion remains with customers when the question of interstate jurisdiction comes into play. **The Ombuds Office will continue to monitor this concern and urge BWC to take corrective action.**

2005 Initiatives

Historically the Ombuds Office has not solicited/handled complaints regarding employer policy issues. In 2005 the staff was trained on employer policy and began taking complaints.

The office remained apprised of all changes related to BWC's implementation of their New Business Model, specifically as it would impact our ability to assist customers.

Administrative update

Expenditures to operate the Ombuds Office in calendar year 2005 totaled \$525,403. An increase in expenses of approximately \$15,000 or 2.9% over calendar year 2004 was realized. The increase in expenditures is directly related to staff salaries.

**Ohio Bureau of Workers' Compensation
Year End Statistics**

	FY 2005	FY 2004	FY 2003
State-Fund Claims Filed			
Lost Time	21,248	24,042	26,404
Medical Only	154,419	162,105	178,751
Occupational Disease	2,125	2,602	2,889
Death	223	297	257
Disallowed or Dismissed	19,068	18,801	19,827
Total	197,083	207,847	228,128
Net Allowed Injuries	178,015	189,046	208,301

NOTE: Every claim is evaluated at 60 days after filing for purposes of claim type, state-fund versus self-insured, combine status, and allowance status. Values exclude combined and self-insured claims.

Open Claims (Per statute)

Lost Time	613,699	654,115	735,807
Medical Only	1,179,245	1,276,435	1,421,709
Total	1,792,944	1,930,550	2,157,516

Benefits paid

Medical Benefits Paid	\$ 898,350,191	\$ 870,409,716	\$ 875,682,827
Compensation Paid			
Wage Loss	\$ 21,639,172	\$ 20,099,703	\$ 17,882,605
Temporary Total	286,371,403	283,359,716	266,725,222
Temporary Partial	143,363	245,318	352,649
Permanent Partial	25,560,913	23,082,194	22,552,826
% Permanent Partial	79,299,435	76,011,098	76,084,640
Lump Sum Settlement	140,628,262	125,451,296	138,325,055
Lump Sum Advancement	16,259,985	12,132,828	11,831,615
Permanent Total & DWRF	392,374,540	379,478,849	381,619,444
Death	81,586,662	87,785,803	73,384,403
Rehabilitation	36,080,038	37,313,221	46,757,297
Other	4,213,041	4,382,817	2,631,684
Total Compensation Paid	\$ 1,084,156,814	\$ 1,049,342,843	\$ 1,038,147,440
Total Benefits Paid	\$ 1,982,507,006	\$ 1,919,752,559	\$ 1,913,830,267

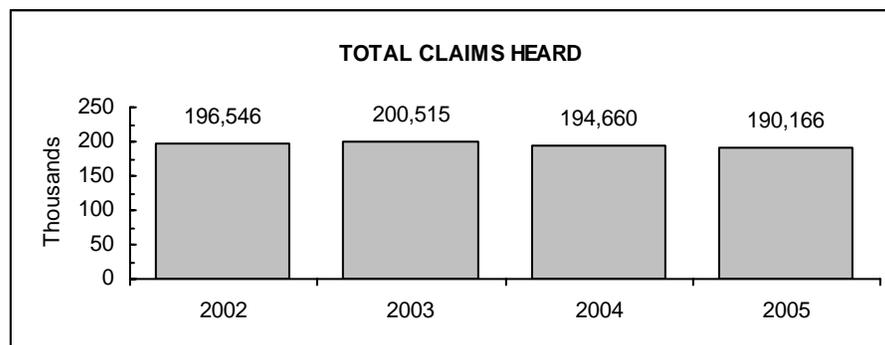
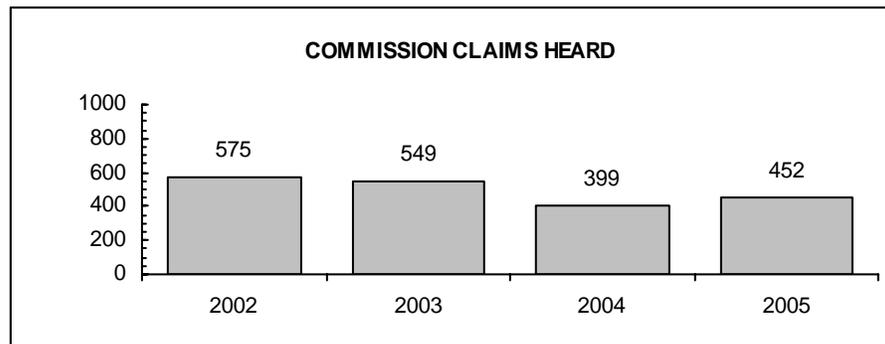
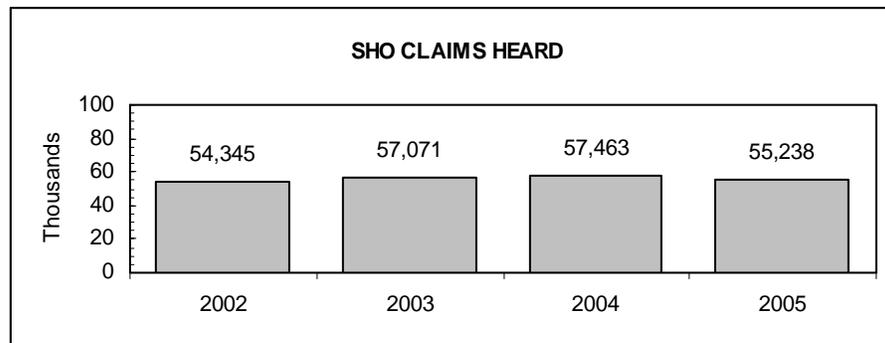
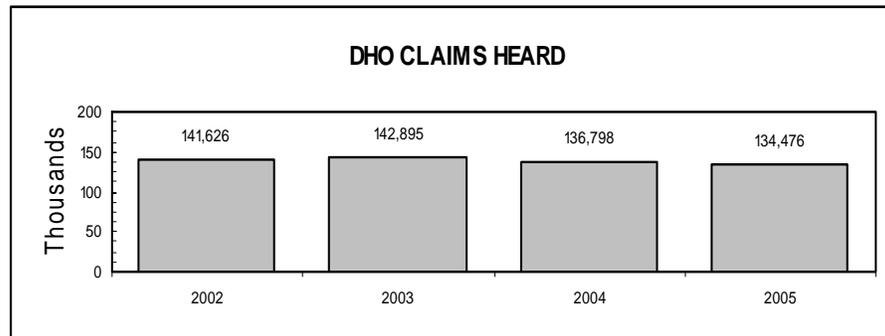
NOTE: Due to improvements in BWC data capture and reporting systems, prior year data may not agree with amounts previously reported.

	FY 2005	FY 2004	FY 2003
Fraud Statistics			
Fraud Dollars Identified	\$ 135,742,896	\$ 126,247,450	\$ 102,050,979
\$\$\$ Spent to \$\$\$ saved Ratio	1 to 12.41	1 to 11.86	1 to 9.17
Active Employers By Type			
Private	283,733	283,620	278,494
Public (Local)	3,765	3,733	3,717
Public (State)	129	126	129
Self-Insured	1,127	1,104	1,092
Black Lung	37	36	36
Marine Fund	82	90	87
Total	288,873	288,709	283,555
BWC Personnel	2,659	2,663	2,748
MCO Fees Paid	\$ 170,988,713	\$ 173,699,428	\$ 168,413,924
FINANCIAL DATA (000s omitted)			
	FY 2005	FY 2004	FY 2003
Operating Revenues			
Net Premium & Assessment Income	\$ 2,126,503	\$ 2,126,782	\$ 2,174,938
Other Income	11,987	11,852	9,254
Total Operating Revenues	\$ 2,138,490	\$ 2,138,634	\$ 2,184,192
Non-Operating Revenues			
Net Investment Earnings	\$ 500,327	\$ 458,584	\$ 532,531
Increase (Decrease) in Fair Value	501,672	791,305	42,871
Net Investment Income (Loss)	\$ 1,001,999	\$ 1,249,889	\$ 575,402
Dividends, Rebates and Credits			
Dividends & Credits	\$ 232,836	\$ 415,523	\$ 640,563
Total BWC Assets	\$ 21,982,676	\$ 21,331,936	\$ 21,375,433

Note: Financial data for FY 2003 and FY 2004 are audited. FY 2005 data has not yet been audited.

Note: Due to improvements in BWC data capture and reporting systems, prior year data may not agree with amounts previously reported.

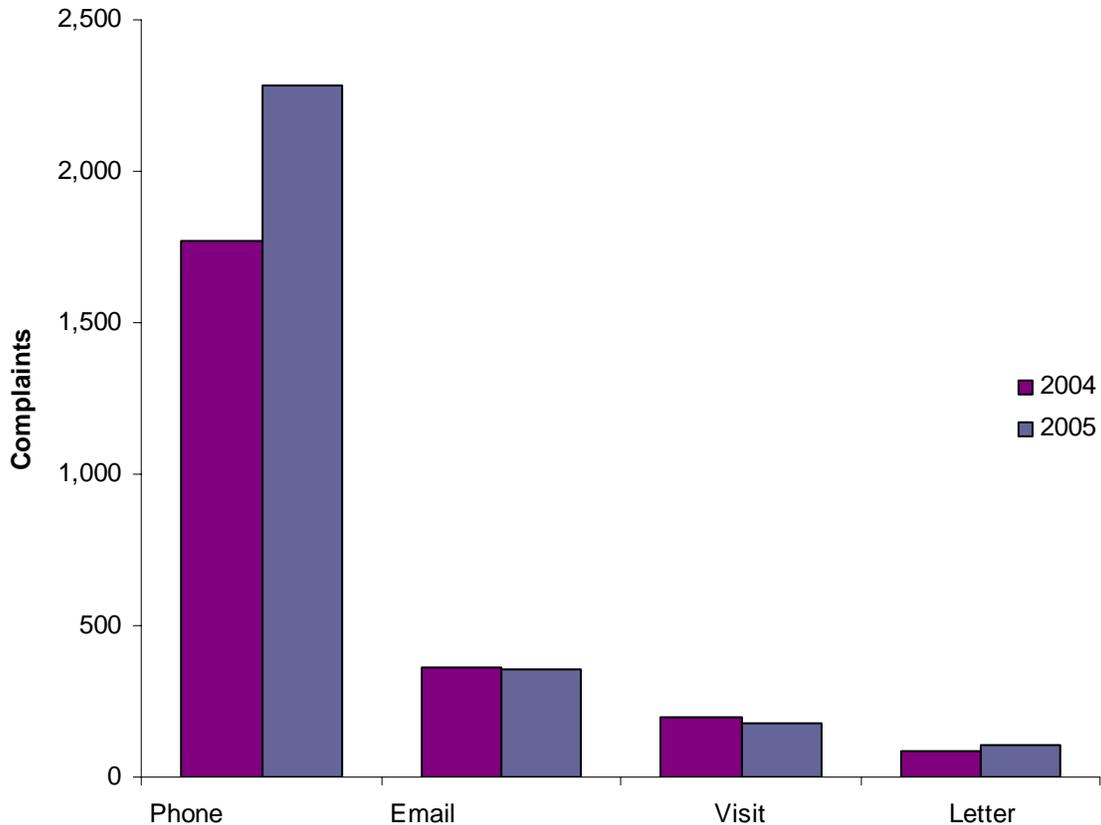
Industrial Commission 2005 Year End Statistics



Statistical Information

Inquiry Type

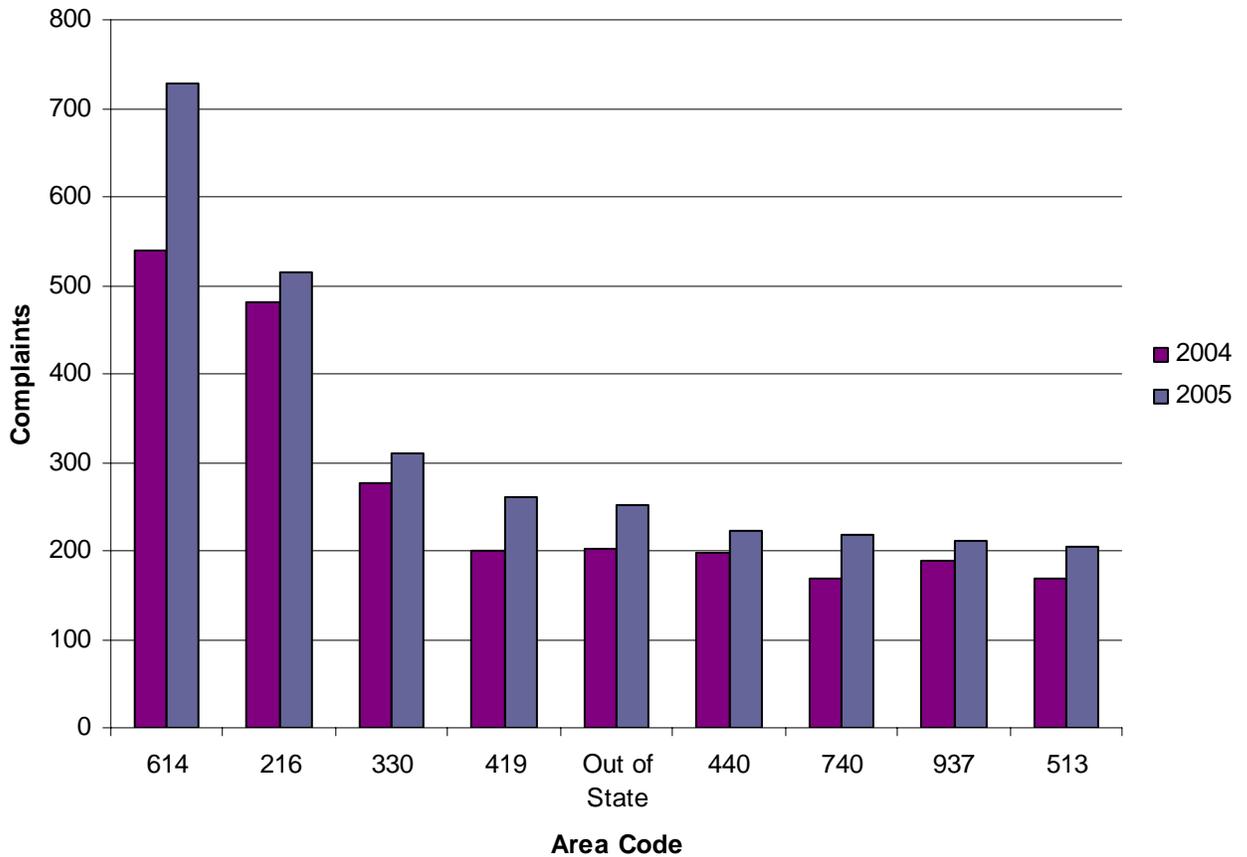
The Ombuds Office resolved 2,924 complaints during 2005. The complaints were received by the following methods:



	2004	2005	% Change
Phone	1,768	2,284	29%
Email	365	354	-3%
Visit	198	180	-9%
Letter	88	106	20%
Total	2,419	2,924	21%

Geographic Report

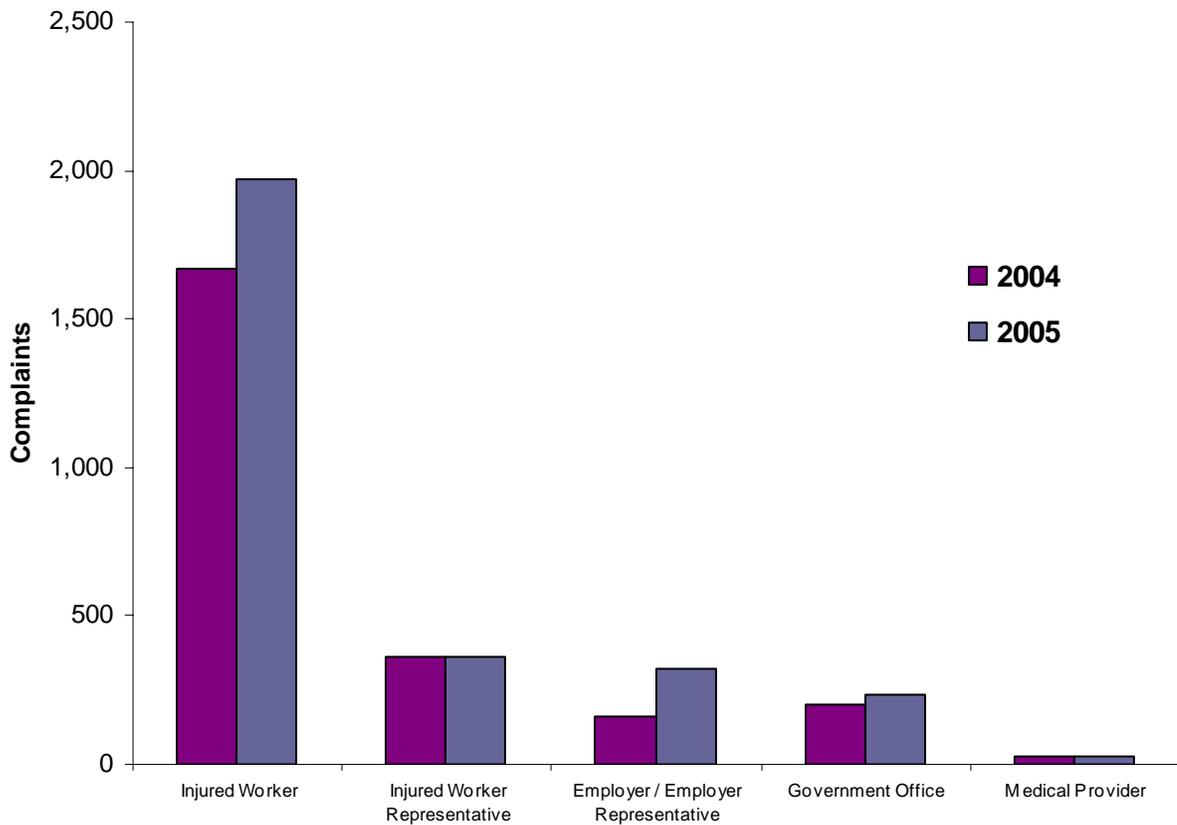
Complaints by area code:



Area Code	2004	2005	% Change
614 - Franklin County	540	729	35%
216 - Cuyahoga County	480	515	7%
330 - Akron, Canton, Youngstown & Vicinity	276	309	12%
419 - Northwestern Ohio	199	260	31%
Out of State	202	252	25%
440 - Northeastern Ohio	197	223	13%
740 - Southeastern & South-Central Ohio	169	219	30%
937 - Dayton, Springfield & Vicinity	188	212	13%
513 - Hamilton County & Vicinity	168	205	22%
Total	2,419	2,924	21%

Originator Report

Complaints are also recorded for the purpose of identifying which group of individuals use the Ombuds Office services. Injured workers and injured worker representatives were accountable for 80 percent of our business in 2005.



Originator Type	2004	2005	% Change
Injured Worker	1,672	1,973	18%
Injured Worker Representative	361	365	1%
Employer / Employer Representative	159	325	104%
Government Office	198	237	20%
Medical Provider	29	24	-17%
Total	2,419	2,924	21%

Initial Complaint Report

The codes below are used to describe what the Ombuds staff construed to be the problem when the complaint was initially received.

Complaint Type	2004	2005	% Change
Compensation	652	712	9%
Processing Delay	282	414	47%
Industrial Commission—Hearing Issues	356	285	-20%
Bureau of Workers' Compensation	206	246	19%
Employer Policy Issues	52	221	325%
General Status of Claim	217	215	-1%
Forms Required	143	163	14%
Employer Delay of Claim Processing	102	132	29%
Medical Bills	124	130	5%
Authorization of Medical Treatment	66	123	86%
Injured Worker	90	120	33%
Attorney Delay	54	61	13%
Medical Provider	44	35	-20%
Managed Care Organization	26	29	12%
Pharmacy Benefits Manager	0	29	NA
Lost file / Cannot Locate	4	7	75%
Claim Destroyed in Error	1	2	100%
Total	2,419	2,924	21%

Accountability Report

Identifies the area or individual the Ombuds staff found to be responsible for the problem.

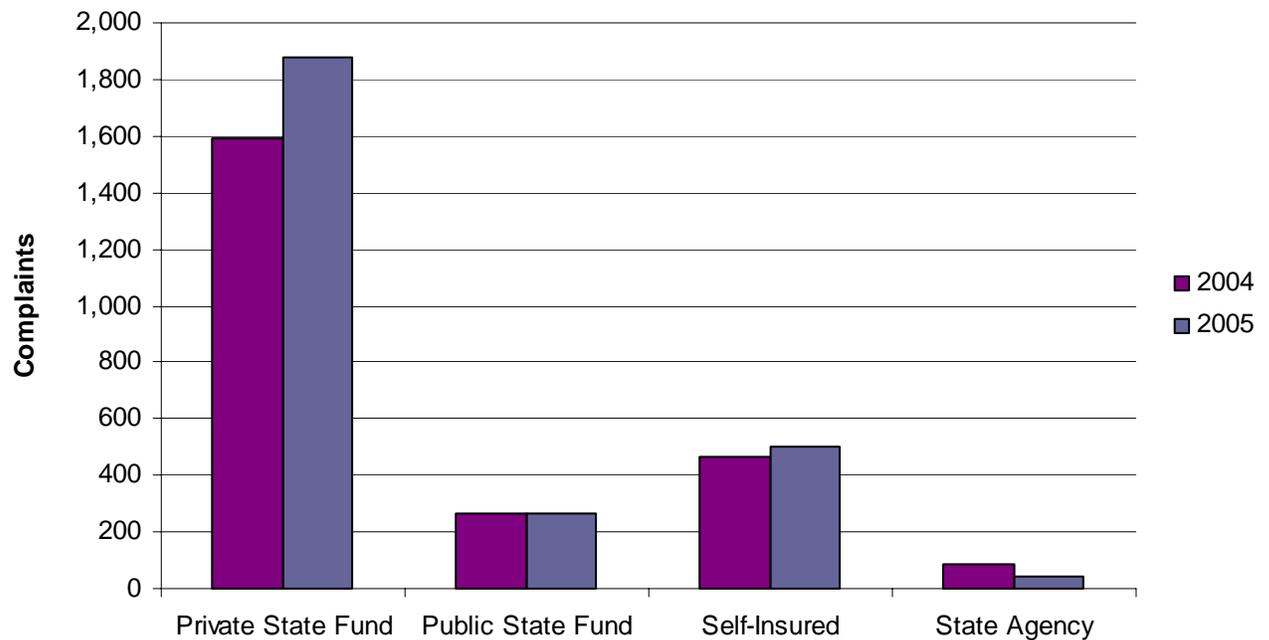
Accountability	2004	2005	% Change
Injured Worker	896	1089	22%
Bureau of Workers' Compensation	575	697	21%
Employer	293	495	69%
Industrial Commission	234	195	-17%
Medical Provider	168	181	8%
Injured Worker Representative	107	85	-21%
Managed Care Organization	55	62	13%
Employer Representative	48	34	-29%
Financial Institution	8	23	188%
Pharmacy Benefits Manager	0	21	NA
U. S. Post Office	12	19	58%
Government Office	20	18	-10%
Fraud	3	5	67%
Total	2,419	2,924	21%

Complaint Resolution Report

Denotes what the Ombuds staff found to be the problem after investigating the complaint.

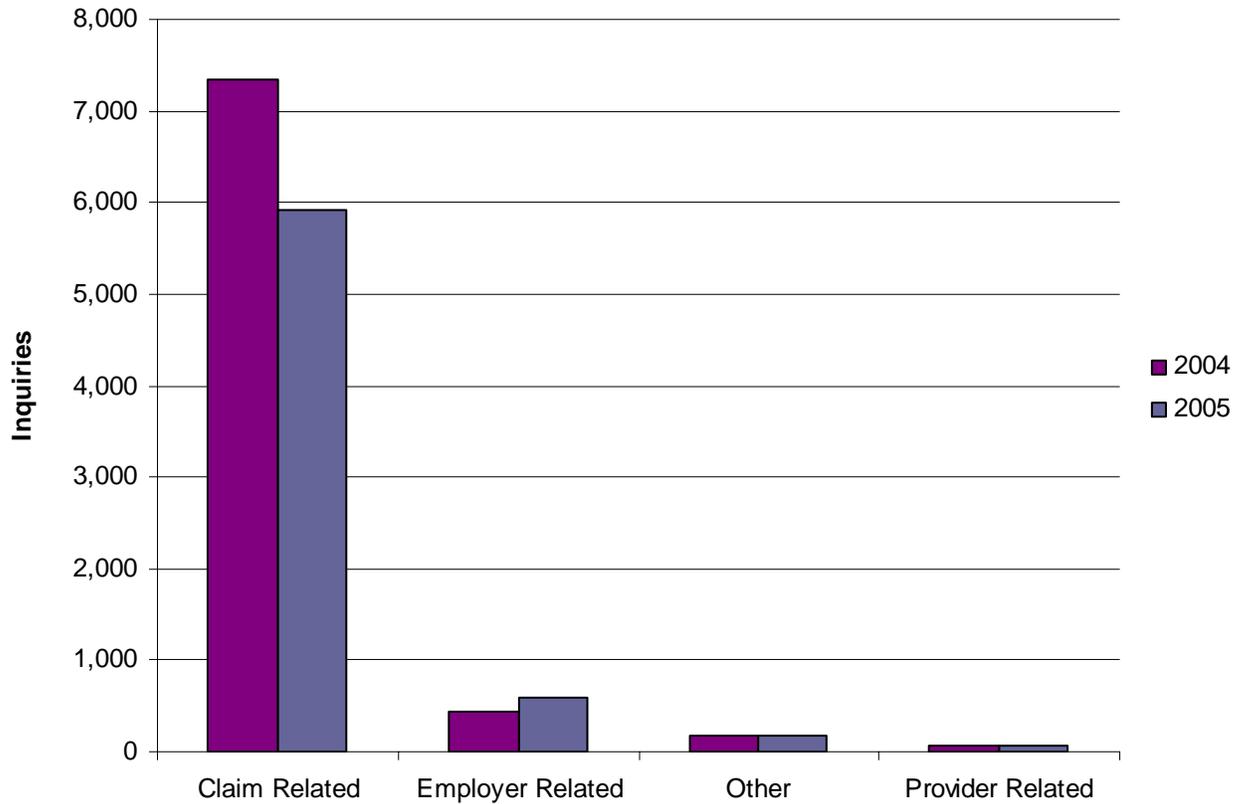
Resolution	2004	2005	% Change
Claims Examiner / Information	619	635	3%
Claims Examiner / Clerical Error	438	518	18%
Requires Hearing	222	317	43%
Denied	153	270	76%
Information Missing	238	215	-10%
Injured Worker	172	172	0%
Wanted Claim Expedited	90	152	69%
Employer Error	98	133	36%
Coding Error	57	85	49%
Unjustified Complaint	0	79	NA
Appeals	122	77	-37%
Medical Exam / Review Required	55	65	18%
Claim Disallowed	33	48	45%
Processing Delay	0	47	NA
Hearing Problems	33	22	-33%
Warrant Returned / Reissued	25	18	-28%
Prior Authorization Required	0	12	NA
Claim Settled	10	11	10%
Warrant Lost or Stolen	9	9	0%
Possible Fraud	8	9	13%
Claim Inactive	5	8	60%
Overpaid	10	6	-40%
New Claim Status	11	5	-55%
Statute of Limitations	11	5	-55%
Not Covered	0	3	NA
Employer Representative Error	0	3	NA
Total	2,419	2,924	21%

Complaint by Claim Type



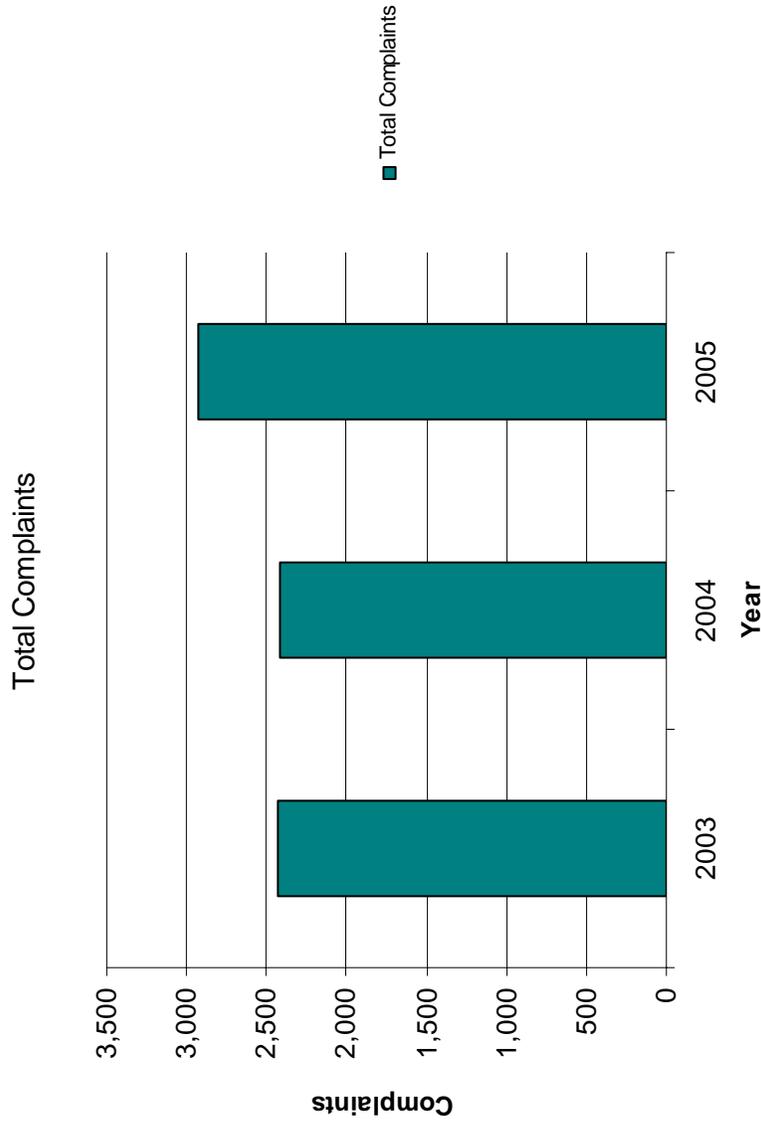
Claim Type	2004	2005	% Change
Private State-Fund			
Lost Time	1,217	1,448	19%
Medical Only	372	431	16%
Total	1,589	1,879	18%
Self-Insured			
Lost Time	311	354	14%
Medical Only	154	149	-3%
Total	465	503	8%
Public State-Fund			
Lost Time	118	182	54%
Medical Only	67	85	27%
Total	185	267	44%
State Agency			
Lost Time	63	38	-40%
Medical Only	20	8	-60%
Total	83	46	-45%
Grand Total	2,322	2,695	16%

General Inquiries



General Inquiries	2004	2005	% Change
Claim Related	7,335	5,907	-19%
Employer Related	445	595	34%
Other	170	186	9%
Provider Related	62	58	-6%
Total	8,012	6,746	-16%

Ombudsperson Office 3 Year Complaint History



<u>2003</u>	<u>2004</u>	<u>2005</u>
2,427	2,419	2,924
Total Complaints		

Opportunities for Improvement

The following opportunities for improvement reflect concerns in the Ohio workers' compensation system that were identified either through customer complaints and/or data analysis. It is the opinion of the Ombuds Office that if either the BWC or the IC (the agencies comprising the system) took steps to improve in the area identified, the Ohio workers' compensation system would increase customer satisfaction and/or reduce costs.

1.

BWC claims management and self-insured bankrupt staff are not always responsive to their customers.

Overview: The Injured Worker Pledge of Service states the injured worker has the right to expect prompt, professional and courteous customer service from all BWC employees. Once a claim is filed, an injured worker is sent correspondence from BWC that advises them that their assigned claims service specialist (CSS) will manage their claim during the claims process along with a card identifying the specific CSS and phone number.

Concern: The Ombuds Office is often contacted because an assigned CSS has not responded to a customer's inquiry or timely processed a customer's request for action. This lack of customer service can range from failure to respond to voice mail/e-mail messages to failure to timely process a request for temporary total compensation, which can cause undue financial hardship on an injured worker. While there have been sporadic complaints about processing delays in the past, in 2005 they increased 47% to 414.

Recommendation: While it may not be feasible to monitor all work for all team members, a random check of any outstanding items on the work lists should be done weekly. CSS's with constant outstanding work should be identified and monitored more closely by the team leader.

BWC Response: BWC will ensure that we have the following in place to address the issue of non-responsiveness to our customers:

- Develop voice mail policy and ensure that return call policies are followed. Deliverable date: July 1, 2006.
- Reinforce application response timeframes for handling time sensitive applications (e.g. 5 days for handling C-84, etc.) Deliverable date: April 1, 2006.
- Monitor Pulse Surveys for trends of non-responsiveness complaints from customers and follow-up on complaints as a means of monitoring CSS's level of customer service. Deliverable date: April 1, 2006.

- Request Ombuds Office to supply monthly reports with detail of all complaints received by service office. Deliverable date: the Ombuds Office began providing BWC administration with monthly complaint statistics in February, 2006.
- Require service offices to maintain complaint logs and report monthly on any complaints elevated to the supervisor or SOM level. Deliverable date: May 1, 2006.

2.

BWC could ensure more equitable premium rates for state-fund employers by accurately assigning NCCI manual classification codes to claims.

Overview: Private employer base premium rates are developed from two main data elements. One is payroll and the other is claims losses, including reserves. In order to develop accurate base rates it is necessary for both data elements to be coded to the proper NCCI manual classification assigned to the employer.

Additional items affected by the assignment of NCCI manual classification codes to claims include:

- Experience Modifications—The NCCI manual classification assigned to a claim is a component used in the computation of a claim reserve.
- Degree of Disability Management (DoDM) - DoDM is a calculation that compares an injured worker's actual return to work with an expected return to work based on the part of the body injured and the industrial pursuit of the employer/occupation of the injured worker. This is a factor used in calculating payments to managed care organizations (MCO).

Concern: NCCI manual classification code assignment to claims has a high error rate. This results in premium base rates and experience modifications to be inaccurate, causing employers to either pay too much or too little premium. It can also cause MCOs to be paid inaccurately.

A recent review/clean-up of approximately 40,000 claims for years 2004 and 2005, overseen by BWC's actuarial department, indicated an error rate of 16.2 percent for lost time claims and 13.8 percent for medical only claims. Claims assigned to approximately 140 NCCI manual classifications were reviewed and corrected when warranted. BWC develops base rates for approximately 525 NCCI classifications; there were insufficient resources dedicated to this project to review all classifications.

The error rate identified by BWC actuarial ranged from 100% accurate to 100% inaccurate for those NCCI manual classifications reviewed. Some examples of the review's findings that potentially impact a large number of employers are listed in the following table. The error rate listed does not mean that the premium rate is overstated by the amount given. Every claim for the four years of data used in a rate making period would have to be reviewed, assigned to the correct NCCI manual classification if wrong, and the premium rates recalculated to determine the actual impact of this opportunity for improvement.

NCCI	Description	Error Rate	Number of employers using in 1st half of 2005
5605	CONSTRUCTION OR ERECTION ESTIMATORS	92.7%	4,938
8017	STORE: RETAIL NOC	13.5%	6,983
8742	SALESPERSONS, COLLECTORS OR MESSENGERS-OUTSIDE	40.4%	35,557
8755	LABOR UNION—ALL EMPLOYEES	15.8%	752
8810	CLERICAL OFFICE EMPLOYEES NOC	15.6%	76,344
9084	BAR, DISCOTHEQUE, LOUNGE, NIGHTCLUB, OR TAVERN	0.0%	2,614

Note that BWC is a revenue neutral system. Overall, premium rates are set in any given year to cover the costs of claims, including reserves, which occur within that year. While this concern does not affect the financial stability of the state insurance fund, it does cause employers to pay more or less than their fair share.

Recommendation: The Ombuds Office recommends a multifaceted approach to this concern that includes:

- Assure all staff performing this function understand its importance and are properly trained.
- Consider performing this function only once, accurately, with adequate ongoing quality control. Currently the function is performed twice with a subsequent annual clean-up project. This would include holding staff accountable when their error rate goes above a designated level.
- Compose written policies and procedures for performing this function.
- On a systematic basis discontinue NCCI manual classifications from employer accounts that are not being used (BWC implemented in November, 2005).

BWC Response: A committee was formed and recommended the following process for NCCI manual classification code assignments with the processes detailed below. The committee arrived at this conclusion based on the immediate need to improve the process. These steps will become a part of normal operations, monitoring and performance reporting; analysis of the first six months will be done by the committee to recommend alternates if necessary.

Lost Time Claims

1. Claim is assigned to the service office: Deliverable date: May 1, 2006.
 - Newly Filed Claim
 - Changeover
 - Reassignment

2. CSS makes manual code determination: Deliverable date: May 1, 2006.
 - Prior to contact with injured worker or employer, CSS will review Dolphin (BWC's website) for NCCI manual classification codes currently being utilized by the employer.
 - Detailed two point contact with injured worker and employer must be done and documented in V3; (BWC's claim management system) gathering a detailed description of the injury and the injured workers' occupation including job title and job duties. The new investigation and subsequent scripts will help with this effort.
 - When making a NCCI manual classification code determination on a professional employer organization/staff leasing agency (PEO) or temporary agency, the CSS will obtain the client employer name so the NCCI manual classification code determination can be made from the NCCI manual classification codes assigned to the correct client employer.

3. Account examiner 2 (AE2) or employer management supervisor (EMS) completes audit of NCCI manual classification code determination: Deliverable date: May 1, 2006.
 - Recommendation is to have the EMS (be responsible for it being done) complete the NCCI manual classification code determination audit weekly.
 - Monthly audit was an option as well.
 - Suggested changes to the data warehouse (DW) audit report are:
 - add description of injury,
 - remove claims that are out of experience,
 - remove state agency claims, and
 - claims that the employer has only one NCCI manual classification code available.
 - Based on the number of NCCI manual classification code determinations, EMS may need to assign more than one employer management (EM) staff (AE2) to this audit.
 - EM staff will report to the SOM the error rate. Service office error rate and validation of corrected on V3 will be reported monthly.
 - 100% of the NCCI manual classification code determinations will be audited.
 - Modify DW audit report to include description of injury.
 - Remove claims not currently in the experience.
 - Remove state agency claims.

- EM staff person will return any NCCI manual classification code corrections to the appropriate injury management supervisor (IMS) for correction in V3 by the responsible IMS or CSS.
 - EM feedback and IM updates must be completed timely.
 - Update/correction could be done during a staffing.
 - Provides an opportunity for (re)training all CSS staff.
 - EM staff available for questions.
 - One option is to give the EMS update authority in V3.

Overall audit of NCCI manual classification code determination process:

- The employer compliance department (ECD) will review/audit these determinations.
 - 25% or 500 per month, whichever is less, randomly selected NCCI manual classification code determinations will be audited during the first and second months of the new process.
 - Develop recommendations for future percentage of claims to be audited after the first two months.
 - Always audit NCCI manual classification codes 5605, 8742, 8810. ECD will determine monthly volume and assess results. 100% review will not continue indefinitely.
 - Audits will begin May 1, 2006 and will cover the period beginning March 1, 2006 and continue monthly, except for the initial phase which ends June 30, 2006.
- Field Operations Administration (FOA) confirmation
 - FOA will confirm that the recommended NCCI manual classification code corrections are made in V3.
 - EM staff will copy FOA on the NCCI manual classification code corrections and they will confirm that the V3 corrections have been made.
 - FOA will monitor and track the NCCI manual classification code determination error rate by office and report monthly to the chief.

Medical Only Claims

Medical claims management is responsible for the accurate coding of approximately 3,200 claims per month (2,000 medical-only claims each with at least two manual classifications and 1,200 auto-adjudicated claims). AE2's and medical claims specialists are currently responsible for reviewing these claims. Because of turnover and chronic understaffing, the unit is looking to add positions. To support their effort to achieve a higher accuracy rate, the ECD in December, 2005 agreed to the following review process and development of job aids and training:

1. Quarterly review of code accuracy:
 - ECD will undertake a quarterly review of the accuracy of code assignments made by medical claims management. Currently, the review is done annually. This will give medical claims a more current look at the accuracy rate and identify areas needing attention more quickly. The sample size will be large enough for a high degree of statistical credibility. Deliverable date: May 1, 2006.

2. In addition to quarterly reviews, ECD can conduct reviews at mid-probationary period for new AE2's.
 - This is mentioned in the 2004 NCCI Annual Review document but to my knowledge ECD has never been requested to provide this review. Deliverable date: May 1, 2006.

3. ECD will perform ad hoc reviews at the request of medical claims management whenever a specific concern is identified. Deliverable date: May 1, 2006.

4. ECD will provide training as needed based upon review results. Deliverable date: May 1, 2006.

5. Job aid (cheat sheet) will be created for more problematic classification codes.
 - ECD will work with medical claims management to develop the job aid. Deliverable date: May 1, 2006.

3.

An administrative adjudicatory body should not be composed of the individuals responsible for the policy and programs which are being disputed.

Overview: Employers whose policies are adversely affected by BWC decisions can appeal these decisions through a two level administrative adjudicatory process. The first level of appeal is to BWC's Adjudicating Committee. The Adjudicating Committee is a three member committee comprised of three separate representatives from BWC's Legal, Finance, and Employer Operations Divisions. The second level is to appeal to the Administrator/Administrator's designee. The Administrator's designees are currently BWC's director of employer consulting, chief risk officer and chief of employer operations.

Concern: Those individuals representing the Administrator are the same individuals that are responsible for administering the department/programs and policies to which the employer is appealing. Also in some instances the staff member representing BWC is a direct report to the individual sitting as the Administrator's designee or notes indicate potential ex parte discussions with superiors prior to making decisions. An administrative adjudicatory body needs to be independent, impartial and above any appearance of impropriety. The current composition of the Administrator's designees may not meet those standards.

Additionally, the Employer Operations Division appropriately does not let staff members responsible for the item being protested sit on the Adjudicating Committee. However, these staff members' superiors are those individuals noted prior and they potentially could have influence over a decision.

Recommendation: The Ombuds Office recommends that the Administrator select BWC's chief legal officer as his designee to hear employer appeals to Adjudicating Committee decisions. The chief legal officer has no duties overseeing or administering the policy and programs involved nor has a supervisory relationship over any of the staff involved. Also, as his schedule allows, it is recommended that the Administrator personally conducts the second level hearings. This should assist the Administrator to stay abreast of some of the concerns employers bring to BWC. Additionally, we recommend that BWC consider replacing the Employer Operation's seat on the Adjudicating Committee with that of a division not associated with the oversight of the item being disputed.

BWC Response: BWC shares the Ombuds Office concern for ensuring the integrity and impartiality of the Adjudicating Committee function. BWC takes its responsibility to carry out this function very seriously and has thoughtfully considered the Ombuds Office recommendations. In part, BWC agrees with the Ombuds Office recommendation to reconstitute the Adjudicating Committee to ensure that even the appearance of impropriety does not exist. Level one of the Adjudicating Committee is comprised of three members, with only one member being from the Employer Operations Division. While the Employer Operations staff person may work in the same department from which the protest arose, BWC ensures that the committee person has not had direct involvement with the issue before the committee. And because the Employer Operations staff person is only one member of the three member panel, it is felt adequate checks and

balances exist and that the expertise of this panel member in employer related matters is also crucial to the process. Regarding level two of the Adjudicating Committee, which represents the Administrator as his/her designee in the process, BWC agrees with the Ombuds Office recommendation to have this designee be someone from outside of the Employer Operations Division. BWC's Administrator/CEO will select an alternative designee and have this new process in place by July 1, 2006.

4.

BWC could provide better customer service to injured workers by being consistent in processing Non-Working Wage Loss applications. The state insurance fund would be better protected by paying this benefit only when warranted.

Overview: Non-Working Wage Loss is a benefit granted to injured workers who are capable of working but, due to medical restrictions based on the allowed conditions in the claim cannot return to their prior position and thus sustain a wage loss while they are engaged in a good faith effort to find alternative suitable employment (job search) within their medical restrictions.

Concern: BWC does not consistently let injured workers know what is expected of them in the job search process. According to BWC policy, CSSs are to send injured workers an “Initial Subsequent Notification of Wage Loss Benefits” letter after receiving the initial application for wage loss. In reviewing several claims the Ombuds Office received complaints on, it was found this letter either was not generated or was generated approximately four months after the application was received.

Also, while BWC policy recommends the CSS review and verify a statement for job search prior to paying benefits, it is not a requirement. In one instance the Ombuds Office identified a job search statement that listed the “Ombuds Office” as the employer contacted for employment for a warehouse position, listing the Chief Ombudsperson as the contact on February 29, 2005. This contact never took place but was not questioned by the CSS. In another instance the injured worker noted he returned to work. In both instances benefits were paid.

Recommendations: The Ombuds Office recommends that BWC monitor CSSs to ensure they are sending out the “Initial Subsequent Notification of Wage Loss Benefits” letter and that it is sent timely. Additionally, we recommend that the letter be very specific regarding BWC expectations so that the injured worker knows what is required of them. The Ombuds Office recommends that BWC require the CSS to review the job search statement prior to paying benefits.

BWC Response: BWC currently has a wage loss policy and recommends the following to ensure that consistency is maintained:

- Review Current policy with CSS. Deliverable date: May 1, 2006.
- BWC policy is being revamped on how to follow-up and identify specific criteria to ensure that CSSs are requesting the appropriate information required for injured worker job search follow-up. Deliverable date: July 1, 2006.
- Ensure that “Notification of Wage Loss Benefits” is placed on Dolphin. Deliverable date: December 31, 2006.
- Review wage loss check list with CSS currently located on “DOGS” (online claims resource guide). Deliverable date: May 1, 2006
- Check to see if provisions for review are included in the compensation audit process and have supervisors monitor to ensure that job search statements are reviewed prior to payment of benefits. Deliverable date: May 1, 2006.

5.

BWC could provide better customer service to their private state-fund employers by allowing all to participate in the 50/50 payment program when offered.

Overview: Over the past ten years BWC has declared what they have termed “dividends” for employers in reporting periods when the Administrator deemed the state insurance fund surplus was at a level greater than was necessary. A dividend is a percent credit of the premium due as calculated on an employer’s payroll report. In recent periods when a dividend has not been declared BWC has offered the 50/50 payment program to ease the burden of employers having to pay 100 percent of their premium. The 50/50 payment program allows an employer to pay 50 percent of their premium by the due date and the remaining 50 percent within 60 days. Employers can only take advantage of the 50/50 payment program through BWC’s website. This was done in order for the 50/50 payment program not to create an administrative burden for BWC.

Concern: The Ombuds Office received complaints from 127 employers the last week of August, 2005 for denial into BWC’s 50/50 payment program. The employers complaints included:

- They were filing through the Ohio Business Gateway and it would not let them take advantage of the 50/50 payment program (the Ohio Business Gateway is a website implemented and promoted by the state of Ohio to make it possible to file with and pay multiple state agencies at one electronic “location”);
- The employer hit the wrong button on BWC’s website and it would not let them go back and enter into the 50/50 payment program;
- The employer was enrolled in BWC’s flex pay program, either intentionally or unintentionally, and the website would not let them take advantage of the 50/50 payment program;
- The employer did not have a computer;
- The employer does not make payment online due to security concerns.

At the recommendation of the Ombuds Office most of the 127 employers filed their payroll report and paid 50 percent of the premium due by a method other than through BWC’s 50/50 website. They submitted a formal request to be in the 50/50 plan which received blanket denial from BWC. These were appealed to BWC’s Adjudicating Committee. By appealing the denial, the employer’s coverage would remain active; the remaining 50 percent balance was put into an appeal status so collection action would not be implemented and they would be put on the docket for a future hearing. It would be reasonable to assume that this appeal process would take 30 to 60 days, basically giving the employer the same amount of time to pay the second 50 percent as if they had been formally allowed into the 50/50 payment program.

The Ombuds Office finally escalated this issue to BWC’s Administrator who allowed those employers involved to participate in the program, regardless of which method was used to file payroll and pay premium.

Recommendation: Recognizing that the 50/50 payment program was created to help employers during financially troubled times when there is not a dividend, the Ombuds Office recommends that all private state-fund employers be given access to the program, regardless of what method they use to file their payroll reports.

BWC Response: While BWC understands the concerns of the Ombuds Office, the ability to offer the 50/50 program regardless of the payment is limited by our system abilities. At this time, it is administratively burdensome to track and monitor those employer accounts who do not utilize the 50/50 payment program online. In an effort to alleviate the concerns expressed in the Ombuds Office report, BWC implemented additional control points throughout the online process to reduce or eliminate the possibility of employers making input errors. In addition, employers have the ability to visit a service office for assistance in completing the online program or calling our customer contact center for assistance.

6.

The Industrial Commission could provide better customer service by being more broad-minded as to when unrepresented injured workers can participate in a hearing via telephone.

Overview: The Ohio Revised Code, Section 4121.36(A)(1) in part states that the IC shall adopt rules to provide for “Adequate notice to all parties and their representatives to ensure that no hearing is conducted unless all parties have the opportunity to be present and to present evidence and arguments in support of their positions or in rebuttal to the evidence or arguments of other parties.”

Concern: Many injured workers are unable to attend IC hearings because they reside a long distance from where the hearing is being held. While the IC does not preclude them from attending a hearing, it is oftentimes either a financial or physical burden for an injured worker to travel to the site of the hearing. Because of this they must either hire legal representation or be unrepresented. Currently records indicate there are approximately 17,000 active, allowed/potentially allowed claims wherein the injured worker lives outside of the state of Ohio and in a state not adjacent to Ohio. Approximately 6,300 of them are unrepresented.

While the Ombuds Office has been advised that the IC has allowed injured workers to participate in a hearing via the telephone when they predetermine that their testimony is crucial, the Ombuds Office has been advised that this is on rare occasion.

Recommendation: The Ombuds Office recommends that the IC purchase speaker phones for at least one hearing room in each of their field offices and draft policy/procedures to more liberally allow injured workers to participate in hearings via the telephone. At minimum the Ombuds Office recommends this be allowed for injured workers who reside outside of Ohio in a state not adjacent to Ohio.

IC Response: The IC administration concurs with the Ombuds Office concerns, limited to those injured workers who cannot travel due to illness or physical disability regardless of where they reside. This is in fact our standard operation procedure and we will remind IC field administrative staff of it. While a conference hearing allows the party to actively participate, it can compromise information exchanges that enables the hearing officer to make the best decision possible. It is always our preference for the IC hearing officers to have a face to face exchange, however we recognize that allowing the injured worker to participate by telephone is better than them not participating at all.

Also, while the IC recognizes the convenience of speaker phones, we are currently able to perform “telephone hearings” through “audio conferencing” and as such see no need to incur the additional expense for speaker phones. We will continue to monitor future developments in this type of technology so that we can make improvements to this process when we feel it is appropriate.

BWC OMBUDSPERSON OFFICE EXPENSE REPORT - CALENDAR YEAR 2005

OBJECT CLASS	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.	TOTAL EXPENSES
10 Payroll	50,619	35,369	35,300	34,490	35,354	35,663	35,819	52,525	36,529	36,747	36,026	37,023	461,464
10 Overtime Paid	0	0	0	0	0	0	0	0	0	0	0	0	0
13 Personal Service	0	0	0	0	0	0	0	0	0	0	0	0	0
15 Other P.S.	0	0	0	0	0	0	0	0	0	0	0	0	0
Total 100	50,619	35,369	35,300	34,490	35,354	35,663	35,819	52,525	36,529	36,747	36,026	37,023	461,464
20 Edible Products	0	0	0	0	0	0	0	0	0	0	0	0	0
21 Supplies	0	0	0	0	0	0	0	0	0	0	0	0	0
211 INTRNL SUPPLIES	53	2	103	229	27	3	22	22	26	45	15	22	569
22 Vehicle Maintenance	0	0	0	0	0	0	0	0	0	0	0	0	0
221 INTRNL VEHICLE	0	0	0	0	0	8	0	0	0	0	0	62	70
23 Travel Fees	0	0	0	0	0	0	0	41	0	0	0	0	41
24 Communications	0	0	3	0	0	4	0	0	4	0	0	4	15
241 INTRNL COMM	587	683	944	816	618	723	771	786	901	725	805	561	8,920
25 Fuel/Utilities	0	0	1,388	0	0	1,853	0	0	1,984	0	0	1,559	6,784
26 Maintenance	0	0	2,555	0	0	3,655	0	0	2,372	0	0	3,505	12,087
27 Rentals	0	0	2,202	0	0	2,202	0	0	19,848	0	0	2,547	26,799
28 Printing/Advertising	0	0	0	0	0	0	0	0	0	0	0	0	0
281 INTRNL PRT/ADV	433	87	98	177	874	856	101	102	224	115	204	102	3,373
29 General/Other	670	635	64	219	316	1,019	961	346	705	0	346	0	5,281
291 GENERAL	0	0	0	0	0	0	0	0	0	0	0	0	0
Total 200	1,743	1,407	7,357	1,441	1,835	10,323	1,855	1,297	26,064	885	1,370	8,362	63,939
30 Food Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
31 Office Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
32 Motor Vehicles	0	0	0	0	0	0	0	0	0	0	0	0	0
33 Construction	0	0	0	0	0	0	0	0	0	0	0	0	0
34 Communications Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
35 Medical/Lab Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
36 Educational/Rec Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
37 Data Processing Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
371 INTRNL DP EQP	0	0	0	0	0	0	0	0	0	0	0	0	0
38 Copy/Print Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
39 Other Equip	0	0	0	0	0	0	0	0	0	0	0	0	0
Total 300	0												
Grand Total	52,362	36,776	42,657	35,931	37,189	45,986	37,674	53,822	62,593	37,632	37,396	45,385	525,403

Note: Mass Allocations included in March, June, September, and December.

Industrial Commission Nominating Council

Employer Representatives:

Eric Burkland *
Ohio Manufacturers Association

Andrew E. Doehrel
Ohio Chamber of Commerce

Robert Finnessy
Ohio Self-Insurers Association

John C. Mahaney, Jr.
Ohio Council of Retail Merchants

Labor Representatives:

Lawrence Deck
Fraternal Order of Police

Gary DiCeglio **
Ohio AFL-CIO

Peggy Griffith ***
C.W.A. Local 4302

David Prentice
United Steelworkers

Public Members:

Carol A. Caruso
Greater Cleveland Growth Association

Roger R. Geiger
National Federation
Independent Business/Ohio

* Chairperson

** Vice Chairperson

*** Secretary